SENATE COMMITTEE ON HEALTH
Senator Ed Hernandez, O.D., Chair

BILL NO: **SBX1 3**
AUTHOR: **Hernandez**
AMENDED: **March 6, 2013**
HEARING DATE: **March 20, 2013**
CONSULTANT: **Bain**

SUBJECT: Health care coverage: bridge plan.

SUMMARY: Requires Covered California (the state's Health Benefit Exchange) to establish a "bridge" plan product by contracting with Medi-Cal managed care plans for individuals losing Medi-Cal coverage (for example, because of an increase in income), the parents of Medi-Cal or Healthy Families Program (HFP) children, and individuals with incomes below 200 percent of the federal poverty level (FPL). Limits enrollment in bridge plan products only to eligible individuals, and exempts these products from specified provisions of existing law, including a requirement that Covered California products be sold in the outside market.

Existing federal law:

1. Requires, under the Patient Protection and Affordable Care Act (ACA, Public Law 111-148), as amended by the Health Care Education and Reconciliation Act of 2010 (Public Law 111-152), each state, by January 1, 2014, to establish an American Health Benefit Exchange that makes qualified health plans (QHPs) available to qualified individuals and qualified employers. If a state does not establish an Exchange, the federal government is required to administer the Exchange. The ACA establishes requirements for the Exchange and for QHPs participating in the Exchange, and defines who is eligible to purchase coverage in the Exchange.

2. Allows, under the ACA and effective January 1, 2014, eligible individual taxpayers, whose household income is between 100-400 percent of the FPL inclusive, an advanceable and refundable premium tax credit based on the individual's income for coverage under a QHP offered in the Exchange. The ACA also requires a reduction in cost-sharing for individuals with incomes below 250 percent of the FPL, and a lower maximum limit on out-of-pocket expenses for individuals whose incomes are between 100 and 400 percent of the FPL. Legal immigrants with household incomes less than 100 percent of the FPL who are ineligible for Medicaid because of their immigration status are also eligible for the premium tax credit and the cost-sharing reductions.

3. Requires, under the ACA, health plans offering coverage in the individual or group market to accept every employer and individual that applies for coverage (known as "guaranteed issue" or GI). Permits a health plan to restrict enrollment to open or special enrollment periods. Permits health plans to deny coverage to individuals if the health plan has demonstrated, if required, to the applicable state authority that it will not have the capacity to deliver services adequately to any additional individuals because of its obligations to existing group contract holders and enrollees, and it is applying this provision to all and individuals without regard to the claims experience of those individuals, employers and their employees (and their dependents) or any health-status related factor.

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4. Defines, under the ACA, a QHP, and requires a QHP to offer at least one product in the silver level and at least one plan in the gold level in the Exchange.

Existing state law:

5. Establishes the California Health Benefit Exchange in state government (known as Covered California), and specifies the duties and authority of Covered California. Requires Covered California be governed by a board that includes the Secretary of the California Health and Human Services Agency (Agency) and four members with specified expertise who are appointed by the Governor and the Legislature.

6. Permits Covered California to collaborate with the Department of Health Care Services (DHCS) and the Managed Risk Medical Insurance Board, to the extent possible, to allow an individual the option to remain enrolled with his or her carrier and provider network in the event the individual experiences a loss of eligibility for premium tax credits and becomes eligible for the Medi-Cal program or HFP, or loses eligibility for the Medi-Cal program or HFP and becomes eligible for premium tax credits through Covered California.

7. Requires the Covered California board, in the course of selectively contracting for health care coverage offered to individuals and small employers through Covered California, to seek to contract with health plans and insurers so as to provide health care coverage choices that offer the optimal combination of choice, value, quality, and service.

8. Requires health plans that participate in Covered California to fairly and affirmatively offer, market, and sell in Covered California at least one product within five levels of coverage in federal law (platinum, gold, silver, bronze and catastrophic). Requires health plans that sell any products outside of Covered California, as a condition of participation in Covered California, to fairly and affirmatively offer, market and sell in the outside market all products made available in Covered California.

This bill:

1. Requires Covered California, to the extent approved by the appropriate federal agency to contract with and certify as a QHP, a bridge plan product that is certified by Covered California.

2. Defines a "bridge plan product" as an individual health benefit plan offered by a health plan or health insurer that contracts with Covered California. Requires, in order to be a qualified bridge plan product, the plan or insurer to:
   a. Be a health plan or health insurer that contracts with DHCS to provide Medi-Cal managed care plan services;
   b. Meet minimum requirements to contract with Covered California as a QHP under specified provisions of state and federal law;
   c. Enroll only eligible individuals in the bridge plan product; and
   d. Comply with an 85 percent medical loss ratio.

