March 1, 2016

Covered California Board
1601 Exposition Blvd
Sacramento, CA 95815

RE: Section 1332 Waiver Proposal Comments

Dear Members of the Covered California Board:

We are thankful for the opportunity that the Covered California Board is providing to discuss prospective proposals for utilizing the Section 1332 innovation waiver option to extend and improve health insurance for Californians. While children do not constitute a large percentage of Covered California's consumers, we believe that the 1332 waiver process could be used to strengthen exchange coverage for children to ultimately achieve comparability with Medi-Cal, which offers the model benefits and cost sharing for children. Opportunities are available even though the current federal guidelines are restrictive.

The California Children's Health Coalition–comprised of The Children's Defense Fund-California, Children Now, The Children's Partnership, United Ways of California, California Coverage & Health Initiatives (CCHI) and PICO-California–would like to share our recommendations and comments on possible Section 1332 waiver proposals for California.

Coverage Options in Covered California for Undocumented Immigrants

We support SB 10 (Lara), which, in part, would allow undocumented immigrants to buy coverage through Covered California without government subsidies. We would recommend a Section 1332 waiver proposal to make this feasible. The specific proposal would allow non-qualified health plans that mirror qualified health plans (QHP) into the California Health Benefits Exchange to serve those immigrant families in California that are otherwise excluded from purchasing coverage within Covered California.

This approach would be especially helpful in allowing Covered California to be a one-stop shop for mixed-immigration status families, a common circumstance in California. One in six children in California have at least one parent who is an undocumented immigrant and 81% of these children are citizens.[1] Even if different family members qualified for different subsidy levels or some family members did not qualify for subsidies at all, a one-stop shop approach would go a long way to reducing barriers to enrollment by providing a single point of entry for all family members.

[1] Manuel Pastor and Enrico A. Marcelli, "What's at Stake for the State: Undocumented Californians, Immigration Reform, and Our Future Together" (Los Angeles: USC Center for the Study of Immigrant Integration, 2013).

Offering coverage inside Covered California would complete the state's mission of providing insurance options for all kids in California by making coverage available to undocumented immigrant children who do not qualify for Medi-Cal under the new expansion (SB 75), as well as offering a one-stop shop for the whole family. Exercising this option also serves to increase enrollment for children who already qualify for health insurance coverage, but have not yet applied due to the unequal access to coverage for some family members.

With regard to the 1332 guardrails, this proposal would 1) increase coverage options for an otherwise ineligible population; 2) provide non-QHPs that mirror QHPs, with which the affordability of coverage would be unchanged; 3) provide identical QHP benefits to non-QHPs offered to immigrants; and 4) not incur new federal costs because immigrants will be purchasing Covered California QHP coverage without subsidies and paying the assessment fee as part of the premium.

This proposal is narrow, targeted and ripe for inclusion in a 1332 proposal submission this year in order to meet the unique needs of California's diverse population.

Research Needed on Families with Multiple Insurance Options

There are often assumptions made that families are better off if they are enrolled in the same insurance plan. For example, the question was raised in the creation of the ACA, whether CHIP-eligible children should instead be moved into exchanges with their parents in order for them to have the same plan. Ultimately, the decision was made to continue children's CHIP coverage as a separate child-centered insurance program. The comprehensive scope of benefits and very low cost sharing provided under CHIP insurance far outweigh the convenience of a single family insurance plan. A recent study by the Kaiser Family Foundation asked families whether they did, in fact, value a single family plan versus separate CHIP plans for their children while the parents were covered under exchange plans.[2] The findings were clear and consistent: families valued the better benefits and affordability of lower cost sharing provided to their children under CHIP over the convenience of a single family plan under the exchange.

That said, there is an important question to ask: How are families faring under a separate program system, with parents enrolled in QHPs in Covered California and children enrolled in Medi-Cal? Neither agency tracks nor reports how many of these families there are or details on their specific application, enrollment, renewal, plan selection and utilization experience. This is not currently included in the joint AB x1 1 reporting data on Medi-Cal and Covered California applicants and enrollees.

Research is needed to determine if there are specific barriers to coverage as a result of being in separate plans, and if so, whether there are discrete policy fixes to these barriers. For example, children often see different health providers than their parents and thus, being in the same plan may not be as important to the continuity of their care. If the whole family receives care from the same clinic, it might be of value for families to have that clinic in the network of both plans.

We recommend that there be an in-depth examination of these families' experiences to inform possible solutions tailored to the particular needs of these families, which could provide possible recommendations for future 1332 proposals. As a result, we would not recommend submitting, at

[2] Robin Rudowiz, "Children's Coverage: What Matters Most to Parents Results from Focus Groups in 6 Cities" (Menlo Park: Kaiser Family Foundation, June 2015).

this time, a proposal aimed at families with members in different insurance options, prior to research. The priority must be to maintain a comprehensive child-specific benefit package with very low cost sharing for CHIP/Medi-Cal children.

Providing "Pediatric Services" EHB to Covered California Children

To date, federal guidance has not defined the "pediatric services" essential health benefits (EHB), other than noting the inclusion of "oral and vision services." The "pediatric services" category of EHB should broadly and comprehensively ensure that children receive the services they need to grow and develop. Pediatric services are not just limited to oral and vision care, but include a full range of services from preventive and primary care to ancillary services utilized by children with special health care needs, such as physical, speech and occupational therapy, home health care, durable medical equipment, hearing services, and personal care. The current Marketplace benchmark plans are designed for adults and should be supplemented to provide an adequate pediatric benefit.

