



August 16, 2013

Ms. Rene Mollow, Deputy Director
Department of Health Care Services

Ms. Thien Lam, Deputy Director Eligibility and Enrollment
Covered California

Re: Advocate Comments on California's Draft Paper Application

Dear Ms. Mollow and Ms. Lam,

Following please find comments from consumer advocates on California's draft paper application for insurance affordability programs dated August 13, 2013. We understand the application has been sent to CMS for approval and that you hope to finalize the application for printing to commence August 23.

Our comments include both larger policy issues and page-by-page specific comments. Though we have not reiterated all of our previous comments they still stand.

I. Policy Issues

Application Branding / Medi-Cal and AIM Application

We appreciate that some of our comments on the first page were accepted including language about the availability of "free or low-cost" insurance / programs. However, we are still concerned that the application is not clearly branded as an application for Medi-Cal and AIM as well as Covered California. We strongly urge that the names Medi-Cal and AIM be prominently displayed in the header of the application alongside Covered California. We understand this may be in the works and hope to see a new cover as soon as it is available.

As we have stated, we would welcome the opportunity to have a deliberative conversation about developing an “umbrella” brand for all the insurance affordability programs for 2015 but for 2013 and 2014, it is critical that the well-known name of Medi-Cal be used prominently on the application.

Information about offers of employer coverage and the Employer Coverage Form

We are distressed that you have not adopted our recommendations making sure that likely Medi-Cal enrollees are not required to submit Attachment C – the Employer Coverage Form. Information about offers of employer coverage is relevant only for the premium tax credit and employer penalties, not for Medi-Cal eligibility. Having to take the “Employer Coverage Form” (Appendix C) to an employer will be a major barrier to completing the application and enrollment process for some people. It is therefore very important to be clear that: (1) such information is required only of applicants who may actually be eligible for employer coverage, as the federal forms do make clear (both short and long); and (2) applicants who are likely eligible for Medi-Cal do not need to collect or provide information about employer coverage, *whether it is offered or not*.

We therefore strongly recommend that the changes we set out further below be included in Attachments B and C. We also request that anyone assisting with or processing applications be informed that consumers likely income eligible for Medi-Cal need not submit this information.

Language & Disability Access

Thank you for including a Need Help banner in Spanish at the bottom of each alternating page.

We appreciate the addition of translated instructions of how someone can get help in another language on the back cover of the application. However, it gets lost on the back cover and non-English readers are unlikely to see the information. We urge that the page be moved up to the second page to ensure it is seen.

II. Specific Wording and Formatting Comments

Cover Page

As discussed, the application should have the Medi-Cal and AIM names featured prominently on the cover and references to Covered California should also reference Medi-Cal and AIM, where applicable. We don't understand the bar above the picture of the people saying, “Apply Now Through Covered California.” The Covered California online portal and service center are two of the ways people can apply for coverage but people can also apply in person or on the phone with a county social

services office or with an assistor -- venues not "through Covered California." This points to the confusion created by referring to both the online portal and state service center - two of the application doors -- as Covered California and also using the same terminology for the private health insurance products, subsidized and unsubsidized, through the Exchange.

We also discourage you from using the word "marketplace" since people have to spend money at marketplaces but the largest insurance affordability program, Medi-Cal, is free for most enrollees.

We urge you to add back the statement that you may qualify for a free or low-cost program even if you earn as much as \$94,000 for a family of 4.

We suggest the addition of "for" as follows, "Assistance paying for your health insurance."

You can get this application in other languages

While we appreciate that you included an 800 number and the availability of other formats at the bottom of the list of languages, we are still concerned that it will be confusing to the reader what the list of languages mean. The ideal situation is if there are dedicated 800 numbers for each of the languages, to include the numbers on the list of languages. For example, Español: 1-800-234-5678; Tieng Viet: 1-800-345-6789; etc.

Otherwise, we would recommend you revise the heading to, "You can get this application in other languages and formats, such as large print, by calling 1-800-123-4567," so the directions are at the top.