3. Permits any of the following bridge-plan-eligible individuals to have the option of enrolling in a bridge plan product if one is available:
   a. Individuals who are determined to be eligible for Covered California that can demonstrate that their Medi-Cal coverage or HFP coverage was terminated, as defined in regulations adopted by Covered California.

b. Other members (such as parents) of the modified adjusted gross income household in which there are Medi-Cal or HFP enrollees.
c. Individuals who are eligible for Covered California and who have a household income of not more than 200 percent of FPL, to the extent approved by the appropriate federal agency.

4. Limits the ability of previous Medi-Cal or HFP enrollees to enroll in a bridge plan product to only the Medi-Cal or HPF plan in which the individual was previously enrolled.

5. Limits the ability of individuals in the household of a Medi-Cal or HFP enrollee to enroll in a bridge plan to only the Medi-Cal or HFP plan in which the member of the household is enrolled.

6. Requires Covered California to provide information on all of the available Covered California-QHPs in the area, including, but not limited to, bridge plan product options.

7. Requires DHCS to ensure that its Medi-Cal managed care contracts contain a provision requiring the contracting health plan or insurer to provide coverage in its bridge plan product to its Medi-Cal managed care enrollees and other eligible individuals, if the Medi-Cal managed care plan offers a bridge plan product.

8. Prohibits the above provisions from being implemented in a manner that conflicts with a requirement of the ACA.

9. Requires Covered California to have the authority to adopt regulations to implement the above-described provisions. Exempts, until January 1, 2016, the adoption, amendment, or repeal of a regulation from the Administrative Procedure Act.

10. Exempts bridge plan products from:
a. The requirement that health plans and insurers participating in Covered California fairly and affirmatively offer, market and sell all products made available in Covered California to individuals purchasing coverage outside of Covered California.
b. The requirement that health plans and insurers participating in Covered California fairly and affirmatively offer, market and sell in Covered California at least one product within each of the five levels of coverage (platinum, gold, silver, bronze and catastrophic).

11. Permits a health plan or health insurer offering a bridge plan product in Covered California to limit the products it offers in Covered California solely to a bridge plan product.

12. Requires, until December 31, 2014, a health plan or health insurer that contracts with Covered California to offer a qualified bridge plan to do all of the following:
a. File a material modification to expand its license to include individual health benefit plans, if the health plan/insurer has not been approved by the regulator to offer individual health benefit plans.
b. File an amendment to expand its license to include a bridge plan product as an individual health benefit if the plan/insurer has been approved by its regulator to offer individual health benefit plans.

13. Deems a health plan/insurer in 12) above compliant with the existing law that requires health plan/insurers to have a license/certificate and be in good standing with their respective

regulatory agencies.

14. Prohibits a bridge plan product from being required to comply with the specified provisions of the individual market ACA bills pending in the Legislature (SB X1 2 and AB X1 2) to the extent approved by the appropriate federal agency. Those provisions include guaranteed issue, the ability to add dependents to coverage, open enrollment, prohibitions on pre-existing conditions, restrictions on health plan application, marketing and solicitations, the requirement that plans and insurers comply with their respective regulatory codes, and guaranteed renewal.

15. States legislative intent that Covered California:
a. Provide a more affordable coverage option for low-income individuals, improve continuity of care for individuals moving from Medi-Cal to the Covered California, and reduce the need for individuals previously enrolled in the Medi-Cal program to change health plans due to changes in their household income.
b. Offer quality, affordable health plan choices that, to the extent possible, will be the lowest cost silver plan offered in the individual's geographic region through Medi-Cal managed care plans that bridge Medicaid coverage and private commercial health insurance for eligible lower income individuals.

FISCAL EFFECT: This bill has not been analyzed by a fiscal committee.

COMMENTS:

1. **Author's statement.** SB X1 3 would establish a bridge plan within Covered California for certain low-income individuals and individuals moving from Medi-Cal coverage to subsidized coverage in Covered California. These products would promote continuity of care, expand the number of coverage options, and reduce "churning" whereby individuals are required to shift health plans and health coverage programs because of changes in their household income. By allowing individuals to remain within their current health plan when they shift health subsidy programs, SB X1 3 will prevent disruptions in individuals' provider networks and improve continuity of care. In addition, SB X1 3 would make it more likely that Covered California-eligible parents of Medi-Cal enrolled children would be covered by a single health plan with the same provider network. The author states there are a number of life experiences that affect an individual's income eligibility for health subsidy programs (through Medi-Cal and Covered California), such as the birth of a child, marriage or divorce, getting or losing a job or receiving a pay raise or pay reduction, and the aging out of a child from coverage. SB X1 3 could potentially provide a more affordable health plan choice, which will increase the number of individuals signing up for coverage (particularly individuals moving from no-cost Medi-Cal to paying premiums in Covered California), and therefore expand enrollment within Covered California.