In the absence of federal guidance, a 1332 waiver proposal (and subsequent state legislation) could provide an opportunity to improve Covered California children's benefits. So as not to run afoul of the 1332 waiver requirement to be deficit neutral, Covered California could offer a non-QHP plan that is a Medi-Cal contracted plan, which is less expensive, yet more comprehensive than QHPs. The non-QHP plan with Medi-Cal pediatric services would meet all the Medi-Cal contractual agreements (including benefits and capitation rates), but the non-QHP plan and its members would be included in the risk pool for Covered California and offered to Covered California-eligible children (namely those above the CHIP income threshold). The details would need further refinement, but a focus on children's health benefits in Covered California warrants attention and improvement to meet the pediatric services EHB.

This proposal would in fact advance the intent of the 1332 innovation waiver authority and meet the 1332 guardrails: 1) the benefit package change would not impact who is eligible for coverage as it is offered to all already-eligible Covered California children; 2) affordability would be greatly improved for families; 3) by design, the benefits would exceed those currently provided and yet conform with the federal EHB "pediatric services" category; and 4) while the benefits and cost sharing would be greatly improved for Covered California children, the Medi-Cal-contracted non-QHPs would cost far less than the current QHPs.

We would recommend that this targeted 1332 waiver proposal be considered for inclusion in this year's submission.

Bridge Coverage when Transitioning from Medi-Cal to Covered California

State law already requires that Medi-Cal and Covered California agencies work together to ensure that those transitioning from one insurance program to another are moved without a break in coverage and without requesting additional information that one program already has. However, Medi-Cal beneficiaries transitioning to Covered California are not being moved seamlessly and, in most cases, end up with a gap in coverage. Currently, the Department of Health Care Services (DHCS) requires only 10-day notices of termination and Covered California special enrollment regulations require someone losing coverage to enroll in a plan prior to the last day of coverage, in order to have their new coverage in place the next month. Under the best case scenario, both processes leave very little time for the transitioning person to learn of the change, consider the plan options, and make a selection. As a result, families are left with gaps in coverage.

We support a proposal to allow those beneficiaries losing Medi-Cal to maintain Medi-Cal coverage for an additional month (either via its own 1115 waiver or more likely in a state-only program) and use a 1332 waiver to collect the premium tax credits for which that person is eligible for rather than have those credits sent directly to a QHP. This would give beneficiaries an extra month to change programs and choose a QHP, and thus, avoid a gap in coverage. Should Medi-Cal beneficiaries be able to select a QHP and move to Covered California immediately, they can do so. However, many Medi-Cal beneficiaries do not receive information about Covered California until the last days of the month and then need some time to figure out which plans they can use to keep their same providers or even get help in understanding how premium tax credits and cost-sharing reduction plans work.

The 1332 waiver analysis for this proposal with regards to the four guardrails is as follows: 1) as this population is already entitled to premium tax credits (and cost-sharing reductions in many cases) without a waiver and is in the process of being sent to Covered California for plan selection, there is no change to the number of people covered; 2) coverage via Medi-Cal is more affordable than coverage through Covered California, thus meeting the affordability requirement; 3) coverage under Medi-Cal is more comprehensive in scope of benefits than under Covered California's QHPs, thus meeting the comprehensive requirement; and 4) this population is already entitled to premium tax credits and, in many cases, cost-sharing reductions, thus meeting the requirement that the waiver does not increase the federal deficit. (In fact, because the capitation costs under Medi-Cal are likely lower than QHP premiums, the premium tax credits will likely be lower for the bridge period, thus creating small savings.)

We would recommend that this narrow and targeted 1332 waiver proposal be included in this year's waiver submission.

Fix the "Family Glitch"

The "family glitch" created by federal interpretation of the "affordability" test for exchange coverage has left an estimated 144,000 Californians, including 72,000 children without an affordable insurance option.[3] It appears that the most likely solution is a federal one. Given the strict deficit neutrality requirements of section 1332 waivers, a 1332 proposal to fix the "family glitch" may be extremely difficult, but it is one of only a few options for our state to advance such a remedy without state funding. It is worth the continuing effort to explore creative opportunities under section 1332, as well as efforts for federal change, that can help extend the promise of the ACA and the intent of section 1332 waivers to further improve coverage options for families.

As this proposal has challenges in meeting deficit neutrality requirements, we would recommend considering options for a "family glitch" fix 1332 waiver in the longer term, perhaps when 1332 waiver guidelines are modified to create more flexibility for progressive innovations like this.

Thank you again for this opportunity to outline our comments and provide suggestions for some useful 1332 waiver proposals. We look forward to the ongoing discussion of these ideas and others.

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[3] Ken Jacobs et al., "Proposed Regulations Could Limit Access to Affordable Health Coverage for Workers' Children and Family Members" (Berkeley: Center for Labor Research and Education, University of California, Berkeley, and Center for Health Policy Research, University of California, Los Angeles, December 2011).

Sincerely,

Ted Lempert
President
Children Now

Corey Timpson
Director
PICO California

Mark Diel
Executive Director
California Coverage & Health Initiatives

Mayra Alvarez
President
The Children's Partnership

Peter Manzo
President & CEO
United Ways of California

Alex Johnson
Executive Director
Children's Defense Fund – California