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CALIFORNIA INSURANCE COMMISSIONER

**California Long Term Care Insurance (LTCI) Task Force  
Meeting #5 Minutes  
Thursday, December 16<sup>th</sup>, 2021**

**1. Task Force Meeting Call to Order – 1:00 PM**

- Roll Call – present: Dr. Lucy Andrews, Jamala Arland, Susan Bernard, Grace Cheng Braun, Anastasia Dodson, Eileen Kunz, Sutep Laohavanich, Michael Mejia, Dr. Karl Steinberg, Tiffany Whiten, Joe Garbanzos, Parag Shah, and Laurel Lucia. Absent: Doug Moore.
- Quorum was met.

**2. Agenda Item #1: Welcome, Housekeeping & Recap of Preliminary Recommendations To-Date**

- Chair Susan Bernard went over housekeeping items.

**3. Agenda Item #2: Approve Minutes from Meeting #4**

- Dr. Lucy Andrews moved to approve the prior meeting's minutes and Laurel Lucia seconded. The motion was approved unanimously.

**4. Agenda Item #3: Plan of Action (November 2021 Update)**

- Dustin Plotkin provided an overview of Oliver Wyman's updated Plan of Action.

**5. Agenda Item #4: Outstanding Materials from Task Force Meeting #4**

- Dustin provided an overview of current federal Long Term Services and Supports (LTSS) proposals and how they can potentially interact with a program in California.
- Dustin provided an overview of California population demographic information.
- Stephanie Moench gave an overview of how LTSS programs in France, Germany, and Washington state approach coordination and interaction with other existing public and private programs in their jurisdictions.
- Task Force Member Comments:
  - Parag inquired whether the definition of cognitive disability underlying the California population demographics presentation is consistent with the benefit trigger definition used for private long-term care (LTC) insurance.
    - Response: it is expected to be similar but may not exactly align with the "severity" requirement used in private LTC insurance (i.e., severe cognitive impairment).
  - Michael asked if the 10.6% disability figure refers to all Californians.
    - Response: yes.
  - Michael asked what percentage of the total population is over 65 years old?
    - Response: 16% as of 2020.

- Anastasia commented that Medicare covers 6.6 million Californians, 0.6 million of these beneficiaries are younger than 65; very few individuals older than 65 are not Medicare beneficiaries.
- Joe stated that most of the senior population will be single, women, and foreign-born. Joe asked that these more granular statistics be included in a future iteration of this presentation
- Jamala commented that we must make sure to keep the cultural competency component in mind in order to have meaningful discussions.
- Parag asked if we are trying to plan for the 10.6% disabled population, or is that the responsibility of another program?
  - Response: these statistics are meant to remind us holistically of the overall demographics so we can determine what facet of the population will be covered under the program.
- Public Comments:
  - Ramon Castellblanch: did we look at more rural regions when looking at the percentage of disabled population by county?
    - Response: most of the counties studied were urban.
  - Ramon Castellblanch: WA Cares program is getting sued — have we considered the viability of such a program as it relates to the payroll tax?
    - Response: program financing will be discussed at a future meeting.
  - Lindsay Imai Hong: more granular data should also include a split of who would pay the payroll tax and who would not.

#### 6. **Agenda Item #5:** Task Force Meeting #4 Questionnaire Results

- Stephanie presented results from the Task Force Meeting #4 questionnaire on coordination and interaction, focusing on questions 3 through 5. We will continue the discussion on potential opt-out provisions as part of our program eligibility and enrollment topic.
- Task Force Member Comments:
  - Parag noted that the dynamics here will intersect with other questions.
    - Response: all of the discussions here are preliminary. We will have an interdependencies discussion at a later Task Force meeting.
  - Michael stated that his preliminary view is that private LTC insurers should pay first, as this will save taxpayer money if costs under the program are reduced as a result of the program being the second payer.
  - Joe opined that in order to get support for the program, we must frame it in terms of viability: what method of coordination is most viable for program solvency?
  - Dr. Lucy commented that the order of payors is ultimately dependent on the intent of the LTC benefit. If the program is intended to be a safety net, then it should pay after other options (e.g., private LTC insurance). Or should the intent be for the program to be the first payor and have individuals be responsible for supplementing program benefits with private insurance?
  - Jamala noted that we must recognize the difference between people who purchased private LTC insurance prior to program implementation, vs. those who purchased private insurance after (e.g., if new supplemental products become available) because the intent and purpose of the private coverage for these two cohorts is different and thus may necessitate different interaction with the state program benefit.
  - Parag asked if the benefit would pivot to a wrap-around benefit for individuals that purchase private LTC insurance after the statewide program starts.
  - Michael stated that it is important to know how long the average individual requires LTSS
    - Ryan de la Torre referenced a 2018 PwC report that cited the average claim duration as 3.1 years while the median is 2.1 years. 3% of claims last 10 years or longer.

