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July 16, 2009

The Honorable Nancy Pelosi, Speaker
United States House of Representatives

The Honorable Henry Waxman, Chair
House Energy and Commerce Committee

The Honorable George Miller, Chair
House Education and Labor Committee

The Honorable Pete Stark, Chair
Subcommittee on Health, House Ways and Means Committee

The Honorable Zoe Lofgren, Chair
California Delegation

RE: Support H.R. 3200, America's Affordable Health Choices Act

Dear Congressional Leaders and Members of the California Delegation,

Health Access California, the state's health care consumer advocacy coalition consisting of more than one hundred consumer, senior, children's, labor and community groups committed to quality, affordable health care for all Californians, is pleased to support H.R. 3200 as proposed on July 14, 2009.

H.R. 3200 would secure and expand quality, affordable health coverage for millions of Californians. In particular:

- * The bill would secure and expand the coverage that half of Californians have at the workplace, and provide significant assistance to employers in continuing those benefits.
- * The bill would secure and expand the coverage that over 6 million low-income Californian children, parents, seniors and people with disabilities get through Medicaid, including low-income adults without children at home.
- * The bill would provide significant assistance for low- and moderate-income Californians to afford coverage, for those who are uninsured, underinsured, or struggling with premiums that are a disproportionate share of their income.
- * The bill would provide consumer protections for all Californians from being alone at the mercy of the private insurance industry, preventing Californians from being denied or charged more for pre-existing conditions.
- * The bill would provide Californians with a choice of a public health insurance option.

* The bill makes investments in prevention to improve the health outcomes of Californians, both in the coverage benefits, and in public health and research.

* The bill would prevent the cost shift from having significant numbers without coverage in our health system, and provide other tools to contain health care costs for all Californians. It would strengthen California's economy and create jobs.

Over the twenty plus years of our existence, Health Access has played a leading role in every effort to provide quality, affordable health care for Californians, including the 2007 reform efforts with our Governor and legislative leadership, the 2003-4 legislative and ballot fight to expand employer-based coverage, the successful battle for the HMO Patient Bill of Rights leading up to 1999, and many other efforts to assure quality, affordable health care for Californians. The expertise that we have garnered from these efforts leads us to support this measure.

California needs health reform and we need it much more than other states:

- One in seven uninsured Americans lives in California.
- California has more uninsured than Massachusetts has people.
- Californians are more likely to be uninsured than residents of all but six states (20.4% of nonelderly in California versus 17.2% nationally).
- Californians are less likely to get coverage through employment than the national average (54.7% in California versus 60.9% nationally).
- Californians rely on public programs more than in other states (16.0% in California versus 13.9% nationally).
- Californians rely more on the individual market (7.4% in California versus 5.5% nationally), and thus are at greater risk of being denied for "pre-existing conditions."
- California has a particularly high percentage of low-wage workers, as well as a particularly high cost-of-living. Both factors highlight the need for robust affordability subsidies.

Solutions that may work in other states would not necessarily fit California. We support H.R. 3200 because it is ambitious enough to meet the significant and acute needs of California.

Affordability

Health Access strongly supports the provisions of H.R. 3200 that assure affordable coverage with decent benefits for all Californians. We support:

- Expanding Medicaid to children, parents, and childless adults up to 133% of the poverty level is a long-sought and critical component.
- Providing affordability credits through the Exchange for individuals up to 400% FPL. The high cost of living in California requires that there are subsidies for both low- and moderate-income families.
- Scaling both the share of premium and the maximum out-of-pocket costs for coverage through the Exchange based on income, so that those who make less pay less.
- Allowing individuals who are offered unaffordable employer-based coverage to obtain coverage through the Exchange. In California, 10% of those with income below 400% FPL who have employer-based coverage spend more than 10% of their income on premiums

alone (Jacobs et al., Sept. 2007). If the law requires Americans to have coverage, then it must be affordable.

- Requiring essential benefits for employer-sponsored coverage, individual coverage, coverage through the Exchange, and public programs. What people pay in terms of premiums and out-of-pocket costs is only half the equation: we frequently deal with consumers who bought insurance but discovered it did not cover basic benefits like doctor visits, chemotherapy, x-rays, or the first day of hospitalization.

For the nearly seven million Californians without health insurance – of which 80% are in working families and 80% have incomes below 300% FPL -- the affordability protections in H.R. 3200 offer economic security.

Health Access also seeks a blanket affordability exemption for anyone who is not eligible for subsidies and for whom the premium for qualifying coverage exceeds up to 8% of their income, on a sliding scale. While it is our hope that the insurance market reforms and expansions of coverage proposed in this measure will make coverage affordable for all Californians, and indeed all Americans, we need the assurance that no one will be forced to buy coverage they cannot afford.

