CALIFORNIA
HEALTH BENEFITS REVIEW PROGRAM

January 8, 2010

The Honorable Dave Jones
Chair, California Assembly Committee on Health
State Capitol, Room 6005
10th and L Streets
Sacramento, CA 95814

The Honorable Elaine Alquist
Chair, California Senate Committee on Health
State Capitol, Room 5108
10th and L Streets
Sacramento, CA 95814

Via E-mail only

Dear Assembly Member Jones and Senator Alquist:

I am writing in response to a query from staff of the Assembly Health Committee regarding Assembly Bill (AB) 113 that was gutted and amended on January 4, 2010, and currently includes language similar to AB 56 (Portantino, 2009). AB 56 was a bill that would have required health insurers to cover mammography and would have required health plans and insurers to notify female enrollees in writing as to when breast cancer screening should begin, as per the timing recommended by "national guidelines". The Legislature passed AB 56 and the Governor vetoed the bill on October 11, 2009.

The California Health Benefits Review Program (CHBRP) submitted *Analysis of Assembly Bill 56: Mammography* on March 16, 2009. The full report is available at: http://www.chbrp.org/analyses.html. CHBRP analyzed the December 5, 2008 version of AB 56. Staff of the Assembly Health Committee asked whether the CHBRP's analysis of AB 56 (2009) would be applicable to AB 113 (2010) given changes in the bill language and recent changes to recommended guidelines for mammography screening made by the United States Preventive Services Task Force.

A portion of the CHBRP's 2009 analysis of AB 56 addressing mammography coverage is likely to be applicable to AB 113. However, the portions of the 2009 analysis addressing notifications to female enrollees would not be applicable because of substantive differences in bill language.

A thorough response requires that we discuss the differences in language between AB 56 and AB 113, and why we have determined that some of these differences are likely, and others are not likely, to affect assumptions or conclusions reported in CHBRP's analysis of AB 56.

Mammography Coverage Requirement

In terms of the mammography coverage requirement, the language of AB 113 is very similar to the language of AB 56. Both bills require health insurance policies subject to the California Insurance Code and regulated by the California Department of Insurance (CDI) to cover medically necessary

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mammography upon a provider's referral. Health plans subject to the California Health & Safety Code and regulated by the Department of Managed Health Care (DMHC) currently require coverage of medically necessary mammography upon provider referral. The current Insurance Code differs, mandating mammography coverage for women at particular ages and specifying particular frequencies (one test between the ages of 35 and 39; one test every two years between the ages of 40 and 49; annual tests at age 50 and beyond). AB 113 and AB 56 would make changes to the mammography requirement for CDI-regulated health policies, making the requirements equivalent to those requirements of DMHC-regulated health plans. Therefore, the conclusions reached in the March 2009 analysis of AB 56 regarding mammography coverage—that virtually all females enrolled in CDI-regulated policies already have coverage similar to the proposed mandate—are relevant to AB 113.

AB 113 does differ from AB 56 by explicitly listing physician assistants as providers who may make referrals for mammography screenings. CHBRP's AB 56 report did not exclude any provider types, assuming that any providers licensed to order mammography screenings and acting within the scope of practice may do so. Therefore, CHBRP's AB 56 report is still relevant to AB 113.

As per its authorizing statute, CHBRP addresses relevant medical effectiveness and the potential impacts a mandate bill could have on coverage, utilization, cost, and public health. Key conclusions in CHBRP's AB 56 report regarding the mammography coverage requirement relevant to AB 113 include:

- Medical Effectiveness: The AB 56 report concluded that there is a preponderance of evidence that, among women ages 40 years and older, mammography screening reduces breast cancer mortality. Evidence shows women ages 40-49 experience a smaller reduction in breast cancer mortality than women ages 50 years and older, and false-positive results are more frequent in the 40-49 year age group. Given that both bills require coverage for mammography screenings upon provider referral, neither bill's language conflicts with the USPSTF's November 2009 changes to its mammography screening recommendations. The USPSTF currently recommends "biennial screening mammography for women aged 50 to 74 years." It also recommends that "the decision to start regular, biennial screening mammography before the age of 50 years should be an individual one and take patient context into account, including the patient's values regarding specific benefits and harms." The USPSTF is the only organization cited in the AB 56 report known to have changed its recommendation since that report was issued.
- Utilization, Cost, and Coverage Impacts: The report projected no change in coverage due to the mammography coverage requirements in AB 56, and, therefore, no impacts on utilization, or cost, due to the mammography requirements in AB 56.
- Public Health Impacts: The report projected no change in coverage due to the mammography requirements in AB 56, and, therefore, no impacts on utilization, or public health, due to the mammography coverage requirements in AB 56.

