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DATE: August 12, 2010

TO: President Scott Heldfond and Health Service Board Commissioners

FROM: Catherine Dodd PhD, RN  
Director, Health Service System

RE: Assessment of the Impact of the Recently Proposed City Charter Amendment, "The Sustainable City Benefits Reform Act"

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The purpose of this memo is to offer the Health Service Board an assessment of the impact of the recently proposed City Charter amendment, "The Sustainable City Benefits Reform Act," on Health Service System (HSS) members and their families.

## **Overview of the Proposed City Charter Amendment**

The Charter amendment proposes revisions to employee pension benefit contributions and health benefit premium calculations for employees and dependents. This memo addresses only potential health benefits related implications.

The issue of whether this Charter amendment applies only to the City and County and its employees, or all four employers served by the Health Service System – the City and County, the San Francisco Unified School District, the San Francisco Community College District and the Superior Court – is at present unclear and is most likely to be settled in a court of law.

This Charter amendment proposes that the City and County of San Francisco (and potentially other employers) could not agree to pay more than an established limit when funding the following benefits:

- For active single employee health coverage, the City (and potentially other employers) could not agree to pay more than the 10-County contribution. (Section A8.423 of the appendix to the City Charter defines an "average contribution." This is based on an annual calculation of the average employer contribution to employee health premiums made by the county governments of the ten most populous counties in California.)

- For dependent health coverage, the City (and potentially other employers) could not agree to pay more than 50% of the cost of the least expensive plan offered, based on the number of dependents enrolled.
- For employee dental coverage, the City (and potentially other employers) could not agree to pay more than 75% of the cost of coverage.
- For dependent dental coverage, the City (and potentially other employers) could not agree to pay more than 50% of the cost of coverage.

This Charter amendment would also impose the following:

- A penalty on any employee or group of employees who might seek the opinion of a court with regard to the legality of the amendment's provisions.
- Should a court invalidate any portion of the charter amendment, then there shall be no increase in compensation (wages) for the employees covered by the judgment for a period of five years.

### **The San Francisco City Charter and the Health Service Board**

The Charter of the City and County of San Francisco includes specific requirements for the Health Service Board. Among these requirements, Section 12.200 of the San Francisco City Charter mandates that the Board must “apply benefits without special favor or privilege.” Based on this provision, the Health Service Board has historically taken the economic impact of the cost of benefits on employees and retirees into consideration.

While the Board has historically acknowledged that some variation in cost-sharing is necessary, based on factors such as the number of dependents covered, Section 12.200 has been interpreted to mean that access to health benefits should not be weighted significantly in favor of those who have higher salaries and/or smaller families.

Managing the cost of benefits requires difficult but informed and thoughtful decisions. In fall of 2009, acknowledging the challenges of rising premiums, the Board made significant plan design changes. Health Service System employees and retirees agreed to pay \$10 million in higher health benefit costs. These costs were distributed via increased out-of-pocket co-pays. In 2009, retirees also accepted a Medicare Advantage plan that limited Medicare portability, but resulted in \$2.5 million dollars in savings.

The proposed Charter amendment conflicts with the City Charter's Section 12.200 requirement for applying benefits without special favor or privilege. If the proposed amendment becomes law, required employee premium contributions for dependent coverage would increase dramatically. Employees receiving higher wages and employees without dependents would be in a more favorable position when electing health benefits.

