State of California—Health and Human Services Agency
Department of Health Care Services

TOBY DOUGLAS
DIRECTOR

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GOVERNOR

October 1, 2012

From: Toby Douglas
To: Interested Parties
Regarding: Comments Received on the Transition Plan

I would like to thank all the groups that submitted thoughtful comments on the Transition Plan regarding the Duals Demonstration and Coordinated Care Initiative (CCI), which is still pending approval with the Federal government. The Department of Health Care Services (DHCS) received over 160 pages of comments from 44 entities, including consumer groups such as the IHSS Consumers Union. In addition to written comments, over 360 persons participated on stakeholder meetings and calls on August 28 and September 4, 2012.

These comments were invaluable as we evaluated and revised the Transition Plan. DHCS is committed to ensuring that the demonstration and the overall initiative are successful. We are taking all necessary steps to ensure that the demonstration will be prepared to start on time at the appropriate staffing levels.

In this memo, the key pending issues have been summarized such that DHCS and stakeholders can both track those. While many of the comments were incorporated, several comments made recommendations regarding policy that is either still being developed, pending federal guidance, or that is more appropriately contained in documents other than the Transition Plan. The final Transition Plan, which takes into account submitted comments, is available in a redline document as well as the final version submitted to the Legislature.

I look forward to continuing to work together to develop the policies discussed below. It is my goal and belief that most of the questions raised here will be resolved by the end of the calendar year.

Summary of Major Pending Areas of Policy Development

Commenters placed significant focus on the following areas, which are still pending resolution.

Interdisciplinary Care Team (ICT)

Perhaps the most commented on part of the Transition Plan is the design and implementation of the Interdisciplinary Care Team (ICT). Several groups expressed the need for greater clarity of the ICT, which DHCS is working to develop. DHCS is

developing Assessment and Care Coordination Standards for the demonstration, which will describe health plan requirements for many elements of care coordination, including the ICT. DHCS looks forward to working with stakeholders and partner state agencies to address the pending questions.

- *Composition of the ICT.* Several commenters made suggestions regarding the composition of the ICT, including suggestions that gerontologists, nurse practitioners, and physician assistants should all have a role. Other comments focused on the role of behavioral health and social services representatives on the ICT, including that of IHSS workers.
- *Leadership.* There was a suggestion that the ICT should clearly be under medical leadership (the plan's Medical Director) or a designee.
- *Functioning.* Several commenters asked about the frequency of ICT meetings—including the approach and scope of those meetings. Commenters agreed that the ICT should be designed to be sustainable, culturally/linguistically competent, and person-/family-centered. Questions were asked if the ICT would function differently in nursing facilities.
- *Role of the Beneficiary.* Clarification was requested on the role of beneficiaries on ICTs, including determinations of who participates on the ICT and the setting care plans. Questions were asked if each beneficiary would be on an ICT.

Commenters on these issues included: California Association of Family Practitioners (CAFP), California Association of Health Facilities (CAHF), California Medical Association (CMA), California Rural Health Association, County Welfare Directors Association of California (CWDA), Health Net, Los Angeles County Department of Social Services, National Senior Citizens Law Center (NSCLC), The SCAN Foundation, and United Domestic Workers (UDW).

Network Readiness

While specific policy is under development, network readiness assessment will be shared between the state and Federal government. Federal Medicare rules and procedures will continue to apply to the provision of medical care, while the state will take the lead on long-term services and supports (LTSS) issues. The following inventories key stakeholder comments on network readiness.

- *Operations and Monitoring.* Commenters suggested that specific network adequacy/access standards be set and monitored for all medical, LTSS and BH services that will be used to monitor the plans. In particular, questions were asked about how LTSS standards would be set (please note, DHCS has made draft LTSS and behavioral standards available already). Commenters also asked about the specific role of safety net providers in networks.
- *Institutional Care.* Specific questions were asked about the definition for setting the number of accessible facilities. Other commenters asserted that health plans should be required to contract with all willing licensed and certified nursing facilities. Skilled Nursing Facility (SNF) providers were cited in particular with the comment that such providers do not typically contract under managed care.
- *Ancillary Services.* Commenters suggested that there must be network adequacy standards for Durable Medical Equipment (DME), (Non-Emergency Transportation (NEMT), and palliative services. Concern was expressed that

there are currently competing definitions between Medicare and Medicaid for these items, while others expressed concern that phrases like "sufficient" access (as used in the Transition Plan) is too vague to offer adequate beneficiary protection. A suggestion was made that the only way to ensure access was for health plans to be required to accept any willing provider.

Commenters on these issues included: CAHF, California Medical Transportation Association, California Primary Care Association (CPCA), CHA, Coalition for Compassionate Care of California, Health Net, Keiro Senior HealthCare, NSCLC, Private Essential Access Community Hospitals (PEACH), and San Diego County Aging and Independent Services.

Enrollment Process

There were several comments and questions on the enrollment process. For these items, DHCS intends to issue final policy in the next 45 days.

