



Comments to the Board

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June 20th, 2013 Board Meeting

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June 19, 2013

Chairperson Diana Dooley and Members
Covered California
California Health Benefit Exchange
560 J Street, Suite 270
Sacramento, CA 95814

SUBJECT: Proposed Enrollment Assistance Regulations Should Include a Comprehensive Set of Consumer Protections to Prevent Criminals from Becoming Enrollment Counselors and Enrollment Counselors from Becoming Criminals

Dear Chairperson Dooley and Board Members of Covered California:

I write to urge you to adopt amendments to the proposed Enrollment Assistance regulations (i.e., Section 6650 et. seq. of Title 10, Chapter 12, Article 8 of the CCR).

These amendments are necessary to ensure that Covered California's oversight of Enrollment Counselors include a comprehensive set of consumer protections – fingerprinting, background checks, certification, monitoring and enforcement – to make sure criminals and other untrustworthy individuals do not become Enrollment Counselors and to make sure that Enrollment Counselors do not defraud or otherwise financially abuse consumers. In the past, Covered California has used a number of different terms to refer to people who will have access to the personal information of consumers. Whether the terminology you choose to use is "Navigator" or "Assister" or "Enrollment Counselor" or whatever term or terms you use in the future, these consumer protection provisions should apply to those individuals who will have access to the personal information of consumers. I reviewed the proposed regulations for Enrollment Counselors which are to be presented during the June 20th board meeting and strongly recommend the following amendments. These amendments reflect the same concerns that I expressed in my March 19th letter to the board in response to the fingerprint and background requirements.

Amendment #1: Amend Section 6658 to provide a detailed list of crimes that could disqualify prospective Individual Enrollment Counselors

Proposed Section 6658 (Certified Enrollment Counselor Fingerprinting and Criminal Record Checks) does not provide specific guidelines for Covered California to follow when considering the background information it will be receiving from the results of the applicants' fingerprints.

I strongly recommend that Covered California develop a list of crimes and acts consistent with those specified in the California Department of Insurance's (CDI) existing regulations for insurance agents, i.e., Section 2183 et. seq. of Title 10, Chapter 5 of the CCR. Replicating this list would give Covered California the flexibility to consider additional crimes or acts when deciding whether to approve or deny the application of someone seeking to become an Individual Enrollment Counselor.

To that end, I suggest adding the following text to Section 6658. "The following is a partial list of crimes or acts that are substantially related to the qualifications, functions or duties of a Certified Enrollment Counselor:

- (a) Any felony conviction;
- (b) A misdemeanor conviction which evidences present or potential unfitness to perform the functions authorized by the individual in the manner consistent with the public health, safety, and welfare, including but not limited to, soliciting, attempting, or committing crimes involving the following:
 - (1) Dishonesty or fraud;
 - (2) Any conviction arising out of acts performed in the business of insurance or any other licensed business or profession;
 - (3) Theft;
 - (4) Sexually related conduct affecting a person who is an observer or non-consenting participant in the conduct or convictions, or which requires registration pursuant to the provisions of Section 290 of the Penal Code;
 - (5) Resisting, delaying, or obstructing a public officer in violation of Penal Code Section 148;
 - (6) Any act or offense wherein the person willfully causes injury to the person or property of another;
 - (7) Violation of a relation of trust or confidence, or a breach of fiduciary duty;
 - (8) Multiple convictions which demonstrate a pattern of repeated and willful disregard for the law.
- (c) Any act which demonstrates a willful attempt to derive a personal financial benefit through nonpayment or underpayment of taxes, assessments, or levies duly imposed upon the individual by federal, state or local government or a willful failure to comply with a court order.
- (d) Not disclosing a criminal conviction or involvement in an administrative action on

the Individual Assister application.”

Amendment #2: Amend Section 6654 to add background disclosures to the criteria to be considered when Covered California is evaluating applications for Certified Enrollment Entities

When reviewing applications for Certified Enrollment Entities, proposed section 6654 (In-Person Assistance Program Application) directs Covered California to consider factors relating to the services to be provided by these organizations such as the strength of the organization, description of communities it will serve, ability to provide information in a fair and impartial manner, ability to ensure that staff are trained and the ability to assist all consumers seeking assistance.

Although the criteria is very comprehensive as it relates to the services to be provided by these entities it does not include a background review of the officers, directors and controlling persons of these organizations. Specifically, as with business entities who apply for insurance producer licenses, the Certified Enrollment Entities should be required to disclose all criminal convictions, administrative proceedings, bankruptcies, delinquent tax obligations and instances found liable in a lawsuit against any officer, director or controlling person of the entity.

To address this concern, I suggest adding criminal and administrative background questions to the list of items to be included in the Certified Enrollment Entity application noted in Section 6654.

Amendment #3: Amend Section 6654 to include background disclosures on the Enrollment Counselor Application

In addition to being fingerprinted, Enrollment Counselor applicants should be required to disclose all criminal convictions and administrative actions on their application in the same manner that individuals applying for insurance agent licenses must do. From reviewing the results of the fingerprints and checking the National Association of Insurance Commissioner’s (NAIC) database, my staff too frequently identifies individuals applying for insurance agent licenses who do not fully disclose their criminal record or involvement in administrative actions on their license applications.

In many cases, the underlying conviction reported was a misdemeanor that occurred several years ago, which if disclosed would most likely have resulted in CDI issuing a license. However, as the individual was not honest on their application, they gave us the indication that they would be dishonest as an insurance agent. Unless there is strong evidence that the non-disclosure was not intentional, we will deny the license.

Given my staff’s experience with many insurance agent applicants not fully disclosing

their criminal convictions, I recommend the following addition to Section 6654(d): responses to background questions requiring disclosure of criminal convictions and administrative actions. This addition will allow Covered California to consider non-disclosures of criminal convictions or involvement in administrative actions when deciding whether to approve or deny the application of someone seeking to become an Enrollment Counselor.

Amendment #4: Amend Section 6654 to include a reporting requirement for Enrollment Counselors when there is a change in their background information

Enrollment Counselors should be required to report to Covered California any criminal convictions and administrative actions taken by another agency within 30 days of the date of the conviction or action. Section 1729.2 of the California Insurance Code requires CDI licensees to abide by these reporting requirements. When CDI is notified of such convictions and administrative actions on any of its licensees, a licensing background review case is opened, beginning with the collection of additional information from the licensee and applicable court regarding the act. CDI then takes appropriate action as a result of this information which in some cases results in the revocation of a license.

