



TO: Honorable Edward A. Chow, MD  
President, Health Commission

THROUGH: Mitchell H. Katz, MD  
Director of Health

FROM: Anne Kronenberg  
Director of Policy and Planning

DATE: January 8, 2003

RE: Health Care Accountability Ordinance – Creation of Purchasing Pool Update

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## **Introduction**

San Francisco's Health Care Accountability Ordinance (HCAO) is the first law nationwide to mandate that employers doing business with a city or county provide health care coverage for their employees. Contractors that provide services or enter into leases with the City and County of San Francisco (CCSF), including certain subcontractors and subtenants, may comply by:

1. offering health plan benefits at no cost to the covered employees that meet the minimum standards for benefits and co-pays set by the Health Commission;
2. making payments (\$1.50 per employee/per hour) to the Department of Public Health (DPH) to help partially offset the costs of services for uninsured workers; or
3. participating in a health benefits program developed by DPH.

The HCAO went into effect on July 1, 2001. On August 20, 2002, DPH presented its first HCAO update to the Health Commission. The August 2002 report detailed the efforts around implementation and education for CCSF Departments and Contractors/Lessees. Highlights of activities related to HCAO conducted in the first year are summarized below.

- The Health Commission adopted Minimum Standards for comprehensive health coverage under HCAO on June 19, 2001 - Resolution 13-01, "*Approving and Adopting Minimum Standards for Health Plan Benefits required in the Healthcare Accountability Ordinance.*" (See Attachment A for copy of resolution.)

- DPH sent out a letter in November 2001 to all its contractors that described the HCAO and included reference information and a survey. This survey helped to determine the cost to each agency of complying with the HCAO.
- The Office of Contract Administration began audits to monitor HCAO compliance in January 2002.
- OCA and DPH sent a letter to all CCSF contractors and lessees on April 3, 2002 outlining the options available to contractors in order to comply with the HCAO (see [Attachment B](#)).
- OCA created and distributed the HCAO Rules and Regulations on May 10, 2002. OCA released six draft Rules and Regulations before the final version was published and released at a Public Hearing.

This report focuses on another portion of the legislation mentioned in the last report, “Option 3” as noted on page one of this report, which would allow a contractor to comply with the HCAO by participating in an economically viable purchasing pool or public health plan. Over the last year, DPH and the San Francisco Health Plan (SFHP) have investigated the feasibility and economic viability of providing health insurance by pooling individuals or groups subject to the HCAO. Based on preliminary findings, DPH has determined that it is not economically viable to create a local purchasing pool or public health plan to comply with the HCAO. Fortunately, though, the State recently passed AB 2178, new legislation that allows any employer subject to a local living wage law to be considered a small employer for purposes of obtaining coverage under the small employer provisions. This allows more businesses in San Francisco, including those subject to HCAO, to participate in an existing small business purchasing pool, including PacAdvantage.

### **AB 2178 and PacAdvantage**

AB2178 was created to resolve the difficulty in securing health insurance for businesses faced with living wage requirements, like San Francisco’s Minimum Compensation Ordinance. The City strongly supported this legislation based on DPH’s recommendation, as DPH believes that many local businesses and employees stand to benefit from these changes. DPH worked closely with the bill’s author, the Los Angeles Alliance for a New Economy and the bill’s sponsor. AB 2178 was sponsored by Assemblymember Jackie Goldberg (D-Los Angeles), a supporter of living wage laws. The City sponsored the legislation in writing and testified in favor of the bill in Sacramento. Governor Davis signed the bill into law in September 2002 and it became effective on January 1, 2003.

AB 2178 modifies the California Health Reform Act (CHRA), allowing more businesses to participate in PacAdvantage. The CHRA guarantees small businesses access to health plans and limits the cost increases they face. With AB 2178, California became the first state in the country to explicitly link local living wage ordinances to other state efforts to expand health care

coverage.<sup>1</sup> AB 2178 covers both part-time and full-time employees, and defines part-time as working at least 20 hours per week. Employers across the State have reported difficulties securing health coverage for their workers; San Francisco is no exception. AB 2178 is in some ways more important in this City, however, because of the unique mandates of HCAO.

Because of AB2178, PacAdvantage is now available to all employers subject to living wage laws, including those with more than 50 employees. Prior to AB 2178, PacAdvantage only covered small employers with two to fifty employees. There are a few exceptions to the law, the main one was created to avoid crowd-out, making ineligible employers who had provided insurance to their employees prior to the passage of the law. DPH shares the concern that health coverage expansions avoid a crowd-out situation, so supported this stipulation in the law.

