

MEMORANDUM

PRESIDENTS
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TO: California Policymakers Responsible for Designing Eligibility and Enrollment Under ACA

FROM: The Children's Partnership

RE: Using Express Lane and Related Strategies to Pre-enroll Large Numbers of Uninsured

Summary: California will soon be faced with the unprecedented challenge of enrolling nearly 4 million people newly eligible under the Affordable Care Act for health coverage through the subsidized Exchange and Medi-Cal. This translates into enrolling 1,700 applicants every hour between October 2013 and January 2014 when the new law takes effect. This memorandum recommends several high-impact strategies using other public programs to most efficiently achieve large-scale pre- and early enrollment of eligible individuals. It recommends pre-enrollment of uninsured individuals who participate in public programs, including CalFresh, WIC, and AIM, and of parents whose children are enrolled in Medi-Cal and Healthy Families. It lays out the steps California ought to take using databases of people now covered as well as Express Lane processes. Specific activities include a combination of targeted outreach, data-sharing where consent has been provided, prepopulation of forms, and data-driven enrollment procedures. Through these recommendations, a large portion of the 4 million newly eligible could be reached and enrolled early.

As California moves forward with a state-based California's Healthcare Eligibility, Enrollment, and Retention System (CalHEERS), beginning October 1, 2013, the State will face the challenge of enrolling almost 4 million people newly eligible for Medi-Cal and subsidized Exchange coverage.¹ This is in addition to the applicants who will be seeking unsubsidized Exchange coverage. With coverage for these new groups effective January 1, 2014, the task of placing a significant portion of those eligible into coverage will be tremendous. In fact, to reach those newly eligible in time, the State would need to enroll over 1,700 applicants every hour (or 28 per minute) 24/7 between October and January.

While 100% enrollment may be optimistic even under the best of circumstances, with all eyes watching and judging success largely on enrollment numbers, the State will need to consider strategies to effectuate one-time large-scale enrollments. Specifically, California can make optimal use of existing coverage databases and Express Lane processes to enroll the following individuals into Medi-Cal and subsidized Exchange coverage:

- Uninsured children and adults who participate in other public programs like CalFresh and WIC.
 - 370,000 uninsured Californians were enrolled in CalFresh in 2009.² In fact, 7.6% of children in CalFresh households in 2008 were uninsured, even though they were almost certainly eligible for Medi-Cal.³

¹N. Pourat, *et al.*, "Californians Newly Eligible for Medi-Cal Under Health Reform," UCLA Center for Health Policy Research, May 2011; N. Pourat, *et al.*, "Who Can Participate in the California Health Benefit Exchange?" UCLA Center for Health Policy Research, May 2011.

²2009 California Health Interview Survey (2009 CHIS), UCLA Center for Health Policy Research, accessed March 2012.

- 230,000 uninsured women, infants, and children participate in the WIC program.⁴
- Parents of children who are already enrolled in Medi-Cal and Healthy Families.
 - An estimated 260,000 uninsured parents who are likely income eligible for coverage after 2014 had children in Healthy Families in 2009.⁵

Streamlined pre-enrollment can be achieved, depending on the strategy, through Express Lane Eligibility⁶ and/or the general flexibility provided to states to establish program eligibility and enrollment procedures. In addition, such processes are consistent with the Affordable Care Act's (ACA) expectation of a modernized enrollment system that is primarily achieved through data-driven verification in which eligibility data is confirmed by the applicant and/or through connections with electronic databases.⁷

There are also two important directives in place that provide an opportunity to create these types of data-sharing linkages and build a data-driven process that sets a precedent for enrollment initiatives to follow. California's 1115 waiver requires the State to develop a process for transitioning, prior to 2014, Low-Income Health Program (LIHP) enrollees to new Medi-Cal coverage using the information on file without requiring a new application.⁸ Additionally, the ACA requires federal authorities to develop procedures that states must follow to shift enrollees of the temporary Pre-Existing Condition Insurance Plan (PCIP) to Exchange coverage with no lapses in coverage.⁹

Possible operational tasks required to implement the large-scale pre- and early-enrollment strategies are described below. Each will depend on the State's ability to perform back-end administrative tasks, which would be most effective if automated through the use of technology. The enhanced federal matching rate (90%) is available for the design, development, and installation of state eligibility and enrollment systems, including linkages to other program databases, and could be applied for this purpose.¹⁰

