November 30, 2012

Peter Lee, Executive Director
The California Health Benefit Exchange

Toby Douglas, Director
Department of Health Care Services

Re: The CalHEERS Business Requirements Process

Dear DHCS and Covered California Board and Staff:

On behalf of the undersigned, we submit these group comments (attached) regarding the CalHEERS Business Requirements Process, Request for Public Comment.

We very much appreciate being afforded this opportunity to review and provide comments to the confirmed and “in process” requirements developed through the RFP and JAD process. As you will see in our comments, we take this responsibility quite seriously and have provided detailed comments and suggestions that will ensure that CalHEERs, Covered California, and DHCS create a consumer friendly and consumer protective system. We continue to want to be involved as this process moves forward.

We noted that a number of these provisions are still marked “in process.” We have commented on the in process provisions, but also expect that when those requirements are confirmed, we will be provided the opportunity to review and comment on the completed revisions.

We would appreciate a follow-up meeting or conference call with Elizabeth and Julie, once you have time to digest our comments, to discuss your plans for next steps regarding the issues we have raised here.

In the meantime, if you have any questions or would like to follow-up with us, please contact either Julie Silas at Consumers Union, 415-431-6747 or Elizabeth Landsberg at Western Center on Law and Poverty, 916-282-5118.

Sincerely,

Alliance to Transform CalFresh
Asian Pacific American Legal Center, member of Asian American Center for Advancing Justice
Bay Area Legal Aid
California Coverage and Health Initiatives
California Food Policy Advocates
California Immigrant Policy Center
California Pan Ethnic Health Network
California Rural Indian Health Board
CalPIRG
Center for Democracy & Technology
Children Now
Coalition for California Welfare Rights Orgz.
Community Health Councils
Congress of California Seniors
Consumers Union
Disability Rights Education and Defense Fund
Maternal and Child Health Access
National Health Law Program
Planned Parenthood Affiliates of California

The Children's Partnership
The Greenlining Institute
Vision y Compromiso
Western Center on Law and Poverty
Youth Law Center

cc: David Panush
Juli Baker
Len Finocchio

CalHEERS Business Requirements - Consumer Advocates Group Comments 11-30-12

COVERED CALIFORNIA: Stakeholder Questions

CalHEERS Requirements

COVERED CALIFORNIA welcomes your comments on the CalHEERS requirements that will be used to develop the system. Please use the table below to provide your input. Please submit your comments to the Exchange at info@hbex.ca.gov by close of business Friday, November 30, 2012. The principles and options are laid out in a Board options paper available on the Exchange website. Please use the table below to provide your input . Please submit your comments to the Exchange at info@hbex.ca.gov by close of business Friday, November 30, 2012.

Name	Organizations		E-mail	Phone
Julie Silas and Elizabeth Landsberg on behalf of the named organizations	Alliance to Transform CalFresh Asian Pacific American Legal Center, member of Asian American Center for Advancing Justice Bay Area Legal Aid California Coverage and Health Initiatives California Food Policy Advocates California Immigrant Policy Center California Pan Ethnic Health Network California Rural Indian Health Board CalPIRG Center for Democracy & Technology Children Now Coalition for California Welfare Rights Orgz. Community Health Councils Congress of California Seniors Consumers Union Disability Rights Education and Defense Fund Maternal and Child Health Access National Health Law Program Planned Parenthood Affiliates of California The Children's Partnership The Greenlining Institute Vision y Compromiso Western Center on Law and Poverty Youth Law Center		jsilas@consumer.org; elandsberg@wclp.org	(415) 431-6747 ext 106 (Julie); (916) 282-5118 (Elizabeth)

General Comments	
General #1	Covered California agreed in its proposal to allow consumers who are eligible for subsidies to purchase at any tier level, conditioned on strong consumer protections to ensure that they understand clearly and at the time of decision, that cost-sharing reductions are only available at the silver level. The CalHEERS requirements process does not appear to include any specific requirement to ensure that a pop-up box and alert is designed into the system to ensure that cost-sharing information is clear at the time a consumer chooses a health plan. An alert should be designed into the system, which includes personal information obtained from the consumer, to read something like, "STOP: This plan will not provide you the reductions in cost-sharing that you are eligible for (insert specific information here of the cost-sharing). In order to reduce your deductible and co-payments, you must choose a plan in the silver tier level. Please return to the menu and choose a silver plan in order to get your reductions. If you continue to choose this plan, please check this box to indicate that you understand you are waiving your rights to reduce your out-of-pocket costs."
General #2	The system should ensure that assisters have their own separate log-on identification number, distinct from users whom they are assisting, to help with tracking, audit trails, and other accountability measures, etc.
General #3	The system should be designed to enable co-browsing so that service center staff, navigators and other assisters can see the same screen as the consumer to help call centers and assisters to discern if there is a technical problem with the system or if the consumer needs help in completing the application or using other functions or tools available on the website. We did not see any functions designed into the system to allow for this capacity. This should only be permissible on the assumption that each assister has her own separate log-on and entry point into the system, distinct from the consumers (See above).
General #4	We appreciate the inclusion of anonymous shopping that will allow a consumer to explore the website without having their personal information saved or cached during the process.
General #5	In the requirement provisions that establishes the CalHEERS system's ability to communicate with insurers (particularly BR 111), it seems that the system is missing the functionality to communicate to insurers that a person has been determined eligible for Covered California through CalHEERS, as required under section 156.265 of the federal exchange regulations. Additionally the system should be designed to ensure that insurers do not have access to any consumer information through CalHEERS prior to an eligibility determination from Covered California.
General #6	Additional business requirements should be added regarding the transfer of information and streamlining of case management and renewal procedures for mixed coverage families. We see that CalHEERS will allow consumers to update their information, and that this information be transferred to the SAWS system for any members of the family with Medi-Cal. For renewal there should be a business requirement that, for mixed coverge families, CalHEERS notify the SAWS system of Covered California open enrollment period so families can get one streamlined renewal form, if possible.
General #7	Will the system track cost-sharing (i.e., deductibles, co-payments, and co-insurance costs) for all members of a family during the year to determine when they have met their annual cap? Will CalHEERS have the functionality to track and report this, or at minimum, design and build a tool that will provide an easy way for consumers to track their cost-sharing, such as providing for an interface to health plan IT systems that can supply the information? Given that the cost-sharing limits apply to the aggregate household out-of-pocket spending, consumers need an easy way to track combined costs for the entire family. This may be an important and valuable tool to design to attract consumers to CalHEERS.

General #8	We appreciate the effort to incorporate an audit trail in many of the business requirements, but note a potentially overlooked issue. In some instances throughout the provisions, when there are references to making manual changes in the system, they should be more explicit to include not only the word "track," but reference an "audit trail" to ensure that any manual changes made in the system clearly identify the person or user making those manual changes.
General #9	It is unclear from the released requirements whether the CalHEERS system will provide for an online consumer account that the applicant/consumer will have access to in order to have access to all relevant information involved with his/her application, eligibility determination, enrollment and/or renewal. Online accounts are critical to maximizing the ability of consumers to manage their data while increasing state administrative efficiency.
General #10	There are requirements that speak to general consumer access and protections, and then more specific business requirements that appear to either contradict the general requirements, or at least call for a deliberate review of how the two requirements will intersect. For example, BR 306 states that the Web Portal shall provide links to phone, online chat, or IVR assistance in the Medi-Cal Managed Care Threshold languages, but both BR 318 and SR 277 specify only “Online Chat functionality in English and Spanish.” Another example is BR 244 and UR 1-7 which require accessible notices and adherence to accessibility legal standards, but there are numerous references to document “images,” which in general are not accessible for people with various disabilities who use screen reading software. BR 28 appears to require the functionality to store all documents submitted with an application as a viewable image, and SR 70.2 requires the functionality to view document images associated with an appeal. A Vendor could choose to store documents as images and choose another way to make those documents accessible to screen readers, but it must be clear that the Vendor cannot have a general policy to store documents as viewable images only.
General #11	There are many provisions in the requirements that call for functionality for CalHEERS to generate data and reports (e.g., BR 258-268), but we could not find a provision that ensured that there was CalHEERS functionality to ensure that those reports are available publicly through the Web Portal. While it will be a policy decision which reports should be transparent and available to the public, the CalHEERS system should have the functionality to make those reports that program sponsors deem public available on an accessible website and in other public fora.
General #12	The CalHEERS system should ensure that the Individual Exchange and the SHOP Exchange IT systems are compatible.
General #13	The Service Center will transfer MAGI Medi-Cal eligible callers to the county for eligibility determinations. There needs to be CalHEERS functionality to determine which service center callers are likely MAGI Medi-Cal eligible. While our understanding is that the policy decision for service center screening, sorting or fully assessing for MAGI Medi-Cal has not yet been made, regardless the IT system should be designed to have the capacity to carry out the simple sort, partial assessment or full assessment of MAGI eligibility, short of making a definitive “determination," so that the system has the flexibility to handle any of the three methodologies.
General #14	In general regarding the collection of personal data, CalHEERS should adopt and implement policies based on fair information practices with respect to collection and use of such data, including using the minimum data necessary to accomplish a particular objective, transparency about uses of the data, and exposing this data only to those specifically authorized to perform analytics. Such data policies should be easily accessible to applicants (such as through a link at the point where the information is collected). See BR 37, 38.
General #15	In several provisions, there is mention of the "CalHEERS Security and Privacy Framework" and the "CalHEERS Risk-Based Security & Privacy Framework." Are these two separate frameworks? Are those available for public review and comment?
General #16	The system should allow for connectivity or systematic data transfer between CalHEERS, providers, and plans for clear identification of American Indian and Alaska Native status. Several operational benefits are afforded this specific population within both the Medi-Cal program and the Covered California coverages. Without this functionality appropriate access to these benefits such as exemption from point of service co-payments will be applied in a random and unsupportable manner.