The Enrollment Assistance regulations currently do not include such a reporting requirement. Therefore, I recommend that this requirement be included as one of the requirements that Certified Enrollment Entities must ensure are met by its affiliated Enrollment Counselors in Section 6654. Specifically, Section 6654(f) should be added to state the following: "Report to Covered California, any criminal convictions and administrative actions taken by another agency within 30 days of the date of the conviction or action."

Amendment #5: The Enrollment Assistance Regulations Should Include Administrative or Criminal Penalties for Rogue Assistors

Covered California should have a capacity to receive consumer and other complaints about Enrollment Counselor's performance. And Covered California should have the capacity to investigate those complaints.

For instance, CDI has a strong law enforcement presence to keep out and remove bad actors from the insurance business. CDI's Consumer Hotline receives complaints on agents and brokers from consumers that are referred to our Investigation Division. The Investigation Division follows-up on such complaints and opens criminal or administrative investigations. Examples of wrongdoing by rogue agents and brokers include taking advantage of senior citizens with dementia and premium theft. Remedies available to CDI include administrative actions brought by CDI's Legal Branch to revoke the agent or broker's license, impose monetary penalties, corrective

action, cease and desist orders and criminal prosecution by the applicable County District Attorney Offices.

Ongoing monitoring and enforcement are important consumer protections necessary to ensure the security of the sensitive information to which Enrollment Counselors and some Covered California staff will have access. Enrollment Counselors must be held to the highest standards to ensure that they act in the best interest of consumers. The Enrollment Assistance program could attract some individuals who are primarily motivated by financial considerations. Unless their conduct is monitored and there is a capacity to receive and investigate complaints, there is the grave risk that an Enrollment Counselor could defraud individuals or commit other violations of trust without discovery. It is essential that Covered California establish a system to receive and investigate complaints so that Enrollment Counselors cannot become criminals with impunity.

The Enrollment Assistance Regulations should include the administrative or criminal penalties that rogue Assistors would be subject to. Rogue Enrollment Counselors should be subject to the same administrative and criminal remedies that currently apply to agents and brokers for wrongdoing. An established process for receiving consumer complaints and a robust Investigation function needs to be in place to monitor the Enrollment Counselors once they are certified.

To that end, I recommend that the Enrollment Assistance Regulations include similar language to that found in Sections 1668.1 and 1668.5 of the California Insurance Code which provides various administrative penalties available to the Insurance Commissioner to take on a rogue insurance agent or broker. Specifically, the Enrollment Assistance Regulations should include the following language:

"Covered California shall suspend or revoke the certification of any Certified Enrollment Entity if a controlling person of the organization is any of the following:

- (1) The controlling person has previously engaged in a fraudulent practice or act or has conducted any business in a dishonest manner;
- (2) The controlling person has shown incompetency or untrustworthiness in the conduct of any business, or has by commission of a wrongful act or practice in the course of any business exposed the public or those dealing with him or her to the danger of loss;
- (3) The controlling person has knowingly misrepresented the terms or effect of an insurance policy or contract;

(4) The controlling person has failed to perform a duty expressly enjoined upon him or her by a provision of these regulations or has committed an act expressly forbidden by a provision of these regulations;

(5) The controlling person has been convicted of any of the following:

(a) A felony;

(b) A misdemeanor denounced by these regulations or other laws regulating insurance;

(c) A public offense having as one of its necessary elements a fraudulent act or an act of dishonesty in acceptance, custody, or payment of money or property;

A judgment, plea, or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section;

(6) The controlling person has aided or abetted any person in an act or omission that would constitute grounds for the suspension, revocation, or refusal of a certificate issued under these regulations to the person aided or abetted;

(7) The controlling person has permitted any person in his or her employ to violate any provision of these regulations;

(8) The controlling person has violated any provision of law relating to conduct of business that could lawfully be done only under authority conferred by a certification holder under these regulations;

As used in this section, "controlling person" means a person who possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the organization, whether through the ownership of voting securities, by contract other than a commercial contract for goods or non-management services, or otherwise, including, but not limited to, power that is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, more than 10 percent of the voting securities of the organization. This presumption may be rebutted by a showing that control does not exist in fact. Covered California may, after furnishing all persons in interest notice and opportunity to be heard, determine that control exists in fact, notwithstanding the absence of a presumption to that effect.

Covered California shall suspend or revoke the certification of any Enrollment Counselor if such individuals commit any of the following acts:

(1) The Enrollment Counselor has been convicted of any of the following:

(a) A felony;

(b) A misdemeanor denounced by these regulations or other laws regulating insurance;

(c) A public offense having as one of its necessary elements a fraudulent act or an act of dishonesty in acceptance, custody, or payment of money or property;

(2) The Enrollment Counselor has induced a client, whether directly or indirectly, to cosign or make a loan, make an investment, make a gift, including a testamentary gift, or provide any future benefit through a right of survivorship to the licensee, or to any of the persons listed in subdivision (6).

(3) The Enrollment Counselor has induced a client, whether directly or indirectly, to make the Individual Assister or any of the persons listed in subdivision (6) a beneficiary under the terms of any inter vivos or testamentary trust or the owner or beneficiary of a life insurance policy or an annuity policy.

(4) The Enrollment Counselor has induced a client, whether directly or indirectly, to make the licensee, or a person who is registered as a domestic partner of the Individual Assister, or is related to the licensee by birth, marriage, or adoption, a trustee under the terms of any inter vivos or testamentary trust. However, if the Enrollment Counselor is also licensed as an attorney in any state, the Individual Assister may be made a trustee under the terms of any inter vivos or testamentary trust, provided that the Individual Assister is not a seller of insurance to the trustor of the trust.

(5) The Enrollment Counselor, who has a power of attorney for a client has sold to the client or has used the power of attorney to purchase an insurance product on behalf of the client for which the Enrollment Counselor has received a commission.

(6) Subdivisions (1) and (2) shall also apply if the Enrollment Counselor induces the client to provide the benefits in those subdivisions to the following people:

(a) A person who is related to the Enrollment Counselor by birth, marriage, or adoption; (b) A person who is a friend or business acquaintance of the Individual Assister; (c) A person who is registered as a domestic partner of the Individual Assister.

(7) This section shall not apply to situations in which the client is:

- (a) A person related to the Enrollment Counselor by birth, marriage, or adoption.
- (b) A person who is registered as a domestic partner of the Enrollment Counselor.

Covered California Should Put In Place A Comprehensive Consumer Protection System That Includes Monitoring and Enforcement for Both Certified Enrollment Entities and Enrollment Counselors

CDI has decades of experience with protecting consumers from individuals and business entities who would misuse confidential financial, medical and other personal consumer information. Our experience demonstrates the value of preventing criminals and other untrustworthy individuals from getting access to such information and the value of having a comprehensive system in place to protect consumers.

