Protect Medi-Cal Funding
Reproductive Health
Issue Brief #12 in a 12-Part Series

Medi-Cal provides a long-term investment in the health of Californians. Medi-Cal coverage and services are tailored to meet the unique needs of low-income people, while costing less per beneficiary than employer-based insurance.[1] While efforts to repeal the Affordable Care Act (ACA) were defeated on July 28, 2017, advocates should remain vigilant for continuing efforts to erode the ACA and scale back Medicaid funding through other means like budget proposals and other proposed legislation. The various ACA repeal proposals that had been under consideration by Congress would have seriously jeopardized the health and financial security of more than 13 million Californians—one third of the state's residents—who rely on Medi-Cal each year.[2] For instance, the California Department of Health Services estimated that the Senate's Better Care Reconciliation Act (BCRA) would have cost the state more than $30 billion over the next ten years.[3] Meanwhile, the federal budget proposed by the administration further eviscerates funding for Medicaid. This issue brief explains why Medi-Cal is so critical for reproductive health access and how this access would be harmed by Medicaid funding cuts.

Why Medi-Cal is important for reproductive health care access:

- **Women make up more than half of the Medi-Cal population, and a large proportion of them are of reproductive age.[4]** Women ages 15 and older make up over a third of all Medi-Cal enrollees, and of these, 63 percent are of reproductive age.[5] California's expansion of Medi-Cal has brought coverage to nearly 4 million low-income individuals, including more than 1.8 million nonelderly adult women.[6] In total, Medi-Cal finances 83 percent of all publicly funded family planning services in California.[7] Medi-Cal also finances half of the abortions in the state.[8] Furthermore, California's Family Planning, Access, Care and Treatment Program (FPACT) gives access to family planning services for all California residents with incomes at or below 200 percent of the federal poverty level, serving an additional 1.1 million individuals of childbearing age.[9] Under FPACT, enrollees must be California residents; however, they do not need to be documented.[10] Thanks to its broad coverage, FPACT has been credited with reducing California's teen pregnancy rates as well as unintended pregnancies to near-historic lows.[11]

- **Medi-Cal provides coverage for comprehensive reproductive health care.** Medi-Cal covers a wide array of reproductive health care services. Its robust contraceptive coverage plans include oral contraceptives; oral emergency contraceptives; contraceptives patches; vaginal rings, foam, gels, and creams; male and female condoms; contraceptive implants; contraceptive injections; and intrauterine devices (IUD).[12] Medi-Cal also covers family planning counseling, vasectomies and tubal ligations, as well as treatment for complications resulting from previous family planning procedures. A recently enacted law requires Medi-Cal managed care plans to provide enrollees with up to 13 cycles of oral contraceptives, a 12 month supply of patches, and a 12 month supply of vaginal rings. These contraceptives can be dispensed in an on-site clinic and can be billed by a qualified family planning provider, including out-of-plan providers, or be dispensed by a pharmacist approved by the State Board of Pharmacy and the Medical Board of California.[13] In contrast to several states in the country, California has few restrictions to abortion access like waiting requirements, mandated parental permissions, or limits to public funding of abortions. In fact, California covers abortion services for all Medi-Cal enrollees, and pays for all these services using its state funds.[14] Moreover, Medi-Cal enrollees may receive abortion services without cost-sharing, with the exception of enrollees who have Share of Cost Medi-Cal.[15] The state also prohibits requiring a medical justification for abortion. Medi-Cal's coverage includes all services and supplies incidental or preliminary to an abortion such as office visits, laboratory exams, ultrasounds, and urine pregnancy tests.[16] Its presumptive eligibility program for pregnant women also covers abortion care, allowing women who need time-sensitive services immediate coverage.[17]

