



September 11, 2013

Via Electronic Mail

LIHP Transition Team  
Department of Health Care Services [LIHPTransitionProject@dhcs.ca.gov](mailto:LIHPTransitionProject@dhcs.ca.gov)

RE: Comments to Draft Medi-Cal Plan Choice Notices

Dear Transition Team members:

Thank you for the opportunity to provide input on the draft Medi-Cal Plan Choice Notices for the LIHP Transition. Western Center on Law and Poverty and the National Health Law Program – on behalf of AIDS Project Los Angeles; American Cancer Society Cancer Action Network; Asian Americans Advancing Justice; Bay Area Legal Aid; California Pan-Ethnic Health Network; California Partnership; California Primary Care Association; Community Clinic Association of Los Angeles County; The Health Consumer Alliance<sup>1</sup>; Kern Health Consumer Center; L.A. Gay and Lesbian Center; Legal Services of Northern California; Neighborhood Legal Services of Los Angeles County; Public Law Center – submit the following comments for your consideration. We will also be sending our suggested line edits to the notices themselves by the end of the week.

- 1. It is critically important that these notices inform LIHP enrollees about their rights to continuity of care and we recommend an FAQ accompany these notices.**

We are extremely disappointed that the draft notices do not provide LIHP enrollees with any information about their continuity of care rights. DHCS has repeatedly committed to applying “lessons learned” from the 2011 SPD Transition to the LIHP Transition. From the SPD experience, we learned that continuity of care is critical to successfully transitioning thousands of

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<sup>1</sup> The Health Consumer Alliance (“HCA”) is a statewide collaborative of consumer assistance programs operated by community-based legal services organizations, which includes: Bay Area Legal Aid, California Rural Legal Assistance, Central California Legal Services, Greater Bakersfield Legal Assistance, Legal Aid Society of Orange County, Legal Aid Society of San Diego, Legal Aid Society of San Mateo, Legal Services of Northern California, Neighborhood Legal Services of Los Angeles County, the Western Center of Law and Poverty, and the National Health Law Program. The HCA’s goals are to help individuals with their health care problems, develop remedies to systemic problems affecting health consumers, and educate communities as to their health care rights.

beneficiaries into a new health care setting. The poor performance of continuity of care protections led to significant, and at times catastrophic, disruptions in care; beneficiary and provider dissatisfaction; increased costs for providers; and increased administrative costs for the plans and State.

Recent studies have found that more than 80% of SPDs did not know that they had a right to continue to see their current providers.<sup>2</sup> And many providers serving SPDs also were unfamiliar with the continuity of care protections, refused to participate in continuity of care, or did not understand how the protections applied.<sup>3</sup> Plans improperly denied requests for continuity of care and failed to inform their members of these rights.

We urge DHCS to take steps now to avoid repeating these failures. These notices must alert LIHP enrollees that they may be able to continue care with their existing providers and inform them of where to get more information about continuing care.

We recommend that DHCS include an FAQ with these notices to provide general information about Medi-Cal managed care and continuity of care. Moving to a managed care delivery system will be a new and foreign experience for many LIHP enrollees. An FAQ that includes information not only about continuity of care but also describes what is a managed care plan, what it means if a provider is in-network or out-of-network, how to access services, and where to go if there are questions about navigating the plan, will go a long way towards helping transition these individuals – many of whom have never received regular health care before LIHP – to a coordinated care system. Without such information, LIHP enrollees' care is very likely to be disrupted, and this transition will suffer the same problems and incur the same costs as the SPD transition.

DHCS recently sent such a notice with an FAQ to beneficiaries in the rural expansion of Medi-Cal managed care. Of course, the information included in that FAQ would need to be modified for the LIHP Transition. But we think the combination of a simple one-page notice with a one-page FAQ is an effective way to convey information to consumers. We encourage DHCS to do a similar combination here, and to engage stakeholders in the content and drafting of an FAQ as soon as possible.

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<sup>2</sup> See Cal. HealthCare Foundation, *Briefing – Transitioning the SPD Population to Medi-Cal Managed Care* (March 28, 2013), [www.chcf.org/events/2013/briefing-spd-transition-managed-care](http://www.chcf.org/events/2013/briefing-spd-transition-managed-care).

<sup>3</sup> See KAISER COMM'N ON MEDICAID AND THE UNINSURED, *TRANSITIONING BENEFICIARIES WITH COMPLEX CARE NEEDS TO MEDICAID MANAGED CARE: INSIGHTS FROM CALIFORNIA* (June 2013), available at <http://kaiserfamilyfoundation.files.wordpress.com/2013/06/8453-transitioning-beneficiaries-with-complex-care-needs.pdf>.

