



## Agenda Item 5

April 14, 2015

**ITEM NAME:** 2015-16 Federal Health Care Policy Agenda

**PROGRAM:** Federal Policy

**ITEM TYPE:** Action

### **RECOMMENDATION**

Staff recommends that the Pension & Health Benefits Committee (PHBC) approve the California Public Employees' Retirement System (CalPERS) proposed 2015-16 Federal Health Care Policy Priorities, as identified.

### **EXECUTIVE SUMMARY**

The CalPERS Board of Administration (Board) sets the policy direction for the Retirement Benefits Program, including taking positions on state and federal retirement security issues that impact CalPERS members and the CalPERS Trust. In addition, for very high priority areas, the Board may determine that active advancement and engagement on specific topics is warranted. In those cases, CalPERS staff and our Federal Representatives will develop a strategy to advocate for the specific priorities.

For 2015-16, staff recommends the following Priorities:

- Prescription Drug Management & Cost Containment
- Delivery System Reform
- Tax Policy (Excise Tax)
- Transparency

### **STRATEGIC PLAN**

This agenda item supports Goal C of the 2012-17 Strategic Plan, by focusing our staff and Federal Representatives in national policy development to enhance the long-term sustainability and effectiveness of our programs.

### **BACKGROUND**

Historically, CalPERS has worked in coordination with its Federal Representative to identify and select areas of engagement, discuss them with PHBC, and seek the full Board's support and approval. This process was last conducted in 2013 (see PHBC Agenda Item 6, March 19, 2013).

The CalPERS Federal Health Care Policy Representatives, Avenue Solutions and Jennings Policy Strategies (a joint venture), have worked with staff to draft the proposed 2015-16 Federal Health Care Policy Priorities for the Board's consideration.

These Priorities focus on protecting CalPERS as a purchaser and our members as consumers.

***Prescription Drug Management & Cost Containment***

Rising prescription drug costs are one of the most pressing issues affecting health care purchasers. The increase in prescription drug spending is driven largely by the growing number and increasing launch prices of specialty drugs, including biologics. To partially address these costs, the Affordable Care Act (ACA) created a pathway for biosimilars and interchangeable biologics. Notwithstanding this development, only one biosimilar has been approved and the prospects for many more new and extremely expensive brand biologics coming to the marketplace without competition is virtually inevitable. As a consequence, pharmacy benefit managers and health plans are projecting substantial prescription drug cost increases and are assuming associated premium increases.

Despite these increasing prescription drug related costs, new legislative proposals to increase market exclusivity and create barriers to competition in the name of providing for additional incentives for greater levels of innovation are pending in both Houses. Such policy approaches will not only increase prescription drug costs and overall health care premiums, but will reward the brand pharmaceutical industry above and beyond their investment in innovation. While the prospects for passage of this legislation remains unclear, it is recommended that CalPERS work with plan, purchaser, and consumer representatives to define the threat of this poorly conceived policy and educate members of Congress.

Beyond more effectively educating the media and the public about the implications of flawed policies in this legislation, it will be critical for CalPERS to be visibly supportive of the stated objectives of the law. This will be achieved by supporting a range of policy initiatives including increased investment at the National Institute for Health, through continued support of Research & Development tax credits and other policies that increase production of and access to new treatments and cures.

***Delivery System Reform***

The ACA provided Medicare and Medicaid with a number of tools to help reform the delivery of care in those programs, including bundling, Accountable Care Organizations, and the creation of the Centers for Medicare and Medicaid Innovation which enables greater flexibility and ingenuity. It is critical that Medicare and Medicaid lead the way if real and lasting changes are to be made in the delivery of healthcare. The movement towards integrated health care delivery systems needs to occur on a larger scale with greater incentives for providers to accept value-based payments for a short time and a faster transition to penalties for failure to do so. Moreover, positive incentives for beneficiaries to enroll and embrace alternative care delivery approaches should be seriously considered.