Express Lane Eligibility to Enroll Uninsured Children and Adults Who Participate in CalFresh and/or Other Public Programs

California could use CHIPRA's statutory Express Lane authority to streamline enrollment for consumers connected to other public programs.¹¹ Specifically, CHIPRA authorizes the State to base Medi-Cal and Healthy Families eligibility for children on the findings of other need-based programs, even if the program

³ Victoria Lynch, et. al., "Uninsured Children: Who Are They and Where Do They Live?" Robert Wood Johnson Foundation, August 2010, p. 51.

⁴ Calculations by Ken Jacobs, UC Berkeley Center for Labor Research and Education, March 2012, presented as "Pre-Enrollment Strategies for Medi-Cal and the Exchange."

⁵ Calculation based on 2009 CHIS figures. This estimate is conservative as to eligible parents, because it does not include uninsured parents of children in Medi-Cal, below 133% FPL, with no siblings in Healthy Families.

⁶ Express Lane Eligibility, authorized by CHIPRA, allows state Medicaid and CHIP agencies to rely on eligibility findings from other public programs such as SNAP or Head Start and/or on tax return data to identify, enroll, and recertify children, despite differences in methodology, rather than requiring a reassessment of common eligibility factors using Medicaid or CHIP rules.

⁷ See "Medicaid Program; Eligibility Changes Under the Affordable Care Act of 2010; Proposed Rule," *Federal Register* 76:51148-51199, August 17, 2011; "Patient Protection and Affordable Care Act; Exchange Functions in the Individual Market: Eligibility Determinations; Exchange Standards for Employers; Proposed Rule," *Federal Register* 76:51201-51237, August 17, 2011.

⁸ Centers for Medicare and Medicaid Services, "California Bridge to Reform Demonstration, Special Terms and Conditions," November 2, 2011.

⁹ §1101(g)(3)(B) of the Affordable Care Act.

¹⁰ "Medicaid Program; Federal Funding for Medicaid Eligibility Determination and Enrollment Activities," *Federal Register* 76:68583-68595, April 19, 2011; Dept. of Health and Human Services, "Dear State Exchange Grantees, Medicaid and CHIP Directors, and Health and Human Services Directors," January 23, 2012.

¹¹ It is important to note that while Section 1902(e)(13) of the ACA specifically gives states the authority to use the finding of an Express Lane agency, rather than using MAGI, the preamble of the final Medicaid eligibility rules (issued March 2012) speaks to the continuation of the authority after the CHIPRA's sunset date of September 30, 2013 through an 1115 waiver process and continues the Express Lane exception to MAGI in the final rule [42 CFR §435.603(j)(1)].

uses different methodologies from those used by Medi-Cal and Healthy Families. While the statutory authority provided for Express Lane pertains only to children, the State can seek approval from the Centers for Medicare and Medicaid Services (CMS) to use the procedure for adults, for which Massachusetts was recently approved.¹²

Express Lane can greatly simplify the eligibility process for large numbers of uninsured consumers enrolled in other public programs. Additionally, the modernized and integrated electronic eligibility system and data-sharing envisioned by the ACA should provide the infrastructure for connecting the other public programs with Medi-Cal and Healthy Families for simpler processing.

Because this Express Lane authority is now available, the State could use Express Lane now to enroll children (and parents) who are currently eligible for Medi-Cal, in addition to utilizing this strategy in October 2013 to prepare for enrolling the newly eligible population. To get started, California could look to CalFresh since all of the eligibility information required for a Medi-Cal determination should be on file with the program. Individuals enrolled or enrolling in CalFresh have provided demographic information, social security number, proof of legal immigration status or citizenship, and proof of net income under 100% FPL (and gross income under 130% FPL). And with 370,000 uninsured Californians enrolled in CalFresh,¹³ a large number of consumers could be reached in “one fell swoop.”

The process could work as follows.

