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CALIFORNIA INSURANCE COMMISSIONER

California Long Term Care Insurance (LTCI) Task Force
Meeting #14 Minutes
Thursday, July 21, 2022

1. **Task Force Meeting Call to Order** – 1:02PM
   - Roll Call – present: Aron Alexander, Jamala Arland, Susan Bernard, Dean Chalios, Anastasia Dodson, Joe Garbanzos, Eileen Kunz, Laurel Lucia, Doug Moore, Parag Shah, Sarah Steenhausen, and Dr. Karl Steinberg
     - Note: Doug joined after the conclusion of roll call
     - Absent: Becky Duffey, Tiffany Whiten, and Brandi Wolf
   - A quorum was met.

2. **Agenda Item #1:** Welcome & Housekeeping Items
   - Chair Susan Bernard went over housekeeping items.

3. **Agenda Item #2:** Approve Minutes from Meeting #13
   - Parag Shah moved to approve the minutes from the prior meeting, and Dr. Karl Steinberg seconded. The motion was approved unanimously.

4. **Agenda Item #3:** Preliminary Recommendations to Date
   - Stephanie Moench provided an overview of the Task Force's preliminary recommendations to date.

5. **Agenda Item #4:** Follow-up Discussion: Long-Term Services and Supports (LTSS) Benefit Eligibility Age
   - Jamala Arland provided an overview of LTSS benefit age considerations and outlined a potential tiered design for benefit eligibility by care setting.
   - <u>Task Force Member Comments:</u>
     - Parag Shah noted that the cost impact of expanding the benefit eligibility age to 18+ is consistent with his own expectations.
     - Dr. Karl Steinberg supported keeping the benefit age eligibility at 65+ in the interest of political feasibility and affordability.

- Eileen Kunz noted conflicting information regarding the cost impact to the program for expanding the benefit eligibility age. Eileen stated that certain populations in California have a higher propensity for disability at a younger age, which should be considered from an equity point of view.
    - Response (Jamala Arland): We need to decide on an appropriate eligibility age that addresses aging in a culturally competent way.
- Doug Moore noted the average age of individuals receiving care through California's In-Home Supportive Services (IHSS) program is between 47 and 50. Doug noted the importance of viewing benefit eligibility age through the lens of equitability, and supported expanding the benefit eligibility age to 18+.
    - Response (Jamala Arland): The structure of the program the Task Force has been discussing, such as a 2-year benefit period, will not address the long-term needs of individuals with an acquired or developmental disability. We need to keep in mind the cost impact and political feasibility of expanding the eligibility age beyond what is generally accepted as 'aging'.
- Anastasia Dodson reminded the Task Force of existing programs for lower-income individuals of various ages. Anastasia noted the eventual elimination of the asset test and the availability of IHSS and skilled nursing facility benefits through Medi-Cal.
- Parag Shah noted the difference between the benefit eligibility age and contribution age. Parag asked if sensitivity tests demonstrating the cost impact associated with different benefit eligibility ages would be included in the Feasibility Report.
    - Response (Oliver Wyman): We will include sensitivities for a range of benefit eligibility ages.
- Laurel Lucia noted her support for a more inclusive program with a benefit eligibility age of 18+, citing the existing gap in coverage for individuals between the ages of 18 and 65. Laurel noted that the 13.5% increase in costs is not an outlier relative to other cost sensitivities. Laurel noted that the WA Cares Fund provides benefits for those aged 18+, and asked if the broader benefit eligibility age has been a problem.
    - Response (Parag Shah): The WA Cares Fund outcomes are being closely monitored, but that the WA Cares Fund is not currently a viable program. Benefit eligibility age is not one of the design elements being revisited nor has it been cited as one of the issues affecting the solvency of WA Cares Fund. That said, we need to keep in mind the tradeoff between inclusivity and viability of the program.
- Dr. Karl Steinberg noted that he could support providing benefits for those below the age of 65, but reiterated that the Task Force must be keen on the cost impacts of increased inclusivity. Karl noted that benefits should primarily go to those who contribute to the program.
- Joe Garbanzos noted AARP's stance that the program should be inclusive and include a younger benefit eligibility age. Joe also noted that an inclusive

program may produce less resistance from the Legislature. Joe reminded the Task Force of their role to make recommendations to the Legislature.