I urge you to adopt a comprehensive set of consumer protections- fingerprinting, background checks, certification, monitoring and enforcement-- to make sure criminals and other untrustworthy individuals do not become controlling persons of Certified Enrollment Entities and Enrollment Counselors and to make sure that these individuals do not defraud or otherwise financially abuse consumers.

Should you neglect to do so, the potential consequence for consumers are significant. While the proposed regulations include some important consumer protections, regrettably, it falls short of including all of the consumer protections needed.

Sincerely,

A handwritten signature in cursive script that reads "Dave Jones". The signature is written in black ink and is positioned above the printed name and title.

DAVE JONES

Insurance Commissioner



POLICY & ACTION FROM CONSUMER REPORTS

June 5, 2013

Thien Lam, Deputy Director Eligibility and Enrollment
Katie Ravel, Director, Program Policy
560 J St., Suite 290
Sacramento, CA 95814

Submitted electronically to info@hbex.ca.gov

Dear Ms. Lam and Ms. Ravel:

A conflict of interest concern has recently come to our attention regarding certain entities that Covered California has proposed to be paid as Navigators: certain categories of tax preparers. Tax preparers need not have an inherent conflict of interest when it comes to counseling people about their health insurance options. However, tax preparers that also issue their own prepaid card products that can be used to pay premiums, would have a conflict of interest and should thus be prevented from serving as paid Navigators or assisters.

As you may be aware, Jackson-Hewitt, a nationwide tax preparer, recently issued a report (May 2013) urging the federal government and/or state exchanges to require that QHP issuers accept prepaid cards for premium payments for un/underbanked and uninsured who wish to purchase insurance through an exchange. We understand that Jackson-Hewitt, as well as another leading tax preparer, H&R Block, issues its own prepaid card.

If QHP issuers accept prepaid cards for premium payments (and we believe some in California do), the tax preparer company that also markets a prepaid card could be inclined to press an enrollee to purchase such a card at the same time, unduly influencing a potential enrollee's plan choices. This conflict would be even more acute if only some of the QHP issuers in a region accept or require electronic payments.

The need to clarify allowable premium payment methods for those millions of people shut out of the banking system is substantial. Prepaid cards are a new and growing form of payment, the development of which is ahead of the legal and regulatory system. They can serve a useful function, but vary considerably in their terms and costs, complicating consumer decision making and overall money management. Covered California will want, and need, to ensure that premium payment is simple and does not add to consumer financial burdens.

Consumers Union is in the process of developing recommendations for the use of prepaid cards in the context of exchanges, to ensure that enrollees understand their payment options and are not discriminated against based on their form of payment. In the meantime, we wanted to flag the potential conflict of interest that may occur in the marketplace if tax preparers that sell prepaid card products serve as Navigators in California.

In addition, as CalHEERS is being finalized, we urge Covered California to include, in its plan comparison tool, information on premium payment forms accepted by each plan. Consumers need full information about payment choices at the time they choose and enroll in a plan. No one will be well served if a consumer signs up for a plan, only to find out later that the plan does

not accept the only form of payment that is viable for that consumer. Full transparency, before enrollment, on permitted payment methods, will allow consumers to shop effectively.

We urge Covered California to re-examine the policy issue about Navigators that market pre-paid cards as soon as possible, and look forward to working with you to craft the best possible solution for consumers.

Thank you.

A handwritten signature in cursive script that reads "Julie Silas". The ink is dark and the signature is fluid.

Julie Silas
Consumers Union

cc: Peter Lee, Director, Covered California
David Panush, Covered California
Juli Baker, Covered California

June 11, 2013

Covered California
560 J Street, Suite 290
Sacramento, CA 95814

RE: Assister Regulations

To Whom It May Concern,

SFCCC represents 11 community-based primary care clinics with 19 clinic sites strategically located across the City to meet the health care needs of our most vulnerable residents. SFCCC partner clinics care for more than 94,000 low-income, uninsured and under-insured San Franciscans, more than 10% of the City's population. SFCCC partners offer services in over 20 languages and multiple dialects and employ over 500 health care professionals, including more than 50 trained Certified Application Assistors.

Our partners have been serving their communities for decades, and have built strong and trusting relationships with both their patients and their larger communities. It is common for third and fourth generations in a family to continue to attend the same clinic. The clinics care for the entire family, from newborns to seniors. Our partner clinics are in an ideal position to educate both our existing uninsured patients and the larger community about the benefits of enrolling in the Exchange and Medicaid, and to assist them to enroll.

SFCCC, as a member of the California Primary Care Association, supports CPCA's comments and its request to correct the draft regulations for the Assisters Program to keep them consistent with the *Statewide Assisters Program Design Options and Recommendations*, which were adopted by Covered California's Board on June 19, 2012 after extensive review and input. We are concerned that this correction has not been entirely made after our initial comments were submitted in May, and therefore, we present them again, along with additional comments on the training program to certify Assisters.

Comments on Draft Regulations

§ 6574. In-Person Assistance Program

SFCCC respectfully points out a significant error included within §6574 of the draft Assister Regulations. This section contains a list of the types of organizations which are ineligible for compensation by the Exchange for functions performed as Assister Enrollment Entities. Subsection (a)(5) includes "providers, including, but no limited to, Hospitals, Clinics, and County Health Departments that provide health care services" as entities ineligible for compensation.

By including "clinics" carte blanche in the list of entities ineligible for compensation, §6574 directly contradicts the clear intent of the Covered California Board of Directors as stated within the *Statewide Assisters Program Design Options and Recommendations*, which specifically lists "community clinics" as entities eligible to serve as enrollment assisters and be compensated by the Exchange.

SFCCC recognizes that there is a distinct difference between "community clinics" and "clinics" as listed in §6574. However, the regulation as currently written does not reflect this differentiation nor allow for the participation and compensation of "community clinics" per the clear intent of the Covered California Board.

SFCCC believes it is necessary and imperative to revise this proposed regulation to reflect the Board-adopted *Statewide Assistants Program Design Options and Recommendations*. SFCCC recommends that the regulation be revised to include both a definition of "community clinic" within §6570, and a clarification that entities classified as "community clinics" are specifically eligible for compensation for functions performed as Assistant Enrollment Entities.

§6570 should be revised to include:

Community Clinics: Community clinics or health centers licensed as either a "community clinic or "free clinic", by the state of California under Health and Safety Code section 1204(a) and (2), or as a community clinic or free clinic exempt from licensure under Section 1206(c).