Things to Know

Thank you for adding much of the language we requested on this page including the language for American Indians and Alaska Natives and the sentence that you will call to help finish the application if it's incomplete.

Thank you for the language indicating you can apply even if you do not file taxes here and at Step 2.

Thank you for revising the language regarding SSN and immigration status. However, we are still concerned the language is not consumer friendly or clear to applicants. For example, the term "document numbers" is not commonly used when referring to immigration status so would not be understood by most non-citizens. Please delete that term or use instead "information." We recommend again the language we had provided previously: "Proof of citizenship or immigration status is required only for

applicants.” If this recommended phrase is not included, please revise the second sentence of the first bullet that refers to immigrants so that it mirrors the way the 1st sentence for citizens is written. We would also suggest separating the first bullet to 2 bullets – one for citizens and one for immigrants. : Thus, the new second bullet would read: “Information about immigration status for applicants who are non-citizens.”

We would then recommend that the bullet regarding privacy, “We keep your information private...,” be inserted after the new bullet on immigration status. Or we suggest moving the SSN and immigration status question after information about income and health insurance and then the privacy bullet would be referring to both income and immigration status.

We urge you to add back in the timeframe by which someone should expect a response to the application.

We strongly reiterate our request that the following language be included, “Families that include immigrants can apply. You can apply for your child even if you aren’t eligible for coverage. Applying won’t affect your immigration status or chances of becoming a permanent resident or citizen.”

Step 1

Again, we urge that, in addition to the language questions, you add: “What alternative format, such as Braille, large print font, electronic disc, or American Sign Language, do you need when we communicate with you?”

Step 2

We appreciate you adding our suggested language at the bottom of page 3 about limited use of personal information and not needing citizenship/immigration status information for those not applying for coverage. However, we recommend you revise the phrase “only to check if you are eligible for health coverage” in that bullet to the same (and better) language used on page 2 under “Things to Know” which is “...only to see if you qualify for health insurance.”

We urge you to add to those people included on the application, “Anyone else under 21 who you take care of and lives with you,” as the federal application does.

We recommend you make it clearer that Step 2 on page 3 is for the application filer to apply because the “Start with yourself” seems hidden where it currently is and is confusing when the sentence says go to Step 2 for others. We suggest the following: “Start with yourself. Go to page 4.”

“If you are applying for other family members, go to page 7.”

This will help direct the application filer to the correct place and make it less confusing since Step 2 and Person 1 or Step 2 and Person 2 are not immediately clear.

Step 2, page 4

Thank you for adding language about why the SSN is used and that it is only required for applicants, as well as instructions on how to get help if you need an SSN.

We continue to request that information about sexual orientation and transgender status be added now, though we understand the state plans to attempt to add this next year.

We strongly reiterate our request that the box asking why the applicant doesn't have an SSN be eliminated. This is too early in the application process to be asking for an SSN and will have a chilling effect, especially when the starred language says you don't have to provide an SSN if not applying. It sends mixed messages suggesting that if you do not have an SSN you have to have a good reason before you can proceed with this application even though you are not the one applying. We also still object to asking the applicant why they don't have a SSN at all in the application because this information is not "strictly necessary" for an eligibility determination and takes up unnecessary space on the application when the goal is to create a simple, streamlined application.

If this request regarding the lack of SSN remains, we strongly urge you to move the box at least to under the "Federal income tax information" AFTER the question "If you filed taxes last year, what did you file as?" Then, when the applicant is asked for their ITIN or ATIN, it makes more sense to them. We recommend this change at every page in the application this question is asked.

Step 2, page 5

Again, we strongly encourage you to eliminate yes/no question about naturalized citizen. It is discriminatory, violates Equal Protection, and will lead to confusion and create a chilling effect. This question is **not required by law** and there is a requirement to ask only for information that is **strictly necessary** which this would violate since they already answered yes/no to the question "Are you a citizen?"

Moreover, this additional question for naturalized citizens is also confusing to a naturalized citizen because he or she will have already answered yes/no to the "Are you a US citizen?" and most likely will not understand why they have to indicate they are a naturalized citizen.