- Jamala Arland reiterated that AB 567 charges the Task Force with pursuing solutions to the increased costs associated with aging. She also noted that private employers are stakeholders in the adoption of a statewide program, as seen with the WA Cares Fund.
- Jamala recapped the Task Force members' preference to not exclude those with 'pre-existing' conditions from the program, but noted that the program benefits will likely not be enough to address the holistic needs of those with developmental or acquired disabilities at younger ages. She suggested establishing a working group to research the LTSS needs for these individuals.
- Parag Shah asked for clarification on the purpose of establishing various benefit eligibility triggers for different levels of care.
  - Response (Jamala Arland): The triggers define when someone can access care in a particular setting and the goal would be to align access to services/care settings with an individuals' severity of need.
- Joe Garbanzos noted that varying program benefits based on severity of need aims to produce the most desirable outcomes. Joe noted similar triage approaches being employed in managed care and within the California Advancing and Innovating Medi-Cal (CalAIM) framework. Joe opined that a top-down, prescriptive approach to eligibility may not be appropriate. He noted that the tiered framework may make coordination with PACE difficult.
- Dr. Karl Steinberg noted that he liked the idea of providing preventative benefits but citing concerns about increasing program complexity. Dr. Karl Steinberg also highlighted that residential care facilities are not included in all design options in the 'straw man', but recommended that they should be.
- Eileen Kunz stated support for providing preventative benefits and noted the potential for preventive care to avoid institutionalization. Eileen stated that she liked the concept of bucketing the eligibility criteria, but noted that the structure may be challenging to design.
- Anastasia Dodson reminded the Task Force that special supplemental benefits for the chronically ill (SSBCI) are available to certain individuals through Medi-Cal and to some Medicare Advantage plan members.

- <u>Public Comments:</u>
  - Maxwell Hellman noted that AB 567 is aimed at tackling costs of aging for all Californians and that different social/demographic groups have different life expectancies, especially those with developmental disabilities or those that acquire disabilities early in life. Having a benefit eligibility age of 65+ would not create an equitable program.
  - Silvia Yee echoed Maxwell's comments that aging begins at birth, not age 65. Silvia noted that many individuals who face health problems in their 30s and 40s stand to benefit from the statewide program. Silvia suggested clarification

regarding the interaction between program vesting criteria and benefit eligibility age.

  - Bonnie Burns noted that individuals in their 40s or 50s can develop conditions requiring long-term care. Bonnie opined that it seems unreasonable to limit the benefit for those above an arbitrary age, as individuals cannot predict their needs in the future.
  - Steve Cain stated that an ideal benefit eligibility age would be 18, but this may prove challenging from a financial perspective. Steve noted that the Legislature will have the final vote on all program design elements, and that a high tax rate associated with the program will likely not receive sufficient support.
  - Nina Weiler-Harwell noted the dangerous assumption that all those with disabilities cannot work. Nina noted that the Milliman study showed a small increase in the tax rate associated with providing benefits for those that are disabled at birth. Nina noted that not allowing a vested individual to be eligible for benefits until age 65 may decrease public support. Nina also expressed concern about the ease of moving between care levels under a tiered benefit eligibility trigger design. Nina stated that there may be a waiting period due to eligibility assessment(s) and it is not clear how this would be alleviated.
    - Response (Jamala Arland): Providing a program for all ages would be great, but the program design must be in line with the new funds that are expected to be raised to finance the program, specifically through an additional tax. It is important for the Task Force to define what aging means and what is an appropriate benefit eligibility age.
  - Leza Coleman noted that if an individual is both vested and eligible for the program benefit, they should be allowed to spend the benefit however they choose. Leza noted that many individuals don't have family that are able and/or willing to provide care. Leza urged the Task Force to shift the conversation from judgements to solutions and options, and to include residential care facilities, which are less expensive than home care, as a covered service under the program.
  - Louis Brownstone urged the Task Force to keep the program design simple. Louis noted that he likes the idea of including preventative benefits, but is concerned that this would increase program complexity and cost.

6. **Agenda Item #5**: Discussion: Program Design 'Straw Man'
   - Dustin Plotkin provided an overview of the program design 'straw man' and noted that any Task Force Member recommendations not finalized during this discussion will be addressed in the upcoming questionnaire.
   - <u>Task Force Member Comments:</u>
     - Jamala Arland asked for clarification regarding design 1's $1,500 monthly benefit and 2-year benefit period, given this design is aimed at providing ancillary benefits. Jamala noted that some costs are best addressed by providing a lump sum rather than monthly payments. Jamala proposed a reduction in the vesting period and a less punitive proration of benefits.
       - Response (Oliver Wyman): The monthly benefit amount was set with the goal of providing a lower-cost alternative program design.