§6574(a) should be revised to include:

5) Providers, including, but not limited to, Hospitals, Clinics not designated as "community clinics", and County Health Departments that provide health care services. Community clinics are eligible for compensation by the Exchange for functions performed as Assistant Enrollment Entities."

§ 6576. Navigator Program

Section 6576 includes a drafting error similar to that included in §6574 by including "clinics" within the list of the types of organizations which are ineligible to apply for the Navigator Program. Again, the regulation must clearly differentiate "community clinics" as entities which are eligible to apply in order to reflect the clear intent of the Covered California Board.

The *Statewide Assistants Program Design Options and Recommendations* clearly state that "The Exchange is still defining which classification of organizations will be eligible to serve as Navigator enrollment entities. However, at a minimum, non-profit organizations, community clinics, County Social Service offices employing Eligibility Workers, and labor unions will be eligible to serve as Navigator enrollment entities for purposes of Exchange enrollment."

SFCCC requests that §6576 of the proposed Assistants Regulations be revised to reflect the clear intent of the Board. The revision should include:

§ 6576. Navigator Program

(a) The following types of organizations are ineligible to apply for the Navigator Program:

5) Providers, including, but not limited to, Hospitals, Clinics not designated as "community clinics", and County Health Departments that provide health care services. Community clinics are eligible to apply for the Navigator program."

Additional Comment

SFCCC is concerned about language included in both §6574(a)(4) and §6576(a)(4) that states that "recipients of any direct or indirect consideration from any health insurance issuer or stop loss insurance issuer in connection with the enrollment of any individuals or employees in a QHP" are prohibited from compensation for in-person assistance and from participating in the Navigator program.

SFCCC believes that Covered California means for this exclusion to apply only to entities that receive funding *in connection with the enrollment* of individuals into health insurance. However, in order to clarify and explicitly allow for the participation of community clinics and health centers we ask that Covered California revise these sections to state that support for non-enrollment related functions, including reimbursement for health care services, does not prevent the participation of otherwise eligible entities in these programs.

SFCCC recommends that §6574(a)(4) and §6576(a)(4) be revised to read:

4) Recipients of any direct or indirect consideration from any health insurance issuer or stop loss insurance issuer in connection with the enrollment of any individuals or employees in a QHP or non-QHP. This exclusion does not apply to organizations that receive consideration from health insurance issuers or stop loss insurance issuers for functions other than enrollment, or are reimbursed by insurance issuers for services rendered.

Comments on Assister Training Program Plans

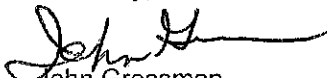
SFCCC has significant concerns about the logistics of the proposed training program for Assistors. Covered California staff members have indicated that the on-line training to become a certified Assister will not be available until November. In order to maximize the benefits of the new health insurance programs available through both Covered California and Medi-Cal for the patients, the providers and the State treasury, as many people as possible need to be enrolled on January 1, 2014 or as soon thereafter as possible. In order to maximize enrollment, Covered California needs to maximize the number of trained and certified Assistors who are available to help people with the complicated enrollment process. Despite assurances that the CalHEERS system will be user-friendly, the process of selecting a health plan and understanding the tax subsidies will be complicated even for educated native-English speakers. Therefore, Covered California must train as many Assistors as possible as soon as possible, and certainly before the October 1st launch date.

In San Francisco, we currently have more than 170 active Assistors who process enrollments in One-e-App and Health-e-App. We anticipate that at least 250 people, and possibly 300, will need to be trained and certified to use CalHEERS. We urge Covered California to plan to accommodate this need through several training dates in San Francisco before October 1, in addition to other trainings scheduled throughout the Bay Area. It is impractical to schedule only one training session for all the current San Francisco Assistors to attend. Many of the current Assistors have multiple responsibilities within their clinics, including many who work as front desk and reception staff. We cannot close all our clinics for three days in order to train all our Assistors.

Our partner clinics are committed to enrolling all their eligible patients as soon as possible, and using all available staff to do so. However, we are dependent on Covered California to make the training accessible for our staff without compromising clinic operations and patient care during the training. If Covered California is serious about meeting their enrollment targets, then sufficient resources and staff time must be devoted to providing an adequate number of training dates before October 1 with ample capacity for all Assistors seeking training.

Thank you for the opportunity to comment on these draft regulations for Covered California's Assistor Program. If you have any questions about our comments or would like additional information, please contact Merrill Buice at (415) 355-2234 or mbuice@sfccc.org.

Sincerely,


John Gressman
President & CEO

Stakeholder(s)	Regulation	Issue	Comments	Recommendation(s) from Stakeholder
The Greenlining Institute	§6660	Training Standards	<p>1). On-line through Covered California a voter preference form that asks applicant if they would like to register to vote needs to be integrated into three types of transactions: new applications, renewal applications and change of address. This may require a few hours of additional technical work to build in the application. There should be a back-end tracking mechanism where the agency will be able to collect data on the number of people who said they would like to register, number who said they are already registered and so forth. This will be useful later when the agency has to report its data to the Secretary of State each month.</p> <p>2). Given time constraints and technical limitations of California's current online voter registration system, to the extent possible, consumers should be able to register to vote in the same transaction as they apply for services.</p> <p>3). With the passage of Senate Bill 35 agencies must provide voter registration cards to every client who does not, in writing (via the voter preference) form, decline to register to vote. This would mean the Exchange would need to retroactively contact the thousands of consumers who enrolled prior to voter registration services being integrated, and to mail them all voter registration forms.</p> <p>4). Under Senate Bill 35, NVRA agencies must appoint an NVRA Coordinator at each service center.</p>	<p>1). We strongly recommend that the board adopt in the Assisters Program Proposed Regulations § 6660 Training Standards the inclusion of NVRA training for all Assister Entities and Assisters. This training should commence with the first round of trainings this summer.</p> <p>2). Training does not need to be extensive and could be a 30 minute module that covers the basics a). How to order voter registration cards; b). Which transactions will require an Assister to offer voter registration services; c). Why voter registration is important; d). How and when voter registration forms should be turned in; and e), How to track and report voter registration numbers.</p> <p>3). The Coordinator needs to be trained on NVRA compliance and is required to be responsible for ordering voter registration forms, tracking and reporting voter registration numbers to the Secretary of State, and ensuring program compliance</p>