PacAdvantage is the country's largest non-profit small-employer health insurance purchasing pool. PacAdvantage is considered one of the more successful purchasing pool models in the country.<sup>2</sup> PacAdvantage has succeeded, particularly in drawing enough employers, employees and health plans, where other purchasing pools have failed. PacAdvantage was created as part of the small business health insurance reforms enacted in California in 1992. PacAdvantage today covers more than 11,000 small businesses with nearly 150,000 employees and dependents throughout the state.<sup>3</sup> Now that AB 2178 has changed the parameters for eligible businesses, it is estimated that 33,000 employees throughout the State will now be eligible to join PacAdvantage. PacAdvantage allows employers to offer a range of health insurance options to employees difficult or impossible to cover otherwise.

## **Employer Need/Interest**

The Department, unsure of the outcome of AB 2178, spent considerable time investigating the feasibility of creating a local purchasing pool. Below is a detailed look at the steps DPH has taken in investigating the creation of a health care purchasing pool. DPH gathered information to determine the need of employers subject to HCAO through two main avenues, both summarized below.

### 1. CCSF Contractors Survey

In order to gauge the level of need and interest in a local health benefits program, DPH surveyed those businesses impacted by HCAO. On August 16, 2002, DPH and OCA sent out a survey (see Attachment C) to all CCSF contractors. Contractors were asked whether they might be

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<sup>1</sup> Mark D. Brenner, "Expanding Health Care Coverage Using Living Wage Ordinances: New California Law Paves the Way for Expansion," Political Economy and Research Institute, University of Massachusetts Amherst, October 2002.

<sup>2</sup> Elliot K. Wicks, "Health Insurance Purchasing Cooperatives," The Commonwealth Fund," November 2002.

<sup>3</sup> "About PacAdvantage," PacAdvantage Website, 2003, <http://www.pacadvantage.com/about/default.asp>.

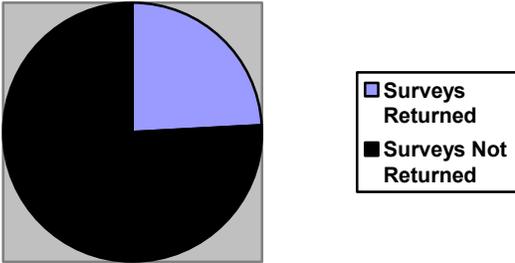
interested in a locally created health plan or purchasing pool to satisfy the requirements of HCAO. (It was noted that expressing interest did not obligate the organization to participate.)

The survey’s specific results were:

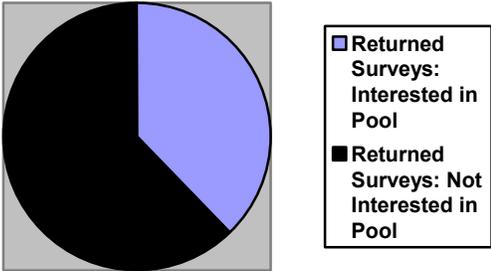
- Total number of surveys sent out: 1,400
- Total number of surveys returned: 340 (24%)
- Total number of non-returns: 1,060 (76%)
- Total number of responding organizations not interested: 212 (62%)
- Total number of responding organizations expressing interest: 128 (38%)

Figure #1 shows, in chart form, the total returns. The survey had a response rate of 24%, with 340 returned surveys. Figure #2 shows the proportion of businesses that were and were not interested in a possible pool.

**Figure #1 – Total Returns**



**Figure #2 – Return Results**



Of note, almost two-thirds of the respondents indicated they would not be interested in participating in such a plan. The majority of organizations (62% or 212) returning the surveys said that they would not be interested in using a locally created health plan or purchasing pool to provide health insurance coverage for any of their employees. Out of the 1,400 mailers sent, 1,060 organizations did not return the survey, showing that 1,272 organizations directly or indirectly expressed that they would not be interested in Option #3 for their employees. **The survey showed that 90% of the contractors surveyed have not expressed interest in a locally created health plan or purchasing pool.**

Of the 128 organizations that indicated possible interest, 2,843 employees would possibly be offered this coverage through these agencies. Of these employees, 2,264 (80%) work full-time and 579 (20%) are part-time. The survey showed that 25 (19%) of the 128 are larger employers with fifty or more employees working for their agency. However, the vast majority (19 out of 25) of these agencies would only be interested in offering this coverage to a small subset of their workers (generally part-time and as-needed workers).

