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Legislative highlights

Fiscal issues, state budget

- CCLP supported establishing an enterprise for the state's hospital provider fee to preserve funding for health care and other programs.

Medicaid

- CCLP worked on legislation that extended the time period for Medicaid clients to file appeals.
- CCLP supported legislation that permits people living with disabilities to work without fear of losing critical Medicaid services.

Connect for Health Colo.

- CCLP worked to protect the sustainability of Colorado's health insurance marketplace, Connect for Health Colorado, while also supporting efforts to improve transparency.

Cost and affordability

- CCLP worked on several bills intended to address cost and affordability of health care.

2016 Legislative Wrap-up: CCLP's Health Care Program

The core work of CCLP's Health Program includes increasing access to health insurance; supporting and protecting Medicaid; ensuring that quality health care is affordable for Colorado families; and protecting the implementation of the Affordable Care Act (ACA) in Colorado.

During this year's legislative session, CCLP's Health Program supported establishing an enterprise for the state's hospital provider fee to preserve funding for health care and other programs. We also worked to ensure that Medicaid expansions are protected and that all eligible applicants and participants could access health care coverage.

Furthermore, we worked to protect the sustainability of Colorado's health insurance marketplace, Connect for Health Colorado, while also supporting efforts to improve the system's transparency. Finally, we worked on several bills intended to address cost and affordability of health care in Colorado.

Here's a recap of our health care issues for 2016:

Fiscal issues and the state budget

Established in 2009, the hospital provider fee is a funding mechanism which imposes a fee on Colorado hospitals and uses fee revenue to generate Medicaid matching dollars from the federal government. The fee has permitted Colorado to increase hospital reimbursements for Medicaid clients, funded Medicaid expansions and improved the quality of care in Medicaid by offering incentives to hospitals to make quality improvements -- all without using General Fund expenditures.

Unfortunately, due in part to the economic recovery, Colorado last year collected revenues that exceeded TABOR'S spending limits -- triggering tax rebates. This year, the state was required to return \$109 million to taxpayers in the form of rebates of between \$34 and \$108 per taxpayer. Meanwhile, the hospital provider fee generates about \$600 million annually. That money is counted toward the TABOR revenue limit but none of those funds may be used to pay refunds. This meant the \$109 million in refunds owed this year had to come out of the state's General Fund, which meant there was less money available for K-12 education, higher education, human services and road repair. To rectify this vexing fiscal issue, lawmakers introduced legislation in 2015 and again in 2016 that would create a state enterprise to collect and administer the hospital provider fee -- exempting the revenue from TABOR's spending limits.

CCLP supported this year's effort to establish an enterprise, **House Bill 1420**, because it would have eliminated pressure to reduce the hospital provider fee revenue and

preserve funding for other important programs. A companion bill, **HB 1450**, would have allocated the additional state revenues that would have been available (if HB 1420 passed) to the state severance tax fund, the state education fund, the college opportunity fund, the general fund, the capital construction fund and the highway-users tax fund. However, while HB 1420 passed through the House, it failed in the Senate, nullifying efforts to preserve the funding this year.

Whether or not the enterprise for the hospital provider fee ever becomes a reality, CCLP maintains that at some point, the legislature or voters will need to address this serious financial quandary that continues to take away money from other critical programs and services outside the scope of health care.

Medicaid

Several bills in the 2016 session attempted to address coverage gaps and restrictions in Medicaid, including:

- **HB 1277** adds protections to the Medicaid appeals process by extending the time period for clients to file appeals from 30 to 60 days. The bill also makes it easier for clients to request an informal dispute resolution without losing their right to a formal appeal. The opportunity for a fair hearing before public benefits are modified, reduced, suspended or terminated is a protection guaranteed under the Constitution. CCLP worked with the Colorado Cross Disability Coalition and Colorado Legal Services on HB 1277 because the modifications called for under the bill, while modest, will make the appeals process more accessible to vulnerable clients. The bill passed both chambers of the Colorado legislature and is awaiting the governor's signature.
- **HB 1321** permits people living with disabilities to work without fear of losing critical Medicaid services. The bill adds a buy-in option to the Home and Community-Based Supported (HCBS) Living Services Waiver and the HCBS Spinal Cord Injury waiver. HCBS waiver programs are designed to support individuals with health and long-term care needs to remain in the community. Buy-in programs work by raising the income limit for participation in the program and requiring participant with higher incomes to pay a sliding scale premium. CCLP supported HB 1321 because we believe people should not have to choose between working and maintaining access to critical medical and long-term care services that enable them to remain in their homes. The bill passed both chambers of the Colorado legislature and is awaiting the governor's signature.
- **Senate Bill 162**, which would have authorized non-Medicaid providers to see Medicaid patients, even though Medicaid cannot pay for such services, nor for any testing, prescriptions or referrals made by that particular provider. CCLP opposed the bill because we believe the solution to the problem is to improve Medicaid reimbursements to primary care providers and enforce access requirements in capitated payment arrangements. The bill passed through the Senate but was postponed indefinitely in the House.
- **SB 170** would have required the Colorado Department of Health Care Policy and financing to purchase private insurance for those who are eligible for Medicaid but prefer to enroll in private insurance. CCLP testified in committee that to effectuate such a plan, the state would need approval for a waiver from the Centers for Medicare and Medicaid Services, and that approval would be contingent on the plan being cost-neutral and services being equivalent. For a variety of reasons, cost-neutrality would appear to be extremely unlikely. The measure was approved by the Senate but was killed by a House Committee.
- By the request of Rep. Dianne Primavera, D-Broomfield, the Legislative Council authorized an **interim committee** to examine the form, content and frequency of communication between HCPF and Medicaid clients. The