- *Timing.* Commenters requested clarity is needed on whether enrollment for mandatory Medi-Cal managed care LTSS will start in March and that the Duals Demonstration will start in June. Concerns were expressed about such an approach.
- *Passive Enrollment and Stable Enrollment Period.* Comments were made that both passive enrollment and the six-month Stable Enrollment Period should be dropped in favor of allowing beneficiaries to opt out of their assigned managed care plan at any time. With regard to the Stable Enrollment Period, some commenters called for an exception process to be created. In contrast, there was a comment that the Stable Enrollment is essential to the establishment of a successful coordinated care system and to build patient-provider relationships (like medical homes) within the system.
- *Beneficiary Outreach.* Commenters said that notices must contain simple, explicit instructions on how to opt out. There was a specific suggestion that the demonstration should be delayed to allow for more outreach. A specific question was raised about how enrollment and communication will occur in institutional settings.

Commenters on these issues included: CAFP, California Association of Physician Groups (CAPG), California Health Advocates, California Optometric Association, California Podiatric Medical Association, Center for Health Care Rights, Disability Rights of California, NSCLC, National Health Law Program, PEACH, Sharp HealthCare, and Western Center on Law and Poverty (WCLP).

Appeals and Grievances Process

A number of concerns were expressed about how the state would protect beneficiaries' rights under appeals and grievances. For these items, DHCS intends to issue final policy in the next 45 days.

- *Maintaining Current Standards and Urgent Contact.* Comments ranged widely, from consumers requesting statements about the need to maintain current protections (DHCS has said no reductions in current protections would be allowed) to detailed questions regarding the process for covering non-formulary

drugs. Several commenters stated that there is a need for 24-hour a day contact line on appeals and that there be other steps taken to ensure timely appeals in urgent situations, particularly around nursing homes. At least one commenter recommended the creation of a uniform appeals process based on maintain current standard. Specific questions were asked about policy and procedures for any exemption process related to the duals demonstration.

- *Ombudsman Role.* Commenters wanted greater clarity on the role of the ombudsman's roles and responsibilities, as well as how the range of existing DSS (for IHSS) and DMHC protections will be coordinated with DHCS.
- *Aid Paid Pending.* Several commenters expressed that plans should be required to provide aid paid pending if the individual appeals a denial of continued treatment after a prior treatment authorization period.

Commenters on these issues included: CAHF, California Health Advocates, California Podiatric Medical Association, Imperial Care Center, NSCLC, National Health Law Program, Pico Rivera Healthcare, UDW, WCLP, and individual responders Joey Riley and Michael Condon.

Other Areas of Comment

Stakeholders also made the the following comments, which relate more to operations as opposed to policy. In general, these topics received less attention from stakeholder than those discussed above. Generally, DHCS intends to resolve the questions here by the end of November.

Health Assessments. A number of questions were raised around health assessments, and in particular the timeframe for the completion of assessments (whether the 90-day Medicare requirement would apply or the SPD timeframes of 45 days for high-risk and 105 for low-risk beneficiaries). Questions were also asked about the timeframes for the initial versus comprehensive assessment. At least one commenter suggested that the DHCS should set firm procedures around all aspects of the assessment. *Commenters on these issues included:* California Health Advocates, California Rural Health Association, Health Net, and The SCAN Foundation.

Provider Outreach and Education. One of the most important lessons learned from the enrollment process of Seniors and Persons with Disabilities (SPD) is the need to help educate providers on program changes. Commenters emphasized the need to continue and strengthen the ongoing dialogue between the state, hospitals, and health systems regarding enrollment, outreach, network adequacy and beneficiary protections. This includes updating physicians immediately on key events. One commenter called for a state-supported complaint and appeals process for that providers can seek state help with the health plans. *Commenters on these issues included:* CAPG, CHA, CMA, California Podiatric Medical Association, and Imperial Care Center.

Plan Readiness Review. Several groups asked about the national and state readiness review process—the benchmarks to be used, the timing, and the nature of state/federal interaction. The state and the federal governments will work together on readiness review, and the state looks forward to the federal government announcing its position on

readiness review and building on their approach. *Commenters on these issues included:* CAPG, California Health Advocates, Health Net, National Health Law Program, and WCLP.

Benefits. Commenters requested much more detail on several benefit related issues, including requirements around offering supplemental benefits (dental and vision), behavioral health coordination, transportation, non-formulary Part D drugs, and the definition of Home and Community Based Services. *Commenters on these issues included:* CAHF, California Association of Social Rehabilitation Agencies, CPCA, CWDA, and Northridge Care Center.

Continuity of Care. Commenters asked for detailed continuity of care procedures, specifically regarding Medicaid drug coverage and the possibility of maintaining a non-network primary care providers for an extended time. *Commenters on these issues included:* NSCLC, Northridge Care Center, Pico Rivera Healthcare, and Shield HealthCare.

Auto Assignment of Physicians. Several groups expressed concern about, or opposition to, health plan auto assignment of physicians indicating that the process interferes with patient choice. *Commenters on these issues included:* CAFP, CPCA, and PEACH.