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 organizations, we submit these group comments (attached) regarding the CalHEERS Business/Functional Requirements for the SHOP Exchange.

We very much appreciate the opportunity to review and provide comments on the confirmed and "in process" requirements developed through the RFP and Joint Application Design process. We hope our comments will help to ensure that CalHEERs, Covered California, and DHCS create an IT system for the SHOP that is easily accessible and usable, while ensuring consumer confidentiality, and look forward to continuing to engage in this process with you.

We understand that a number of these provisions are still marked "in process." We have commented on these provisions with the expectation that when these requirements are confirmed, we will have the opportunity to review and comment on the completed revisions.

For further information or follow-up, please contact either Julie Silas at Consumers Union, 415-431-6747 or Carla Saporta at Greenlining Institute, 510-926-4008.

Sincerely,

Asian Pacific American Legal Center, member of Asian American Center for Advancing Justice
California Immigrant Policy Center
California Pan Ethnic Health Network
California Rural Indian Health Board
Center for Democracy & Technology
Coalition for California Welfare Rights Org
Congress of California Seniors
Consumers Union
Maternal and Child Health Access
Small Business Majority
The Greenlining Institute
Youth Law Center

cc: David Panush
Juli Baker
Len Finocchio
Michael Lujan

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
Carla Sapoprta and Julie Silas on behalf of the named organizations	Asian Pacific American Legal Center, member of Asian American Center for Advancing Justice California Immigrant Policy Center California Pan Ethnic Health Network California Rural Indian Health Board Center for Democracy & Technology Coalition for California Welfare Rights Orgz. Congress of California Seniors Consumers Union Maternal and Child Health Access Small Business Majority The Greenlining Institute Youth Law Center		carlas@greenlining.org; jsilas@consumer.org	(510) 926-4008 (Carla); (415) 431-6747 ext 106 (Julie)

Comments on SHOP Requirements

General #1	The CalHEERS system should ensure that the Individual Exchange and the SHOP Exchange IT systems are compatible.
General #2	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).
General #3	The system should ensure that assisters have their own separate log-on identification number, distinct from users that they are assisting, to help with tracking, audit trails, and other accountability measures, etc.
General #4	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).
SR1	We support the functionality to notify employers of the penalty for not providing minimum essential coverage. It should be noted that this function will not be needed until 2016 when the SHOP is open to employers with more than 50 workers. There is no penalty for small employers (2-50) who will be the exclusive SHOP customers in 2014-2015.
SR2	The CalHEERS System should also provide the functionality to provide employees, agents and assisters with an individual online account.

SR3	Help screens, question icons, and other similar consumer tools should also be availble for SHOP employees, agents and other assisters.
SR 6.11-6.6, and SR 18	We support the functionality for the CalHEERS system to scan, track and route for processing, any mailed, faxed or emailed applications. We would like to see it specified that this functionality exists for employee enrollment and not just employers and/or their assisters.
SR 7	The system should ensure that SHOP Assisters, including brokers/agents, have their own separate log-on identification number, distinct from users that they are assisting, to help with tracking, audit trails, and other accountability measures, etc.
SR 8	The system functionality for a SHOP Assister needs to be available to an employee, in addition to the employer. An employer and/or employee should be able to search for a SHOP Assister based on language(s) spoken, in addition to geographic data.
SR13	CalHEERS should provide the same functionality for employees, agents and assisters.
SR14	CalHEERS should provide the same functionality for employees, agents and assisters.
SR 15	When providing the functionality for multiple communication options for employers and employees, preferred spoken language/s and preferred written language/s should be included in this list as well.
SR 19-20	We applaud the inclusion of collecting demographic data to improve the quality of care. Health status information can be collected but not reported to health plans or carriers prior to enrollment in coverage (Per AB 1083 and Health and Safety Code section 1357.503(h)(2)). 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 also 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 employer or employee's application. Please see advocates' specific recommendations during the AB 1296 process for recommended wording for this statement. In order not to violate California Health and Safety Code section 1357.503(h)(2) this information should not be provided to any issuer/QHP prior to enrollment to protect consumer privacy and minimize risk selection.
SR27	CalHEERS should provide the same functionality for selection of vision plans and any other ancilliary benefits SHOP may offer (COBRA, HRAs, etc.)
SR 28	A SHOP employee should have the ability to access information and manage his/her SHOP coverage through their employee account. This account should be established in a manner that preserves privacy and confidentiality with respect to their employer. As written, it is unclear who will have access to the employee account.
SR 34	It is unclear whether this functionality addresses enrollment of the family member in the SHOP exchange. Given that small employers offer family coverage, the system needs to have the functionality to support them.
SR 38	Existing law requires an employer to contribute at least 50% of the premiums paid in order to access the small business tax credit. We hope that the SHOP calculator will have the functionality to calculate the cost based on the small business tax credit requirement.
SR 39	We would recommend that the display feature results mentioned for employers are also available for employees to use to compare plans before choosing, which should include the ability to display total estimated costs and display of provider networks (or affiliated IPAs, when applicable).
SR 40	This function will be unneccessary until 2016. Beginning in 2016, information regarding the penalty should only be visible to employers with more than 50 full-time equivalent employees. The majority of SHOP employers are not subject to this penalty/requirement.
SR 41	The SHOP calculator should be accessible for use by employees, not just employers. It should have the functionality to determine the employee's total estimated cost, including the premium cost and out of pocket cost based on the number of dependents.