- The State would designate the California Department of Social Services (and its County Welfare Departments, which administer CalFresh), as an Express Lane agency.
- Per federal Express Lane rules, consent would be required from the CalFresh enrollees to use their data for Medi-Cal purposes. This could be achieved in either (or both) of two ways.
 1. The CalFresh application could be changed as soon as possible to ask about insurance status and to include a check box that allows individuals to opt out if they do not want their information shared with Medi-Cal for a determination.¹⁴ For those that do not opt out, a data match would be performed against MEDS to identify any who are already enrolled in Medi-Cal.
 2. Alternatively, or in addition to this approach, all CalFresh enrollees who are not already enrolled in Medi-Cal (based on a MEDS data match) could be sent a consent form/postcard that would allow them to initiate the information-sharing. This form/postcard could be sent as part of regular correspondence or separately. Families should be given the option of phoning in their consent, among other means of replying.
- During the final months of 2013, the relevant eligibility system (either CalHEERS or SAWS, depending on their capabilities) would evaluate the remaining cases under new ACA rules. Any cases found eligible under current rules would be immediately enrolled, while those found eligible under the new expanded eligibility would be enrolled on January 1, 2014.

¹²See response to public comments for Medicaid Program, “Eligibility Changes Under the Affordable Care Act of 2010,” *Federal Register*, Vol. 77, No. 57, March 23, 2012, p. 17171. Massachusetts received approval in December 2011 to streamline its annual eligibility renewal process for parents with children who are enrolled in SNAP by relying on the eligibility redetermination for that program. See Centers for Medicare and Medicaid Services, “MassHealth Medicaid Section 1115 Demonstration,” 11-W-0030/1, December 20, 2011.

¹³2009 CHIS, UCLA Center for Health Policy Research, accessed March 2012.

¹⁴As is true in Medi-Cal, parents can apply for CalFresh for their children, even where they themselves are ineligible for the program. The pre-enrollment process will need to reflect this scenario.

- Since the ACA exempts Express Lane from the use of the MAGI calculation, a timely income finding made by CalFresh would automatically apply for Medi-Cal purposes.
- Other eligibility information, such as citizenship or immigration status, in the data file would be utilized for Medi-Cal.
- Any verification of data would be conducted in real time.

Louisiana has successfully implemented a similar Express Lane process for children in the Supplemental Nutrition Assistance Program (SNAP). Not only has it resulted in 176,000 children obtaining or maintaining Medicaid coverage, in its first year of operation the state realized between \$8 and \$12 million in administrative savings.¹⁵ Other public programs that California could explore for Express Lane purposes include WIC and subsidized child care, although the above process would need to be adjusted depending upon the eligibility criteria of the program.

To effectuate this approach using Express Lane Eligibility for children and adults, California would need to seek a waiver from CMS. Currently, the Legislature is considering SB 970 (DeLeon), which would require the State to use an aggressive data-driven process to identify and process uninsured CalFresh beneficiaries by October 1, 2013. The methodology described above would be one way of effectuating that requirement.

Outreach and Data-Driven Procedures to Enroll Parents of Children Already Participating in Medi-Cal and Healthy Families¹⁶

California could use available flexibility to provide coverage to uninsured parents of children enrolled in Medi-Cal or Healthy Families, large numbers of whom will gain eligibility for Medi-Cal or subsidized Exchange coverage under the ACA. Approximately 1.8 million children enrolled in Medi-Cal or Healthy Families have incomes between 100% FPL and 250% (nonworking parents up to 100% FPL are currently eligible for Medi-Cal).¹⁷ Parents with incomes from 101% or 107% FPL (depending on work status) to 133% FPL (potentially adjusted upward to reflect a higher MAGI equivalent) will be newly eligible for Medi-Cal and those with incomes above that level will be eligible for subsidized Exchange coverage.

Children currently enrolled in Medi-Cal and Healthy Families will already have the information in their program file necessary to initiate an ACA application for their parents or other household members. However since the file may be missing certain critical elements in relation to family members (such as who actually needs/wants health coverage and social security number, which is optional to provide for parents filing an application only for their child), finalizing the eligibility determination would usually require contact with families. In addition, there may be the need to recalculate income based on the new ACA Modified Adjusted Gross Income (MAGI) standard in order to obtain the most relevant eligibility determination (especially critical for parents eligible for the premium tax credit who could be liable for overpayments). For

¹⁵S. Dorn, et. al. "Louisiana Breaks New Ground: The Nation's First Use of Automatic Enrollment through Express Lane Eligibility," The Urban Institute, February 2012.