The Administration recently announced that Medicare had already achieved 20 percent of its reimbursements in “value purchasing” arrangements, also frequently called alternative payment models, in which health care providers are accountable for (and have a financial incentive to ensure) the quality and costs of the care they deliver to patients. They committed to achieving 30 percent by 2016 and 50 percent by 2018. Questions remain about how CMS is defining and achieving their definition of “value purchasing” models. How to measure and secure quality in meaningful, actionable ways also needs to be resolved. With this and the potential impact on retirees in mind, CalPERS should be actively engaged in CMS’ design and implementation strategies to ensure that the ultimate solution addresses our needs.

CalPERS should continue to advocate for legislation that achieves the goal of repealing the current update formula for Medicare physician payment, the sustainable growth rate, and replacing it with alternative payment models that put these incentives and penalties into place. To this end, CalPERS recently endorsed bipartisan legislation, H.R. 2, the Medicare Access and the Children’s Health Insurance Program (CHIP) Reauthorization Act of 2015, advanced by Speaker Boehner and Leader Pelosi. The legislation overwhelmingly passed and we are working to ensure same outcome in the Senate in April. It will also be vital to continue to work with the Administration to advance their initiative with the goal of better aligning the Medicare program with approaches that CalPERS is embracing and encouraging and, thereby, providing some additional momentum for such arrangements and models promoted by CalPERS.

***Tax Policy (Excise Tax)***

One of the most significant and controversial provisions of the ACA is the new excise tax on high-cost health plans which is designed to both slow the rate of growth of health costs and finance the expansion of coverage. This provision is often called the "Cadillac" tax because it targets so-called Cadillac health plans that provide workers the most generous level of health benefits. Proponents of the new excise tax argue that these benefit-rich plans insulate workers from the high cost of care and encourage the overuse of care--such as unnecessary tests and hospital visits--that raise US health costs overall. However, the plans may be more costly and therefore subject to the new excise tax for reasons other than generous benefits, including plan participants' health status or advanced age or regional cost of living factors. Moreover, the design of the law is perceived as unsustainable because of unrealistically tight indexing that will lead to incentives for plan offerings that are woefully inadequate and likely noncompliant with requirements for essential health benefits.

Staff and our Federal Health Care Policy Representatives recommend that CalPERS work with regulators and legislators to evaluate options for calculating the cost of coverage in a reasonable way and developing adjustments that may account for plan cost variations. The goal is to limit the application of the tax on CalPERS products in total and to ease administrative compliance.

### ***Transparency***

Increasing transparency into the health care system is an important area for CalPERS as we seek to ensure that the delivery system is moving toward paying for outcomes, not merely process or volume. CMS has made significant strides in enhancing transparency through the release of Medicare data to Qualified Entities, and making physician and hospital data available to the public. The recently House-passed and CalPERS-endorsed physician payment reform legislation (H.R. 2) would explicitly expand current CMS practices in this area and allow Qualified Entities to provide or sell non-public and privacy-protected analyses and claims data to physicians, other professionals, providers, medical societies, and hospital associations to assist them in their quality improvement activities. Such information could also be used for alternative payment models by health insurers and self-insured employers, but only for the purposes of providing health insurance to their employees or retirees.

Consumers in the fee-for-service system lack adequate tools to evaluate providers. Similarly, health plans have little ability to determine whether any specific procedure is “worth” the price or evaluate comparability in cost and quality. Frequently, the various players within the delivery system are opposed to efforts that will increase visibility into the system. We should be looking at efforts to mandate the release of contractual arrangements between health plans and providers, for both for-profit and not-for-profit organizations, to promote transparency in the reporting of cost and quality. We should also advocate for improved financial disclosures for not-for-profit health care providers, including health plans, hospitals and physician practices.

### **BUDGET AND FISCAL IMPACTS**

Not Applicable.

### **BENEFITS/RISKS**

- The benefit of adopting the 2015-16 Federal Health Care Policy Priorities is that it reinforces the Board’s commitment to taking proactive positions to educate and/or influence the policy discussions or legislative proposals having a direct impact on the CalPERS Health Benefits Program.
- There are no known risks associated with enacting this recommendation.

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