Notification/Communication Requirement

In terms of the notification requirement, the language of AB 113 differs in several ways from the language of AB 56. AB 56 would have required both CDI-regulated insurers and DMHC-regulated health plans to:

> *send a female enrollee a written notice, during the calendar year in which national guidelines indicate she should start undergoing test for screening or diagnosis of breast cancer, notifying her that she is eligible for testing.*

AB 113 also specifies communication from both insurers and plans, but uses different language, requiring that each plan or insurer:

> *shall provide a subscriber [policyholder] with information regarding recommended timelines for an individual to undergo tests for the screening or diagnosis of breast cancer. This information may be provided by written letter sent to the subscriber [policyholder], by publication in a newsletter sent to the subscriber[policyholder], by publication in evidence of coverage, by direct telephone call to the subscriber[policyholder], by electronic transmission, by Web-based portal containing various plan and benefit information if the subscriber [policyholder] has access to that portal, or by any other means that will reasonably notify the subscriber [policyholder] of the recommended timelines for testing. Communications made by a plan's [insurer's] contracted providers that satisfy the requirements of this section shall constitute compliance by the plan with this section.*

We have identified the following four major differences between the notification requirements contained in these two bills. These notification provisions are sufficiently different to make many of the assumptions and conclusions CHBRP made in its March 2009 analysis of AB 56 inapplicable to AB 113.

- **Who receives the communication**: AB 113 does not address the same population for communication that CHBRP assumed for its report on AB 56. AB 113 specifies that communication go to "subscribers" or "policyholders," but not their dependants. AB 56 directed notification to "female enrollees," a term which was interpreted as excluding men but including female dependents (i.e., even if they are not the subscriber or policyholder.). Additionally, CHBRP's AB 56 report assumed that notification would be sent only to women in their 40th year, given the bill's requirement that female enrollees receive notification during the calendar year in which (then current) "national guidelines" recommended breast cancer screening begin. Therefore, the target group specified by AB 113 would be larger but less focused (i.e. all subscribers and policyholders but not including women in their 40th year enrolled as dependents) than the target group included in CHBRP's AB 56 analysis.

- **The content of the communication:** Unlike AB 56, AB 113 does not require that the communication address the recipient's eligibility for testing. AB 113 specifies that health plans and insurers "provide … information regarding recommended timelines." AB 56 specified that each female enrollee entering the recommended period of screening be notified that "she is eligible for testing."

- **The method of communication:** Unlike AB 56, AB 113 does not specify that health plans and insurers must issue a *written notification*. AB 113 allows a much broader array of options for compliance. Accounting for the more limiting notification requirements in AB 56, CHBRP's analysis did not address the effectiveness of any other form of communication and made no projections as to the possible impacts on utilization, cost, or public health that might result from any other forms of communication.

- **The timing of communication**: Unlike AB 56, AB 113 does not specify the timing of the required communication. The projected utilization included in CHBRP's AB 56 report is based on the assumption that plans and insurers would issue *written notification* (assuming individual letters, for which there is evidence of effect) during the calendar year in which each female enrollee turned 40 years of age.

As per the findings of the effectiveness analysis, CHBRP modeled the cost, utilization, and public health impacts expected if health plans and insurers, in order to comply with AB 56, sent written notifications (stating the recipient's current testing eligibility) to female enrollees in their 40th year. Because AB 113 differs from AB 56 in terms of who is specified to receive notification, what the content of the communication would be, the method of communication, and its timing, the impact estimates CHBRP reported for AB 56 are not relevant to a review of AB 113. Furthermore, the communication requirements specified in AB 113 are so broad that it is unlikely CHBRP would be able to project any communication-related utilization, cost, or public health impacts, were CHBRP to analyze the bill.

Summary

In summary, the aspects of CHBRP's *Analysis of Assembly Bill 56: Mammography* issued on March 16, 2009 that concern the mammography coverage requirement continue to be relevant, but the aspects that concern the notification requirements—which are based on delivery of written notification of screening legibility to a particular cohort—are not applicable to AB 113. Because the impacts presented in CHBRP's report on AB 56 are almost exclusively related to the notification requirement, the differing communication requirements in AB 113 would probably result in lower impact or no impact estimates for utilization, cost, and public health were CHBRP to analyze AB 113.

My colleagues and I appreciate the opportunity to answer your question and we are happy to respond to any additional questions you may have. Please feel free to contact me at your convenience.

Sincerely,

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cc: Assembly Member Anthony Portantino, Author of Assembly Bill 113
Assembly Member Karen Bass, Speaker of the Assembly
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Assembly Member Nathan Fletcher, Vice Chair, Assembly Committee on Health
Assembly Member Kevin de Leon, Chair, Assembly Committee on Appropriations
Assembly Member Jim Nielsen, Vice Chair, Assembly Committee on Appropriations
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