If the proposed amendment becomes law:

- Some employees, in particular those with the lowest salaries, may no longer be able to afford dependent coverage – even from the least expensive plan. Research indicates that higher employee contribution rates causes workers to decline coverage.<sup>1</sup>
- Employee contributions for dental coverage are projected to be as high as \$71.77 per month. Due to financial hardship some employees will need to drop dental coverage for their families.
- The premiums for participating in the City Plan PPO are likely to increase significantly. This is currently the only plan offered that does not restrict participants to a closed HMO network of doctors and hospitals. It is likely that a significant number of employees enroll in this plan because they have complex medical needs that are not easily met by the more restricted offerings of an HMO. They currently pay not only higher premiums but also a deductible and 15% of all claims (within network).
- The City Plan PPO is currently a self-insured plan that includes a mixed group of active employees and nearly 30% of the System's retirees. Any migration of active employees out of the City Plan PPO due to rising costs would result in a smaller pool of members in the plan, which will increase the rates for all participants. For employees and retirees who live outside of HMO service areas the City Plan PPO is currently the only option. Individuals who cannot access service via an HMO offering and who can no longer afford the City Plan PPO will have no choice but to drop this coverage.

### **Proposed Amendment Disqualifies HSS For Substantial Federal Subsidy**

If this proposed Charter amendment becomes law, it will disqualify the Health Service System's recent application for as much as \$23 million in funds offered by the federal government through federal health reform legislation. The Early Retiree Reinsurance

<sup>1</sup>[www.kff.org/insurance/snapshot/chcm020707oth.cfm](http://www.kff.org/insurance/snapshot/chcm020707oth.cfm)

Program (ERRP) provision in the Patient Protection and Affordable Care Act (PPACA) rewards employers who provide retiree health benefits by allowing employers to apply for financial relief (reinsurance) which will offset the costs of covering retired employees who do not yet qualify for Medicare. By the program's design, any ERRP funds awarded would be returned to the Health Service System Trust Fund and be used to reduce premiums. This would lower the premium contributions paid by the employer and all the individuals covered under the employer's plans – employees as well as retirees. However, a change in the maintenance of effort (the amount that an employer contributes to employee health) such as the increase in employee premiums resulting from the proposed Charter amendment, would void the Health Service System's application for these much needed funds this year and through 2014.

## **Conclusion**

The rising cost of healthcare, for the City & County of San Francisco and HSS members, is an issue of concern to the Health Service Board. The proposed Charter amendment may save an estimated \$50.3 million to the General Fund. However, it does not pass any savings on to the Health Service Trust Fund, which is used exclusively for funding employee and retiree health benefits.

The proposed Charter amendment does not guarantee “sustainability” of employee and retiree health benefits, because it fails to address any issues associated with inflating the costs of healthcare, such as:

- A lack of insurance and health industry transparency that prevents meaningful rate negotiations;
- Medical service business consolidations, which limit choice and set minimum price thresholds;
- Lack of coordinated systems of care;
- And over the long term, the need for employers to partner with vendors and employees to mitigate behavioral choices that help cause disease.

The proposed Charter amendment simply shifts rising health insurance costs to the employees and retirees of the City & County of San Francisco, and, potentially employees and retirees of the San Francisco Unified School District, the San Francisco City College and the San Francisco Superior Court.

## Appendix One: Sample Premium Contribution Rate Increases

This chart shows the anticipated average rate increases, based on current 2010-2011 rates, if the proposed Charter amendment passes.

	2010-2011 Average Employee Contribution per Month <sup>1</sup>		
	Current	Proposed	Cost Increase
<b>Employee Only</b>			
Kaiser	\$0	\$ 8.84	\$8.84
Blue Shield	\$0	\$120.88	\$120.88
City Plan	\$0	\$453.81	\$453.81
Dental	\$0	\$17.95	\$17.95
<b>Employee +1</b>			
Kaiser	\$ 8.84	\$ 249.17	\$ 240.33
Blue Shield	\$120.88	\$ 473.29	\$ 352.41
City Plan	\$679.45	\$1,098.83	\$ 419.38
Dental	\$0	\$ 41.53	\$ 41.53
<b>Employee +2 or more</b>			
Kaiser	\$228.74	\$ 448.64	\$219.90
Blue Shield	\$545.86	\$ 765.76	\$219.90
City Plan	\$1410.21	\$1,630.11	\$219.90
Dental	\$0	\$ 71.77	\$ 71.77

<sup>1</sup> Specific employee contribution rates vary depending on an employee's union contract.