2. **Centers for Medicare and Medicaid Services "bridge" plan option.** On December 10, 2012, the Centers for Medicare and Medicaid Services (CMS) issued a "Frequently Asked Questions on Exchanges, Market Reforms, and Medicaid" that outlined the bridge plan option. CMS indicated that a state could allow a Medicaid health plan to offer QHPs in the Exchange on a limited-enrollment basis to certain populations. CMS stated this approach is intended to promote continuity of coverage between Medicaid or HHP and the Exchange. CMS stated an Exchange may allow an issuer with a state Medicaid managed care organization contract to offer a QHP as a Medicaid bridge plan under the following terms:

a. The state must ensure that the health plan complies with applicable laws, and in particular with a provision of the ACA that requires health plans to GI coverage, but that provides an exception to the GI requirement to a health plan whose provider network reaches capacity. CMS states such a health plan may deny new enrollment generally while continuing to permit limited enrollment of certain individuals in order to fulfill obligations to existing group contract holders and enrollees. If the health plan demonstrates that the provider network serving the Medicaid managed care organization and bridge plan has sufficient capacity only to provide adequate services to bridge plan-eligible individuals and existing Medicaid and/or HFP-eligible enrollees, the bridge plan could generally be closed to other new enrollment. However, in order to permit additional enrollment to be limited to bridge plan eligible individuals, the state must ensure there is a legally binding contractual obligation in place requiring the Medicaid managed care plan to provide coverage to these individuals.

b. The Exchange must ensure that a bridge plan offered by a Medicaid managed care organization meets the QHP certification requirements, and that having the Medicaid managed care organization offer the bridge plan is in the interest of consumers.

c. The Exchange must ensure that bridge plan eligible individuals are not disadvantaged in terms of the buying power of their premium tax credits as part of considering whether to certify a bridge plan as a QHP.

d. The Exchange must accurately identify bridge plan-eligible consumers, and convey to the consumer his or her QHP coverage options.

e. The Exchange must provide information on bridge plan-eligible individuals to the federal government, as it will for any other individuals who are eligible for QHP in the Exchange, to support the administration of advance payments of premium tax credits.

3. **Federal Exchange premium subsidies.** Federal premium subsidies in Covered California are based on the individual's income, and cap the amount an individual has to spend on the second lowest cost silver plan. The difference between what the individual pays for the second lowest-cost silver plan and the actual cost of the premium is paid by the federal premium subsidy. Individuals can use the dollar amount of the federal premium subsidy to buy another plan (in the platinum, gold, silver or bronze tiers) but must pay the difference between the federal premium subsidy amount and the actual premium. In addition to the federal premium subsidies, individuals with incomes at or below 250 percent of the FPL receive cost-sharing subsidies (that lower the average amount an individual would pay out-of-pocket for co-payments, co-insurance and deductibles). However, individuals only receive cost-sharing subsidies in the silver benefit tier, so individuals are likely to buy coverage in this benefit tier. The chart below illustrates how the premium subsidies would work:

Exchange Plan	133% FPL	150% FPL	200% FPL
Annual dollar amount of income in 2013 for a single person	$ 15,282	$ 17,235	$ 22,980
Percentage of income person pays for 2nd lowest cost silver plan	3.0%	4.0%	6.3%
Hypothetical 1st Lowest Cost Silver Plan Premium of $380	$ 380	$ 380	$ 380
Hypothetical 2nd Lowest Cost Silver Plan Premium of $410	$ 410	$ 410	$ 410
Premium Subsidy	$ 372	$ 353	$ 289
Amount Person Pays Monthly for 2nd Lowest Cost Silver Plan	$ 38	$ 57	$ 121
Amount Person Pays Monthly for 1st Lowest Cost Silver Plan	$ 8	$ 27	$ 91

4. **Bridge plan process, eligible individuals and timing.** Under the bridge plan option, Covered California would establish a sequential bidding process to allow bridge plans to bid

after the rates for the QHPs in Covered California are known. Data from the UC Berkeley Labor Center estimates that the number of potential bridge plan eligible individuals in 2014 would be between 670,000 and 840,000, assuming an April 2014 effective date.

