Established in 1991, UCC serves as the representative voice for state legislative advocacy for high-population counties in California. Initially composed of seven counties, the association has grown to 14 today. Just over 80 percent of the state's population reside in UCC counties. Consequently, urban counties carry out critical programs and services to the state's most vulnerable populations. For more information, including details on our Board of Directors, please visit our website.

April 12, 2024

Legislature Sends Early Action Budget Package to Governor

This week, the Legislature approved AB 106, representing a $17.3 billion down payment on the state's budget deficit. As we reported last week, AB 106 – a so-called Budget Bill, Jr. – includes spending reductions, deferrals, and fund shifts. The reductions affect current and past fiscal years that – including the extension of the state's Managed Care Organization tax approved last month – will reduce the deficit by $3.3 billion. AB 106 also contains a provision acknowledging an agreement to reduce another $14 billion for the 2024-25 budget year. These reductions – including a plan to utilize the state's budget reserves – will be included in the Governor's deficit estimate at the May Revision and are anticipated to be approved in future budget bills.

We expect Governor Newsom to sign AB 106 in short order.

California State Auditor Reports on State and City Homelessness Programs

On April 9, the California State Auditor (CSA) released two audit reports in response to a request from the Joint Legislative Audit Committee. One audit, titled "The State Must Do More to Assess the Cost-Effectiveness of Its Homelessness Programs," focuses on an evaluation of the state's efforts to address homelessness, and the other audit, "San José and San Diego Must Do More to Plan and Evaluate Their Efforts to Reduce Homelessness," focuses on the cities of San José and San Diego. Both audits come at a sensitive time in state budget negotiations—prior year budget negotiations do not extend the Homeless Housing, Assistance and Prevention (HHAP) program beyond 2023-24 and the Governor's 2024-25 January Budget proposal does not commit to further one-time or ongoing funds for the program. Conversations on the future of HHAP have generally been deferred to the May Revision when more state revenue data is available. However, Governor Newsom has again called for additional accountability and stated an interest in seeing whether local governments deliver on the performance commitments made under previous rounds of HHAP funding. Therefore, these new CSA audits could become a topic of conversations in those negotiations.

At the state level, the auditor drew the following conclusions:

- The California Interagency Counsil on Homelessness (Cal ICH) has not consistently tracked and evaluated the state's efforts to end homelessness; and
- Two of the five state-funded programs we reviewed are likely cost-effective (Homekey and CalWORKs Housing Support Program), but the state lacks outcome data for the remaining three (HHAP, State Rental Assistance Program, and Encampment Resolution Funding).

At the city level, the auditor drew the following conclusions:

- San José and San Diego have adopted plans for addressing homelessness but do not completely report on all of their homelessness funding;
- Neither San José nor San Diego has consistently evaluated the effectiveness of its homelessness programs; and
- To better address homelessness, San José and San Diego will need to develop additional interim and permanent housing.

Roundup of Health-Related Legislation

▶ **AB 3129 (Wood): Health System Consolidation**

AB 3129 is Assembly Member Wood's most recent iteration of seeking to install guardrails around health system consolidation. This measure authorizes the Attorney General (AG) to grant, deny, or impose conditions to a change of control or an acquisition between a private equity (PE) group or hedge fund and a health care facility or provider group to ensure these transactions are in the public interest. AG Rob Bonta, the sponsor AB 3219, asserts that over the past decade there has been a sharp rise in PE and hedge fund acquisitions of health care companies nationwide. Estimated deal values have totaled $750 billion between 2010 and 2019.

Health Access California (HAC) supports this bill and notes that oversight is needed to ensure that consumers are protected in these acquisitions. For over 30 years, California AGs have used their authority to protect consumers from negative impacts of nonprofit hospital mergers. This bill extends this authority, allowing the AG to (1) provide public scrutiny on these PE and hedge fund acquisitions and changes in control of health facilities, and (2) approve, deny or approve acquisitions with conditions to address key issues. The California Medical Association, which has opposed previous bills, has a support unless amended position on AB 3129.

The California Hospital Association (CHA) is opposed to this bill for several reasons, including:

- **The definition of "PE group" is too broad.** The bill adopts an extraordinarily broad definition of "PE group" as "an investor or group of investors who engage in the raising or returning of capital and who invests, develops, or disposes of specified assets." This definition seems to conflate "investor" and "PE group." Indeed, this bill would deem every investor to be a PE group, including a nonprofit hospital, physician, bank, mutual fund, CalPERS, or even a single individual. It is difficult to

think of any individual or organization that invests money that would not meet the bill's definition of a "PE group."