Stakeholder(s)	Regulation	Issue	Comments	Recommendation(s) from Stakeholder
California Primary Care Association	§6556 Navigator Program	Ineligible Entities	1). Section §6576 on the Navigator Program includes a drafting error similar to the §6574 by including “community clinics” within the lists of the types of organizations which are ineligible to apply for the Navigator Program. Again, the regulation must clearly differentiate “community clinics: as entities which are eligible to apply for Navigator Grants” in order to reflect the clear intent of the Covered California Board.	1). CPCA requests the Navigator portion of the Assistors Regulations be revised to reflect the clear intent of the board by including: (c) The following types of Entities shall not be compensated by the Exchange for any functions performed as Assister Enrollment Entities: 1). County departments of public health, or county departments that deliver health care services;; 2). Licensed health care clinics; 3). Licensed health care institutions; 4). Licensed health care providers; and 5). Other public or private entities or individuals as determined by the Exchange to have a conflict of interest or who receive direct or indirect consideration for consumer assistance. 2). (d) Paragraph of this section shall not apply to: 1). Community Clinics as defined in Health and Safety Code Section 1204(a)(1)(A); 2). Free Clinics as defined in Health and Safety Code Section 1204(a)(1)(B); 3). Federally Qualified Health Centers (FQHCs) under Section 330 of the Public Health Service Act; 4). FQHC Look-Alikes designated by the U.S. Department of Health and Human Services, Health Resources and Services Administration; 5). Health care facilities directly managed and funded by the Indian Health Service under the Indian Self-

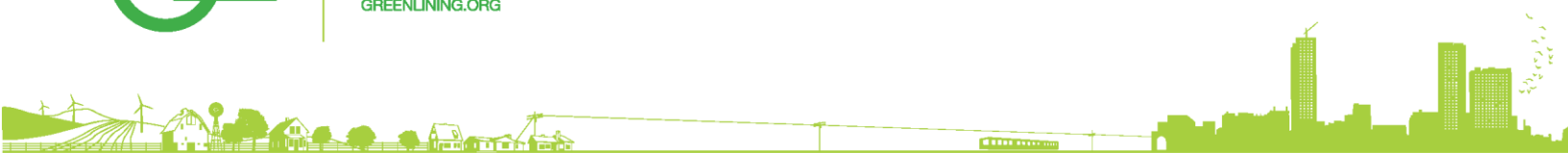
Stakeholder(s)	Regulation	Issue	Comments	Recommendation(s) from Stakeholder
				Determination and Education Assistance Act of 1975; 6). 638 Contracting or Compacting Clinics funded by the Indian Health Services under the Indian Self-Determination and Education Assistance Act of 1975; and 7). Urban Indian Health Centers under Title V of the Indian Health Care Improvement Act
San Francisco Community Clinic Consortium (SFCCC)	§6574 In-Person Assistance Program	Eligibility	<p>SFCCC respectfully points out a significant error included with §6574 of the draft Assisters Regulations. This section contains a list of the types of organizations which are ineligible for compensation by the Exchange for functions performed as Assister Enrollment Entities. Subsection (a)(5) includes providers including but not limited to: Hospitals, Clinics and County Health Departments that provide health care services as entities ineligible for compensation</p> <p>SFCCC recognizes that there is a distinct difference between, “community clinics” and clinics as listed in §6574. However, the regulation as currently written does not reflect the differentiation nor allow for the participation and compensation of “community clinics” per the clear intent of Covered California</p> <p>By including “clinics” carte blanche in the list of entities ineligible for compensation, §6574 directly contradicts the clear intent of the</p>	§6474(a) should be revised to include: 5). Providers, including but not limited to, Hospitals, Clinics not designated as “community clinics”, and County Health Departments that provide health care services. Community Clinics are eligible for compensation by the Exchange for functions performed as Assister Enrollment Entities.

Stakeholder(s)	Regulation	Issue	Comments	Recommendation(s) from Stakeholder
			Covered California Board of Directors as stated within the Statewide Assistors Program Design Options and Recommendations, which specifically list community clinics as entities eligible to serve as AEEs and be compensated by the Exchange.	
	§6650 Definitions	Community Clinics	SFCCC recommends that the regulation be revised to include both a definition of “community clinic”: with § 6650 and a clarification that entities classified as “community clinics” are specifically eligible for compensation for functions performed as Assister Enrollment Entities	§6650 Should be revised to include: Community Clinics: Community clinics or health centers licensed as either a “community clinic” or “free clinic” by the state of California under Health and Safety Code Section 1204(a) and (2), or as a community clinic or free clinic exempt from licensure under Section 1206(c)
	§6656 Navigator Program	Clinics	Section §6656 includes a drafting error similar to that included in § 6574 by including “clinics” within the list of the types of organizations which are ineligible to apply for the Navigator Program. Again, the regulation must clearly differentiate “community clinics” as entities which are eligible to apply in order to reflect the clear intent of the Covered California Board.	SFCCC requests that §6656 of the proposed Assistors Regulations be revised to reflect the clear of intent of the Board. The revision should include: §6656. Navigator Program (a) The following types of organizations are ineligible to apply for the Navigator Program: (5). Providers, including but not limited to, Hospitals, Clinics, not designated as “community clinics”, and County Health Departments that provide health care services. Community clinics are eligible to apply for the Navigator program.

Stakeholder(s)	Regulation	Issue	Comments	Recommendation(s) from Stakeholder
	§6654 and §6656	Agents	SFCCC is concerned about language included in both §6574(a)(4) that states that “recipients of any direct or indirect consideration from any health insurance issuer or stop loss insurance issuer in connection with the enrollment of any individuals or employees in a QHP” are prohibited from compensation in the In-Person Assistance Program and from participating in the Navigator Program.	SFCCC recommends that §6574(a)(4) and §6576(a)(4) be revised to read: 4). Recipients of any direct or indirect consideration from any health insurance issuer or stop loss insurance issuer in connection with the enrollment of any individuals or employees in a QHP or non-QHP. This exclusion does not apply to organizations that receive consideration from health insurance issuers or stop loss insurance issuers for functions other than enrollment, or are reimbursed by insurance issuers for services rendered.
	§6660 Training	Logistics	SFCCC has significant concerns about the logistics of the proposed training program for Assistants.	Covered California must train as many as Assistants as possible, and certainly before the October 1 st launch.
Children Now	§6660 Training Standards	Health Care Services Plans	We urge Covered California to include a line about the pediatric EHB and/or specialized health care plan in its draft standards for Assistants.	<p>§6660 Training Standards, subsection (b), we provide the suggested addition in bold italics:</p> <p>(b) All individuals or entities who carry out consumer assistance functions shall complete training in the following subject prior to carrying any consumer assistance functions:</p> <p>QHPs (including metal levels described at 45 CFR §156.140(b) and specialized health care services plans through which</p>