General #17	The functionality must be added to CalHEERS to ensure that an "applicant who is not eligible for a state health subsidy program for a reason other than income eligibility, or for any reason in the case of applicants and recipients residing in a county that offers a health coverage program for individuals with income above the maximum allowed for Covered California premium tax credits, shall be referred to the county health coverage program in his or her county of residence." California Welfare & Institutions Code section (h)(4)
Business Requirements	
BR 4	We appreciate the change in this provision that will allow an applicant to withdraw her/his application at any time prior to enrollment (rather than program eligibility, as originally drafted). If a consumer withdraws her application, her information should be deleted from the system.
BR 7	We support the functionality to convert documents to an electronic format and track them. The requirement should specify that this functionality should be allowed for renewal as well as application and verification and that consumers be able to text documents using their mobile phones in addition to the other modes.
BR 8	We would like to obtain further information about the unique Client Indentification Number (CIN) from the Statewide Client Index (SCI) to better understand how personal information will be tracked. CalHEERS should provide more information on the process that will be used to achieve accuracy in matching individuals to their right data. In addition, CalHEERS must develop and implement policies to discover and remedy false positive and false negative matches.
BR 10	We support having Assisters able to submit applications and attestations, but this requirement should include a requirement that this be done "... only if the system has functionality to require an official record from the consumer that the navigator/Assister has permission to act on her/his behalf (e.g., something similar to a valid authorization of representation)." The system should also have functionality to record an authorization. (See the draft BR 22 for potential ideas to address this.)
BR 18	We support having consumers able to specify their preferred method of communication but this requirement should specify that a consumer can choose more than one method, e.g. text and mail - not just one. Additionally, consumers should be able to update desired language for written and spoken communication. Functionality should be developed to ensure that consumers are notified that oral interpretation is available in any language at no cost to the consumer through the Service Center.
BR 23	This requirement should be revised to read "CalHEERS shall provide the functionality to determine the eligibilty for different health insurance affordablity programs for different family members with one application submission." The current requirement suggests that family members are applying for particular health insurance programs, which is not the case. With the single, streamlined application, a family isn't applying for a particular program but rather they are applying for health coverage and will be enrolled into the program for which they are eligible.
BR 24	We appreciate that the system will be designed to allow pre-population of data per an applicant's consent. What appears to be missing from this section is a requirement to provide a pop-up window or alert in real-time, at the point where an applicant is offered the option to pre-populate. Such functionality is consistent with "just in time" consent recommended by the Federal Trade Commission (FTC) in its March 2012 framework for protecting consumers in commercial transactions.
BR 34	We appreciate the requirement to record and track the time frame for applying and receiving an eligibility determination and would like to see a similar requirement for tracking the same for the enrollment process as well, which will provide CalHEERS sponsors with time frame information for the entire eligibility and enrollment process.
BR 35	The previously drafted requirement included language, in addition to tracking time frames, that the time frame deadlines be communicated to the consumer and assister. This is an important requirement that should be put back in.
BR 36	Additional functionality should be developed to ensure that consumers are notified through a pop-up box or some other method, that oral interpretation is available in any language at no cost to the consumer through the Service Center. In addition to tracking the language and communication method the consumer prefers, CalHEERS should also track any accommodations needed when communicating with a consumer with a disability.

BR 37	We applaud the commitment to collect ethnicity, primary language and disability data. In addition, we urge that the CalHEERS system include the functionality to ask questions on written language, preferred spoken language, race and LGBTQ, as well as ethnicity and specific disability questions. Please see advocates' specific recommendations (attached with our comments) during the AB 1296 process regarding how these voluntary demographic questions should be asked and what options should be included in the pull-down menu. Note, this information should not be provided to any issuer/QHP prior to enrollment in a QHP in order to protect consumer privacy and minimize risk selection.
BR 38	We applaud CalHEERs for providing a statement explaining that the optional demographic data being collected is to improve the quality of care. For this requirement, the statement that accompanies the collection of voluntary demographic data should be clear that the data will be used for more than improving the quality of care, but for tracking the performance of the CalHEERS system, the programs associated with them, as well as the plans and providers. It should also be clear that failure to opt into providing the voluntary demographic data will not impact the status of the individual's application. Please see advocates' specific recommendations (attached with our comments) during the AB 1296 process for recommended wording for this statement. As noted in BR 37 comments above, this information should not be provided to any issuer/QHP prior to enrollment in a QHP.
BR 39	We appreciate that the system will be designed to allow pre-population of data per an applicant's consent. See our comments on "just in time" consent in BR 24.
BR 43	The functionality should be expanded to say the system will utilize all services available through the federal hub and verify all information available therein. This is broader than citizenship and income -- Here's the list per recent Q&A: * Social Security Number (SSN) verification via the Social Security Administration (SSA); * Citizenship verification via SSA or the Department of Homeland Security (DHS) when relevant; * Incarceration verification via SSA; * Title II benefit income information via SSA (monthly and annual amounts); * Quarters of coverage information via SSA; * MAGI income information from the Internal Revenue Service (IRS); * Maximum APTC from IRS; * Immigration status verification via DHS, as well as a translation to indicators for lawful presence, qualified non-citizen, and five year bar status; * Public minimum essential coverage (MEC) verification from Federal agencies. This functionality needs to include the capability to first obtain the needed data from these databases, versus requiring such data to first be submitted by the application and then using these databases largely for verification. As noted in BR 37 comments above, this information should not be provided to any issuer/QHP prior to enrollment in a QHP.
BR 44	It is our understanding that the FFE will be permitting self-attestation for residency as allowed by the federal Medicaid regulations and we hope that California will follow their lead and not require external verification of residency through CalHEERS. In addition, the language regarding incarceration should read, "... incarceration consistent with applicable institutional status rules, in real-time ..." As with BR 43 comments above, this functionality needs to include the capability to first obtain the needed data from these databases, versus requiring such data to first be submitted by the applicant and then using these databases largely for verification. As noted in BR 37 comments above, this information should not be provided to any issuer/QHP.
BR 46	This functionality should include the business rules to operate the reasonable comparability policy: the business rules should first check that the eligibility information (e.g. income) found through data sources is compatible with the eligibility information provided by the applicant. If the discrepancy would not affect eligibility, e.g. both income levels would qualify the applicant for Medi-Cal or Covered California subsidies, CalHEERS should not seek additional information or documentation from the applicant. Also, the applicant/beneficiary should be able to see the eligibility information, including the data sources relied on, and make any corrections as needed.
BR 47	As noted in BR 37 comments above, this information should not be provided to any issuer/QHP prior to enrollment in a QHP.
BR 48	This functionality should add a space to record data regarding the date the case is up for renewal and have this be accessible to the consumer. This data will be important in cases where the renewal is imminent and the system can initiate the person to renew coverage. For example, if an individual applies and is found to already be enrolled in Medi-Cal, they could be notified that renewal is coming. In addition to telling them they are already enrolled, with this functionality, CalHEERS can also flag for the consumer the opportunity for the person to renew their coverage.

BR 49	The functionality should allow applicants to view and make edits/corrections to the "verified and retrieved" data (this phrase should be added to clarify that this is also retrieved data) that is available.
BR 52	In addition to the functionality to apply, via the Web Portal for Prenatal Gateway, CHDP Gateway, BCCTP, FPACT, Newborn Gateway, Deemed Infants, and MediCal Inmate Eligibility programs, CalHEERS should, with the applicant's consent, for Gateway applications to start an application for full, on-going coverage for the child and other family members.
BR 54	There are other situations where a temporary card may be necessary. The language in this requirement should be changed to read, "The CalHEERS System shall provide the functionality to print an appropriate temporary coverage identification card for applications found eligible for Prenatal Gateway, CHDP Gateway, BCCTP, FPACT, Newborn Gateway, and Deemed Infants programs, and in other circumstances where a temporary card is needed, such as those required by Welfare and Institutions Code 14029.5 and 14011.1."
BR 56-57	We encourage the robust development of this core function by launch date. Specifically we recommend that CalHEERS would inform consumers of additional services, e.g. CalFresh and CalWORKs, and allow consumers the option to link to a pre-populated SAWS on-line application for those programs. We also recommend that CalHEERs provide links to other family supports, such as WIC, child care and EITC.
BR 58-60	We are pleased that CalHEERS will have the functionality to ask consumers for additional information, screen for additional services, and share that information with SAWS (and potentially other systems) for final eligibility determinations. We look forward to consideration of this option with stakeholders, including consumer advocates, DSS and CWDA, as part of the State's determination of its "approach" to horizontal integration by June 30, 2013.
BR 61-64	We would like to see additional provisions in the exemption requirements that ensure the system design allows CalHEERS to track and report exemption data in the aggregate to the public, including any voluntary demographic information collected. CalHEERS must also commit to protecting the privacy of individually identifiable exemption data. For example, who can access this information and for what purpose? It should be limited to validating the exemption and tracking it for analytic purposes; public reports on exemptions should be de-identified with protections against re-identification (such as through binding contractual commitments not to re-identify). Additionally, it was unclear to us how the system will notify the individual if an exemption is accepted or denied. If CalHEERS is responsible for this the requirements need to include the functionality to notify individuals of the decision and their right to appeal. If consumers appeal the exemption decision, the system must have the functionality to process such an appeal and communicate to the consumer the appeals process.
BR 66 - 67	We support this requirement that requires a real-time determination based on attested information, even if the information provided cannot be verified initially, as required by Cal. Welf & Inst. section 15926(f)(6).
BR 68	For those eligible for APTC, the system needs to be designed to provide a bold-faced alert or colorful pop-up tool that appears in real-time that provides information about the implications of reconciliation, the importance of promptly reporting income changes, and some ability to document that the applicant read and understood the explanation (e.g. a check box in the alert). (See similar comments regarding the importance of alerts for subsidies in plans other than silver.) In order to avoid future repayment liabilities if income fluctuates, applicants may choose to reduce or decline APTC. To aid consumer planning regarding potential liabilities, the system should provide functionality to enable individuals to calculate potential tax liabilities and how much, if any, they should reduce their advance payment to avoid repayment at tax time. When enrollees report changes in income, the system functionality should exist to remind them at the time of the change, that there may be tax implications and link them directly to the calculator and further information about APTCs and reconciliation.
BR 71	The language in this section should be changed to include former foster youth, " ...non-MAGI eligibility criteria (e.g. blind or disabled, former foster youth, etc.) and send a referral..." In addition, this requirement should clarify that "appropriate SAWS" is the county of residence and that the information transferred shall be on the day the application was submitted or shall include the application date to preserve that application date. The system should also have the capacity to notify the applicant that this is being done.