- **The standards for DOJ review are unclear.** Without clear standards, entities will struggle to determine whether DOJ approval is required, slowing much-needed capital investment in health care. The bill's definition of "change of control" is also unclear, including "indirect" control and "sharing of control" where there are even minor changes in governance. The bill explicitly calls out "altering voting control of" a provider as requiring notice. This bureaucratic red tape would stifle needed investment, per CHA.
- **This bill is premature and unnecessary.** Existing law requires, as of April 1, 2024, the Office of Health Care Affordability (OHCA) to analyze the transactions covered by AB 3129. OHCA is the state agency responsible for gathering data about California's health care marketplace and understanding the health care delivery system, payment system, access, and costs. Existing law prohibits transactions from closing until 60 days after OHCA publishes its final impact analysis, which gives the DOJ time to go to court if it believes the transaction violates any laws. The DOJ has long had the ability to investigate and prosecute anticompetitive behavior, as do federal government authorities.

The American Investment Council (AIC) also opposes AB 3129, citing the concern that if passed, this bill would result in less capital being available to fund health care services and research in California, diminished access to care for patients throughout the state, and additional failures in the health care system. AIC contends that the underlying premise of the bill is flawed, and the bill fails to provide OHCA with sufficient time to collect and report data informative to the legislature regarding health care expenditures and cost trends in order to develop data-informed policies.

The Assembly Health Committee passed the measure on a party line vote, 12-4. The Assembly Judiciary Committee will hear AB 3129 on April 16. Additional amendments are anticipated.

▶ **SB 1290 (Roth): Essential Health Benefits**

SB 1290 by Senate Health Committee Chair Richard Roth would sunset the Kaiser Foundation Health Plan Small Group HMO 30 plan as California's Essential Health Benefit (EHB) benchmark for individual and small group health plan contracts and health insurance policies after the 2026 plan year. The bill also states legislative intent to review California's EHB and establish a new benchmark plan for the 2027 plan year.

Senate Health Committee had a special order of business on April 10 to discuss the measure. California's EHBs are based upon the same 2014 benchmark plan established when California first implemented the ACA. California last reviewed its benchmark plan in 2015 when the California Health Benefits Review Program (CHBRP) contracted with Milliman to conduct an analysis that compared the health services covered by the 10 plans available to California as options for California's EHB benchmark effective January

1, 2017; this effort was similar to an analysis completed for Covered California in 2012. Milliman found relatively small differences in average healthcare costs among the ten benchmark options. Updates were adopted in 2015 (effective in 2017) to incorporate the federal definition of habilitative, to base pediatric vision benefits on the Federal Employees Dental and Vision Insurance Program vision plan, and to base pediatric dental benefits on the Children's Health Insurance Program benefits.

California's benchmark does not include coverage for hearing aids, infertility treatment, adult dental, chiropractic, or nutritional counseling, among other benefits. Inclusion of any of these benefits in California's EHBs requires the state to update its benchmark plan through a stakeholder process and to notify the federal Centers for Medicare and Medicare Services (CMS) by May 2025, in order for those benefits to be in place for the 2027 plan year. This bill would help begin the review process, which requires actuarial analysis, and a stakeholder process to inform the options for policymakers, and ultimately codify any changes to California's benchmark plan. Any added health insurance mandates outside of this process require the state to pay for or defray the added costs of insurance mandates not included in the benchmark.

During the discussion, Senator Roth outlined the process to review the EHB. The Administration will engage a contractor, and the process for reviewing benefits will likely take six to eight months. The work will include comparing existing plans and an actuarial analysis of additional benefits. Senator Roth committed to scheduling an informational hearing on the timeline. The bill will come back to Senate Health Committee in August, if the actuarial work is complete; otherwise, a new bill will be introduced in January 2025.

Several organizations commented on the bill, including the California Association of Health Plans, urging the Legislature to hold off on adopting any new health plan benefit mandates until this process is complete. Other stakeholders testifying on this point included the California Dental Association, Health Access, advocates for children's hearing aids, chiropractors, LGBTQ+ organizations concerned about fertility treatment, and the Crohn's and Colitis Foundation. Senate Health Committee passed the bill unanimously on an 11-0 vote. It heads next to the Senate Appropriations Committee.

Please note that the EHB will impact the plans that employers purchase for their employees, as well as the Covered California offerings.

- **SB 1238 (Eggman): Lanterman-Petris-Short Act: Designated Facilities**

SB 1238, by Senator Susan Eggman, seeks to revise provisions enacted under SB 43 (Chapter 637, Statutes of 2023), her measure that redefined "gravely disabled" for purposes of involuntarily detaining individuals with a severe substance use disorder (SUD) or co-occurring mental health (MH)/SUD disorder. The author believes the clean-up measure is needed to ensure that counties have the necessary authorized facilities, appropriate reimbursement, and policy guidance from the state to both implement SB 43 and provide the appropriate care to these Californians.

SB 1238 would expand the definition of designated facilities, in order to admit an individual who is diagnosed only with a SUD. Ultimately, this bill would allow for licensed professionals to (1) more accurately and comprehensively provide for the needs of individuals experiencing a substantial risk of serious harm due to a MH/SUD and (2) provide dignity and treatment to those who are the most difficult to reach. Lastly, this bill is in line with other recent legislative actions pertaining to the LPS Act. The California Hospital Association states that recent experience indicates the Department of Health Care Services (DHCS) is hesitant to provide implementation guidance or publish Behavioral Health Information Notices (BHINs) pertaining to legislation affecting the LPS Act because it has viewed its authority very narrowly. This bill gives DHCS the administrative authority to provide much-needed guidance and technical assistance to local agencies doing their best to implement SB 43.

