



CLARIFYING THE FACTS ON MEDICARE FOR ALL IN CALIFORNIA

No legislation is needed for Gov. Newsom to initiate talks with Biden Administration

A recent memo you received regarding AB 1400 (CalCare) may give an incorrect impression that no progress can be made on achieving Medicare for All in California until the state legislature passes AB 1400, which has been shelved until next year. This is simply not the case.

While legislation is a critical component to achieving Medicare for All in California, it's not a prerequisite for advancing the process.

Federal regulations clearly allow for Gov. Newsom to initiate negotiations with the Biden Administration on obtaining the federal waivers to establish a state Medicare for All single-payer healthcare system without the passage of a Medicare for All bill like AB 1400.

Not only does nothing preclude Gov. Newsom from initiating negotiations with Biden's U.S Department of Health and Human Services (HHS), these negotiations could help inform and advance the legislation that will be needed to ultimately achieve Medicare for All in California.

These discussions can be informal initially. In fact, the most current federal guidelines for states seeking a waiver to enable the unified healthcare financing required to achieve Medicare for All anticipate that states will first initiate these informal discussions.

The process is described in a July 2019, HHS memo¹ pertaining to Section 1332 of the Patient Protection and Affordable Care Act (commonly known as the "ACA").

The memo includes an updated HHS checklist and anticipates an informal process by encouraging "states interested in applying for section 1332 waivers to reach out to the Departments promptly for assistance in formulating an approach that meets the requirements of section 1332."



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The specific language of the July 2019, checklist, and the guidance issued by HHS on October 24, 2018, shows that it's permissible for a state to initiate negotiations over all aspects of the waiver authority under Section 1332 of the ACA.

These negotiations can be initiated either with legislative authorization or by executive order combined with pre-existing statutory authorization to enforce ACA provisions or implement the state plan. No fully-fleshed out state Medicare for All bill need be passed in advance of such discussions.² From this checklist memo, it's clear that the Governor either with existing authority or new direction from the state legislature can pursue a waiver application process with the federal government, provided the state also engages in a public comment and tribal consultation process.³

While Medicare for All Legislation (AB 1400) has been shelved until next year, there is no reason or requirement to postpone the hard work that must be done to achieve Medicare for All in California.

The profound health disparities in Black and brown communities exposed by the COVID-19 pandemic, demand immediate and sustained action toward

a Medicare for All, single-payer system that guarantees cost-effective, quality health care for everyone in California.

As the leading coalition of labor, community and advocacy organizations building the broad, strategic campaign to win Medicare for All, Healthy California Now is committed to moving ahead with fierce urgency.

Doing so does not require the passage of legislation at this time. It depends on the leadership of Gov. Newsom with the support of the state legislature.

AB 1400 did not advance without regard to any effort to secure a federal waiver.

Regardless, all agree that leadership from the Governor is crucial to establishing single-payer financing in California. Pursuing federal commitments of revenue and policy support as soon as possible is the best and fastest way available to advance a financing plan that the legislature can approve.

We cannot be naïve about what it takes to move forward and engage the political leadership to act, nor can we afford to wait. The time for the Governor to lead is now.

NOTES

1. <https://www.hhs.gov/guidance/document/checklist-1332-state-relief-and-empowerment-waiver-applications-0>
2. Federal Register / Vol. 83, No. 206 / Wednesday, October 24, 2018 / Rules and Regulations 53575
3. HHS Checklist, July 2019, Section 2