BR 74	We appreciate this functionality for consumers and encourage that notifications and links a) be tailored to individual applicants based on the information they provided (for example, all individuals below identified income thresholds receive CalFresh link; families with children with qualifying incomes receive WIC and CalWORKs links) and b), wherever made possible by the other State program, lead to on-line applications (i.e. the appropriate SAWS on-line app for the applicant's county of residence) and not just text or off-line contact information.
BR 75	We appreciate this requirement of functionality to send application information to SAWS for other non-health services, and encourage the system to proactively prompt consumers to continue with other non-health human services, with their consent. To get the consumers' consent the system will need a pop-up or alert that appears in real-time that provides the consumer the ability to consent. That should be specified in this provision (or should be added as BR 75.1).See our comments on "just in time" consent in BR 24.
BR 76	In the situation where a woman at 200% or below FPL becomes pregnant while enrolled in an Exchange plan (an eligibility qualifying event), CalHEERS should have the functionality to provide notice of her options (i.e., remain in the Exchange or transfer to Medi-Cal) and the implications of those options, so that the woman can make an informed choice. The system must be able to receive and effectuate the woman's choice, and, if it involves changing programs, make sure there is no break in coverage caused by the switch.
BR 82-83	Enrollment periods are only relevant for Covered California products and these requirements should specify that this function will only need to apply to Exchange-eligible applicants. Additionally, "change in immigration status" should be added to the list of specified criteria for special enrollment periods.
BR 85-89	The system should provide functionality for those exempt from cost-sharing by virtue of American Indian or Alaskan native status to ensure they are not assessed inappropriate cost-sharing or premium payments.
BR 88	We would recommend that the display feature results include the ability to display total estimated costs and display of provider networks (or affiliated IPAs, when applicable).
BR 92	While Covered California should determine the quality indicators for QHPs, DHCS and MRMIB should identify the indicators for Medi-Cal, AIM, and BHP (if enacted) plans.
BR 93	This sorting functionality should be available not only for QHPs, but also for Medi-Cal, AIM and BHP (if enacted) plans. This requirement should be updated to include language referencing stand-alone vision plans. Sorting by likely annual cost is very important for consumers and should include premium costs, as well as all out-of-pocket costs and total estimated costs calculations.
BR 94	As noted in BR 37 comments above, this information should not be provided to any issuer/QHP prior to enrollment in a QHP.
BR 91 - 98	These requirements are missing the important functionality to provide an alert or on-screen notice to the consumer that the list of QHPs displayed has been filtered and that not all QHPs that the person is eligible to enroll in are displayed on the screen. Any time a filter is used, the CalHEERS system needs to have a prominent notice on the screen (and in some situations an additional a pop-up box or alert) that indicates that the full selection of QHPs is not displayed.
BR 96	As noted in BR 37 comments above, this information should not be provided to any issuer/QHP prior to enrollment in a QHP.

BR 99-101	We appreciate the inclusion of a searchable provider directory, and especially the list of compiled and presented information that will indicate languages spoken and a provider's ability to accept new patients. It is critical to include any delegated model or IPA affiliations of the physician so that a consumer knows whether the physician is a member of the medical group which the consumer is considering selecting. Another critical component to include in a searchable provider directory is information about the physical and programmatic accessibility of provider offices (i.e., is the office on the ground floor or does the building have an elevator, does the office have height-adjustable exam tables and accessible scales, does the office provide modified appointment times for individuals who use interpreters or who have developmental disabilities). DHCS has mandated that plans that serve Medi-Cal eligible seniors and persons with disabilities under the recent 1115 waiver undertake a physical access survey of their primary care and specialist provider network, so this information is clearly obtainable, and is already available for numerous providers, some of which will also be in plans that participate in Covered California. In the interest of a level playing field, both for those consumers who absolutely require such information to choose providers who can give them effective health care services, and among plans offering products in the Exchange, provider accessibility needs to be compiled and presented in the provider database.
BR 102 & 103	We recommend that CalHEERs include languages spoken by the provider and staff as one of the quality measure variables that can be displayed for each plan selected for comparison. As noted in BR 37 comments above, this information should not be provided to any issuer/QHP prior to enrollment in a QHP.
BR 104	We agree that the CalHEERs system should allow the consumer to assign their own weights to different quality measures and recommend that CalHEERs include languages spoken by the provider and staff (see BR 102 & 103 above) as one of the quality measure variables that can be displayed and weighted. As noted in BR 37 comments above, this information should not be provided to any issuer/QHP prior to enrollment in a QHP.
BR 105	CalHEERS should also include the functionality that when the plan comparisons are printed, that the printed page automatically includes any disclaimer that the plans listed are not the full set of plans, but are a limited set for purposes of comparison. (See similar note for BR91-98 above).
BR 106	See our comment on General #1
BR 107	The requirement, as currently drafted, does not specify the specific mechanism that will "notify" a person of the implications of the penalties and liabilities that may occur at the time of tax filing. The functionality should specify whether this will be a pop-up box, or alert, or something else that requires the individual to check a box or indicate that they have read and understand the implications. (See similar comment for BR 106 above.) Please also see our comments to BR 68 discussing the important functionality to assist people in understanding APTCs and the reconciliation process.
BR 110	Child applicants and their representatives/assisters should be encouraged to select a plan with pediatric dental coverage, either as integrated with a medical plan or as a stand alone dental plan. If they choose a plan without pediatric dental, the alert should state: "STOP: This plan will not provide your child with the dental benefits she/he is eligible for. In order to access the pediatric dental benefit, you must either add a stand alone dental plan (list those plans) or choose one of these integrated plans (and list the plans that cover pediatric dental). Please return to the menu and choose one of these plans in order to get dental coverage for your child."
BR 111	In this provision (and others), the CalHEERS system is missing the functionality to communicate to insurers that a person has been determined eligible through CalHEERS, as required under section 156.265 of the federal exchange regulations. Additionally the system should be designed to ensure that insurers do not have access to any consumer information through CalHEERS prior to an eligibility determination from Covered California.
BR 116	We support auto enrollment in the situation where an individual's plan is no longer available and when the consumer fails to make a timely choice to switch to an alternative plan. This requires that the system first provide adequate notice and the opportunity for an individual to choose another plan before the auto-enrollment default takes place. Such functionality should be added to this requirement.
BR 119	This provision should be more explicit and include not only the word "track," but ensure that there is the functionality of an "audit trail" to ensure that any manual changes made in the system clearly identify the person or user making those manual changes.