5. **Prior legislation.**
   a. SB 900 (Alquist), Chapter 659, Statutes of 2010, establishes Covered California as an independent public entity within state government, and requires Covered California to be governed by a board composed of the Secretary of California Health and Human Services Agency, or his or her designee, and four other members appointed by the Governor and the Legislature who meet specified criteria.
   b. AB 1602 (John A. Pérez), Chapter 655, Statutes of 2010, specifies the powers and duties of Covered California relative to determining eligibility for enrollment in the Covered California and arranging for coverage under QHPs, requires Covered California to provide health plan products in all five of the federal benefit levels (platinum, gold, silver, bronze and catastrophic), requires health plans participating in Covered California to sell at least one product in all five benefit levels in Covered California, requires health plans participating in Covered California to sell their Covered California products outside of Covered California, and requires health plans that do not participate in the Covered California to sell at least one standardized product designated by the Covered California in each of the four levels of coverage, if Covered California elects to standardize products.
   c. SB 703 (Hernandez) of 2011-12 would have implemented the Basic Health Program (BHP) state option contained in the ACA to provide health care coverage to individuals under 200% of poverty who do not qualify for Medi-Cal in lieu of these individuals receiving coverage in Covered California. *SB 703 was held on the Assembly Appropriations suspense file.*

6. **Support.** This bill is sponsored by the Health and Human Services Agency (Agency), which states that in calling for the Special Session on Health Care Reform Implementation, Governor Brown specifically stated that options to allow low-cost health coverage to individuals with incomes up to 200 percent of the FPL within Covered California be considered. Agency states it believes the bridge program will promote continuity of care and coverage by creating an affordable product for lower-income Californians who are eligible for tax subsidies, and that this program is consistent with federal guidance related to this continuity principal in that it would allow Californians transitioning from Medi-Cal or Medi-Cal/HFP coverage to Covered California to stay with the same health plan or issuer and provider network. In addition, Agency states this bill reflects its commitment to timely implementation of the ACA by providing for these low-cost options to be offered as soon as possible. The immediate bridge program would be implemented in 2014 as it continues to work with its Covered California and federal partners to develop a proposal to expand the eligibility for a broader bridge plan.

7. **Support with amendments.** Western Center on Law & Poverty (WCLP) writes it supports the goals of increased affordability, continuity of care for lower income populations in Covered California, and maintaining a safety net system of care, and it supports including individuals under 200 percent of the FPL within the bridge-eligible population. WCLP states that greater affordability in bridge plans is achieved only if bridge plan premiums are enough below the second lowest cost silver plan that there would be little to no premium cost for the lowest cost plan, and WCLP has questions about how this necessary difference in premiums will be achieved besides relying on the Medi-Cal plans to set lower premiums. WCLP also

writes that it wonders whether the price differential, if achieved initially, will be maintained in the following years.

WCLP urges that this bill set a specific threshold of premium differential to achieve the stated goal of better premium affordability. Without a sufficient premium differential, some individuals will be worse off because their premium subsidy will have a lower value. WCLP states that it has testified before the Covered California Board and urged it to use its selective contracting authority to only approve bridge plans that have at least a 15 percent price differential with the second lowest cost silver plan. WCLP also writes that Covered California should require that participating Medi-Cal bridge plans provide at least the same provider network that they offer Medi-Cal beneficiaries. WCLP also writes seeking amendments to the provision that allows someone to enroll in a bridge plan only if they are or their family member is in the plan. WCLP urges this bill be amended to allow, for those whose plan is not a bridge plan, that they be able to enroll in another available bridge plan in their county. Finally, WCLP urges this bill be amended to specify the period of time after which someone lost Medi-Cal that they would be eligible for the bridge, instead of leaving this up to later-enacted regulations. WCLP recommends the time period of 6 months, as described in the Covered California Board recommendation brief.

The National Health Law Program and the California Immigrant Policy Center write in support but expresses similar concerns and seeks similar amendments as WCLP.

8. **Support if amended.** Molina Healthcare writes it would support this bill if it were amended to allow Medi-Cal subcontractors to contract directly with Covered California to offer a bridge plan product into which eligible members may enroll. Molina argues it is the subcontracted Medi-Cal managed care plan's provider network from which the member receives services, and the best opportunity for continuity of provider network is to allow the member to select a bridge plan offered by the Medi-Cal managed care subcontracted plan in which the member was enrolled.

   Health Access California writes it would support this bill if it is further amended to protect consumer affordability and the safety net of county hospitals and community clinics as well as to assure a functioning insurance market.