- Jamala noted that designs 1 and 2 do not feel like robust program designs, and are more like ‘add-ons’ to help lessen the cost of care burden. Jamala also stated that designs 1 and 2 do not feel appropriate in scope for what the Task Force is aiming to accomplish.
    - Response (Oliver Wyman): The inclusion of a program design that provides targeted ancillary benefits is ultimately up to the Task Force.
- Parag Shah noted the focus of the first two designs is to provide a lower-cost alternative relative to other program designs. Parag stated that it is beneficial to include a lower-cost option as such a design still makes progress towards lessening the cost of aging for Californians.
- Jamala stated the importance of aligning each program design purpose with the proposed benefit structure. Jamala noted that the $2,000 monthly benefit amount proposed for design 2 may not provide sufficient support for family caregivers.
- Parag Shah asked for clarification regarding Jamala’s comment of describing designs 1 and 2 as ‘add-ons’.
    - Response (Jamala Arland): Design 1 provides ancillary care while design 2 provides income replacement for family caregivers. These designs are a good starting point but are not comprehensive on a stand-alone basis.
- Eileen Kunz recommended the Task Force combine designs 1 and 2 to include family/friend caregiver benefits in design 1.
    - Response (Oliver Wyman): Designs 1 and 2 differ in who is required to vest and can ultimately receive program benefits. Under design 1 this is the care recipient while under design 2 it is the caregiver. But design 1 can be expanded to provide benefits that can be paid to an individuals’ family caregiver.
- Anastasia Dodson noted that designs that create more overlap with Medicare, such as those that provide preventative care, will increase complexity. Anastasia recommended combining the Medi-Cal coordination and mutual exclusivity design elements and revising the language to not use “mutually exclusive” to avoid confusion.
- Joe Garbanzos noted that having clear lower- and higher-cost program designs will guide discussion.
- Dr. Karl Steinberg noted that the lower-cost program designs should not limit care settings. Dr. Karl Steinberg proposed that coverage for residential care facilities be added to design 1 and noted that costs would still be limited by the lower monthly benefit amount.
- Doug Moore noted their concern with the implementation of a lower-cost program and the difficulty in modifying the program after its approval.
- Joe Garbanzos urged the Task Force to focus on the high-level implications of each program design.

- Parag Shah asked if a payroll tax is the most appropriate financing mechanism for the lower-cost program designs. Parag recommended financing these designs via the general fund. Parag noted that this may avoid vesting criteria, which may be important for design 2 because those individuals most likely to provide informal care may not be on payroll (such as those who stay at home) and therefore would be unable to vest.
    - Response (Laurel Lucia): California's Paid Family Leave (PFL) program is financed via a payroll tax and may be on a similar scale as the lower-cost program designs.
    - Response (Susan Bernard): A general fund option can be recommended to the Legislature as a secondary financing option for the low cost designs.
- Parag Shah noted that a 5-year vesting period did not seem unreasonable for designs 1 and 2, and that, over a 5-year period, most individuals will not have contributed more to the program than what they can receive.
    - Response (Jamala Arland): The vesting period should align with value of the benefits under each program design.
    - Response (Oliver Wyman): Recommendations for each program design option's vesting period will be addressed in the upcoming questionnaire.
- Parag Shah noted the difference between a rich program for a targeted population and a moderate program for a broad population. Parag recommended an additional low-cost program design that is similar to design 3 but provides richer benefits to a more targeted population (e.g., home and community-based care) with exclusions for individuals below a certain poverty level.
- Anastasia Dodson asked whether individuals with contribution waivers would receive program benefits.
    - Response (Oliver Wyman): In the more costly design options, full benefits are still available to those with contribution waivers once all benefit eligibility criteria are met. This is separate and distinct from Parag's recommendation, which would not provide benefits to those who do not contribute.
    - Response (Parag Shah): Not providing program benefits to individuals with contribution waivers is aimed at providing benefits for a more targeted population, and considers that these individuals may have access to Medi-Cal or other programs.
- Anastasia asked for clarification regarding the determination of waiver of contributions, and when income is measured. Anastasia noted that having a program design element based on income level adds complexity, because income varies throughout an individual's lifetime.
    - Response (Parag Shah): One approach could be that if an individual's income measures above some pre-determined level throughout a certain period, they will be able to fully vest in the program.