BR 120-137	To facilitate streamlined renewal for mixed coverage families, there should be a business requirement added that would require CalHEERS to alert SAWS to the open enrollment period for a family member in Covered California who is also up for renewal in another Health Insurance Affordability Program.
BR 127	When identifying preferences for renewal, the list should include any preferences identified at the initial eligibility determination that identify preferred spoken language/s and preferred written language/s.
BR 128	This provision should be revised to make clear that consumers should be able to receive an annual enrollment notice by mail if they prefer that mode of communication, not just when the email, phone or text was unsuccessful.
BR 131	There needs to be a functionality added when the consumer is provided the opportunity to opt out of coverage that provides a real time notice (pop-up or alert) that describes the implications of opting out and includes a place where the consumer can acknowledge that they have read and understood the notice. (See similar comments in BR 106, 107 and others).
BR 136	CalHEERS should be built to provide for the continuation of APTCs or cost-sharing subsidies pending the outcome of an appeal. If the elimination or decrease in APTCs or cost-sharing assistance is based on an alleged increase in income, the individual must be clearly notified of the possibility of reconciliation at the end of the year (through pop-up or alert - see similar comments in BR 106, 107 and others). Since this could result in recoupment, the individual will need to make an informed decision as to whether to receive continued financial assistance pending the outcome of the appeal.The system will have to be able to generate notices that include specific personalized information upon which the termination is based, so individuals know what information has impacted their eligibility. Finally, the system has to have the functionality to coordinate notices with Medi-Cal eligibility/terminations.
BR 137	This requirement seems to conflict with BR 81, which allows for plan selection and transfer due to plan decertification. It is not clear why these functionalities are listed in two separate requirements. Also, BR 81 makes it clear that the individual will be given the opportunity for “plan selection” if his or her plan is decertified, while BR 137 only references “transferring” without providing the functionality for “selection” of a new plan. This provision should include "plan selection" functionality.
BR 138	Noting this provision is in process, the requirement is very general, i.e. “to process an individual appeal.” We hope that through the JAD process this is spelled out in more detail through multiple requirements. The system should be designed to allow for receipt of an appeal request through multiple avenues, i.e., electronically, by telephone, in writing or in person. It must provide functionality for determining if the request is timely. It must provide functionality to notify the individual that the appeal request has been received; track the processing of the appeal and assure that the appeal is scheduled to be heard and processed in accordance with timeliness requirements. If there are mutliple issues, or issues affecting both Covered California eligiblity and Medi-Cal, there should be functionality to allow the appellant to combine into one appeal, i.e., the system should track multiple appeals in the same case and combine. If there are multiple ways in which an appeal can be heard, e.g. over the telephone or in person, it must be able to provide adequate notice to the appellant and be able to receive and process the appellant's selection of how the appeal will be handled. If there is to be an in-person or telephone hearing, the system must be able to notify the appellant of when, where and how the appeal will be heard. Additional functionality should be developed to ensure that consumers are notified through a pop-up box or some other method, that oral interpretation is available in any language at no cost to the consumer through the Service Center.
BR 139	See comments to BR 138. Applicants/enrollees should have ready access online to the information about the status of their appeal, to whom the appeal has been assigned (appeals officer, analyst, etc.) and how to contact them. In particular, the system should track appeals of different programs that are not handled by the same entity (and not consolidated).

BR 140	For appeals relating to adverse benefit decisions by health plans, in addition to the system having functionality to refer the appeal to the proper entity, the system should be able to receive and track the results of the appeal handled by another entity, both internal plan grievances and appeals and external appeals. As to eligibility determinations, we are particularly concerned about situations where a family may have some members in Covered California and some members receiving Medi-Cal. An alleged change in income may affect eligibility for Medi-Cal as well as eligibility for or the amount of APTCs, and thus an appeal may pertain to both Medi-Cal and Covered California eligibility. The system should not just refer out the Medi-Cal appeal request, but should provide functionality so that only one process need be followed for the appeal, with the status and outcome tracked so that the impact on both programs can be effectuated. Further, if appeal requests are being referred to an outside agency, then the system must be able to (1) verify that the referral has been received and timely processed, and (2) be able to track and record the results of the outside appeal.
BR 141	The system should allow for receipt and retention of the formal, written decision, along with any attached exhibits from each appeal. if there are appeals of more than one program, all results should be reflected. If there are separate county-level appeals involving family members, these appeal decisions should be received and maintained also by CalHEERS so they can be easily accessed by the consumer.
BR 142	We agree that the system must be able to receive scanned and e-mailed documents associated with the appeal. Depending on the nature of the appeal, documents may be presented by different parties, e.g., the appellant, medical providers, the health plan, etc. The system must be able to keep track of who has sent in the different documents and when the documents were sent. The system must be able to provide a coherent record of these documents so that the decision-maker will be able to properly analyze the documents and understand where they came from. The system should have the functionality to make available all appeal documents, even if not generated by the CalHEERS system directly (e.g. a county Medi-Cal Notice of Action of administrative hearing decision).
BR 143	The system should have the ability to send a dated notice of the appeal decision, along with the formal, written decision and any attached exhibits, in the manner of communication which the enrollee has selected, to include information about any further appeal processes and the effective date of the decision. There should be a check in the system so that actual date a decision impacts an enrollee's eligibility is the same as the date included on the notice.
BR 144	The system must be capable of effectuating the outcome of any appeal accurately and in a timely manner. The system should have a check to asssure that the date any change takes effect is consistent with information provided to the enrollee.
BR 145	We support two separate requirements, one of which is to send the individual the formal appeal decision (BR 143) and this one, which notifies the individual when a modification to his or her eligibility has been made resulting from the appeal decision. This will assure that the individual has full knowledge of how the appeal was resolved and of the change in eligibility that occurs as a result of the appeal decision.
BR 146	Correspondence or documents that are received in hard copy should be scanned, linked with a case and routed within real-time, and the business requirement should specify this.
BR 147	This functionality for account and case management should also include updates, correspondence, and renewals in addition to applications. In addition, as noted in BR 165, this account/case management functionality should allow for an account/case for a family with members in multiple programs, as well as individual cases (e.g. allowing for and accounting for duplicated cases).
BR 148	This requirement states that there should be functionality to transfer any newly received images to the SAWS upon receipt for referred applications. This functionality should not just apply to received “images,” but to documents received in hard copy as well. Such paper documents should not be sent in hard copy to the SAWS, which would only delay further the processing of a Medicaid application that has been referred, but should be scanned into CalHEERS and then sent immediately to SAWS. In some cases, documents may apply both to a Covered California case and a Medi-Cal case, in situations where some family members are in Covered California and some are receiving Medicaid. In such situations, the system must be able to link the documents with both cases, in the two different systems.

BR 149	When an authorized user updates their information in CalHEERS, if one of the users has Medi-Cal or AIM, that information should be transferred to SAWS and/or MEDS to ensure that mixed coverage families only have to update their information once. We see this is included in the Technical requirements and would like to see it added here.
BR 146-168	In general for case management, it is unclear whether the system is being built to provide an audit trail, tracking each user who makes changes in an individual's account during the case management process. See general comments above.
BR 165	We support the unique record and tracking for individuals with multiple cases (e.g. as part of a family with members in multiple health coverage programs) to facilitate case management for both the individual and the family as a whole.
BR 169-180	Individual-level data with respect to disenrollment must be protected from inappropriate access or disclosure; CalHEERs should be more clear about its policies with respect to such data. Please see General Comments #14 and #15
BR 169	The system must provide an opportunity for an individual to cancel an initiated disenrollment action before it is completed. Before the individual completes disenrollment, there should be a pop-up notice where the individual must confirm that they want to go through with the disenrollment. (See similar comments in BR 106, 107, and others regarding pop-up notices or alerts). The system must also issue a written notice for any changes that occur for an individual's case, including actions the individual themselves take such as voluntary disenrollment.
BR 170	An individual wishing to disenroll from their QHP or stand-alone dental/vision plan should be given information about the insurance requirements and potential penalties for disenrollments real-time, as the individual is in the process of disenrolling. Like other areas described above, they should have a pop-up or alert that provides language that informs them of the implications and requires them to check that they are aware of the implications. (See similar comments throughout.) An individual who is disenrolling during an open enrollment period should also be prompted to select replacement coverage and given the option to navigate to the enrollment part of the system following their disenrollment action. The system should have the functionality to track whether the individual who disenrolls from their plan subsequently enrolls in another plan that satisfies coverage requirements, and in instances where the individual does not do so, the system should have the capacity to issue a follow-up notice about the insurance requirements, potential penalties, and how to enroll in a new QHP or stand-alone dental/vision plan.
BR 171-172	The system should only notify the QHP, stand-alone dental/vison plan, and CMS Federal Data Hub of a disenrollment in cases where the disenrollment is actually completed. In other words, there will be no communication to these entities in instances where an individual who initiates a disenrollment does not complete it or cancels it.
BR 173	An individual who has just disenrolled should be given information about their current health care options immediately upon disenrolling, and should also be given the opportunity to navigate directly to the enrollment part of the system following completion of their disenrollment.
BR 174	Where applicable, the system functionality should be able to link the individual to alternative health care options with more affordable premiums that are available to them, and provide information as to how they can enroll in these health care options. In the same notice, they should also be notified about insurance requirements and potential penalties. This functionality should also apply to Medi-Cal premium non-payments based on Medi-Cal rules and should be coordinated with the county systems.
BR 175	The system should be designed to automatically grant continued enrollment when an enrollee disputes disenrollment based on premium nonpayment by a specified deadline
BR 169-180	There needs to be a functionality added when the consumer is provided the opportunity to disenroll from a health plan (e.g., BR 169, BR 170, and BR 176) that provides a real time notice (pop-up or alert or e-mail and traditional mail) that describes the implications of disenrolling and includes a place where the consumer can acknowledge that they have read and understood the notice.
BR 181-197	Individual-level data with respect to premium or other payments must be protected from inappropriate access or disclosure; CalHEERs should be more clear about its policies with respect to such data. Please see General Comments #14 and #15