Thank you for revising the language to “satisfactory immigration status?” We continue to recommend that the request for document ID and type be deleted altogether and replaced with a request for Alien Registration Number (A#) as that is the main identifier known to immigrants and easily understood. We recommend the following language and field replace the questions regarding documents:

“Alien Registration Number (A#)(if available)
”

And if document type and ID remains, we recommend that it be asked after the A# question. It is more likely that these fields will remain unanswered because those questions are not asked of immigrants elsewhere and they are not routinely required to find their document type and ID, which also may not be easy to find on certain documents. This is yet another reason we recommend these three questions related to immigration documents be deleted. As this section is currently written, it is more likely immigrants will put their A# into the document number field and will want to provide you a copy of their immigration document for the assistor or agency to locate that information from their document.

We reiterate our recommendation that you delete the “have you lived in the US since 1996” question. First, this question is confusing to an immigrant applicant as length of time in the US is NOT a condition of eligibility, which is what this question seems to be implying. This could create a misimpression that you are only allowed to apply for insurance or may qualify for insurance if you have lived in the US since 1996. If so, this misimpression will have a chilling effect and further confuse immigrants as to their eligibility. Second, as we stated before, date of entry in the US is not necessarily the same answer as “have you lived in the US since 1996?” It is not an accurate question to determine if the PRWORA restrictions apply for Medi-Cal eligible individuals. Third, asking this question of every applicant violates the requirement that you ask only for information that is strictly necessary because this question should only be asked if an applicant is income-eligible for Medi-Cal as it is not relevant for Covered California eligible applicants. Even among Medi-Cal eligible applicants, this question only applies to “qualified” legal immigrants - not every immigrant with satisfactory status, so again the application would be asking other legal immigrants unnecessary questions. We strongly recommend that determining what an applicant’s date of entry is - for purposes of determining whether an applicant is eligible for federal Medicaid, such that the state can draw down federal dollars, should be done administratively after the initial eligibility determination and be obtained by the state on the back-end using information that USCIS has in their records (via a SAVE inquiry).

We are distressed that you have not changed the questions regarding disability as we recommended to questions that will be more easily understood by consumers.

Step 2, page 6

The question asking “Where do you work now?” should be revised to simply ask how much do you get paid and the frequency. The box for employer name should be moved below that and be revised to “Employer Name (optional).” First, the name of the employer is not necessary for an eligibility determination; thus, its inclusion and not making it optional violates the federal and state requirements that only information which is strictly necessary should be asked of applicants. Second, asking for the employer name from the onset in a section focused on income would likely create a chilling effect and confusion for those who are working “under the table” or working for multiple employers. There is no recognition in these questions (or application as a whole) that there will be applicants with non-traditional jobs and income. If you want to ensure accurate reporting of family income, the application should allow applicants to report their income from every and any source without having to name their employers or type of work as a required part of that reporting.

We recommend revising the income section as follows:

- 1) Do you work? If no, go to the next section (about other income)
- 2) How much (or what) is your income?
- 3) Move the “box of how often do you get paid” below that.
- 4) Are you self-employed? If not, where do you work?
- 5) Employer name and allow for multiple employers or explain can attach that information on an extra page and that this information is OPTIONAL
- 6) Does your income change from month to month?
- 7) Do you have other income?
- 8) Do you have deductions?

Race/Ethnicity

The comments below are applicable for pages 5, 8, 11, and 14.

We appreciate that you included our suggested explanatory language to this section but ask that you also add “Optional” after “race.” The phrase, “You do not have to answer this,” is very off-putting.

We appreciate you moving the “Are you Hispanic...” question to the right in terms of placement.

The options “Other Asian” and “Other Pacific Islander,” must be deleted. These are NOT racial subcategories and will result in invalid information. We were told that the paper application was designed from the on-line application. We think that on the on-

line application, Other Asian and Other Pacific Islander are fill-in the blank options. These options do not translate appropriately in the paper form.

The option, "Other Hispanic" needs to include a fill-in-the blank line.