<sup>2</sup> Dental rates reflects a weighted average based on current membership as of 7/1/10.

## Appendix Two: San Francisco City Charter Excerpt

### **SEC 12. 200 - HEALTH SERVICE BOARD.**

There shall be a Health Service Board which shall consist of seven members as follows: one member of the Board of Supervisors, to be appointed by the President of the Board of Supervisors; the City Attorney or designated Deputy City Attorney, except that on May 15, 2005, the City Attorney's tenure on the Health Service Board shall expire and that seat shall be filled by a member elected from the active and retired members of the System from among their number; two members appointed by the Mayor pursuant to Section 3.100, one of whom shall be an individual who regularly consults in the health care field, and the other a doctor of medicine; and three members (in addition to the elected member assuming the seat vacated by the City Attorney) elected from the active and retired members of the System from among their number. Elections shall be conducted by the Director of Elections in a manner prescribed by ordinance. Elected members need not reside within the City and County. The terms of members, other than the ex officio members, shall be five years, and shall expire on May 15 of each year.

A vacancy on the Board appointed by the Mayor shall be filled by the Mayor. A vacancy in an elective office on the Board shall be filled by a special election within 90 days after the vacancy occurs unless a regular election is to be held within six months after such vacancy shall have occurred.

The Health Service Board shall:

1. Establish and maintain detailed historical costs for medical and hospital care and conduct an annual review of such costs;
2. Apply benefits without special favor or privilege;
3. Put such plans as provided for in Section A8.422 into effect and conduct and administer the same and contract therefor and use the funds of the System;
4. Make rules and regulations for the administration of business of the Health Service System, the granting of exemptions and the admission to the System of persons who are hereby made members, and such other officers and employees as may voluntarily become members with the approval of the Board; and
5. Receive, consider and, within 60 days after receipt, act upon any matter pertaining to the policies of, or appeals from, the Health Service System submitted to it in writing by any member or any person who has contracted to render medical care to the members.

Except as otherwise specifically provided, the Health Service Board shall have the powers and duties and shall be subject to the limitations of Charter Sections 4.102, 4.103 and 4.104.

Subject to the requirements of state law and the budgetary and fiscal provisions of the Charter, the Health Service Board may make provision for health or dental benefits for residents of the City and County of San Francisco as provided in Section A8.421 of Appendix A of the Charter.

(Amended November 2004)

## Appendix Three: Proposed Charter Amendment

### **A.8.490 EMPLOYEE CONTRIBUTIONS TO PENSION AND MEDICAL PLANS**

(a) Notwithstanding any provision of this Charter, all active employees who are uniformed members of the police and fire departments shall contribute 10% of each payment of compensation from participating Retirement System employers to the Retirement System, to be credited to the individual account of the member.

(b) Notwithstanding any provision of this Charter, all active miscellaneous employees who are members of the Retirement System shall contribute 9% of each payment of compensation from participating Retirement System employers to the Retirement System to be credited to the individual account of the member.

(c) This section shall govern any memorandum of understanding (MOU) or collective bargaining agreement (CBA) between the City and County of San Francisco (City) and any employee organization representing actively employed members of the system reached after the November 2010 general election. The City may not pay or otherwise "pick up" any portion of the employee contribution to the Retirement System.

(d) The increase in pension contributions for uniformed ranks of police and fire departments from a current level of 7.5% shall not exceed the increase in cost (including amortization of increased actuarially accrued liability) resulting from the voters' enhancement of police and fire retirement benefits effective January 1, 2003. For the purpose of this paragraph, additional cost shall be calculated for uniformed police and fire employees separately from miscellaneous employees. The calculation shall include both "normal" costs and actuarially accrued liability.