**2. As we urged last month in our comments to the draft general transition notices, DHCS should ensure that the notices and any FAQs are written in plain language and include information for speakers of other languages.**

In addition to the line edits to the notices, we urge DHCS to consider the notice language broadly to ensure that it is readable for LIHP enrollees with low literacy levels or with limited English proficiency. As with the draft general transition notices we reviewed last month, these notices again appear to be written at a relatively high reading level. We have suggested substantial line edits to these notices, with a primary goal of editing and supplementing substantive information that we believe is important to convey. But given the quick turnaround for feedback on these notices, the reading level of our edits in addition to the initial draft language should be assessed for readability.

So we again urge DHCS to have the notice language reviewed to ensure that the notices are at a sixth-grade reading level or below before these notices are sent out. We would appreciate another opportunity to review the notices prior to their finalization. In addition, given the importance and the complexity of the information being conveyed, we also ask that stakeholders be given an opportunity to review and comment the translated versions of the notices before they are sent.

We also strongly recommend DHCS insert a tagline on all these notices in the Medi-Cal threshold languages that informs LEP beneficiaries how to get information in their primary language. As noted in Appendix B of the Draft Revised LIHP Transition Plan, we understand that the notices will be translated in threshold languages. But this tagline should nevertheless be included on all notices in case someone needs to receive them in another language.

**3. And as we noted in our previous comments to the Draft Revised Communication and Outreach Plan, we are concerned about enrollees understanding the difference between and the importance of having a BIC and a benefits card from the managed care plan.**

The Draft Revised LIHP Transition Plan included as part of the description of the communication and outreach timeline that Medi-Cal BIC cards would be issued in late December and managed care plans would send benefits cards and member packets “no later than January 10, 2014.” *See* Revised Transition Plan at p. 20.

We continue to be confused as to how consumers will access services from their plans if they have not received their plan benefits card or a member packet, which presumably informs new members how to access services. Even assuming a best-case scenario where all enrollees receive their cards and packets by January 10, DHCS must ensure that people can access services between January 1<sup>st</sup> and 9<sup>th</sup>.

We strongly urge that DHCS ensure that if a LIHP enrollee has been transitioned to a Medi-Cal managed care plan by January 1, *i.e.*, the enrollee's information was timely in MEDs and is not a "late enrollee" or "straggler," that there is a way for providers and the plans to easily confirm enrollment in the event there are delays in issuing BICs and/or managed care plan benefits cards. And DHCS should also make sure that LIHP enrollees will be able to schedule and access services even they have not received their cards.

**4. Finally, we recommend deleting the sentences regarding the option to disenroll from LIHPs because it is a confusing message given the nature of these notices.**

The final sentences in both notices informing LIHP enrollees that they may disenroll from LIHP "at any time" is a confusing message, especially given that the purpose of the notices is to encourage a seamless transition to new health coverage. We recommend deleting them from the notices altogether, as they may unintentionally lead to people disenrolling from LIHP in the mistaken belief that doing so will get them into Medi-Cal.

As we have commented during past LIHP Transition stakeholder meetings, it is our view there is no need for LIHP enrollees to "opt-in" to Medi-Cal, and we are pleased that DHCS appears to have adopted that view by implementing a process to auto-enroll MCE enrollees to Medi-Cal. Along those same lines, we believe it is unnecessary to inform enrollees that they may disenroll at any time, and in fact have difficulty imagining a scenario where a person would want to affirmatively disenroll.

But if CMS has informed DHCS it is necessary to inform LIHP enrollees they can "opt-out" of Medi-Cal and referencing the ability to disenroll is DHCS's way of doing so, we suggest the following alternative language:

*If you do not want to move to Medi-Cal on January 1, you can call Health Care Options at 1-800-430-4263 and say you do not want to be in Medi-Cal. You may continue to receive health care from [LIHP name] through December 31, 2013 but then your coverage will end.*

If you would like to discuss any of these recommendations, please contact Shirley Sanematsu at Western Center on Law and Poverty (213-235-2638 or [ssanematsu@wclp.org](mailto:ssanematsu@wclp.org)) or Abbi Coursolle at the National Health Law Program (310-736-1652 or [coursolle@healthlaw.org](mailto:coursolle@healthlaw.org)) to coordinate a call between DHCS and consumer advocates.

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Again, thank you for this opportunity to provide our input.

Very truly yours,



Shirley E. Sanematsu  
Western Center on Law and Poverty



Abbi Coursolle  
National Health Law Program

***And on behalf of:***

AIDS Project Los Angeles  
American Cancer Society Cancer Action Network  
Asian Americans Advancing Justice  
Bay Area Legal Aid  
California Pan-Ethnic Health Network  
California Partnership  
California Primary Care Association  
Community Clinic Association of Los Angeles County  
Health Consumer Alliance  
Kern Health Consumer Center  
L.A. Gay and Lesbian Center  
Legal Services of Northern California  
Neighborhood Legal Services of Los Angeles County  
Public Law Center