- **Medi-Cal offers strong consumer protections for beneficiaries who receive reproductive health care services.** All Medi-Cal plans are required to protect the confidentiality of family planning services, including abortion, which are by nature sensitive services.[18] This protection is extended to persons under the age of 21, who under Minor Consent Medi-Cal do not need parental permission to access comprehensive family planning services, including abortion.[19] Medi-Cal managed care plans are also strictly prohibited from requiring referrals for abortions, even if the preferred abortion provider is out of network.[20] Similarly, Medi-Cal managed care plans are prohibited from requiring prior authorization for abortions, even if an enrollee seeks care out of network.[21] California's Contraceptive Coverage Equity Act expanded the Affordable Care Act's federal contraceptive coverage requirement by limiting both cost-sharing and medical management techniques, such as prior authorization and step therapy, by all health plans.[22] Furthermore, absent clinical contraindication, utilization controls limiting the contraception supply

to an amount that is less than a 12-month supply cannot be imposed.[23] California law further requires licensed clinics to inform clients that public programs (including Medi-Cal) are available that provide free or low-cost comprehensive family planning services, prenatal care, and abortion.[24]

How funding cuts threaten provider access to reproductive health care in California:

- **Funding cuts could shrink the pool of reproductive health care providers.** Congressional proposals would have decimated Medi-Cal funding, shifting costs to the state that would have risen to $30.3 billion by 2027.[25] Facing such an enormous loss of federal funding, California may seek to cut provider rates to save money—something it has done in the past in response to budget pressures.[26] As a result, California's rates are among the lowest in the country.[27] Recently, California has made some efforts to address access issues caused by cuts in prior years by raising reimbursement rates for reproductive health care services.[28] Should the state be forced to again reduce rates, it would harm providers and health care infrastructure, reduce provider participation in Medi-Cal, and make it more difficult for Medi-Cal enrollees to access reproductive health care. As family planning services are time-sensitive, it is critical that individuals have immediate access to a large pool of providers who are located in their communities. Almost half of California counties do not have access to abortion providers; and these proposals would exacerbate this access problem.[29]

- **Funding cuts might lead California to seek to reduce reproductive health care services**. Faced with a significant shortfall in Medi-Cal budget, the state may seek to reduce reproductive health care services. California could seek to shorten the contraceptive supply that Medi-Cal enrollees currently receive. Less funding will also mean that the state may seek to restrict coverage for certain populations, like undocumented immigrants, in programs like Family PACT. Finally, the state might try to adopt more burdensome application and renewal procedures in order to decrease or discourage enrollment.

- **Funding cuts and other proposals might lead to weakened protections and standards of care for individuals seeking reproductive health care services.** California is a national leader on reproductive health care services and coverage. With cuts on federal funding, the state may attempt to weaken important protections for reproductive health care patients. California may also seek to shift course and allow health plans to impose utilization controls such a prior authorization and referral requirements. Such measures would reduce access to reproductive health care services. Finally, recent federal proposals would gut

protections for Medi-Cal expansion enrollees by eliminating the requirement to provide ten Essential Health Benefits, which include maternity care, as well as preventive and wellness services.