(e) In addition, the voters declare that, with respect to employer contributions for employee medical care coverage, Charter sections A8.423, A8.428 (b)(2), and related provisions concerning the "ten county survey" shall prevail over Charter sections A8.409 et seq. and A8.590 et seq., and that the employer contribution determined pursuant to section A8.423 shall constitute the sole contribution for medical care made by the City in the Health Service System for active employees who are members of the system. For dependents, in any MOU or CBA between the City and employee organizations representing members of the Health Service System reached after the November 2010 general election, or any arrangement with unrepresented officers or employees, the City is authorized to pay or otherwise "pick-up" no more than 50% of the cost at each level of dependent coverage. The maximum amount of coverage for dependents of active employees paid by the City in the Health Service System pursuant to this subsection shall be determined based upon the lowest cost plan offered by the Health Service System.

(f) In any MOU or CBA between the City and employee organizations representing City employees reached after the November 2010 general election, or any arrangement with unrepresented officers or employees, the City may contribute no more than 75% of the cost of employee dental coverage and 50% of dependent dental coverage.

(g) Except as specifically provided herein, this section shall become effective January 1, 2011. This section shall apply to all then current employee members of the Retirement and Health Service Systems, as well as to employees hired on or after passage; provided, however, that any adjustments to the medical plan rate charged to employees resulting from this provision shall be made in conjunction with a regularly scheduled open enrollment period. To the extent any provision of this section is contrary to the terms of a MOU or CBA executed on or before November 2, 2010 between a participating employer and a recognized employee organization, any increased employee contribution to the retirement system or for medical care shall become effective for employees covered by such MOU or CBA immediately upon expiration of such MOU or CBA.

(h) In any arbitration involving employees of the City and County of San Francisco under Charter section A.8.409-4 or A8.590-5, the arbitrator shall be bound by the above provisions. In addition, the arbitrator shall make specific findings regarding the actual annual costs to the City of pension, health and retiree health benefits attributable to employees at issue for each year of the prior agreement and projected costs for each year of the successor agreement. In determining wages and other forms of compensation pursuant to this section, the arbitrator shall

consider as increased compensation any increase in the cost of pension, health and retiree health contributions paid or projected to be paid by the City. Compliance with this provision shall be mandatory.

(i) It is the express intent of the voters that employers participating in the Health Service System and Retirement System, as well as active employees who are members of those systems, each pay an equitable share of pension and medical care costs. With respect to City employees, should a court of competent jurisdiction render a final judgment determining that any portion of this section cannot be enforced, then there shall be no increase in the cost of bargained compensation for a period of five years after the expiration of any memorandum of understanding in effect as of November 2, 2010 covering employees covered by such judgment. If, notwithstanding the voters' intent, an arbitrator awards an increase in wages or other economic benefits for employees under section A8.409-4 or A8.590-5, or the City is otherwise compelled to negotiate or arbitrate wage or benefit increases, such increases shall be presented to the voters for approval before they may become effective, for a period of five years after the expiration of any memorandum of understanding in effect as of November 2, 2010 covering such employees.

**Section 3: Severability.** This Charter Amendment shall be interpreted so as to be consistent with all federal and state laws, rules, and regulations. If any section, sub-section, sentence, or clause ("portion") of this Amendment is held to be invalid or unconstitutional by a final judgment of a court, such decision shall not affect the validity of the remaining portions of this Amendment. The voters hereby declare that this Amendment, and each portion of the Amendment, would have been adopted irrespective of whether any one or more portions of the Amendment are found invalid. If any portion of this Amendment is held invalid as applied to any person, circumstance, employee or category of employee, such invalidity shall not affect any application of this Amendment which can be given effect. If any portion of the Amendment is held invalid as to existing employees, it shall not affect its application to employees hired after the effective date of this measure. This Amendment shall be broadly construed to achieve its stated purposes. It is the intent of the voters that the provisions of this Amendment be interpreted or implemented in a manner that facilitates the purposes set forth herein.

**Section 4: Effective date.** Except as specifically set forth in the text, this Charter Amendment shall be effective January 1, 2011.