## 2. Payments to the City

If employers are unable or unwilling to offer a health insurance option to their employees, they are required to pay DPH \$1.50 per hour for each hour worked, not to exceed \$60 in any workweek. OCA has created a form that employers are required to complete and remit to DPH's Accounting Department at the San Francisco General Hospital (SFGH) along with the payment. The HCAO requires DPH to use this funding for staffing and other resources to provide medical care for the uninsured.

After the Contractors were advised of their obligation in the joint DPH/OCA letter sent in April, 2002, DPH began receiving payments. To date, SFGH's Accounting Department has received a total of \$54,594. According to the information provided, the payments represent approximately 67 workers each month. Based on a monthly average, these employees are working between 20 and 30 hours per week. Option #2 gives this relatively small number of employers a legitimate way to meet their obligations under HCAO.

### **Feasibility**

According to the HCAO, DPH must investigate whether a purchasing pool or a public health plan is economically viable. DPH and SFHP took a number of issues into account while considering the feasibility of a locally created pool. Below are the findings:

#### **Findings**

**An existing purchasing pool – PacAdvantage – can now help many employers meet HCAO requirements.**

#### **Analysis**

The State's purchasing pool, PacAdvantage, was not initially taken into account as an option for many employers in San Francisco because HCAO was written prior to the passage of AB 2178. Because PacAdvantage did not originally offer a solution to many employers subject to HCAO, the City required DPH to explore the creation of a local purchasing pool. It has been assumed for some time that many employers were not offering coverage to their employees not because they did not want to, but because it was unaffordable. CCSF has been committed to helping these employers find ways to offer comprehensive health coverage to their employees and to meet the requirements of HCAO.

PacAdvantage was created to help small businesses that, due to financial constraints, could not offer costly health coverage to their employees. Increasingly larger employers are facing some of the same difficulties in obtaining health coverage. AB 2178 became effective on January 1, 2003 and allows previously ineligible businesses to join PacAdvantage. Now that AB 2178 has taken effect, PacAdvantage is an option to many more employers in San Francisco making the creation of a local purchasing pool unnecessary. PacAdvantage is stable and effective, taking

advantage of their large size and purchasing power, than any local purchasing pool could ever be.

**Demand is not sufficient.**

DPH queried employers directly through a survey and reviewed payments being made to SFGH. The findings have led DPH to believe that there is insufficient interest in a locally created purchasing pool. Though it has been assumed that there are large numbers of employees of CCSF contractors/tenants who do not receive health benefits through their employers, the absolute number is unknown. However, we do know that:

- Only 128 out of 1,400 (9%) organizations expressed any interest in participating in a local plan or purchasing pool.
- A very small number of employees – only 67 per month – are being reported as not receiving health coverage. Only 13 out of approximately 1,400 contractors (less than 1%) are choosing to comply with HCAO by paying the City rather than offering health coverage to their employees.

Without sufficient demand, there will not be enough employers to participate in the plan or pool. A health plan must have enough covered lives to have a reasonable chance at success. A pool must have enough small employers banding together to achieve any operational and negotiating efficiencies. However, it does not appear that there would be a sufficient number of interested employers with enough currently uninsured employees to make such a program feasible. This concept is supported by a recent report by the Commonwealth Fund ([see Attachment D](#)). This report notes that *“collective purchasing arrangements are unlikely to succeed unless they can attract large numbers of employers...Without large market share, co-ops cannot exert purchasing power, they cannot achieve economies of scale and they cannot attract and retain health plans.”*<sup>4</sup>

**Administration costs will be the same or higher than those for private insurance.**

Though it is a common assumption that pools of small businesses experience significant administrative savings, it is rarely the case in practice. *“The Health Plans contend that any savings they might realize as a result of the co-op’s assumption of some administrative*

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<sup>4</sup> Elliot K. Wicks, “Health Insurance Purchasing Cooperatives,” The Commonwealth Fund,” November 2002.

*functions for the relatively small number of co-op enrollees is more than off-set by the extra cost the plans incur because they have to change their administrative systems...[S]ome significant diseconomies to scale are inherent in serving small employers and these costs cannot be eliminated by centralizing the administration.”<sup>5</sup>*

**Utilization would be as high or higher as those covered through commercial insurance.**

There is no reason to believe that people insured through a pool would use fewer services than people insured through regular commercial insurance. In fact, to the extent these employees are under- or uninsured, we could expect to have significantly higher utilization than commercial insurance due to pent-up demand for services. Further, it may be that pool participants would have higher utilization rates than commercially insured people as they will be more likely to be part-time employees. Full-time employment is a proxy for some level of health since the person is physically able to work.