For the reference, "If you are an American Indian or Alaska Native... fill out Attachment A on..." only page 21 should be referenced.

Step 2, page 13

This page is missing the two questions about language preference.

Step 3, Page 16

We remain very concerned that the privacy statement is too long, includes unnecessary information, and may deter consumers from submitting their application. We recommend that the wording in this section be rewritten for the 6th grade reading level standard and that any unnecessary components be deleted. For example, why do you need to include the Government Code section citations? Also, few consumers know what "Department of Health Care Services (DHCS)" is (and you have the long name spelled out twice). We recommend replacing it with "Medi-Cal program."

Finally, listing all the agencies in the last paragraph seems unnecessary and specifically mention of the FBI could create a chilling effect. Based on all these concerns, we suggest deleting the 2nd and 3rd paragraphs altogether in the Privacy Statement section.

If these paragraphs remain as is, we recommend revising the last paragraph as follows: "Information may be shared with other federal and state agencies only for enrollment and general administrative purposes."

Or eliminate at least the 3rd paragraph in its entirety as this statement has already been made in the first paragraph.

The sentence, "The consequence of not supplying the mandatory information requested is denial of the application," is quite harsh and does not correlate with the beginning message of, "... if you don't have all of the information we ask, sign it and send it anyway." We suggest revising it as follows:

"If your application is missing any necessary information, we will let you know so that you can give us that information. If certain information remains incomplete, you may not be able to get health insurance."

In the second last paragraph, after the sentence "You have the right to access and inspect your personal information in records maintained by federal and state agencies,

with some limited exceptions," please add "You also have the right to an alternative format or auxillary aid such as Braille, large font, or interpreters that will enable you to effectively review your personal information."

Rights and Responsibilities (page 17)

Please revise the 2nd bullet as follows to make it clear only applicants' information is used: "I understand that the information I give will only be used to see if those in my family who are applying for health insurance will qualify." (This is similar to existing wording used later on this page, in the Declaration and signature section.)

The fifth bullet about reporting changes in circumstance rightly advises that a consumer can report changes to a county social service office but then only lists contact information for Covered California. It should say to report changes I can call my county social services office.

In the 6th bullet, regarding discrimination, thank you for adding our suggested language about reasonable accommodations.

In the 8th bullet, you need to make clear you're also checking their immigration status as it's not explicit here as it is with citizenship status. We suggest you revise this bullet as follows:

"I give my permission to Covered California to check other agencies' computer records for the sole purpose of verifying income and citizenship or immigration status to decide if the people who are applying qualify for health insurance." (This is similar to existing wording used later on this page, in the Declaration and signature section.)

Rights and Responsibilities, page 18

Please add how much time an applicant has to file an appeal, under the second bullet point. We suggest revising bullet 2 as follows: "I know that I must file an appeal within 90 days of the decision. The decision will include information about how to appeal or I can call XXX."

Certified Enrollment Counselors, page 19

Where do certified "application" (not enrollment) assistors provide their information if helping with the application? We urge revising the wording in this section to more broadly allow any counselors, assistors, navigators, or agents to provide their information at this section of the application.

A few more questions, page 19

The vast majority of consumers will have no idea what question 1, asking if they would like to be evaluated for other Medi-Cal programs, means or what its significance is. Furthermore, the text next to the arrow regarding possibly having to pay a portion of the costs of these programs is very confusing and off-putting and might lead someone not to request a full determination. We presume this refers to Medi-Cal with a share of cost, but will likely have a chilling effect and should be deleted.

We recommend the following language to replace question 1: "This application works for most Medi-Cal programs, but other programs, including those for people 65 years of age or older, people with a disability or special health care needs have to give other information. If you would like to be considered for all Medi-Cal programs, check here."

For question 2, since some consumers will not know about open enrollment, we suggest the application just ask if they have had any recent changes in their life and give the list of options.

Question 3 should include Medi-Cal as well as Covered California.

Need more information, page 20

At the top of the page, we recommend the description of CalWORKS be revised as follows: "CalWORKS: A basic needs cash assistance and work training program for low-income families with children." The use of the term "welfare" and "needy" may be off-putting and thus applicants may not select even if they are likely eligible. Also "cash aid" is a term of art and not commonly understood.