¹⁶The ACA provides Medi-Cal to everyone with incomes up to 133% FPL. Since Healthy Families currently covers children 6-18 with income from 101% to 133% FPL, California must shift these children to Medi-Cal. At the same time, Governor Brown has proposed in his 2012-13 budget to shift all children in Healthy Families to Medi-Cal. For purposes of this memo, we assume that the federal requirement to provide Medi-Cal to children up to 133% FPL is in place. However, if the proposed transfer occurs for all Healthy Families children, then the process as described should not substantially change.

¹⁷2009 CHIS, UCLA Center for Health Policy Research, accessed March 2012. Working parents are currently eligible for Medi-Cal coverage up to 106%. Also, the ACA implements an across-the-board five percent income disregard in Medicaid. Thus, parents with incomes from 101% or 107% FPL (depending on work status) to 138% FPL (or an even higher MAGI equivalent) would be eligible for Medi-Cal and those with incomes above that level would be eligible for subsidized Exchange coverage.

example, a stepparent may now be eligible for Medi-Cal coverage, although his/her income was not previously counted for purposes of the child's eligibility.

A systematic process that utilizes the Medi-Cal/Healthy Families case file to initiate an application for parents will provide many advantages for the State and families, even where it does not result in a completed eligibility determination, including the ability to begin and streamline the application for large groups of adults most probably eligible for coverage. The proposed procedures would also give the State access to additional income data/findings, which will sometimes be more reliable/up-to-date regarding household size and income than that available through the federal tax hub. Generally, the pre-enrollment process envisioned below would enable the State to obtain the most accurate picture of the household, especially important for those eligible for premium tax credits. However, the State should take advantage of any new flexibility provided by federal authorities to make this process even more automated or streamlined for parents.

The following are two proposed options for effectuating enrollment for this population of parents.

Option 1: No Consent on File

- Counties/Healthy Families Program (HFP), as applicable,¹⁸ would flag cases of Medi-Cal/Healthy Families children who have an eligibility determination above 100% FPL whose parents are not already enrolled in Medi-Cal. (Alternatively, all cases where the parent is not enrolled in Medi-Cal could be flagged to capture instances in which the parents may not be enrolled but are likely to be eligible for Medi-Cal, either under current rules or due to elimination of the assets test.)
- All identified families that supplied an e-mail address will be sent an electronic link to the new online ACA application, through which they will be able to establish an account and give consent to have the information on file in the child's case and other available information electronically populate the new ACA application for coverage. Where the family does not take this step within a reasonable period of time, a second electronic contact could be made.
- Where it is not possible to send the application electronically, the State could send the parent/guardian or contact person listed on the original application a short form asking whether any other family member(s) wants coverage, and, if so, requesting consent for an eligibility determination using the data in their child's file and relevant data from the verification hubs. A phone-in consent option should be offered.
- The materials sent to families would provide information on how to finalize the process (through all available channels) and how to obtain assistance, if needed, as well as information about their child's health plan to assist the parent in aligning health plan enrollment. An online link and temporary username and password would also be provided so that the family could access their account and complete the application in real time.
- Parents that respond will have their case reviewed (in real time when they use the online form). Where there is not enough information to make a final eligibility determination, they will be considered for presumptive eligibility for Medi-Cal.¹⁹

¹⁸See footnote 16 in terms of potential changes to Healthy Families, which would affect which entities have responsibility for case files.

¹⁹ACA §2001(4)(B) (adding (e) at the end of 42 U.S.C. 1396r-1).

- When a final eligibility determination is completed, the enrollment period would be reset for the child so that all members of the family have the same renewal dates. However, because children enrolled in Medi-Cal and Healthy Families have 12-month continuous eligibility, if new information or the use of the MAGI calculation would detrimentally change the child's eligibility, he or she would stay enrolled in their current program through the established renewal date.
- Counties/HFP would be responsible for processing the applications and would maintain "legal ownership" over the file. Ongoing case management responsibility would depend on the final disposition of eligibility.