- Jamala remarked that claims don't necessarily end in death (e.g., some end in recovery).
- Parag asked why we would try to provide coverage for those already covered under Medi-Cal?
  - Response: this question targets individuals who would be eligible for benefits under both Medi-Cal and a statewide LTC insurance programs and the approach for paying their service costs under each program.
- Anastasia commented that it would be complicated to exclude individuals eligible for Medi-Cal from a statewide LTC insurance program because whether or not someone is eligible for Medi-Cal can change over time. If the eligibility requirements of Medi-Cal and the public program don't align, concurrent payments may be necessary.
- Laurel stated that the preference for the statewide LTC insurance program to not impact Medi-Cal eligibility is consistent with other public programs. It is important that individuals not lose their eligibility for health insurance under Medi-Cal just because they are eligible for LTSS benefits under the state program.
- Anastasia reminded the Task Force that asset limits for Medi-Cal are being removed, so "option B" under question 5 will soon not be applicable.
- Public Comments:
  - Maxwell Hellmann remarked that it is helpful to hear where Task Force members stand on these questions. Medical debt is a large hurdle for many in California. Task Force members' individual opinions should not play a role — the program should be accessible and affordable for everybody. Task Force members should serve the needs of the public and their LTSS needs. The focus should be quality of life — individuals should be able to access these services if they need them.
  - Louis Brownstone commented that most private LTC insurance policies are sold with 90-day elimination periods (EPs), therefore, we must consider how the EPs of the public program interact in this area.
  - Bonnie Burns remarked that in California's LTC statute, there is a provision that private insurance would supplement a future state program. We must also consider whether private LTC insurance policies will be supplemental or primary to the state program (i.e., those who purchase private coverage after vs. before coverage of statewide program begins).
  - Jane Washburn advocated for individuals below age 65 with severe cognitive impairment — a paradigm shift is necessary for us to recognize younger individuals with severe cognitive impairment.
  - Carrie Madden stated that we must keep in mind that working disabled individuals eligible for Medi-Cal are trying to have the best quality of life. These individuals would jump at the opportunity to put money towards LTC insurance while working.
  - Michael Lyon called for universal and affordable LTSS for as long as individuals need it, with minimal restrictions and open to all with two or more activities of daily living (ADLs). The program must be "socialized", and we should avoid trepidation around the usage of that word.
  - Russell Rawlings commented that this public program should be a public assistance entitlement program; that is, if you pay into the program and need service, you are entitled to it. It is important to fill in as many gaps as possible (e.g., low maximums for home modifications/equipment).
  - Cynde Soto stated that the focus should be on affordability — everyone should be able to access benefits without having to take out exorbitant loans.