**Provider rates would have to mirror commercial insurance.**

SFHP’s costs for other programs are lower than the costs for commercial insurance largely because the physicians, clinics, hospitals and other providers are willing to take lower rates for low-income individuals participating in government-subsidized programs such as Medi-Cal and Healthy Families. SFHP’s providers are willing to take lower rates because the patients are very low-income and there is no other health coverage option for them beyond a public program (e.g., Medi-Cal, Healthy Families and Healthy Kids). Put another way, providers know that for most SFHP members, SFHP’s insurance is the “best” the patient can afford. Some participating providers also receive additional funds from other sources (i.e., the Federally Qualified Health Centers and Disproportionate Share Hospitals receive additional funding through the State and federal governments for Medi-Cal and uninsured patients).

None of these circumstances exist for HCAO-covered workers who might participate in a City-sponsored purchasing pool. Moreover, many providers might be concerned that the purchasing pool would create a situation where employers would change health coverage, moving employees from better-paying health insurance to lower-

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<sup>5</sup> Ibid.

paying health insurance. It is highly unlikely that given these circumstances, providers would be willing (or able given these hard economic times) to participate in a program that pays less than commercial health insurance.

As noted previously, demand must be high enough to bring a sufficient number of employers and employees to any health insurance purchasing pool. Without sufficient demand, the pool's size will be too small to achieve what is expected, increased bargaining power. Additionally, savings must be achieved to some degree in the three areas that contribute to the eventual cost of an insurance program's premium – administration costs, provider rates and service utilization. DPH has found that:

- sufficient demand is not evident,
- savings will very likely not be realized in administration, provider rates or utilization, and
- PacAdvantage can now meet most of the needs of HCAO-covered contractors.

Most importantly, due to the changes in eligibility for PacAdvantage, it can be concluded that employers can meet the needs of their employees and the requirements of HCAO without creating a local purchasing pool that would not be economically sustainable. Because PacAdvantage covers 150,000 lives, it has more purchasing clout than any local pool that San Francisco could create.

## **Recommendations**

A large and successful purchasing pool like PacAdvantage could not be improved upon on the local City or County level. Thankfully, more employers in San Francisco are now eligible to participate. DPH recommends that efforts be channeled into helping employers subject to HCAO find private insurance options to cover their employees such as through PacAdvantage. This is a particularly exciting option because of the newly enacted AB 2178.

There are employees working 15 to 20 hours for whom employers are currently unable to obtain coverage as well as employees working more than 20 hours per week, for which the employers have not provided insurance. DPH is actively researching workable solutions to reduce the number of uninsured adults in San Francisco. Specifically, DPH is collaborating with a number of other entities interested in this same goal to develop products that would cover these hard to insure employees. DPH would also be willing to study and possibly pursue other legislative remedies that would offer solutions to businesses still unable to insure their employees.

In the case of those employees working 15 to 20 hours per week, subject to HCAO since July 1, 2002, finding health coverage presents a challenge. However, when reviewing the data collected at SFGH through employers making payments to comply with HCAO it appears that, on average, most employees are working between 20 and 30 hours per week. This is a positive finding and illustrates that there does not seem to be a large segment of San Francisco's employee population uninsured and working less than twenty hours per week. In addition, some employers have reported difficulty finding health coverage for employees who work variable hours from week to

week or are seasonal, which is frequently seen at health clinics, event venues, etc. In these situations, however, employers seem to be paying the fee to SFGH in increasing numbers to offset the City's cost of care to the uninsured. Though there are only a small number of employers taking advantage of this option, the number has doubled since July when this review was last conducted.

HCAO is groundbreaking legislation, giving San Francisco the distinction of being the first county in the nation to enact a policy of this kind. DPH is proud to be a part of this process, as San Francisco defines and refines both the Minimum Compensation Ordinance and HCAO. HCAO is another step in achieving the laudable policy goal of increasing the number of insured San Franciscans, and eventually reaching universal coverage. Through anecdotal information shared by OCA staff, feedback from employers shows that more businesses are covering more of their employees because of this legislation. Therefore, DPH applauds policy makers for their insight and tenacity in creating this new ordinance.