Stakeholder(s)	Regulation	Issue	Comments	Recommendation(s) from Stakeholder
				QHPs may choose to bundle specific benefits , and how they operate, including benefits covered, payment processes, rights and processes for appeals and grievances, and contacting individual plans.
Providence Little Company of Mary Foundation	§6656 Navigator Program	Foundations	The Providence Little Mary Company of Mary Foundation has expressed interest in applying for a Navigator Program grant, but ultimately this would involve some level of coordination with our community outreach staff. Although they all work in schools and community settings away from the two Hospital campuses, they nevertheless are considered hospital employees.	I am hopeful that you can fashion a set of rules that allow eligible entities to apply for a Navigator Program grant and reaffirm the reality that affiliated hospital foundations are uniquely positioned to help Covered California reach the target population of adults who are eligible to purchase insurance on the Exchange.
	§6656 Navigator Program	Conflict of Interest	<p>Tax preparers that also issue their own prepaid card products that can be used to pay premiums would have a conflict of interest and should thus be prevented from serving as paid Navigators or Assistors.</p> <p>If QHP issuers accept prepaid cards for premium payments the tax preparer company that also markets a prepaid card could be inclined to press an enrollee to purchase such a card at the same time, unduly influencing a potential enrollee's plan choices. This conflict would be even more acute if only some of the QHP issuers in a region that accepts or requires electronic payments.</p>	Consumers Union is in the process of developing recommendations for the use of prepaid cards in the context of Exchanges, to ensure that enrollees understand their payment options and are not discriminated against based on their form of payment. In the meantime, we wanted to flag the potential conflict of interest that may occur in the market place if tax preparers that sell prepaid card products as Navigators in California.

Stakeholder(s)	Regulation	Issue	Comments	Recommendation(s) from Stakeholder
Providence Little Company of Mary Foundation	§6660 Training	Training Concerns	QHPs	In addition, as CalHEERs is finalized we urge Covered California to include, in its plan comparison information on premium payment forms accepted by each plan.

A decorative horizontal illustration spanning the width of the page, depicting a city skyline with various buildings, a bridge, and wind turbines on the left side.

June 11, 2013

Mr. Peter V. Lee
Executive Director
California Health Benefit Exchange
560 J Street, Suite 290
Sacramento, CA 95814

NVRA Implementation & Assister Certification

Dear Mr. Lee:

As expressed in our recent letter to the board on May 20th, we commend Secretary of State Debra Bowen for recognizing Covered California as a public assistance agency covered by the National Voter Registration Act. We are sensitive to the multiple priorities and concerns the board faces as it prepares for the launch of enrollment on October 1st, and continue to believe that integration of the required voter registration services at the onset will be the most beneficial to Covered California and the millions of consumers who the Exchange will serve.

Due to the nature of Covered California's marketplace, compliance will need to happen both online and offline. Given concerns about time constraints, we offer the following minimums for implementation by October 1st:

Online – CoveredCA.com

Online, through CoveredCA.com, a voter preference form that asks the applicant if they would like to register to vote will need to be integrated into three types of transactions: new applications, renewal applications, and change of address. This may require a few hours of additional technical work to build into the application. There should also be a backend tracking mechanism where the agency will be able to collect data on the number of people who declined, the number who said they would like to register, number who said they are already registered, and so forth. This will be useful later when the agency has to report its data to the Secretary of State each month.

Given time constraints and the technical limitations of California's current online voter registration system, to the extent possible, consumers should be able to register to vote in the same transaction as they apply for services. At the very least, consumers who indicate they would like to register to vote, should be directed to the online voter registration system to complete a voter registration form.

Integration of voter registration services online by October 1st is feasible. On the other hand, if it is not integrated at the onset, the decision could cost Covered California countless hours and dollars in staff time and postage. With the passage of Senate Bill 35, agencies must provide voter registration cards to every client who does not, in writing (via the voter preference) form, decline to register to vote (Elections Code Section 243 (b)). This would mean the Exchange

would need to retroactively contact the thousands of consumers who enrolled prior to voter registration services being integrated, and to mail them all voter registration forms.

Offline – Assister Training Certification

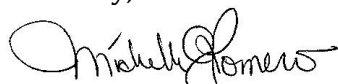
There are also some critical next steps Covered California needs to take to ensure compliance during offline transactions as well. We strongly recommend that the board adopt in the Assisters Program Proposed Regulations, Section §6660 Training Standards, the inclusion of NVRA training for all Assister entities and Assisters. This training should commence with the first round of trainings this summer.

Because of the decentralized nature of the Assister program, Assisters will need to go through NVRA training and understand their responsibility to provide voter registration services when assisting consumers. Training does not need to be extensive and could be a 30 minute module that covers the basics: a) How to order voter registration cards and voter preference forms, b) Which transactions will require an Assister to offer voter registration services, c) Why voter registration is important, d) How and when voter registration forms should be turned in, and e) How to track and report voter registration numbers.

Under Senate Bill 35, NVRA agencies must appoint an NVRA Coordinator at each service center site. The Coordinator needs to be trained on NVRA compliance and is typically the point person responsible for ordering voter registration forms, tracking and reporting voter registration numbers to the Secretary of State, and ensuring program compliance.

We are here to help. Please do not hesitate to contact us.

Sincerely,



Michelle Romero
Claiming Our Democracy Director



Carla Saporta
Health Policy Director

CC: Covered California Board Members
Thien Lam, Deputy Director, Eligibility and Enrollment
David Panush, Director, Government Relations

Greenlining Coalition:

Allen Temple Baptist Church
American GI Forum
AnewAmerica
Asian Business Assn.
Asian Inc
Black Business Assn.
Brightline Defense Project
California Black Chamber
California Hispanic Chambers
California Journal for FilAm

California Rural Legal Assistance
Chicana/Latina Foundation
Chicano Federation, San Diego
Community Child Care Council
Community Resource Project
Council of Asian American Business Assn.
El Concilio of San Mateo County
Ella Baker Center
FAME Renaissance
Greater Phoenix Area Urban League

Hispanic American Growers Assn.
Hmong American Political Assn.
KHEIR Center
La Maestra Family Clinic
Mexican American Grocers Assn.
Mexican American Political Assn.
Mission Language & Vocational School
Mission Housing Development Corporation
National Federation of Filipino American Assn.
Oakland Citizens Committee for Urban Renewal

Our Weekly
Precinct Reporter Group
Sacramento Observer
San Francisco African American Chamber
San Francisco Housing Development
Search to Involve Pilipino-Americans
Southeast Asian Community Center
TELACU
Ward Economic Development
West Angeles Community Development

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June 14, 2013

Mr. Peter Lee, Director
Ms. Thien Lam, Deputy Director Eligibility and Enrollment
Mr. David Panush, Director of Government Relations
Covered California

Re: Revised regulations governing eligibility and enrollment for Covered California

Dear Mr. Lee, Ms. Lam and Mr. Panush:

Thank you for providing us this opportunity to comment on several of the new provisions to the eligibility and enrollment regulations (version dated 5/9/13). We comment on the limited number of new subsections that Darryl Lewis has informed us will be considered for Board approval at the June 20, 2013 Board meeting. Note that we received these new provisions less than 48 hours ago, so we may have additional comments at the Board meeting next week.