BR 182 - 197	We applaud the decision to build into CalHEERS the functionality to invoice individual enrollees; aggregate individual premium payments, including Medi-Cal premiums, for all family members in a single invoice; and receive payments from enrollees so that future policy decisions of CalHEERS to accept such payments from Exchange-eligible individuals will be functional. It should be clarified that CalHEERS functionality will include premium collection for Medi-Cal coordinated with SAWs, where relevant.
BR 183	We very much appreciate and applaud the decision to design and build the system to allow for premium aggregation, in order to provide the technical capabilities in the future for CalHEERS to undertake premium aggregation, which we believe would be in the best interests of consumers.
BR 198	This provision should include the functionality to generate premium invoices to Tribes and Tribal Health Programs that may choose to “sponsor” coverage for their members or the American Indian clients. This is an allowable cost for the use of federal Indian Health Service funds.
BR 208	Such enrollee and plan data should be de-identified before being shared for risk adjustment purposes in order to protect individual privacy. We note that such de-identification is consistent with the approach CMS is taking with respect to the federal risk adjustment/reinsurance regulations.
BR 219	In this provision, the vendor will recommend data and sources of the data for the rules and criteria for determining the quality rating. We believe the policy decision on what data should be used for quality rating should rest with the program sponsors, not the IT vendor, and would request a change to the language be made to reflect that. Once program sponsors identify the data to be used, the vendor can retain its responsibility for identifying the sources of that data. Further, the requirement should be amended to say that in addition to CalHEERS using Covered California rules, it should use Medi-Cal and AIM rules and criteria as well.
BR 227	We note that data should also be tracked by coverage source (e.g., Covered California, Medi-Cal, AIM, etc.) and tracked by provider, not just by type of complaint. In addition to CalHEERS having the functionality to receive complaint data from the noted agencies, it must be able to receive data from DHCS and the Covered California Service Center.
BR 229	In addition to having reports regarding plan complaints go to the regulators, this information should be sent to the purchasers - DHCS and Covered California. We do not understand why plan complaint information would be sent to counties.
BR 235	In addition to notifying all the identified agencies and individual enrollees of QHP and qualified stand-alone dental/vision plan non-renewal or decertification, the CalHEERS functionality should also build in notification to the public on the CalHEERS website. This is particularly important so that potential enrollees and the public are made aware that an issuer has not renewed a QHP or that one of its QHPs has been decertified.
BR 237	In addition to posting updates on the Web Portal, it is important that CalHEERS have the functionality to notify enrollees in the QHPs or qualified stand alone dental/vision plans that there have been updates to the plans that they are enrolled in. The assumption is that the QHP will be directly notifying enrollees, as well.
BR 240	This provision requires more detail about how the CalHEERS system will "notify" enrollees of QHP and qualified stand alone dental/vision plan rate changes.
BR 241	The provision here begs the question of whether CalHEERS will establish online accounts for consumers, where the images of all notices and correspondence regarding themselves and/or their family members can be stored and accessed by the consumer and/or her assisters. Access to a retained record of past notices and correspondence is equally important to all consumers, including consumers with various disabilities who use screen-reading technology that typically cannot read "images." Compliance with the ADA, Sections 504 and 508 of the Rehabilitation Act, and 11135 will mean that stored notices and correspondence must be accessible to consumers using screen-reading technology, as well as employees of Covered California and Covered California partners who are expected to be able to access consumer records as part of their job function.
BR 242 and BR 253	The provision should be amended to state that the CalHEERS system shall provide "ALL" notices to individuals in their preferred written language and their preferred communication channel/s.
BR 243	This provision should be amended to state that "ALL" notices shall be provided in the Medi-Cal Managed Care Threshold languages.

BR 244	This provision should be amended to state: "The CalHEERs system shall provide all notices in a manner or format that complies with all State and federal disability laws, including the ADA and Section 504 of the Rehabilitation Act, including any reasonable accommodations or policy modifications necessary."
BR 246	It is our understanding that eligibility redeterminations for Medi-Cal will not require the enrollee to sign a written notice. We believe that this provision should be revised to acknowledge that this applies only for those programs (e.g., Covered California) where signature is required, but not to include Medi-Cal recipients.
BR 249	This provision should be amended to make it clear that the information sent to the QHP or dental/vision plan will not include information that is not necessary for enrollment (e.g., income, citizenship status and other factual information relevant only to eligibility determinations). Equally, the system functionality should be designed to ensure that no information is shared with an issuer or QHP unless and until an official eligibility determination has been made.
BR 254 - 257	The provisions here beg the question of whether CalHEERS will establish online accounts for consumers, where the images of all notices and correspondence regarding themselves and/or their family members can be stored and accessed by the consumer and/or her assisters. (See comment for BR 241 above.)
BR 257-302	CalHEERS should commit that the collection of individual-level data for these reports will be in accordance with fair information practices (consistent with the principles of data minimization, as well as collection, use and disclosure limitations); actual reports based on PII and/or PHI should be de-identified and protected against re-identification. CalHEERS should adopt this as policy and require adherence by the vendor.
BR 257 and 300	The system should provide the ability for consumers to look up and review all the notices that have gone out to them, dates those notices went out, and where the notice went to (i.e. by email or post, if by post then to what address).
BR 264	In addition to reporting eligibility determination outcomes, the data should include the reason for the determination, e.g. incomplete information, etc.
BR 266	Reports should also include the number of assisted and unassisted applications and data on renewals.
BR 270 - 271	See our comments on online consumer accounts in BR 241 above.) In addition, the log should also record what actions were taken with respect to a particular data element (view, modify, delete, etc). The report requested by applicants should include all of the log elements; CalHEERS should also establish a policy on how long such logs will be retained and be available to applicants (such a policy should take into account technical capability and usefulness for applicants).
BR 271	The system functionality should ensure that the report is immediately available for the individual to review on screen or to print out. The system should be designed with the capacity to ensure that the individual has the option to have the report mailed to them at an address that they input.
BR 272	The system should be designed with the functionality to provide applicants with an end of the year report of their account with APTC and CSR calculations and updates made throughout the year to assist them with preparing their taxes
BR 273-283, BR 285, and BR 287-302	Additional language should be included in each of these provisions that provides that CalHEERS include the functionality to make transparent these reports through the Web Portal or other means to make this information public, especially in situations where the public reports will display less or different data than is available to program sponsors or CMS. In addition, CalHEERS should commit that the collection of data for these reports will be in accordance with fair information practices (consistent with the principles of data minimization, as well as collection, use and disclosure limitations); actual reports based on PII and/or PHI should be de-identified and protected against re-identification.
BR 273-283, BR 285, and BR 287-302	Additional clarification is requested that demographic data for reporting purposes shall also include voluntary data such as race and primary language, as well as ethnicity. See our comments to BR 37 above.
BR 284	Information on participation of individuals by employer should be publicly available by employer, including whether the individual is an employee or a dependent.
BR 290	The system should have the functionality to send follow up notices for those with incomplete or denied applications to link them to an assister so that they can get additional assistance to complete their enrollment.

BR 303-313 and 336-337	We appreciate CalHEERS for including a toll free and online chat functionality for consumer assistance in Spanish and English (BR 303) and for accommodating different user's access needs (BR 304). We are happy to see that CalHEERs plans to take advantage of and/or exceed the consumer experience framework defined by the UX 2014 Project (BR 305), which was developed with significant stakeholder feedback.
BR 306/BR 318	We applaud CalHEERs for providing "links to phone, online chat, or IVR assistance in the Medi-Cal Managed Care Threshold languages." This will help to strengthen access to Covered California for California's diverse communities. We are concerned, however, by BR 318 which seems to provide contradictory instructions. BR 318 states that "the CalHEERs System will provide the following languages on the Web Portal and Online Chat: English and Spanish." However BR 318 goes on to state that "the toll free number, IVR, and Online Chat shall state in Medi-Cal Managed Care Threshold Languages they can reach an operator in their language." We request clarification regarding the intent and intersectionality of BR 306 and BR 318, specifically with regard to the extent to which consumers who speak a language other than English and Spanish will be able to access assistance in their language through IVR and Online Chat functions. Additionally, although we understand that the Web Portal will only be available in English and Spanish, we urge CalHEERS to ensure the functionality exists now to provide other languages in the future, including Asian languages on the Web Portal should CalHEERS wish to do so.
BR 307-309	We urge CalHEERs to provide the functionality for consumers to view demonstration videos to assist them in the Web Portal application, eligibility determination and enrollment processes in languages other than English and Spanish. Programs like Audio Visual Application (AVA) which offer touch-screen application forms in English and other languages, with voice narration and prompts can be used online or at in-person application sites to facilitate enrollment. It can also be advantageous for those with low literacy who may find some of the state forms to be overly complicated. This technology is worth the investment to develop it in other languages as it will help Covered California maximize enrollment for hard-to-reach populations and help to achieve its goal in UR 29 of "displaying information in a culturally sensitive manner..."
BR 308	This requirement provides that the vendor will develop demonstration videos. We urge that the vendor be required to submit drafts to the Program sponsors for review and modification - not simply given cart blanche to develop the content.
BR 310	We appreciate the recognition that family members and others who will be acting on behalf of an applicant or recipient will have their own separate log-on, an important feature. What appears to be missing is the same separate log-on functionality for assisters. The system should ensure that assisters have their own separate log-on identification number, distinct from applicants/recipients who they are assisting, to help with tracking, audit trails, and other accountability measures, etc.
BR 311	It would be helpful to be more specific about the provision for aids, such as a progress bar that will show a consumer how far s/he has moved through the application and/or how much more information is needed before the process is completed. This refers to the functionality, but doesn't define what that functionality will be specifically. We think a progress bar would be helpful for consumers to be able to gauge their progress and estimate how much more time is needed to complete the process. If needed, they can be prepared to stop, save and return to the application at a later time. (BR 25.1 tracks the progress of documentation received, but a more general progress bar would be helpful that measures progress throughout the entire process.)
BR 322-324	We appreciate the various save functions that will allow consumers to save their information while they are logged on as well as to save their information and access their saved work at a later date (BR 322/323). We also appreciate the functionality to delete an account that did not result in an enrollment within 120 days (BR 324). In this instance the consumer should be notified by a pop-up window that their data will be saved for 120 days, after which time it will be deleted if the account is inactive. Additionally, if the consumer has entered a way to communicate with her, she should be notified before her account is deleted.

