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February 8, 2022

Ms. Keely Martin Bosler, Director
Department of Finance
Room 1145, State Capitol
Sacramento, California 95814

Dear Ms. Bosler:

In a letter dated January 11, 2022, you submitted to the Joint Legislative Budget Committee (JLBC), pursuant to Section 11.95 of the *2021-22 Budget Act*, a report from the Department of Health Care Services (DHCS) related to the Home and Community-Based Services (HCBS) spending plan. The letter requested a waiver from the 30-day legislative review period.

The *2021-22 Budget Act* included Control Section authority of approximately \$3 billion of funding made available for HCBS by the federal American Rescue Plan Act. The federal Centers for Medicaid & Medicare Services (CMS) provided conditional approval of California's HCBS spending plan, allowing the Administration to commence the expenditure of the federal funds on 27 HCBS initiatives. These HCBS initiatives generally expand community-based person-centered programs for individuals who need assistance with everyday activities including seniors, people who have a disability and those with serious behavioral health conditions. Also, from your correspondence, I understand that the state will be able to draw down an additional \$1.6 billion in federal Medicaid matching funds for HCBS initiatives implemented in the state's Medicaid program.

The conditional approval of the combined \$4.6 billion in federal funding for the HCBS initiatives requires the state to submit quarterly spending plans to CMS for approval of any programmatic or funding changes. Additionally, Control Section 11.95 requires the Director of Finance to notify the JLBC 30 days prior to making changes to any expenditure authority, including changes to activities that ensure full compliance with federal requirements. To that end, I request that the Administration brief the Senate and Assembly Budget Committees with any changes or modifications to the HCBS spending plan—including both fiscal and programmatic changes—when the quarterly reports are submitted to CMS.

Historically, Control Section 28.00 has worked well and gives the Legislature the opportunity to provide input and oversight before the state draws down unanticipated federal funds. While Control Section 28.00 does not apply to the expenditure of additional HCBS funds, Control Section 11.95(b)(2) requires a similar notification and I expect

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the Administration to grant the JLBC the opportunity to review proposals to expend any additional federal funds as they become available.

In addition, I request the Administration submit a notification to the JLBC when there are any changes in the HCBS spending plan, including changes made within the same department. Control Section 11.95 requires a 30-day notification before transferring “expenditure authority between items of appropriations, programs, projects, and functions within the home and community-based services spending plan.” I expect the Administration to notify the JLBC of any proposed changes in spending prior to their implementation, particularly when funds are shifted or transferred between programs within the same department.

With these federal funds, California has an opportunity to transform programs that serve some of the most vulnerable populations including people who are aging, disabled, homeless and those with severe behavioral health needs. I look forward to working in partnership with the Administration to ensure the best delivery of these expanded services.

In conclusion, I have reviewed the request and waive the remainder of the 30-day review period with your agreement to provide the Legislature with quarterly updates that identify fiscal and programmatic changes in the HCBS spending plan, notices on new HCBS initiatives that expend additional federal funds if they become available, and notification of the JLBC on proposed changes in spending prior to implementation.

Sincerely,

A handwritten signature in black ink that reads "Nancy Skinner". The signature is written in a cursive, flowing style.

Nancy Skinner
Chair

cc: Members of the Joint Legislative Budget Committee