We recommend you also revise the description for CalFresh as follows: "CalFresh: A food assistance program, also known as the Supplemental Nutrition Assistance Program (SNAP), that provides monthly electronic benefits on a debit card that can be used to buy most foods at many markets and stores."

We strongly recommend adding at the bottom of this page some reassuring language regarding public charge. We suggest the following sentences be added: "Applying for health or food programs will not affect your immigration status. Applying for programs for children who are citizens will not harm their citizenship status or your immigration status."

Since this page is the last page of the application for most people, the bottom of the page should make that clear with a "End of Application" or "Stop Here," and then under that indicate "if you are Native American, go to page 21."

Attachment A; For American Indians or Alaska Natives

Thank you for including our recommended language.

Attachment B, page 24:

We suggest including a sentence about what is NOT considered health insurance they need to report. For example, refer to flex savings plan, health savings accounts, disability insurance, insurance available in another country. Otherwise, they may consider it "other health insurance" and select that among the types of insurance.

We strongly recommend adding the following language regarding the employer-based coverage:

"You **DON'T** need to answer these questions or use Appendix C, the Employer Coverage Form, unless someone in the household is eligible for health coverage from a job." (see Appendix A of long federal form); and

· "You **DON'T** need to answer these questions or use Appendix C, the Employer Coverage Form, for anyone who is eligible for Medi-Cal. The income limits for Medi-Cal by family size are: [INSERT CHART]"

Attachment C: "Employer Coverage Form"

Again, we strongly recommend clarifying:

- Skip this form if no one in the household is eligible for health coverage from a job.
- Skip this form for anyone who is eligible for Medi-Cal (see income chart on Attachment B, p. 24).

For applicants who do need to use the Employer Coverage Form, reassuring language is needed that if your employer does not complete this form, there are other ways to provide proof of income. It should also indicate this form is only needed for those who are **applying** for benefits (to determine minimum essential coverage). Non-applicants should not be required to provide information about their existing coverage since that can be asked by the IRS for individual mandate purposes. Also, this asks for name and SSN without recognizing that the applicant may not have an SSN.

Attachment D: "Choose your health plan"

Please clarify that: (1) this form is only for choosing Covered California plans if that is the case and (2) Medi-Cal, enrollees will be covered back to the date of application once found eligible, but will choose their health plans once they receive information about plan choices.

For Covered California, how does the applicant get a list of the health plans available to them (and the code) and a copy of the Covered California Handbook?

Frequently Asked Questions

Question #1: The second paragraph regarding Medi-Cal should be preceded by a separate question: What is Medi-Cal? Otherwise, it is too difficult to find - as some of us found when we initially were distressed to see the question missing. The description of Medi-Cal should say it is free for most people.

Question #2 demonstrates the problem with using the term "Covered California" as both the portal for coverage programs and the place to get private insurance. In addition, the answer is incomplete. Someone who is not a legal resident can qualify for emergency Medi-Cal. We recommend revising the answer to delete the term "legal resident" to replace it with "state resident" since that is a requirement for both Medi-Cal and Covered California.

Question #3 as currently worded makes it sound like Medi-Cal is different from a government program. We suggest rewording the 2nd sentence as follows: "We use your income to help us find the health care insurance that is most affordable for your family."

Question #4 says people can get help at a county office but should specify that people can also apply at county offices.

Question #6 should include a list of who is exempted from the individual mandate. In the second paragraph we recommend the following addition, "In 2014, the penalty for not having insurance will be . . .

For Question #7 the answer is not clear. We recommend revising as follows: "Medi-Cal is no-cost health insurance. If your income changes during the year or at annual renewal, you may qualify for other health insurance and premium assistance through Covered California."

Question #10 has information about how to get information about Covered California plans, but not about Medi-Cal or AIM plans. This must be added as the joint application for all programs.

Add a question and answer explaining AIM.