BR 329	The CalHEERS system should provide the functionality to break down information captured by enrollment entity, assister type (i. e. in-person assistors, navigators, direct benefit assistors, etc.), geographic area, type of assistance (application vs. renewal), language spoken, and health coverage program (e.g. Covered CA subsidized and metal tier, Covered CA unsubsidized and metal tier, Medi-Cal). However, a core guiding principle for this section should be that Assisters' access be compartmentalized, providing access to client records on a need-to-know basis. The system should be designed to allow privacy and security audits of assisters, such as (but not limited to) the ability to track the information accessed by individual assisters; consumer data created or changed by individual assisters; and time, date, and location from which changes were made by individual assisters. The CalHEERS system should provide the functionality to send alerts and notices to assisters. This will be helpful in keeping assisters informed of changes/ updates from the project sponsors, enrollment entities, and other entities. Moreover, it would be helpful if CalHEERS could provide the functionality to flag specific accounts (for example, a supervisor or CSC rep. could flag a case for assister follow-up). Finally, we recommend CalHEERS have the functionality to make assister-related data/ reports publicly available through the webportal. If possible, it would be helpful if a simple database were created to allow stakeholders to query the system to meet their data needs.
BR 330	Individual assisters must be provided with individual authentication identities, which will limit their access and monitor their activity across the CalHEERS ecosystem. A hierarchy of access should be built into the system to allow differing levels of access to information (e.g. supervisors can see all applications in-progress or submitted by all their assisters vs. assisters' access to applications they have initiated/ completed). It would be helpful if the hierarchy also allowed supervisors/ managers to temporarily grant access to different assisters. For example, if an assister is on vacation, a manager can provide another assister with temporary access to certain files for follow-up and support to consumers. The system should provide the functionality to allow certified assister entities to query and produce their own internal reports on assister activity.
BR 331	In addition to tracking information about assister training, it would be helpful if the system could also track and report assister location, contact information, and business hours. This will allow consumers to search for assisters based on their individual/ family needs
BR 332	The CalHEERS system should allow consumers to provide feedback and/or a brief rating of the help they received from an assister in addition to complaint information. This information should be used for internal quality improvement efforts.
BR 334	The CalHEERS system should provide the functionality to notify consumers when their case/ account has been reassigned to a new enrollment entity/assister.
BR 338	We applaud the use of voluntarily contributed demographic data to determine underutilization of the Exchange by certain demographic groups (BR 338). The use of this data should be explained to applicants in the notice of privacy/data practices; openness and transparency about data uses is a widely accepted fair information practice principle, and the adoption of practices to implement this principle is required by federal exchange regulations.
BR 339	To the extent multi-lingual mass notices are distributed to targeted groups for outreach, such information should be tracked within each case/account to prevent overwhelming consumers with duplicative information.
BR 340	We request clarification as to whether BR 340 will include the functionality to generate random surveys and compile and analyze responses of Covered California consumers in Spanish and other languages besides English. We recommend that CalHEERS generate surveys at a minimum in the Medi-Cal Managed Care Threshold languages. Transparency should also be provided with respect to the use of data set forth in BR 340; in addition, the use of such data should be subject to other fair information practices (for example, data minimization; collection, use & disclosure limitations; etc.).
BR 342	For BR 342, the CalHEERS system should include "on the ground outreach efforts" (e.g. allow consumers to list a specific clinic or enrollment entity, etc.).

BR 344-349	With respect to any report generated with Covered California data, CalHEERS should commit that the collection of data for these reports will be in accordance with fair information practices (consistent with the principles of data minimization, as well as collection, use and disclosure limitations); actual reports based on PII and/or PHI should be de-identified and protected against re-identification. CalHEERS should adopt this as policy and require adherence by the Vendor. The data collection for these reports should be subject to fair information practices and any reports issued should be de-identified and protected against re-identification.
Usability Requirements	
UR 1	We applaud the decision to incorporate the Affordable Care Act's references to the civil rights laws listed, and would emphasize that, unlike the W3C standards, these laws do not merely specify technical elements. Rather they require covered entities to establish procedures for notifying the public of their accessibility rights, interacting with and understanding the needs of qualifying consumers, and granting the requests of consumers who need reasonable accommodations and modifications to achieve access. This requirement therefore necessarily extends beyond a technical checklist and requires CalHEERS to link web-based Covered California access to responsive systems that will recognize when civil rights needs or violations arise. Also a minor correction: Americans with Disabilities Act
UR 2	The language in this requirement should be broadened to encompass “mobile computing devices, such as smart-phones and tablets.”
UR 5-6	Reporting is an excellent and necessary requirement to ensure compliance with accessibility and useability, but this requirement will benefit greatly from clarification. It should be clear that the reporting process will be ongoing, that reporting will include the compiling of public complaints about web accessibility, and it should identify to whom reports will be made
UR 7	The capacity to submit applications, forms and documentation electronically is very significant to many individuals who are blind, have vision or print impairments, or have mobility impairments that affect their capacity to independently write or handle writing instruments and paper. Some of those individuals may be acting on behalf of another, as a legal guardian or responsible person, so it will be necessary to consider how this requirement will interact with BR310. For security reasons, and to maintain the integrity of the audit trail suggested above, each consumer should have a unique electronic signature, including guardians and responsible persons, who may also need the ability to submit applications, forms and documents on behalf of another person. The capacity for customers to submit applications and documentation electronically must be accompanied by the functionality to download and save populated applications, and receipt messages must be fully accessible and also capable of being downloaded and saved.
UR 8	The success and safety of the CalHEERS system requires that privacy and data security audits and maintenance be built-in to general system maintenance work protocols as well.
UR 9-11	Although the Web Portal will only provide content in English and Spanish, Limited-English-Proficient consumers must be able to access various forms and notices such as the Application and FAQs, Education Materials and QHP Information in the Medi-Cal Managed Care Threshold languages. We request that UR 9-11 be amended to reflect that.
UR 12	While pre-population is an important function that will increase ease of use of the CalHEERS system, appropriate data security measures must be put in place to avoid data leaks and un-authorized access across various databases. See General Comments 14 and 15.
UR 17	Downloaded forms should be in PDF format to minimize falsification and fraud. Please confirm that CalHEERS will enable the consumer to download forms and notices (including written translated notices in the Medi-Cal Managed Care Threshold languages) from the Web Portal.
UR 18-19	Individuals who require large font print must have an alternative that will enable them to magnify and print documents without encountering print formats and images that simply cannot be enlarged without become incomprehensible.
UR 23	This states that incomplete applications will be expired within 30 days while BR 324 states that an application that did not result in an enrollment within 120 days will be deleted. We would urge that this 30 day period be extended to at least 120 days if not longer so a consumer does not have to start from scratch if she has started an application.

UR 25	The CalHEERS system functionality needs to provide a clear system for individuals to opt to make specific requests for reasonable accommodations, policy modifications, or threshold language needs with regard to the CalHEERS online protal, and the option to lodge specific complaints on the same topics. What functions will be incorporated into the requirements to ensure that requests and complaints for accommodations are acknowledged and recieve a response within a specified time frame, in accordance with the interactive process required by law.
UR 29	We appreciate that CalHEERS has confirmed this UR 29 requirement regarding the display of information in a culturally sensitive manner. We would appreciate more information as to the criteria CalHEERS used to confirm that this UR was met and whether there will be opportunities and at what point for stakeholder feedback on this particular aspect of IT development moving forward.
UR 30	We appreciate that CalHEERS will provide the toll-free number, IVR and Online Chat in the Medi-Cal Managed Care Threshold Languages to enable users to reach an operator in their language.
Technical Requirements	
TR 18	Aspects of the data management strategy that implicate policies - for example, rules regarding collection, access, use and disclosure of PII and PHI colected by CalHEERS (which arguably fall under the category of Data Governance) - should be established by CalHEERs not by the vendor. The vendor should advise (particularly with respect to technical capabilities) and then implement such policies.
TR 38	Although it is important for the vendor to establish a secure data warehouse for storing and maintaining the data (in particular, PII and PHI) that CalHEERS is collecting, CalHEERS should first clearly establish a policy to collect and store only the minimum PII and PHI necessary to perform its functions. In some cases, actual collection of data that is primarily collected and stored by other agencies may not be necessary, and storing a duplicate copy (vs. relying on the primary data source to be the "warehouse" for the data) increases privacy and security risks.
TR 46-57	We applaud CalHEERS for requiring comprehensive audit functionality, although we note that CalHEERS is responsible for establishing access policies (which are then implemented by the vendor and monitored by use of audit trails).
TR 52	The vendor should also be required to monitor and oversee the access of third party auditors, and such auditors should be required to adopt clear policies and practices regarding credentialing of users and monitoring user access.
TR 68-72	We agree that the CalHEERS system should be able to accommodate varying retention periods for data, images, documents and other Covered California-related content; however, CalHEERS must commit to establishing clear retention policies for Covered California data and require the Vendor to implement these policies. Data stored beyond its period of known utility presents risks to privacy and security, and adoption of data retention policies is a component of fair information practices.
TR 72	Program sponsors, and not the vendor, should be responsible for developing the time periods and the justification for them and communicate those to stakeholders
TR 118	This is the first of a set of requirements that are aimed at the "CalHEERS Security and Privacy Framework." Is this Framework defined anywhere? Who is responsible for developing it? If this is referencing a policy framework, it should be developed by CalHEERS (with assistance from the vendor), and then implemented by the vendor. Also, how is this "CalHEERS Security and Privacy Framework" distinct from the CalHEERS Risk-Based Security and Privacy Framework" (which is first referenced in TR 143). Any such policy frameworks should be informed by public comment. We also note the requirement to abide by HIPAA. Since the HIPAA Privacy Rule generally sets lower requirements than Section 1561 of ACA (with respect to the purposes for which Covered California data may be collected, accessed, used and disclosed) (Section 1561 sets stringent limits; as just one example, the Privacy Rule enables data to be accessed and shared for treatment, payment and a broad set of administrative activities (operations) without obtaining individual consent); and the HIPAA Security Rule does not specifically require the use of many security safeguards that are required by these TRs (for example, encryption), CalHEERS should be much more clear about the obligation to comply with more stringent privacy and security protections (either in law or as policy adopted by CalHEERS) to be clear with the vendor about its obligations.

