

## NEWS BREAK

October 8, 2010

### State Legislature Finally Agrees on a Budget

Early this morning the State Legislature finally ended the longest State Budget standoff in California history. The Budget was delayed for more than 100 days by a combination of an almost \$18 billion dollar deficit, ongoing economic difficulties, and the contentious politics of the upcoming election.

The final deal was helped along by some rosier projections put forward by the non-partisan Legislative Analyst Office (LAO), which projected a somewhat smaller deficit for next year (\$17.9 billion instead of almost \$20 billion). The Legislature was also able to include some increased federal funding due to the state's Medi-Cal 1115 Waiver.

CMA is pleased that the final State Budget did not include drastic cuts to health care programs. Although there are some cuts to the Medi-Cal program, many of the worst cuts that had been proposed were not included in the final deal.

A summary of the Budget deal is below.

#### OVERVIEW

Overall, the Legislature had to solve a projected \$17.9 billion deficit for 2010-11. The Budget passed this morning includes:

- \$7.5 billion in cuts
- \$5.3 billion in increased federal funds
- \$2.5 billion in revenues
- \$2.9 billion in fund shifts/other revenues

The Budget leaves California with a \$364 million reserve for next year.

The revenues in the Budget largely come from suspending several business tax credits which had been passed in previous budgets, including the Net Operating Loss (NOL) carry-forward (which allows businesses to deduct current-year losses from later-year taxes).

#### ISSUES OF INTEREST TO PHYSICIANS

##### Implementation of the Medi-Cal 1115 Waiver

As noted above, one of the driving forces in getting the Budget done was \$2 billion in increased federal funding based on the implementation of the State's Medi-Cal 1115 Waiver. The CMA opposes the expansion of Medi-Cal Managed Care proposed in the Waiver and has advocated against this proposal. The CMA is continuing to work with the Department of Health Care Services to mitigate the ill effects should this policy move forward.

### **Increased funding to DMHC for monitoring of health plan networks**

The Budget allows the Department of Managed Health Care (DMHC) to increase assessments on health plans in order to fund increased monitoring of health plan provider networks. The CMA supported this provision and believes it is especially important given the expansion of Medi-Cal Managed Care proposed in the Waiver.

### **Medi-Cal stops paying Medicare share of cost for Dual Eligibles**

Under current law, Medi-Cal pays up to \$500 of the share of cost for dual eligibles. This Budget eliminates that payment, saving the State \$1 million. Dual eligible patients will now have to pay their share of cost out of pocket, possibly affecting their ability to see their physicians.

### **Semi-Annual Reporting of Eligibility**

In the 2008-9 Budget, the State imposed a requirement that Medi-Cal beneficiaries report their eligibility every six months, instead of annually. This requirement was removed to allow the State to access federal funding through the Stimulus Act. Because the Stimulus funding will end on July 1, 2011, the Budget includes language reverting the state to semi-annual reporting on that date.

### **Healthy Families Kept Whole**

The Healthy Families program was not cut, and will continue to cover children up to 250% of the federal poverty level.

### **Medi-Cal fraud monitoring**

The Budget assumes \$26 million from additional anti-fraud efforts in Medi-Cal. CMA will continue to work with DHCS to ensure that these efforts target actual fraud, and do not become overly burdensome on physicians.

### **Every Woman Counts and IMPACT**

The Every Woman Counts program, which provides cancer screening to indigent women, was funded at \$20 million. Although this is not as high as CMA had hoped, it does keep the program in place. The Budget also protects funding for the IMPACT program, which provides prostate cancer screening for indigent men.

### **Over-the-Counter Acetaminophen**

Nonlegend/over-the-counter acetaminophen drugs will no longer be covered by Medi-Cal, with the exception of Children's Tylenol.

### **Reduction to Reimbursement for Physician-Administered Drugs**

Reimbursement for physician-administered drugs, including vaccines, will be reduced to the lower of the Medi-Cal pharmacy rate or the Medicare rate. This will reduce physician payments for these drugs by \$6.4 million.

### **Reduction in Radiology Rates**

Reimbursement rates for radiology services in Medi-Cal are reduced to 80% of the Medicare rate, saving the State \$13.6 million. This could be a substantial reduction for services requiring newer and more expensive technology, included PET scans, CAT scans, and MRIs.

*CMA is assessing these final two issues, as they appear to conflict with CMA's standing injunction against reductions in Medi-Cal reimbursements. More information on those issues will follow as it becomes available.*

### **ITEMS NOT INCLUDED IN THE FINAL BUDGET**

Finally, CMA is pleased that the final Budget does not include several major proposals which CMA had opposed. These included: Medi-Cal co-payments, reductions in Healthy Families eligibility, expanding the state sales tax to services (including physician services), and allowing the Franchise Tax Board to suspend professional licenses for non-payment of taxes. CMA had actively lobbied against all of the above.

## NEXT STEPS

Governor Schwarzenegger will sign the Budget in the next few days. Per California law, the governor will have the ability to reduce individual spending items through line-item vetoes. CMA will monitor the Governor's vetoes and make that information available.

## ACOs and Medical Foundations: Opportunities and Risks with New Payment Models

CMA recently released a 45 minute video presentation by CMA CEO Dustin Corcoran and CMA Vice-President and General Counsel Francisco Silva covering the basics about ACOs and their potential advantages and disadvantages for physicians and a new CMA On-Call document regarding the 1206(l) Foundation Model that explains the legal requirements for these foundations and practical considerations involved in the decision of whether to join one.

To access the video presentation on ACOs visit: <http://www.vimeo.com/15057222>.

To access CMA On-Call document #0218, "Legal and Practical Considerations Concerning Medical Foundations" visit <http://www.cmanet.org/member>. On-Call documents are free to members.

## New Requirement: Protecting Employees from ATDs in the Health Care Workplace

New California Occupational Safety and Health Administration (Cal/OSHA) standards have taken effect that require employers to protect employees from aerosol transmissible diseases (ATDs). The California Medical Association (CMA) has published a new On-Call document, available in CMA's online medical-legal library, to help physicians understand their obligations under the new regulations.

ATDs are those that require "droplet precautions" or "airborne infection isolation." The new standards cover health care facilities, including hospitals, nursing facilities, clinics, medical offices, long-term care facilities, emergency services and transport providers, and other defined high-risk workplaces.

Under the new standards, covered employers are required to offer influenza, measles, mumps, rubella, Tdap, and varicella vaccines to their employees. (Currently, covered employers are only required to provide the seasonal flu vaccine.) Employees who decline these vaccines must complete declination statements. The new standards also require employers to provide powered air-purifying respirators to employees who perform high-hazard procedures.

These new standards come in addition to the standards that took effect last August requiring employers to have written infection control procedures in place. The written infection control plan must include, among other things, a list of all high-hazard procedures performed in the facility, a respiratory protection plan, procedures for identifying, isolating, and transferring potentially exposed individuals, and detailed procedures to follow in the event of an exposure incident.

For more information, see CMA On-Call document #1842, "[Protecting Employees from ATDs in the Health Care Workplace](#)." On-Call documents are free to members at the [members-only website](#). Nonmembers can purchase On-Call documents for \$2 per page in the [CMA bookstore](#).

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