9. **Policy issues**

   Affordability of bridge plan. If a bridge plan is available to an individual, federal regulations require the bridge plan premium be taken into account in determining the first and second lowest-cost premiums for that individual. For example, if the second lowest-cost plan in Covered California is $410, the first lowest cost plan is $380 and the bridge plan is $370, a bridge-eligible person's second lowest cost plan would be $380 (instead of $410).

   In order for the bridge plan to provide a more affordable product for a person selecting the bridge plan, the dollar premium gap between the bridge plan and the second lowest-cost plan must exceed the premium gap between the first and second lowest cost plan in Covered California (if the bridge plan were not offered). If the bridge premium gap is less than the premium gap in Covered California without the bridge, the individual will pay more out-of-pocket for premiums for the bridge plan as compared to the lowest cost plan in Covered California without the bridge plan option.

In addition, the lower premiums in the bridge plan product would also reduce the dollar subsidy amount the individual could use to purchase a different product in Covered California. For example, if an individual at 150 percent of the FPL has a second lowest cost premium plan of $410, and the availability of the bridge plan ($370) results in the first lowest-cost plan ($380) becoming the second lowest-cost plan, the individual's federal premium subsidy is reduced from $353 to $323.

It is unknown how bids submitted by bridge plans will compare to publicly disclosed bids that will have already been submitted to Covered California by QHPs. If bridge plans barely underbid the lowest-cost silver plan compared to the premium gap for the first and second lowest-cost plan in Covered California, the bridge plan option would result in a higher premium for the first lowest cost plan and a reduced premium subsidy. If bridge plan bids exceed the premium gap that would otherwise be available in Covered California, the bridge plan product would be more affordable than the lowest-cost Covered California option. To ensure the same or greater premium gap exists between the first and second lowest-cost Covered California product as compared to the first and second cost plan when the bridge is available, one option would be to require the premium gap for the bridge product to be equal to or exceed the premium gap for the Covered California first and second lowest-cost products if the bridge were not available. However, this may result in plans being unable to participate in the bridge program if they are unable to meet that premium target. Additionally, it does not address the lowering of the subsidy amount if the person decides to buy a product that is not the first or second lowest-cost silver plan.

"**Bridge" and "broad bridge."** This bill makes three groups of individuals eligible for the bridge plan: (a) individuals transitioning from Medi-Cal or Medi-Cal/HFP coverage to Covered California; (b) the parents of Medi-Cal and HFP eligible children and (c) individuals who are eligible for Covered California and who have incomes below 200 percent of the FPL.

Both (a) and (b) are referred to as the bridge or "narrow bridge" while individuals in (c) are called the "broad bridge" population. The broad bridge population is included in this bill so that individuals who are low income would be eligible to purchase a lower cost bridge plan product. However, the broad bridge population is not specifically referenced in the federal FAQs. The board of Covered California approved implementation of the narrow bridge program, contingent on federal approval, and opted to continue research on the broad bridge model and have discussions with the federal government to develop options for Covered California Board's consideration for implementing a broad bridge. In Governor Brown's call for a special session in January 2013, he asked the Legislature to consider and act upon legislation necessary to implement the ACA, which included the option that allows low-cost health coverage to be provided to individuals in Covered California with income up to 200 percent of the FPL, to the extent allowed by federal law or regulations.

Option versus requirement for Medi-Cal managed care plans to participate in bridge plan option. This bill allows, rather than requires, health plans and health insurers that contract with Covered California, and are Medi-Cal managed care plans, to participate in the bridge plan option. This may result in parts of the state not having a bridge plan product available. A requirement to participate in the bridge plan option was not included because plans may not be able to offer a product at the lowest premium level, depending upon their

anticipated enrollment, provider network and underlying cost structure.

Exemptions from provisions of individual market bills. This bill references the individual market ACA bills currently pending in the Legislature (SB X1 2 [Hernandez] and AB X1 2 [Pan]) by exempting the bridge plan products from specified requirements of those bills. Staff recommends the exemption in those bills be reworded to more narrowly focus on the specific provisions requiring an exemption, such as GI and guaranteed renewal, for the bridge plan product.

SUPPORT AND OPPOSITION:

Support: California Health and Human Services Agency (sponsor)
Board of Supervisors County of Santa Clara
California Association of Public Hospitals and Health Systems
California Hospital Association
California Immigrant Policy Center (with amendments)
California Primary Care Association
California State Association of Counties
L.A. Care Health Plan
March of Dimes California Chapter
National Health Law Program (with amendments)
Western Center on Law and Poverty (with amendments)

Oppose: None received.

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