TR 131	TR 131 calls on the vendor to “add best practices” to ensure consumer privacy is maintained. This is a good provision – but it should be more clear that these best practices should come from accepted industry standards and CalHEERS recommendations (the vendor shouldn’t be able to meet this requirement just by coming up with its own best practices).
TR 139	TR 139 requires the CalHEERS System to have an identity management tool that will enable the accurate matching of individuals across multiple data systems. This subject needs much more attention and detail - for example, what data elements will the system use to achieve matching? What is the process for identifying and remedying false positives or false negatives? The vendor can and should provide assistance in developing matching processes, but the policy decisions on matching should be made by a publicly accountable body (CalHEERS or its program sponsors).
TR 141	Requiring business associate agreements to follow HIPAA and DHCS policies and best practices is good – but as noted above in the comments to TR 118, the limitations on how Covered California data may be used are much more stringent in the ACA and in the exchange regulations. Any business associate agreements should incorporate these restrictions.
TR 148	The capability to accept telephonic signatures is important, although ideally this should occur in a way that both provides a high degree of assurance regarding the identity of the person on the other end of the telephonic transaction and imposes minimum burden on the applicant (for example, through the use of knowledge-based questions or other accepted mechanisms for authenticating identity).
TR 150 & 151	We applaud the requirement to establish processes for credentialing users, but stakeholders need to hear more detail about how this will be accomplished - in particular for individuals and families. For CalHEERS users (and contractors working on the agency's behalf), a higher level of assurance should at least be required for remote access.
TR 154 & 155	We applaud the requirement to encrypt work stations and laptops, as well as portable media; however, it should also be a requirement that such encryption must be automatically enabled and not capable of being disabled by any user (except a designated set of approved administrative users).
TR 161	We applaud the requirement that the "Framework" adopt fair information practices (and note that adoption of such practices is a requirement of federal exchange regulations), but the public needs more detail on how CalHEERS intends to operationalize and implement each of these principles. Is there a framework in place already that has not yet been shared publicly?

AB 1296 Stakeholder Meeting – May 3, 2012

Recommendations on Data Collection for Race, Ethnicity, Primary Language, Disability Status, Gender and Sexual Orientation

Introduction: California has an important opportunity to take the lead in increasing access to quality health care services and eliminating health disparities by both implementing and building upon the new federal data standards set forth under the ACA. The federal standards are a good first step; however, the tremendous diversity of our state necessitates adopting additional data categories (as recommended by the Institute of Medicine (IOM)) that better reflect the demographics of our state.[1][2] With the state developing a new, simplified enrollment form for online, mail, phone, and in-person enrollment, now is the ideal time to adopt new standards with minimal added expense. The tables below reflect recommendations of the California Pan-Ethnic Health Network (CPEHN), Disability Rights and Education Defense Fund (DREDF) and Equality California (EQCA) for state standards for collecting data on race, ethnicity, primary language, disability status, gender and sexual orientation.

Collecting Optional Demographic Information: Questions that deal with eligibility determinations and accessibility issues (e.g. disability status, oral interpretation, translation assistance, sex) should be considered mandatory questions asked at the front end of the application. Optional questions pertaining to demographic information (e.g. race, ethnicity, gender identity and sexual orientation) should be asked at the end of the application so as not to discourage anyone from filling out the rest of the form. A statement clarifying that the question is voluntary and will only be used to ensure equal access to quality care for everyone should be included as part of the instructions to recipients. We recommend the following statement:

> ***Demographic Information (optional):*** *Please tell us about yourself. This information is confidential and will only be used to make sure that everyone has the same access to health care. It will not be used to decide what health program you are eligible for.*

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[1] "Race, Ethnicity and Language Data: Standardization for Health Care Quality Improvement," Institute of Medicine (IOM), August 31, 2009, http://iom.edu/Reports/2009/RaceEthnicityData.aspx

[2] "The Health of Lesbian, Gay, Bisexual and Transgender People; Building a Foundation for Better Understanding," Institute of Medicine (IOM), March 21, 2011, http://www.iom.edu/Reports/2011/The-Health-of-Lesbian-Gay-Bisexual-and-Transgender-People.aspx. For further information go to: http://books.nap.edu/openbook.php?record_id=13128&page=95

TABLE 1: Race/Ethnicity/Primary Language Data Recommendations

Race/Ethnicity/Primary Language	Recommendation(s)	Suggested Question(s)
Hispanic Ethnicity	***OMH guidance recommends separate questions on race and ethnicity which California should adopt:*** "To provide flexibility and ensure data quality, separate questions for race and ethnicity should be used wherever feasible. Specifically, when self-reporting or other self-identification approaches are used, ethnicity is asked first, and then race."[3] ***CPEHN recommends:*** Use the U.S. Census 2010 Q5. to ask about Hispanic Ethnicity followed by an accessible drop-down menu of other Hispanic Ethnicity categories not included in Q5. These should be based on U.S. Census/ACS generated data on Race/Ethnicity categories for California as shown.	**U.S. Census Bureau** Census 2010 Form http://2010.census.gov/2010census/about/interactive-form.php **Q5 Is this person of Hispanic, Latino, or Spanish origin?** ☐ No, not of Hispanic, Latino, or Spanish origin ☐ Yes, Mexican, Mexican Am., Chicano ☐ Yes, Puerto Rican ☐ Yes, Cuban ☐ Yes, another Hispanic, Latino, or Spanish origin - *Print origin, for example, Argentinean, Colombian, Dominican, Nicaraguan, Salvadoran, Spaniard, and so on.* _____ **Drop-Down Menu (from Table 3. CPEHN Brief)** **Hispanic or Latino** — **CA Population** Mexican — 11,423,146 Salvadoran — 573,956 Guatemalan — 332,737 Puerto Rican — 189,945 Nicaraguan — 100,790 Peruvian — 91,511 Cuban — 88,607 Honduran — 72,795 Colombian — 64,416 Argentinean — 44,410 Ecuadorian — 35,750 Chilean — 24,006 Costa Rican — 22,469 Panamanian — 17,768 Bolivian — 13,351 Dominican (Dominican Republic) — 11,455 Venezuelan — 11,100 Uruguayan — 4,110

[3] *"Explanation of Data Standards for Race, Ethnicity, Sex, Primary Language and Disability,"* Department of Health and Human Services, Office of Minority Health, Oct. 31, 2011, http://minorityhealth.hhs.gov/templates/content.aspx?ID=9228&lvl=2&lvlID=208

		Paraguayan 1,228 Other Central American 14,719 Other South American 5,826 All other Hispanic or Latino 151,614
Race	***HHS expands the categories of race and ethnicity:*** The new HHS data standards for race and ethnicity include additional granularity, but all categories roll-up to the OMB standards. These new categories which are based on the ACS and U.S. Census categories provide additional granularity for Hispanic (four additional categories) and Asian subpopulations (7 additional categories) beyond the OMB minimum standard categories. ***CPEHN recommends:*** Use the U.S. Census 2010 Question 6. on race which includes the new HHS categories. To reflect California's demographics under Asian add three additional checkboxes for Hmong, Cambodian and Laotian. Insert drop-down menus for "Asian Other" and "Pacific Islander Other" categories.	**U.S. Census Bureau** Census 2010 Form http://2010.census.gov/2010census/about/interactive-form.php **Q6 What is this person's race?** ***Mark one or more boxes.*** ☐ White ☐ Black, African Am., or Negro ☐ American Indian or Alaska Native - *Print name of enrolled or principal tribe.* _____ ☐ Asian Indian ☐ Japanese ☐ Native Hawaiian ☐ Chinese ☐ Korean ☐ Guamanian or Chamorro ☐ Filipino ☐ Vietnamese ☐ Samoan ☐ ***Hmong*** ☐ ***Cambodian*** ☐ ***Laotian*** ☐ Other Asian - *Print race, for example, Hmong, Laotian, Thai, Pakistani, Cambodian, and so on.* ☐ Other Pacific Islander – *Print race, for example, Fijian, Tongan, and so on.* _____ _____ ☐ Some other race - *Print race.* _____ **Drop-Down Menu (from Table 3. CPEHN Brief)** **Asian** Filipino 1,195,580 Chinese (except Taiwanese) 1,150,206 Vietnamese 581,946 Asian Indian 528,176

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<tr><td>Korean</td><td>451,892</td></tr>
<tr><td>Japanese</td><td>272,528</td></tr>
<tr><td>Taiwanese</td><td>96,009</td></tr>
<tr><td>Hmong</td><td>86,989</td></tr>
<tr><td>Cambodian</td><td>86,244</td></tr>
<tr><td>Laotian</td><td>58,424</td></tr>
<tr><td>Thai</td><td>51,509</td></tr>
<tr><td>Pakistani</td><td>46,780</td></tr>
<tr><td>Indonesian</td><td>25,398</td></tr>
<tr><td>Burmese</td><td>15,035</td></tr>
<tr><td>Sri Lankan</td><td>10,240</td></tr>
<tr><td>Bangladeshi</td><td>9,268</td></tr>
<tr><td>Nepalese</td><td>5,618</td></tr>
<tr><td>Malaysian</td><td>2,979</td></tr>
<tr><td>Bhutanese</td><td>694</td></tr>
<tr><td>Pacific Islander</td><td></td></tr>
<tr><td>Samoan</td><td>40,900</td></tr>
<tr><td>Guamanian or Chamorro</td><td>24,299</td></tr>
<tr><td>Native Hawaiian</td><td>21,423</td></tr>
<tr><td>Fijian</td><td>19,355</td></tr>
<tr><td>Tongan</td><td>18,329</td></tr>
<tr><td>Marshallese</td><td>1,559</td></tr>
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<tr>
<td>Granular Ethnicity (Ancestry)</td>
<td>OMH guidance encourages the collection of additional granular ethnicity data as long as the additional detail can be aggregated back to the minimum standard set of race and ethnicity categories.