Disability Rights California is opposing SB 1238 because involuntary SUD treatment is not effective, increases risk of overdose death, perpetuates racial disparities, and would overburden our already strained mental health system. Additionally, they are concerned that SB 1238 would allow state administrative agencies to bypass the regulatory rulemaking process, thwarting important procedures for soliciting public feedback.

The County Behavioral Health Directors Association (CBHDA) has an oppose unless amended position. CBHDA recognizes this bill would ultimately leave it to counties to determine and designate these facilities but believe nearly all of these facilities are inappropriate from a safety and quality of care perspective as currently licensed or certified. Whether they are unallowable by law or regulation for purposes of detention under the LPS Act, or are unlocked, lack appropriate medical staffing and/or are inappropriate to serve clients who might be in the process of withdrawal from SUD, this bill is an inadequate solution to the facilities discussion and requirements so key to successful and thoughtful SB 43 implementation.

CHBDA has proposed an amendment that DHCS convene a working group, with county behavioral health departments, providers, and consumers at the table, to review facility types and the kind of regulatory and fiscal changes that might be needed to expand the facilities so that California could provide safe, quality treatment to individuals pursuant to SB 43's expanded definition of grave disability.

Senate Health Committee passed the bill unanimously on an 11-0 vote. Senate Judiciary Committee will hear the measure next.

SB 1397 (Eggman): Behavioral Health Services Coverage

Senator Susan Eggman's SB 1397 would require health plans and insurers to pay the greater of the contracted rate or the Medi-Cal specialty behavioral health rate to county behavioral health agencies for Full Service Partnership Services when provided to enrollees or insureds under specified circumstances, such as when authorized or approved by the plan or insurer.

The measure is intended to assure that counties that provide behavioral health services through a Full-Service Partnership within the county system will be timely reimbursed for their services at the contracted rate or the fee-for-service or case reimbursement rate paid in the Medi-Cal specialty behavioral health program for the same or similar services as identified by DHCS. CBHDA, Urban Counties of California, Rural County Representatives of California, and the California State Association of Counties are supporting SB 1397. Senate Health passed the bill unanimously. It heads next to Senate Appropriations Committee.

HHS Budget Updates

On April 8, Assembly Budget Subcommittee No. 1 heard a variety of health issues, including budget items from the Department of Health Care Access and Information, Emergency Medical Services Agency, Covered California, and the California Health and Human Services Agency (agenda).

Assembly Members Mia Bonta and Akilah Weber expressed concerns to the Administration about the proposed delays in the health care workforce investments. Assembly Member Bonta noted that with the focus on implementing Proposition 1 and the clear need for behavioral health workforce, the workforce funding deferrals are concerning. She also raised concerns about legislative oversight and accountability when the Administration fails to implement a program, as is the case with psychiatric loan repayment.

The Legislative Analyst's Office reminded the subcommittee that a lot of initiatives are proposed for deferrals and delays. There are two loan repayment programs – one for counties and one for state hospitals. The funds for state hospitals have not been disbursed and are thus being proposed for delay. Department of Finance noted that it was not an intentional delay, asserting that the workforce package was extensive and required expenditure over a multi-year period and that the Administration supported the programs. HCAI also noted that their staffing did not match the workload increases. Assembly Member Bonta suggested that this issue be taken up with the larger budget committee.

Assembly Member Weber asked how the proposed workforce funding delays will impact nursing, social work and mental health services. HCAI estimates that the nursing delays means they won't serve 3,570 nurses; the social work delays mean they won't serve 1,634 social workers, and the mental health services delays will impact 2,238 people. All investments are delayed a year. The workforce items were held open.

Senate Budget and Fiscal Review Subcommittee No. 3 heard CalWORKs, CalFresh, immigration issues, and child support services on April 11 (agenda). The subcommittee had a very robust conversation about the proposals impacting the CalWORKs proposals – which Senator Menjivar abbreviated to: "…to sum it up – we're angry, and we don't like

it." Senators Grove, Eggman, and Roth all engaged in the discussion. The Administration is proposing five cuts to CalWORKs:

- Permanent elimination of the CalWORKs Family Stabilization Program ($55 million in 2023-24 and $71 million in 2024-25 and ongoing)
- Permanent elimination of the CalWORKs Subsidized Employment Program ($134.1 million in 2023-24 and ongoing)
- Permanent elimination of the Eligibility Administration Supplement (CalWORKs single allocation) ($40.8 million)
- Permanent freeze of employment services intensive case management hours ($47 million)
- Reversion of unspent funds from the 2022-23 CalWORKs single allocation ($336.6 million)

Additionally, the Administration is proposing to withdraw $900 million from the Safety Net Reserve, meant to protect CalWORKs in economic downturns. Department of Finance had trouble articulating how the funds withdrawn from the Reserve would be spent, which added to the Senators' consternation. These items were held open.