Given the high costs-of-living in California, we urge you to seek to further lessen the premium and out-of-pocket cost burdens to low-income Californians, and to maintain subsidies at least to 400% of the federal poverty level. In considering a similar health reform in California, Republican Governor Schwarzenegger agreed to a proposal that provided some subsidies for those over 400%, especially for those over 50 that would continue to have high premiums relative to their incomes.

Employer Contributions

Health Access strongly supports shared responsibility, including the requirement for employers to participate in providing coverage or pay a fee. There is a strong correlation between levels of employer-sponsored coverage and the proportion with coverage: in California, there are more uninsured directly because people are less likely to get coverage on the job.

California needs a strong employer obligation to get employment-based coverage up to the levels of states like Massachusetts and Connecticut.

States like Massachusetts and Connecticut have few uninsured, in part because residents of those states are more likely to get coverage through their own employment or that of a family member: in Massachusetts, in 2006, 68.3% got coverage through an employer and only 8.9% were uninsured; in Connecticut, 70.4% got coverage through an employer and only 10.7% were uninsured. Contrast that with California where only 54.7% of the non-elderly get coverage through an employer and 20.4% were uninsured. (State Health Facts, Kaiser Family Foundation)

When Governor Schwarzenegger—a Republican with a near-perfect Chamber of Commerce record—negotiated a health reform package in California, he agreed to a “pay or play”

requirement on all employers based on a percentage of payroll, on a sliding scale—similar to H.R. 3200. By necessity, he saw employers' contributions as not just part of "shared responsibility," but an essential financing and structural element of a health reform package.

An employer obligation that is scaled based on payroll has an impact on jobs similar to that of a modest minimum wage increase: that is to say, it is not a job killer. To the contrary, by eliminating job lock, enhancing productivity on the job, and creating jobs in health care, an employer obligation scaled to size of payroll as proposed in H.R. 3200 may well have a net positive impact on employment as well as on the economy. The California Legislature has considered employer obligations of a magnitude greater, though not identical, to those proposed by the House Committees. Research on the impact of such proposals on California firms found that a majority would see no increase in operating costs—and for over 80% of firms the increase would be less than 1% over the medium run (Jacobs et al., July 2007, UC Berkeley).

Payroll is a far better indicator of the ability to afford coverage than the number of employees. A small firm that is a law firm, a doctor's office, a software firm, or an architect's office, can likely afford coverage for the professionals—and should assure affordable coverage for the clerical employees. In contrast, the taco truck, the family-owned and operated ethnic grocery store, and the one or two person shop just starting out have a small payroll and are least likely to afford coverage. H.R. 3200 appropriately distinguishes between the law firm or the doctors' office with several highly paid professionals and the taco truck or small family grocery with lower-wage workers.

Health Access supports the scaling of the employer contribution based on hours worked as well as the option for an employer to provide coverage for full-time workers but to make a contribution to enroll part-time employees in the Exchange. This permits pooling of the contributions of employers toward the coverage of part-time employees while allowing employers to purchase coverage for full-time employees from commercial insurers.

Finally, we support an effective employer obligation because it helps to reduce the cost to the state and federal governments for Medicaid programs as well as the cost to the federal government of the Exchange. California already faces severe challenges in maintaining Medicaid eligibility, despite reimbursement rates that are 47th in nation for physicians and 50th for hospitals (Kaiser Family Foundation).

Insurance Market Reforms

Health Access strongly supports the insurance market reforms in the House measure. We support H.R. 3200's provisions that include:

- Guaranteed issue
- Guaranteed renewal
- Modified community rating
- Age rating with a 2:1 age band
- Limits on marketing practices
- An end to rescissions
- A minimum medical loss ratio

We commend the House committees for applying these important protections to both individuals and employers. If we are going to require individuals and employers to purchase health insurance, it must be available to them.

These insurance market reforms are particularly important in California. Literally hundreds of thousands of Californians are unable to purchase insurance at any price, due to "preexisting conditions." Premiums are risk rated for both individuals and employers with more than 50 covered lives.

In the individual market, the range between a healthy 20 year old and a less healthy but still insurable 60 year old may be as much as a factor of 10 or even 20: that is, a less healthy 60 year old would literally pay a premium for the same product that is twenty times as much as that paid by a healthy 20 year old. We base these estimates on years of negotiating with insurers and HMOs over reforms of the individual insurance market.

Similarly, in California, premiums for coverage offered by employers with more than 50 covered lives are based on the claims experience for those covered lives. Community rating would help to level the playing field among employers regardless of industry or occupation. Health Access supports insurance market reforms for medium-sized and large firms.

Health Access also supports those provisions of the proposed measure that would allow states to continue consumer protections, including independent medical review. Health Access is pleased to have sponsored the HMO Patient Bill of Rights in California, in which we won many protections for consumers. We appreciate the protection of those consumer protections.