ENDNOTES

[1] *See* TERESA COUGHLIN ET AL., KAISER COMM'N ON MEDICAID & THE UNINSURED, WHAT DIFFERENCE DOES MEDICAID MAKE? 4, 7 (2013), http://kaiserfamilyfoundation.files.wordpress.com/2013/05/8440-what-difference-does-medicaid-make2.pdf (Nationally, employer-based coverage would cost 28% more than covering the same individual with Medicaid).
[2] CAL. DEP'T HEALTH CARE SERVS., MEDI-CAL MONTHLY ENROLLMENT FAST FACTS 1 (2017) (enrollment as of December, 2016 at 13.5 Million), http://www.dhcs.ca.gov/dataandstats/statistics/Documents/Fast_Facts_December_2016.pdf; *see also, e.g.,* KIM LEWIS, NAT'L HEALTH LAW PROG., TOP 10 CHANGES TO MEDICAID UNDER THE SENATE'S ACA REPEAL BILL: IMPLICATIONS FOR CALIFORNIA (2017), http://www.healthlaw.org/publications/browse-all-publications/10-changes-to-medicaid-under-senate-aca-repeal-bill-implications-for-ca.
[3] Letter from Jennifer Kent, Cal. Dep't Health Care Servs., to Diana Dooley, Cal. Dep't Health & Hum. Servs. (June 27, 2017), http://www.dhcs.ca.gov/formsandpubs/publications/opa/Pages/Better-Care-Reconciliation-Act-(BCRA)-Analysis.aspx.
[4] CAL. DEP'T HEALTH CARE SERVS., MEDI-CAL MONTHLY ENROLLMENT FAST FACTS: OCTOBER 2016, http://www.dhcs.ca.gov/dataandstats/statistics/Documents/Fast_Facts_October_16_ADA.pdf.
[5] USHA RANJI ET AL., KAISER FAMILY FOUNDATION, MEDICAID AND FAMILY PLANNING: BACKGROUND AND IMPLICATIONS OF THE ACA, Appendix 1 (Feb. 2016), http://kff.org/report-section/medicaid-and-family-planning-appendix-1-women-with-full-medicaid-benefits-and-share-that-are-reproductive-age-by-state; KAISER COMMISSION ON MEDICAID FACTS, MEDICAID ENROLLMENT: JUNE 2011 DATA SNAPSHOT (Jun. 2012), http://kff.org/medicaid/issue-brief/medicaid-enrollment-june-2011-data-snapshot.
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[7] KAISER FAMILY FOUND., BIRTHS FINANCED BY MEDICAID (2013), http://kff.org/medicaid/state-indicator/births-financed-by-medicaid; ADAM SONFIELD ET AL., GUTTMACHER INSTITUTE, PUBLIC FUNDING FOR FAMILY PLANNING, STERILIZATION AND ABORTION SERVICES, FY 1980-2006 (Jan. 2008), https://www.guttmacher.org/sites/default/files/pdfs/pubs/2008/01/28/or38.pdf.
[8] CAL. DEP'T HEALTH CARE SERVS., MEDI-CAL-FUNDED ABORTIONS, 2014 http://www.dhcs.ca.gov/dataandstats/statistics/Documents/Medi-Cal_Funded_Abortions_2014.pdf; RACHEL K. JONES ET AL, ABORTION INCIDENCE AND SERVICE AVAILABILITY IN THE UNITED STATES, 2014, PERSPECT SEX REPRO H, 49: 17-27 http://onlinelibrary.wiley.com/doi/10.1363/psrh.12015/full
[9] CAL. DEP'T HEALTH CARE SERVS., *WELCOME TO FAMILY PACT,* http://www.familypact.org/Home/home-page (Last visited Mar. 23, 2017).
[10] *See* CAL. DEP'T HEALTH CARE SERVS., FAMILY PACT POLICIES, PROCEDURES AND BILLING INSTRUCTIONS MANUAL. CLIENT ELIGIBILITY DETERMINATION, CH. at 3.
[11] CAL. DEP'T HEALTH CARE SERVS., SUMMARY AND PRELIMINARY FISCAL ANALYSIS OF THE MEDICAID PROVISIONS IN THE FEDERAL AMERICAN HEALTH CARE ACT (MAR.21, 2017), https://www.gov.ca.gov/docs/3.21.17_AHCA_Fiscal_Analysis.pdf
[12] CAL. DEP'T HEALTH CARE SERVS., MEDI-CAL PROVIDER MANUAL, FAMILY PLANNING CH. at 2, 7-12.
[13] CAL. DEP'T HEALTH CARE SERVS., LETTER TO ALL MEDI-CAL MANAGED CARE PLANS, ALL PLAN LETTER NO. 16-003: FAMILY PLANNING SERVICES POLICY FOR CONTRACEPTIVE SERVICES (Dec. 23, 2016), http://www.dhcs.ca.gov/formsandpubs/Documents/MMCDAPLsandPolicyLetters/APL2016/APL16-003R.pdf
[14] CAL. DEP'T HEALTH CARE SERVS., MEDI-CAL PROVIDER MANUAL, ABORTIONS CH. at 1.
[15] *See* CAL. WELFARE & INST. CODE § 14134(a)(6)(D); CAL. CODE REGS. tit.22, § 51002 for prohibition on cost sharing.
[16] *Id*.