SR 58	If and when to use the functionality for the CalHEERS system to determine whether an employee is eligible for any subsidized health coverage including APTCs, Medi-Cal and CSR are important policy decisions that need to be made by program sponsors, with stakeholder input, not by the vendor. Additional, important functionalities must also be designed into CalHEERS to ensure employee privacy protections are in place. The system must be designed to obtain employee consent before undertaking a screen. Strict privacy protocols must be followed to ensure that additional confidential information needed for screening purposes, such as household size and/or family income, is not shared with an employer. Additionally, all CalHEERS notifications with respect to individual employee eligibility determinations should be strictly confidential and not shared with the employer.
SR 61 and 71-111, and 116-125	The SHOP system functionality should provide an employee with the same access as their employer to find a SHOP Assister to help them with their enrollment.
SR 61 and SR 74	As written, these requirements are not in line with the current rules under the ACA or California law. Under the ACA, gender rating is not allowed and with the passage of AB 1083 (Monning) tobacco rating is also no longer allowed in the small group market. Further, Covered California has already decided not to provide non-smoker discounts. This requirement should be redrafted to reflect current law.
SR 93	In order not to violate California Health and Safety Code section 1357.503(h)(2) this information should not be provided to any issuer/QHP prior to enrollment to protect consumer privacy and minimize risk selection.
SR 96-97	These provisions 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.
SR 98	As noted in BR 93 comments above, this information should not be provided to any issuer/QHP prior to enrollment, which would violate California Health and Safety Code section 1357.503(h)(2).
SR 99	As noted in BR 93 comments above, this information should not be provided to any issuer/QHP prior to enrollment, which would violate California Health and Safety Code section 1357.503(h)(2).
SR 101	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.
SR 105-108	The system functionality should ensure that both employers and employees have access to display plan costs and maximum total health care costs to enable plan selection and comparison
SR 117	As noted in BR 93 comments above, this information should not be provided to any issuer/QHP prior to enrollment, which would violate California Health and Safety Code section 1357.503(h)(2).
SR 118	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 as one of the quality measure variables that can be displayed and weighted. As noted in BR 93 comments above, this information should not be provided to any issuer/QHP prior to enrollment, which would violate California Health and Safety Code section 1357.503(h)(2).
SR 119	As noted in BR 93 comments above, this information should not be provided to any issuer/QHP prior to enrollment, which would violate California Health and Safety Code section 1357.503(h)(2).
SR 136	The same functionality should be available for employers, agents and other assisters.
SR 143-160	There needs to be a functionality added when the employer or employee is provided the opportunity to disenroll from a health plan 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 employer or employee can acknowledge that they have read and understood the notice. The system must provide an opportunity for an employer or employee to cancel an initiated disenrollment action before it is completed.
SR 161-177	It remains unclear as to the process employees will go through to pay their portion, if any, of the premium. We would recommend that the same system being established for the employer, also be established for the employee through the employee's private account.

SR 180-198	In addition to retaining history and viewing capability of all received and sent applications and documentation, there should be a historical documentation, including time and date, for all notices and appeals, and documentation of who has viewed this information and when.
SR 217	CalHEERS should provide the same functionality for selection of vision plans and any other ancilliary benefits SHOP may offer (COBRA, HRAs, etc.)
SR 222- 228	CalHEERS should have the functionality built in to provide all notices in the preferred language and preferred method of contact (i.e. mail, phone, email) designated by the employer and/or employee. The system should also 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).
SR 229-273	For the reports called for in SR 229-273, we note again that the collection of individual-level data for these reports should 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.
SR 240	We applaud the capability in SR 240 for applicants to receive a report of who has accessed their PII or PHI, what data elements they viewed, and time stamp. 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). Re: the other reports called for in SR 229-273, we note again that the collection of individual-level data for these reports should 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 266	The system should provide the functionality to aggregate the data for further analysis on employer coverage patterns and practices.
SR 274-275	CalHEERS should have the functionality built in to alert an employer or employee that if they need assistance in another language other than English and/or Spanish, that assistance is available via the toll-free number provided.
SR 277-278	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.
SR 279	The same functionality should be available for agents and other assisters.
SR 280	The same functionality should be available for agents and other assisters.
SR 281	The same functionality should be available for agents and other assisters.
SR 282	The system functionality should be designed to adapt to new technologies to enable additional modes of communication.
SR 288	Appreciate the inclusion of multi-lingual mass notices to targeted groups, would like the requirements to specify that CalHEERS shall provide the functionality to create these notices in the Medi-Cal Managed Care threshold languages.