Financial Assistance Questions, Page 30, Question 1

The answer to the question 'can I get financial assistance' should NOT equate premium assistance to Medi-Cal. Medi-Cal is actual health coverage, not financial assistance. We recommend revising the answer as follows: "We will use your family's income to help us find the health insurance that is most affordable for your family. Depending on your income, you may qualify for health care coverage that is at no-cost to you, or you may qualify for financial assistance to help pay for your health insurance premiums and co-pays. Our goal to help you find the most affordable health insurance for you and your family."

Page 30, Question 3

The answer is incorrect. Medi-Cal is not the same as financial assistance. Nor is the fact that you did not file taxes before make you ineligible for financial assistance now - either in Medi-Cal or in the Exchange. You can still buy insurance in Covered California if you didn't file taxes in the preceding year. Although you will have to file taxes in the future in order to get APTC or CSR, it's not a requirement to have filed taxes in the past to be eligible for health insurance or APTC or CSR for the coming tax year.

We recommend revising the answer as follows: "If you didn't file taxes last year, you can still apply for health insurance and can get financial assistance. You can use this application and report your income information even if you did not file taxes in the past. We will use your income to help us find the health coverage that is most affordable to your family."

If you qualify for premium assistance, you will have to file taxes in the future to be able to receive that assistance. "

Page 31, Question #1

We suggest adding that you must be a resident of CA to apply.

Page 31, Question #2

This is a helpful Q&A. We recommend making it clearer that you don't need an SSN to qualify for some programs. Medi-Cal is not the only program - the Exchange should also be referring ineligible family members to county health care services.

We recommend revising the answer as follows:

"No. The information you provide is private and secure, as required by law. We use the information only to see if you qualify for health insurance and do not share the information for other purposes.

Only those family members who are applying must provide their Social Security Number or information about their citizenship or immigration status. Yet, you may qualify for certain health programs even if you do not have a social security number or satisfactory immigration status. Ask for more information if you are interested."

New FAQ for page 31

We suggest adding a new question about what is specifically available for immigrants who do not have satisfactory immigration status. We suggest adding the following question and answer:

Q: Will I qualify for health insurance if I am not a citizen or do not have satisfactory immigration status?

A: Many immigrants who are lawfully present in the U.S. may now qualify for affordable health insurance even if they may not have been eligible before. You may also be eligible for health care programs that are available to residents regardless of your immigration status.

Anyone who lives in California can apply using this this application to help you find health insurance or programs for which you qualify. To help us determine which program is best for you, please make sure the information on your application is correct and true. We keep your information private and only share the information with other government agencies to see which programs you qualify for.

Applying for health care programs will not affect your immigration status."

Page 31, Question 7 (Pregnancy question)

This Q&A is inaccurate and need not specifically use the term "unborn baby." This Q&A we assume, is to let those who are pregnant know they can apply, right? If so, we suggest revising both the question and answer as follows:

Q: "I just found out I am pregnant. Can I apply for health insurance that will cover me during my pregnancy?"

A: Yes. Make sure to answer yes to the application question "Are you pregnant?" or inform your application assistor. You can apply for health insurance that can cover pre-natal care, labor and delivery, and postpartum care. Insurance plans can no longer deny you health insurance if you are pregnant."

Page 32, Question 9

Add how much time they have to file an appeal. We recommend the following revision: "You can file an appeal. To appeal a decision you don't agree with, you should contact Covered California **within 90 days** in one of these ways:"

Page 33

It looks like there is room on this page to highlight the importance of registering to vote. We strongly encourage you to add the voter registration logo and some encouraging narrative. Similarly, information about CalWORKS and EITC should be included on this page.

Thank you for your consideration of our comments,

Elizabeth A. Landsberg, Western Center on Law and Poverty

Ellen Wu, California Pan Ethnic Health Network

Julie Silas and Betsy Imholz, Consumers Union

Lynn Kersey, Maternal and Child Health Access

Sonal Ambegaokar and Kim Lewis, National Health Law Program

cc: Toby Douglas, Director, Department of Health Care Services
Peter Lee, Executive Director, Covered California