- Dr. Karl Steinberg recommended that designs 1 and 2 not be offered, and design 3 be offered as the lower-cost alternative.
    - Response (Ramon Castellblanch): The Task Force should retain consideration for those receiving care from family and/or friends, such as that included in design 2.
- Amanda Bastidas asked for clarification regarding inclusion of program designs that do not have any Task Force Member support.
    - Response (Oliver Wyman): We will not include such designs in the Feasibility Report.
- Laurel Lucia asked for clarification regarding timing of each Task Force Member picking their favorite design(s).
    - Response (Oliver Wyman): The 'straw man' designs will be refined based on this discussion and responses to our upcoming questionnaire. Following this, we will circulate another questionnaire that asks Task Force members to indicate their preferred design as well as all designs that they can be supportive of.
- Stephanie Moench relayed Jamala Arland's commentary that designs 3 through 5 seem to be more targeted, while Design 6 is in line with all Task Force Member recommendations. Jamala noted the need to find a suitable middle ground for California. Jamala noted that the purposes of designs 4 and 5 are unclear.
- Laurel Lucia suggested that the 'straw man' be updated to not use "broad" vs. "targeted" to describe the different design options. Laurel asked for clarification regarding the practicality and feasibility of including non-voluntary program contributions in design 6. Laurel noted that based on the ACA, there are potential legal challenges associated with non-voluntary contributions. Laurel suggested that if such a financing mechanism is recommended, we need to clarify how such contributions will be collected.
    - Response (Ryan de la Torre): The goal of a non-voluntary financing mechanism is to require contributions from self-employed individuals in the form of an income tax. Ryan de la Torre noted that Washington does not have a state income tax, so the WA Cares Fund could not consider an income-tax based financing mechanism and instead included an opt-in option for self-employed individuals.
    - Response (Oliver Wyman): We will clarify language surrounding the non-voluntary mechanism.
- Parag Shah asked for clarification regarding inclusion of non-working spouses in the non-voluntary financing mechanism.
    - Response (Oliver Wyman): The non-voluntary financing mechanism is intended to encompass self-employed individuals and tax non-payroll sources of income.
    - Response (Ryan de la Torre): There is an equity consideration related to this as well since individuals may switch between being on payroll and being self-employed.

- Laurel Lucia recommended that the non-voluntary financing mechanism be considered for designs 3-6. Laurel noted that taxes only impacting employees on payroll can cause distortions in the labor market.
  - Response (Oliver Wyman): This question will be included in the upcoming questionnaire.
- Doug Moore noted his support for Design 6's more generous benefit structure and eligibility age. Doug opined that the program should be progressively funded, meet the LTSS needs of consumers, and support fair working conditions for the LTSS workforce. Doug suggested reviewing other funding options laid out by the California Budget & Policy Center.
- Parag Shah noted that Social Security's $147,000 salary limit is too low for California and proposed a higher amount in the range of $250,000 to $400,000. Alternatively, Parag suggested a maximum contribution limit that is defined relative to the program maximum benefit amount.
  - Response (Oliver Wyman): The Social Security salary cap is the starting point for consideration. We will ask Task Force Members for their recommendations on program contribution limits in the upcoming questionnaire.
- Parag Shah suggested that the Task Force consider whether there should be a maximum contribution age, after which contributions would no longer be required.
  - Response (Oliver Wyman): Based on a prior questionnaire, the preliminary Task Force recommendation is to not have a maximum contribution age, but we will include a question to revisit this on our upcoming questionnaire. If the financing is through a payroll tax, there may be some additional equity considerations to keep in mind related to a maximum contribution age as retirement age may be a choice for those with higher income while low-income individuals may work beyond the normal retirement age.
- Parag Shah noted that all of the program designs in the 'straw man' assume investment in equities. Parag suggested that Design 3 assume no investment in equities, which is consistent with the WA Cares Fund.
  - Response (Oliver Wyman): The preliminary recommendation by the Task Force is to pursue a constitutional amendment to allow equity investment. This is not guaranteed so we will price each program design option under both scenarios (including and excluding investment in equities).
  - Response (Susan Bernard): Pursuing a constitutional amendment may prove challenging, as it will require a ballot initiative.
- Parag Shah recommended including considerations for business owners that don't make traditional payroll income. Parag also recommended clarifying the opt-out provisions for each program design option, and potentially offering a small discount in program contributions to those that purchase private wrap-around coverage post program enactment. Such a discount would incentivize

individuals to purchase private insurance, which would reduce the burden on California's Medi-Cal program.