## 7. Agenda Item #6: Eligibility and Enrollment

- Stephanie Moench gave an overview of eligibility and enrollment considerations for a new statewide LTC insurance program in California.
- Task Force Member Comments:
  - Parag asked whether we are assuming that individuals eligible for a payroll tax are all eligible for the program.
    - Response: we are not making any assumptions relative to program financing and the intent is to discuss considerations and preferences around potential eligibility requirements for the program.
  - Parag asked about the WA Cares Fund, and whether you must contribute to the fund to receive a benefit.
    - Response: yes, there is a vesting requirement that must be met before individuals can apply for benefits under Washington's program.
  - Michael remarked that the intent of these considerations should be to help as many people as possible when they need LTSS, and that our job as Task Force members should also be to convince many others of the long-term viability of the program. Once the program is up and running, it may get tweaked and refined over time, but we need government buy-in to get the program implemented and so may need to start off with something small. If it's too much from the start, this could overwhelm the officials that need to back it.
  - Michael commented that the program has to require a contribution and individuals should have to satisfy an EP. He suggested that there should be an ADL-based eligibility trigger with a broader focus on other cognitive impairments. He noted that aligning the benefit trigger with other programs will make coordination easier. He also stated that we should consider having some level of portability such that people can still get benefits if they leave the state.
  - Joe complimented those who put together the educational materials. He also remarked that we must be cognizant of the vocabulary we use regarding different models (i.e., socialized, universal, etc.) and that diversity, inclusiveness, and equity should be core principles of the program.
  - Michael stated that in the interest of long-term viability of the program, individuals should not be able to opt out; however, he remarked that there should be opt-in provisions.
  - Parag recognized anti-selection as an issue that may arise from an opt-out provision. For those that are thoughtfully preparing ahead of time for their LTSS needs through the purchase of private insurance, we must treat these individuals equitably.
  - Jamala remarked that we must make sure that we are grounded on the purpose of the program and that we also must consider the fairness of potential opt-out provisions. Jamala noted that we should draw parallels from California's State Disability Insurance program.
  - Dr. Lucy stated that the term "socialized medicine" often comes with a negative connotation — as such, we need to be mindful of how our words are received by individuals outside of the Task Force.
- Public Comments:
  - Jane Washburn commented that the term "severe" in relation to cognitive impairment is ambiguous and comes with a plethora of stereotypes. This can make it difficult for people to get help. Individuals want assistance with independence; not to be put in a nursing home or facility. We should create something to allow people to get earlier help so that they can remain independent.

- Bonnie Burns remarked on the comparison between a universal and comprehensive program and a more moderate program that can be more easily sold to the broader population.
- Donna Rangel said there may be more facets of care that we are not recognizing beyond direct costs.

8. **Agenda Item #7:** Employment Development Department (EDD) Presentation: California State Disability Insurance (SDI) Program

- Katie Davis gave an overview of the California SDI Program, including contribution rates, benefit limits, eligibility, and opt-out provisions.
- Task Force Member Comments:
  - Parag asked whether the disability definition under the SDI program is consistent with the statistic presented earlier (i.e., the 10.6% statistic)
    - Response: there may be a small overlap, but most of the SDI program claims are pregnancy related.

9. **Agenda Item #8:** Program Administration

- Kevin Russell gave an overview of program administration considerations for a new statewide LTC insurance program in California.
- Task Force Member Comments:
  - Joe asked about the ratio of administration costs relative to dispersal.
    - Response: we don't have specific data at this time but could look to the EDD.
  - Michael commented that Task Force members should be experts on the costliness of administration. He stated that it would be helpful to have relevant data points on cost for the next Task Force meeting.
  - Michael asked about existing agencies that could assist with administration.
    - Response: we can learn from processes in place for SDI payroll tax collection.
  - Anastasia remarked that it is important to consider how many entities are at play. She stated that we need to be mindful of the risk of administrative complexity.
    - Response: we assume that multiple individuals would be responsible for the administration of this program. It is important that there is oversight when multiple parties are involved.
  - Jamala suggested that it may be possible to leverage administration infrastructure and/or marketing rollout strategies (e.g., leveraging insurance agents) from the private LTC insurance market. We should also keep in mind the periodic table that was previously shared to help understand any gaps that currently exist.

10. **Agenda Item #9:** General Public Commentary

- Nancy Krebs expressed support for a 2+ ADL benefit eligibility trigger without opt-out provisions. If there is an opt-out option, she believes the healthy and wealthy will opt out. She stated that this program is an opportunity for the insurance industry to innovate.
- Steve Cain remarked that there are still a lot of problems unsolved for the majority of Californians (and Americans at large). He advocated for a public and private partnership, given that a large portion of the infrastructure is readily available.
- Maxwell Hellmann opined that LTSS needs should not be based on an individual's employment history. He also urged Task Force members to consider a universal system that maximizes coverage for everyone.

**11. Agenda Item #10: Next Steps & Closing**

- Recording for this meeting will be available early next week.
- Meetings will revert to in-person in February. More information will be provided at our January meeting. There will still be a virtual option available for public attendance.
- At 4:15 pm, Susan Bernard moved to adjourn the meeting. Joe Garbanzos motioned, and this was seconded by Parag Shah.