committee will be comprised of six members -- three from each chamber. The committee, which was spurred by documented complaints about HCPF's correspondence system, will meet four times and may refer up to five bills.

Connect for Health Colorado

This session saw several bills aimed at the State's Health Benefits Exchange (doing business as Connect for Health Colorado), including:

- **HB 1148** was a response to a perceived lack of transparency in the way policy decisions were made by Connect for Health Colorado. CCLP opposed the bill as initially drafted as it would have given the Legislative Oversight Committee the authority to repeal any policy decision made by Connect for Health Colorado and review the bidding process and any Connect contract. CCLP worked to amend the bill, which as passed requires additional public processes around Connect policy decisions, including the establishment of a public advisory committee. The measure was passed by the Colorado legislature and signed to law by the governor.
- **SB 6** concerns the use of brokers in assisting consumers with enrollment in plans through Connect for Health Colorado. This bill is one of several directed at the marketplace, and it aimed to codify a practice of referring customers to brokers, whether they use Connect's website or speak to customer-service representatives. In our view, by strongly favoring brokers, this bill may disserve customers who might benefit from a health coverage guide because they need financial assistance or have more complex health needs. CCLP opposed the bill initially, but withdrew opposition after the legislation was amended.
- **SB 2** would have required the Secretary of State to submit to the voters the question of whether Connect for Health Colorado could impose a fee on insurance carriers that sell insurance plans on the state exchange. CCLP opposed the bill because it would have inappropriately categorized the fee as a tax and, in doing so, would have jeopardized funding that is critical to the sustainability of the exchange. The bill passed the Senate but was postponed indefinitely in the House.

Cost and affordability

At least three bills attempted to address the concerns of health care cost and affordability, but only one was approved by legislators. They include:

- **HB 1102** sought to make public information about the underlying costs related to manufacturing, marketing and selling prescription drugs. Similar bills have been attempted in states around the country. To date, all such legislation has failed due to very strong opposition from the pharmaceutical industry. CCLP supported HB 1102 as a step towards cost transparency, but the bill died in its first committee regardless.
- **HB 1336** requires the Colorado Department of Insurance (DOI) to study the effects of moving Colorado's current statewide insurance rating areas from nine to one. As a result of the current geographic rating system, residents in some poor rural counties have to pay the same rates as residents of some of the wealthiest counties in the state. CCLP supported this bill as a means of investigating solutions to extraordinary health insurance costs in many mountain and rural communities and as a means of analyzing the drivers of health care costs in Colorado. The bill passed both chambers and is awaiting the governor's signature.

- **HB 1381** would have closed a health insurance coverage gap by clarifying that coverage for breast-cancer screenings applies to the imaging modality or combination of modalities that are appropriate for each individual's breast health needs. Under the ACA, screenings for certain cancers are considered preventive care and not subject to cost-sharing, including mammograms. However, the procedures that are not subject to cost-sharing do not always align with clinical standards of care to complete a cancer screening. The result is a coverage gap that means that some individuals pay out-of-pocket costs to complete a preventive screening. CCLP supported the bill as an important ACA-cleanup measure. It passed the House but was postponed indefinitely in the Senate.

PACE ombuds program

In its role as a watchdog organization, CCLP participated on behalf of the public interest in the proceeding before the Colorado Attorney General concerning the conversion of InnovAge's Program of All Inclusive Care for the Elderly (PACE). Among the recommendations we and others made was that the Attorney General ought to establish an ombuds program to ensure the protection of vulnerable PACE clients during the transition of InnovAge from non-profit to a for-profit organization. However, only the state legislature can order CDHS to maintain such a position.

SB 199 established the PACE ombudsman position in the Colorado Department of Human Services (CDHS). The bill also requires CDHS to convene a stakeholder process during the interim and return to lawmakers with longer term recommendations for the PACE ombuds program. CCLP supported the establishment of an ombuds position and SB 199 passed both chambers of the Colorado legislature. The bill is awaiting the governor's signature.