    - Response (Anastasia Dodson): Even if Medi-Cal gets savings, over half would be federal fund savings. Anastasia recommended that the actuarial analysis for the program quantify the potential reduction to Medi-Cal spending from the program and potential federal funding revenue that would be lost if a federal demonstration waiver is not received.

- Parag Shah asked for clarification regarding the timeline of Washington's Medicaid federal demonstration waiver.
    - Response (Anastasia Dodson): Unsure of whether Washington has submitted anything to the Centers for Medicare and Medicaid Services (CMS).
- Joe Garbanzos suggested that the Task Force consider essential benefits for this program, much like the Affordable Care Act (ACA), which defines 10 different essential benefits.
    - Response (Oliver Wyman): The 'straw man' includes several design elements that are consistent across each option, as indicated by non-shaded rows. These can be considered the program "essential benefits" and represent design elements that received unanimous or near-unanimous preliminary Task Force support via prior questionnaires and discussions.
- Susan Bernard noted that private insurance policies must meet minimum benefit requirements to be eligible for the opt-out and reduced contribution provisions and that these minimum requirements still need to be defined.
- Eileen Kunz noted the importance of covering all individuals who are vested.
    - Response (Oliver Wyman): The upcoming questionnaire will ask for benefit eligibility age recommendations for each program design.

- <u>Public Comments:</u>
    - Ramon Castellblanch urged the Task Force to consider alternative financing mechanisms.
    - Leza Coleman noted her support for removing Designs 1 and 2 if considerations for family/friend caregivers are included elsewhere. Leza urged the Task Force to consider a mechanism that reimburses family/friend caregivers and asked for clarification regarding reimbursement for family/friend caregivers providing care to multiple individuals in different care settings. Leza also noted that a program covering ancillary benefits, despite being perceived as supplementary to a more comprehensive design, may receive substantial public buy-in.
    - Malcom Harris noted that the statewide program should provide LTSS for all. Malcom urged the Task Force to consider taxation of higher-income individuals. Malcom urged the Task Force to consider multiple facets of

cultural competency in the implementation of the program, including the impact of an opt-out provision and fair working conditions for caregivers.

    - Response (Susan Bernard): Several of these options will be included in the Feasibility Report.

- Nina Weiler-Harwell noted that a rich monthly benefit and 2-year benefit period will drive up costs. Nina reminded the Task Force that 50% of social security beneficiaries receive $1,500 / month. For these individuals, receiving the monthly benefit amount available in design 1 would double their income, which is significant. Nina asked if there was a way to be more generous than WA Cares Fund, and suggested costs could be reduced by lowering big monthly payments and adding a short elimination period. Nina suggested additional modeling runs that consider individuals disabled at birth, Medi-Cal savings, and employer participation in funding. Nina stated that financing through a general fund may not be feasible and noted concerns about additional taxes on employers in California.
- Steve Cain noted that California has a high income tax and 64% of Californians feel that they pay too much in taxes. If another corporate tax is implemented, businesses may leave California. Steve noted that the Task Force should consider the impact of an additional tax and feasibility of potential alternative funding mechanisms.
- Ramon Castellblanch noted that a reimbursement payment structure excludes many potential LTSS costs.
- Selena Coppi Hornback noted the importance of including home and community-based care and assisted living facilities in the program design options.
- Louis Brownstone noted the cost implications of including institutional care. Louis stated that residential care facilities should be included in the definition of home and community-based care settings.

7. **Agenda Item #6:** General Public Commentary
    - No additional public comments were expressed.

8. **Agenda Item #7**: Next Steps & Closing
    - Recording for this meeting will be available early next week.
    - The remainder of our Task Force meetings will be held entirely virtually due to the passage of SB 189, which is effective through June 2023. Task Force Members will no longer be required to publicly notice their location.
    - At 4:07, Susan Bernard requested a motion to adjourn the meeting. Dr. Karl Steinberg made the motion, and Joe Garbanzos seconded it. The meeting was adjourned.