Exchange

Health Access strongly supports the creation of an Exchange to better regulate and standardize health coverage to help consumer navigate and choose the best possible plan for them.

We also support the Exchange being able to use its negotiating power to bargain for the best possible rates with insurers. California has a long experience with the use of purchasing pools to control health care costs. These are conceptually different than a "connector" that merely connects individuals with qualifying coverage. Instead, the California Public Employee Retirement System (CalPERS) negotiates with insurers and HMOs over cost and quality. Governed by a public board, CalPERS negotiates on behalf of a million state and local government employees and their families. It has driven innovation in reporting on quality while negotiating premiums and cost sharing that often help to drive the health care market in California.

Similarly, beginning in the early 1990s, the Major Risk Medical Insurance Board (MRMIB) has negotiated with HMOs and insurers on price, benefit design, and cost sharing for California's high risk pool, a small business purchasing pool, a program for higher income infants and mothers as well as California's CHIP program, called the Healthy Families program. MRMIB

solicits bids and negotiates what the state will pay insurers for the covered lives in each of these programs. It is an active negotiator that uses the power of bulk purchasing to get a better deal.

We commend the House committees for requiring that the Exchange to solicit bids and negotiate contracts. This puts the power of bulk purchasing to work on behalf of both the taxpayers and those consumers in the Exchange who will pay a share of the cost of coverage.

We also would want to assure that if employers pay into the exchange, that workers privacy is protected; that all employees have access to affordable coverage in the Exchange and that there are no arbitrary exclusions, and that dependents of employees have access to affordable coverage in the Exchange.

Public Health Insurance Option

Health Access also strongly supports the inclusion of a public health insurance option among the choices offered by the Exchange. We know that in California, whether it is Medicare or CalPERS, in many rural areas and even areas such as Sonoma County, the equivalent of the public option is often the only choice available to consumers. Like many states, California has a public option for workers compensation: for more than 90 years, employers in California have had the choice of using the State Compensation Insurance Fund. In most of those years, the public option has been 15%-25% of the market and has been an important stabilizing force on the entire workers compensation insurance market. A public option for health coverage could serve the same function.

Public Safety-Net Programs

California relies heavily on public programs to provide access to care: 16% of Californians receive Medi-Cal or CHIP coverage compared to an average of 13.9% nationally. Our CHIP program, Healthy Families, covered over 900,000 children prior to our state budget crisis. Our Medicaid program covers almost 7 million low-income seniors, persons with disabilities, and working families. We appreciate the protections of ARRA which have assured that despite the magnitude of the state budget crisis that in these dire economic times, Medi-Cal remains available to those eligible in need. Health Access supports the expansion of Medicaid to adults without children at home.

We would also support the further expansion of Medicaid to 150% FPL for all adults. Medicaid provides better affordability protections and more extensive benefits than those contemplated in the Exchange. An individual making between 133% FPL and 150% FPL is equivalent to \$14,400 and \$16,245 a year. That is not much money to live on in a high cost-of-living area like San Francisco or Los Angeles.

Health Access is concerned by some of the implications of the elimination of the successful CHIP program, primarily because it has provided greater affordability protections for children than contemplated under the proposed bill. While we support an effort to integrate various health coverage programs, we would want a appropriate transition and other provisions to "hold

harmless" children so in switching to coverage plans in the exchange that they don't get plans of less value, in terms of benefits or cost-sharing.

Coverage for All Californians

California is a very diverse state. Immigrants are a vital part of our economy. Many immigrants live in mixed status families in which some are plainly documented, others are in transitional status or unclear status and others may not be authorized.

Health Access would support improvements to H.R. 3200 to assure that all Californians, regardless of immigration status, have access to quality, affordable health care. Specifically, we support improvements that would remove exclusions in Medicaid for recent legal immigrants, and to include coverage of mixed-status families.

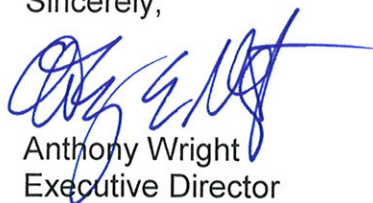
Revenue Sources

Health Access supports the "shared responsibility" approach of this proposal, including seeking contributions from individuals and employers, which both take into consideration what they can afford.

As part of this shared responsibility, we also support the surcharge on high income individuals, to assure adequate financing of affordability for individuals as well as small businesses. This surcharge would fall on only 1.8% of Californians, who would also benefit from the improvement of the state's broken health care system.

For these reasons, we are pleased to support this measure. Feel free to contact myself, Beth Capell, or Patrick Romano at Health Access California for more information.

Sincerely,



Anthony Wright
Executive Director

CC: The Honorable Charles Rangel, Chair, House Ways and Means Committee
The Honorable Diane Feinstein, U.S. Senate
The Honorable Barbara Boxer, U.S. Senate
Members of the California Congressional Delegation