§6472(e)(5) – We support this provision as drafted, to ensure that people cannot be denied or terminated from coverage because of a temporary absence from the service area if they intend to return.

§6472(f) – As drafted, this appears to codify the federal requirements for who is eligible for a catastrophic plan. As such, we have no comments on this provision.

§6478(f) – We support accepting self-attestation to verify age eligibility for catastrophic coverage plans. We believe provision (1)(A)(i) should remove the word “or” and provision (ii) be deleted. Provision (iii) covers the use of HHS-approved data sources when information is not reasonably compatible, so that provision should suffice.

(f)(1)(A): Verifying the applicant’s attestation of age as follows:

(i) Except as provided in paragraph (f)(1)(A)(iii) of this section, the Exchange shall accept the applicant’s attestation without further verification; ~~or~~

~~(ii) The Exchange shall examine HHS-approved data sources that are available to the Exchange.~~

(iii) If information regarding age is not reasonably compatible with other information provided by the individual or in the records of the Exchange, the

Exchange shall examine information in HHS-approved data sources that are available to the Exchange.

§6496(n) – We support the added language here that considers redeterminations that result in changes in the amount of APTC available. We appreciate the effort to recalculate the APTC to ensure that the total amount provided over the course of the benefit year does not result in the need for reconciliation at tax time.

§6496(o) – We are concerned with this new provision articulating the standard for redeterminations that result in changes in the cost-sharing reduction. Because this provision references a new provision that is not up for comment at the June Board meeting, we believe it should be postponed. If this must move forward, the provision it references, section 6474(f) raises questions for us – we do not understand why the proposed state rule for single family policies that cover two or more individuals differs from the federal language. We would like to discuss with staff the reasoning behind the specific wording as proposed and why it varies from the federal language before supporting this provision.

§6504(d) – This provision raises concerns for us, as it requires that all qualified individuals or enrollees applying during a special enrollment period be required to provide adequate information **and** evidentiary documentation that they meet at least one triggering event, when there are instances that should not require any documentation from an individual, i.e., instances where CalHEERS will have that information within its system at its disposal, or the data that triggers special enrollment is self-attested data (e.g., age). One example of such an instance would be people who age out of other coverage (e.g., children enrolled in Medi-Cal who turn 20 years old or children applying for coverage once they lose minimum essential coverage through a parent's employer because of age). Another example would be someone applying during a special enrollment when their QHP has been decertified, something that CalHEERS will already have in its system. Another instance would be a covered woman who is adding a dependent newborn. This provision should be redrafted to recognize that only some special enrollment triggers will require evidentiary documentation from the individual.

Thank you for considering our comments. We look forward to the opportunity to review and comment on the other new provisions in anticipation of the August Board meeting. If you have any questions or concerns, please contact Julie Silas, Consumers Union (415) 431-6747 ext. 106 or jsilas@consumer.org

Sincerely,

Cary Sanders, CPEHN
Julie Silas, Consumers Union
Lynn Kersey, Maternal and Child Health Access
Byron Gross, National Health Law Program
Elizabeth Landsberg, Western Center on Law and Poverty

cc: Darryl Lewis



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May 6, 2013

Mr. Peter Lee
Executive Director, Covered California
560 J Street, Suite 290
Sacramento, CA 95814

Re: Covered California Eligibility and Enrollment Policies

Community Health Councils (CHC) respectfully provides the following comments on the eligibility and enrollment policies being developed by your staff. We preface our comments by noting that absent detailed information about changes to state Medi-Cal enrollment policies under the ACA, it is challenging to provide comments that ensure the eligibility and enrollment process between Covered CA and Medi-Cal is as easy as possible for all consumers interacting with Covered California. With this in mind, we provide the following recommendations on key eligibility and enrollment policies.

Consumer Communication

Foremost, it is imperative that consumers receive clear and concise information about their application and benefits. The draft regulations provide limited details about how and what information will be given to consumers regarding various policies (e.g., appeals process, special exemption process, reasonable opportunity period.). We recommend Covered CA include specifics on the timing, frequency, and information to be included in notices to consumers whenever possible.

Special Exception Process

We commend Covered California staff for amending language for the special exception process that includes a re-evaluation of eligibility for other coverage programs instead of simply disenrolling individuals unable to furnish the necessary documentation. We recommend Covered California specify the avenues through which a consumer will be able submit a request to extend the 90-day reasonable opportunity period (ROP) (online, fax, by phone, etc.) as well as specify how consumers can request an exception. We also recommend consumers be notified of the special exception process at least 30 days before the end of the 90-day reasonable opportunity period.

Periodic Data Matching

We support staff's recommendation regarding periodic data matching including income information and agree that periodic data matching of income will help minimize repayment of excess advance tax credits. Staff notes that when a periodic data match results in new information, Covered CA will notify the applicant of their new income information and the enrollee's projected eligibility for Covered CA and all insurance affordability programs. When notifying consumers about changes to their income, Covered CA should also give consumers information about where they can get help responding to new information that results from a periodic data match (local assisters, the CSC, etc.).

Collection of Social Security Numbers

A 2012 [report](#)¹ from the federal Office of the Assistant Secretary for Planning and Evaluation on barriers to immigrants' access to public programs found that fear of mistreatment and deportation deters many immigrants from seeking public assistance. Covered CA staff must not underestimate the very real impact concerns about immigration have on enrollment and the health of immigrant children and families. We recommend the draft regulations explicitly state that consumers must be informed that their social security number will only be used to verify income and not for other purposes.

Appeals Process

As outlined in our [comments](#) to federal regulators,² CHC strongly recommends that Covered California and the Department of Health Care Services establish a **joint** appeals process (i.e. a joint appeals committee) for consumers. During implementation of the Low-Income Health Program in Los Angeles County, we saw firsthand the confusion and frustration consumers, assisters, providers, and other stakeholders face when trying to work with two agencies to determine eligibility for a **NEW** program. We believe a joint appeals committee would allow the state and Covered California to build upon and leverage the extensive experience DHCS has processing appeals for Medi-Cal beneficiaries. Additionally, an integrated appeals process eliminates the need for Covered California and DHCS to transfer consumer information back and forth, thereby reducing the time it takes for a person to know the outcome of their appeals request. Finally, we recommend maintaining the 90-day timeframe for adjudicating appeals.