CPEHN recommends:
Use U.S. Census data Q 13. Include a drop-down menu of Granular Ethnicity (Ancestry) questions based on 2000 American Community Survey Ancestry</td>
<td>
U.S. Census Bureau
Census 2010 Form
http://2010.census.gov/2010census/about/interactive-form.php

Q13. What is this person’s ancestry or ethnic origin?
_____
(For example: Italian, Jamaican, African Am., Cambodian, Cape Verdean, Norwegian, Dominican, French Canadian, Haitian, Korean, Lebanese, Polish, Nigerian, Mexican, Taiwanese, Ukrainian, and so on.)
Drop-Down Menu (from Table 4. CPEHN Brief)
<table>
<tr><td>Acadian/Cajun
Afghan
Albanian
Alsatian</td><td>Guyanese
Hungarian
Icelander
Iranian
Irish</td><td>African
Other
Subsaharan
African</td></tr>
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	data. Note: The Institute of Medicine (IOM) has recommendations for how to code Granular Ethnicity so the categories can be aggregated back to the minimum standard set of race and ethnicity categories (see IOM Report Table E-1 based on CDC codes).	Arab: Egyptian Iraqi Jordanian Lebanese Moroccan Palestinian Syrian Arab/Arabic Other Arab Armenian Assyrian/Chaldean/Syriac Australian Austrian Basque Belgian Brazilian British Bulgarian Canadian Carpatho Rusyn Celtic Croatian Cypriot Czech Czechoslovakian Danish Dutch Eastern European English Estonian European Finnish French (except Basque) French Canadian German German Russian Greek	Israeli Italian Latvian Lithuanian Luxemburger Macedonian Maltese New Zealander Northern European Norwegian Pennsylvania German Polish Portuguese Romanian Russian Scandinavian Scotch-Irish Scottish Serbian Slavic Slovak Slovene Soviet Union Subsaharan African: Cape Verdean Ethiopian Ghanian Kenyan Liberian Nigerian Senegalese Sierra Leonean Somalian South African Sudanese Ugandan Zairian Zimbabwean	Swedish Swiss Turkish Ukrainian United States or American Welsh West Indian (excluding Hispanic origin groups): Bahamian Barbadian Belizean Bermudan British West Indian Dutch West Indian Haitian Jamaican Trinidadian and Tobagonian U.S. Virgin Islander West Indian Other West Indian Yugoslavian Other groups	

Language	***OMH guidance mandates a standard question on primary language and encourages additional granularity to record language spoken*.** The standard is based on the ACS, which assesses both English proficiency and language spoken other than English, and has been collected by the Census Bureau since 1980. The questions are necessary for research and clinical purposes. This recommendation is consistent with language recommendations from the Institute of Medicine report *Race, Ethnicity, and Language Data Collection: Standardization for Health Care Quality Improvement*. ***CPEHN recommends:*** CA should continue asking about spoken and written language preferred. Add another question on language proficiency. All three questions should be mandatory as they assess accessibility and communication needs of applicants and enrollees.	**Medi-Cal/HFP/PCIP question(s):** What language do you want us to speak to you in? What language should we write to you in? **Additional OMH Question:** ***How well do you speak English? (5 years old or older)*** ***a.*** ____***Very well*** ***b.*** ____***Well*** ***c.*** ____***Not well*** ***d.*** ____***Not at all***

TABLE 2. Disability Status Recommendations

Disability Status	Suggested Questions
Accessibility/Communication Assessment – Mandatory Questions	**Accessibility/Communication Assessment – Mandatory questions** • ***Incorporate the following questions into information requested of the person applying on their own and/or a family member/child's behalf to enable eligibility workers to provide reasonable accommodations or modifications needed during the application process.*** - If you have difficulty hearing spoken language or speaking, what translation assistance do you need for effective communication? - If you have difficulty (even with glasses) seeing, reading, or understanding written language, what alternative format do you need for effective communication? - Do you have difficulty concentrating, remembering, or making decisions due to a physical, mental, emotional, or developmental condition? • ***A non-exhaustive list of examples of "translation assistance" and "alternative formats" should accompany the above questions, as a page link or accessible "drop down menu" from the online application, and in the accompanying instructions in paper applications. Representatives taking applications by phone should also be trained to provide the examples when assisting individuals with making a phone application. Examples of "translation assistance" include*** Qualified sign language interpreters, qualified notetakers, computer-aided transcription services, written materials, telephone handset amplifiers, assistive listening devices or systems, telephones compatible with hearing aids, closed caption decoders, telecommunications devices for deaf persons (TDD's), videotext displays, speech-to-speech relay services, or other means of making oral interactions available to individuals with hearing or speech impairments. Examples of"alternative formats" include Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, electronic formats, or other effective methods of making visually delivered materials available to individuals with visual or print comprehension impairments. • ***The instructions should also explain the kinds of accommodations that can be provided for someone who indicates cognitive processing difficulties due to a physical, mental, emotional, or developmental condition*** *(e.g., appointments for in-person consultation, extended timelines for, or assistance with, gathering needed reference materials or documents, etc.)*
Eligibility Determination – Mandatory Question	**Eligibility Determination – Mandatory Question** • ***Replace wording in the current Medi-Cal, Healthy Families, and other California health subsidy program applications relating to the applicant and/or a family member/child having a "physical, mental, emotional or developmental disability" as follows:*** Does the person have " difficulty hearing or seeing, or difficulty performing the following functions at an age appropriate level: concentrating, remembering, making decisions, engaging in common social interactions and conversation, walking or climbing stairs, maintaining motor control or holding still, dressing or

	bathing, or doing errands alone. • ***Replace the "Disability expected to last" component of the disability question with*** "Impairment expected to last?" The above questions are derived from the six 2011 American Community Survey (ACS) questions relating to disability that have also been proposed in the federal Department of Health and Human Service (HHS) Notice of Proposed Rulemaking concerning the data collection requirements in Section 4302 of the Affordable Care Act (ACA). The "ACS six" describe the functional limitations that accompany disabilities rather than use the unexplained term "disability," which has untoward connotations and stigma for many individuals. The ACS questions have been federally tested as a means of data collection on disability status, and are written out in the disability status section of the April 28, 2011 data collection letter prepared by the Leadership Conference on Civil and Human Rights, at pp. 12-13. At the same time, the ACS questions have some recognized limitations for capturing certain groups of people with speech, developmental, learning, neurological, and mental health disabilities (*see* August 1, 2011 letter from DREDF to HHS Secretary Kathleen Sebelius concerning data collection standards under Section 4302 of the ACA for additional information). The above questions recommended here are modified in recognition of these limitations in the ACS questions, as well as the fact that application forms require brevity. **Other Issues:** • ***Use of Drop-Down Menus:*** The state can choose various options for ensuring accessibility including breaking the form up into steps and displaying additional optional or related lists on a new page. This may be more accessible than a drop-down menu, particularly for those with visual impairments or manual impairments who have difficulty using a mouse. If the state chooses to use drop-down menus they must be navigable using the keyboard only and the menu selections must also be labeled in a logical manner. WebAim.org: (http://webaim.org/techniques/forms/) has some helpful information on ensuring accessibility. The state may also be able to use a DHTML menu like this one (http://www.udm4.com/menu/).

TABLE 3. Gender Identity and Sexual Orientation Recommendations

Gender and Sexual Orientation	Suggested Question(s)
Sexual Orientation	Adopt the question in development by the federal Department of Health and Human Service (HHS) Data Council, and the National Center for Health Statistics, for standardization of LGBT data collection. http://minorityhealth.hhs.gov/templates/content.aspx?lvl=2&lvlid=209&id=9004#A
Gender Identity	Some people describe themselves as transgender when they experience a different gender identity from their sex at birth. For example, a person born into a male body, but who feels female or lives as a woman. Do you consider yourself to be transgender? [ ] Yes [ ] No [ ] Don't know/not sure (from the Massachusetts Executive Office of Health and Human Services, Health Behavioral Risk Factor Surveillance System, http://www.mass.gov/eohhs/docs/dph/behavioral-risk/survey-11.pdf)