Option 2: Consent on File

- Alternatively (or as a complement to the above strategy), the State could proactively obtain information regarding family members of children newly applying or renewing Medi-Cal/Healthy Families coverage. Beginning in 2013, the joint Medi-Cal/Healthy Families application and renewal forms (and Health eApp—the online application) could include a supplemental section providing information about the new coverage options that will become available in 2014 and obtain consent to make a determination (and to pull information from electronic databases as needed) as well as seek additional necessary information, such as parents' insurance status.
- Counties/HFP would flag cases to be processed and utilize the information in the child's file (including the QR7) and other available information to make a determination for coverage. The most up-to-date information for the parents will be utilized, and there should be no need to contact the family for additional data, unless there are inconsistencies. Families would be sent a confirmation of the determination, with the ability to update any information, if necessary, and to finalize health plan choices and pay premiums, when applicable.
- For those identified as Medi-Cal eligible, this procedure could be simplified by using Express Lane Eligibility (discussed above).²⁰ (Note: If the eligibility determination shows an income at or below 106% FPL, then the counties would need to immediately determine eligibility for those parents requesting coverage, since they are currently eligible.)
- As described above, the child's renewal date would be reset in most cases.

In California, much of this process could be accomplished administratively, though it is probably necessary to: (1) enact legislation to authorize that the use of presumptive eligibility for adults, and (2) obtain an 1115 waiver to utilize Express Lane Eligibility for adults. In fact, legislative vehicles being considered to enact a pre-enrollment process for these families (such as AB 714, Atkins) could be modified to effectuate the process laid out above.

Don't Stop There

Together, the aforementioned strategies could reach a large proportion of those who will be eligible for coverage in 2014 and could be extended to additional programs. For instance, for women participating in the *Access for Infants and Mothers Program* (AIM), the process outlined above for parents of children in Medi-Cal/Healthy Families could be utilized to reach and enroll children and spouses, and, where a

²⁰In the case of these parents, we believe that the Express Lane Eligibility process is an effective means to find Medi-Cal eligibility, as it would use the Medi-Cal/Healthy Families income finding rather than MAGI to make the income determination. In contrast, given concerns about reconciliation that arise in the context of Exchange subsidy enrollment, we believe that a MAGI income finding should be made using the most recent income data for those who appear eligible for the Exchange.

woman's coverage is expiring before January 2014, it could be used to transition the woman herself into ACA-based coverage, whenever possible.

Additionally, California should consider using these same processes for adults enrolled in limited-scope health programs, like *FamilyPACT* and *BCCTP*, many of whom could be eligible for Medi-Cal or subsidized Exchange coverage. Legislation (AB 714, Atkins) would put into place such pre-enrollment procedures and is an important vehicle to pursue.

In addition, California should consider creating linkages to utilize the *Earned Income Tax Credit* (EITC) application being submitted in the early months of 2014 as a means for a family to indicate a need for health coverage, provide consent to share their information, and initiate an application for health coverage. This process would work in the first year of implementation because the initial open enrollment period for the Exchange will carry through March 31, 2014,²¹ which overlaps heavily with the EITC enrollment period of January 1st - April 15th.

Ultimately, any enrollment procedures that can be conducted prior to 2014 or in the first few months of 2014 itself will give California an important foundation in implementing the coverage expansion under health reform, and, at the same time, create the most consumer-friendly user experience possible for individuals and families. In addition, the State should heavily utilize targeted outreach strategies, such as at schools, to notify soon-to-be-eligible (and currently eligible but uninsured) individuals about upcoming coverage eligibility so that families can jumpstart their enrollment process.

Moving Forward with Pre-Enrollment: Immediate Next Steps

1. Assign responsibility to the appropriate state-level entity(ies) to develop this process.
2. Modify the CalFresh, Medi-Cal/Healthy Families, or other program applications (and/or design a separate form/postcard) to obtain the participant's approval to move forward with information-sharing and eligibility processing, including a phone-in consent process. As necessary, obtain minimal additional information to support the process, such as e-mail addresses and current insurance status.
3. Work with CMS to obtain a federal waiver to use Express Lane Eligibility for both children and adults.
4. Work with counties and the CalHEERS vendor to make sure that the systems being developed for the January 1, 2014 launch will be able to process cases using the chosen strategy(ies) in advance of that date.

²¹42 CFR §155.410(b).