[17] 42 C.F.R. § 435.1110; CAL. WELFARE & INST. CODE § 14011.66; DHCS, MEDI-CAL PROVIDER MANUAL, PRESUMPTIVE ELIGIBILITY CH. at 1, http://files.medi-cal.ca.gov/pubsdoco/publications/masters-mtp/part2/presum_m00o03p00.doc ; CAL. DEP'T HEALTH CARE SERVS, MEDI-CAL PROVIDER MANUAL, HOSPITAL PRESUMPTIVE ELIGIBILITY PROGRAM PROCESS CH. at 1,
[18] CAL. DEP'T HEALTH CARE SERVS, LETTER TO ALL MEDI-CAL MANAGED CARE PLANS, ALL PLAN LETTER NO.15-020: ABORTION SERVICES (Sept. 30, 2015), http://www.dhcs.ca.gov/formsandpubs/Documents/MMCDAPLsandPolicyLetters/APL2015/APL15-020.pdf
[19] CAL. HEALTH & SAF. CODE, §§ 123110(a), 123115(a)(1); CAL. CIV. CODE, §§ 56.10, 56.11
[20] CAL. DEP'T HEALTH CARE SERVS., supra note 13.
[21] CAL. DEP'T HEALTH CARE SERVS., LETTER TO ALL MEDI-CAL MANAGED CARE PLANS, ALL PLAN LETTER NO.15-020: ABORTION SERVICES (Sept. 30, 2015), http://www.dhcs.ca.gov/formsandpubs/Documents/MMCDAPLsandPolicyLetters/APL2015/APL15-020.pdf
[22] CAL. HEALTH & SAF. CODE, § 1367.25 et seq.
[23] CAL. DEP'T HEALTH CARE SERVS., LETTER TO ALL MEDI-CAL MANAGED CARE PLANS, ALL PLAN LETTER NO. 16-003: FAMILY PLANNING SERVICES POLICY FOR CONTRACEPTIVE SERVICES (Dec. 23, 2016), http://www.dhcs.ca.gov/formsandpubs/Documents/MMCDAPLsandPolicyLetters/APL2016/APL16-003R.pdf
[24] CAL. HEALTH & SAF. CODE, § 123470 et seq.
[25] CAL. DEPT. HEALTH CARE SERVS.,SUMMARY AND PRELIMINARY FISCAL ANALYSIS OF THE MEDICAID PROVISIONS IN THE BETTER CARE RECONCILIATION ACT 4 (June 27, 2017), http://www.dhcs.ca.gov/Documents/BCRA_Impact_Memo_062717.pdf
[26] *See, e.g., Douglas v. Indep. Living Ctr. of S. California, Inc*., 565 U.S. 606, 611 (2012) (describing a series of cuts California made during the great recession).
[27] *See, e.g.,* Kaiser Family Found., Medicaid Physician Fee Index: 2016, http://www.kff.org/medicaid/state-indicator/medicaid-fee-index (last visited July 13, 2017) (last year, California ranked 48th among states in terms of its Medicaid reimbursement rates). A recently filed lawsuit has challenged California's rates, noting that they have stagnated over time. *See* Soumya Karlamangla, *Medi-Cal Patients Sue State, Claiming Widespread Discrimination*, L.A. TIMES, July 12, 2017, http://www.latimes.com/local/california/la-me-ln-medi-cal-lawsuit-20170711-story.html.
[28] *See* CAL. DEPT. HEALTH CARE SERVS., PROPOSITION 56 SUPPLEMENTAL PAYMENT METHODOLOGIES http://www.dhcs.ca.gov/services/medi-cal/Documents/Prop_56_Methodologies_July_31_Notice.pdf
[29] *See* JONES ET. AL, *supra* note 8.