Allowing QHP to Assist with Enrollment

We recognize that to maximize enrollment, Covered California will need to rely on as much local and on-the-ground support as possible to connect and enroll consumers into coverage. That said, to preserve program integrity and promote consistency across enrollment assistance channels, we recommend the draft regulations include language that requires QHP issuers to adhere to conflict of interest standards and commit to providing consumers impartial information about coverage. Additionally, the regulations should state corrective action that may be taken against a QHP issuer found steering beneficiaries into specific coverage.

We thank Covered CA for the opportunity to comment and look forward to working with the Exchange to ensure eligibility and enrollment policies minimize barriers for consumers.

Sincerely,



Lark Galloway-Gilliam, MPA
Executive Director
Community Health Councils

¹ Office of the Assistant Secretary for Planning and Evaluation. *Barriers to immigrant's Access to Health and Human Service Programs*. May 2012.

² Community Health Councils. *Comments to HHS on Notice of Proposed Rulemaking CMS-2334-P*. February 2013.



CH1LDREN NOW



June 19, 2013

Mr. Peter Lee, Executive Director
California Health Benefit Exchange
560 J Street, suite 290
Sacramento, CA 95814

Re: Children's Health Panel Presentation at California Health Benefit Exchange Board

Dear Mr. Lee:

At the April 23, 2013 California Health Benefit Exchange Board meeting, Board member Dr. Robert Ross requested that the Exchange Board prepare a panel presentation to address Exchange/Covered California issues of particular importance to children and families. Our California Children's Health Coverage Coalition previously made a similar recommendation, so we are pleased to support Dr. Ross's request.

We would like to propose that the Board schedule a panel presentation at the July 25, 2013 meeting to, at a minimum, address the following issues:

- **Pediatric dental coverage** (including access, enrollment, affordability, marketing, stand-alone status)
- **Mixed-program families** (enrollment and case-management for families with individuals enrolled in both Covered California and Medi-Cal)
- **SHOP marketplace** (links for dependent coverage, especially children's coverage)
- **The "family glitch"** (affordability issues that threaten children's access to coverage options, such as subsidies through the Individual Exchange)
- **Child Only plans** (scope, marketing, cost)

We have informally reached out to several state and national experts to determine interest and potential availability to participate in such a panel briefing. Our highly regarded colleagues and experts from Georgetown Center for Children and Families, Maternal and Child Health Access, the Urban Institute, and First Focus could be helpful in arranging participants for such a panel. We would be pleased to also suggest other key children's health leaders in California who could comment on key children's health issues related to the Exchange.

Since only four Board meetings remain before Covered California is launched in October, it is critical that the issues we have high-lighted be addressed publicly and in a timely way. We therefore request that you direct your staff to work with us to develop such a panel presentation for the July Board meeting. Such scheduling will enable the Exchange and staff to incorporate any recommendations and needed program adjustments that arise out of the discussion.

Thank you for your consideration. To discuss further, please contact Kathleen Hamilton at 916-706-2917, or at khamilton@childrenspartner.org. We look forward to hearing from you shortly.

Sincerely,



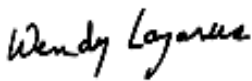
Ted Lempert
President
Children Now



Corey Timpson
Director
PICO California



Suzie Shupe
Executive Director
California Coverage & Health Initiatives



Wendy Lazarus
Founder and Co-President
The Children's Partnership



Peter Manzo
President & CEO
United Ways of
California



Jamila Iris Edwards
Northern California Director
Children's Defense Fund-California

cc: Dr. Robert Ross
Board Members
David Maxwell-Jolly
David Panush
Michael Lujan
Juli Baker



May 22, 2013

Mr. Peter V. Lee
Executive Director
California Health Benefit Exchange Board
560 J Street, Suite 290
Sacramento, CA 95814

RE: National Voter Registration Act Implementation

Dear Mr. Lee:

We applaud the Secretary of State's designation of the California Health Benefit Exchange ("Exchange") as a voter registration agency under the National Voter Registration Act (NVRA) and look forward to your meaningful incorporation of voter registration at the launch of the Exchange as required by the NVRA. Such integration will provide access to voter registration services to the anticipated one million consumers expected to utilize the Exchange in 2014 and many more consumers beyond.

As you are likely aware, our groups work on NVRA compliance around the country. In that regard, we want to assure you that the addition of voter registration services is relatively simple, requiring the addition of the voter preference form language and distribution of a voter registration card or, in most cases, a link to California's online voter registration system.

Importantly, incorporating voter registration into the online, phone, mail and in-person applications now – before the applications and attendant processes and trainings are finalized – will ensure that NVRA compliance is uniform and effective from the beginning. It will save time and money later since the addition of voter registration services to existing processes would be burdensome and likely inconsistent given how decentralized and dispersed the navigators and assistants will be.

We remain available to answer any questions or provide assistance.

Sincerely,

Sarah Brannon
Project Vote
1025 Connecticut Ave., NW
Suite 1000
Washington, D.C. 20005
(202) 546-4173

Lisa J. Danetz
Demos
358 Chestnut Hill Ave.
Suite 303
Brighton, MA 02135
(617) 232-5885



Mr. Peter V. Lee
Executive Director
California Health Benefit Exchange Board
560 J Street, Suite 290
Sacramento, CA 95814

RE: National Voter Registration Act Implementation

Dear Mr. Lee:

I am writing on behalf of Young Invincibles, a national organization that represents the voices of young adults, ages 18-34, on issues that affect them such as access to affordable health care. We currently have a major California office in LA where we focus solely on bettering the lives of young adults in California, particularly around access to health care.

Our organization began as a movement to make sure the concerns of young adults were included in health care reform, and now three years later, we are very excited to see Covered California will provide young adults affordable, comprehensive options. However, in addition to being highly uninsured, a large proportion of California's eligible but unregistered voters are between the ages of 18-34. In order to let their voices be heard on all issues, it is imperative that young adults seize the opportunity to become civically engaged. Therefore, we want to share our excitement over the Secretary of State's designation of the California Health Benefit Exchange as a voter registration agency under the National Voter Registration Act (NVRA). We are confident the Exchange will emerge as a national leader in NVRA implementation and will set the national bar for effective and timely compliance with the NVRA's requirements. We urge the Exchange to do everything possible to make voter registration opportunities available from the launch of the Exchange's services starting no later than October 1.

We are aware of the challenges the Board faces as it prepares for its October 1st launch. However, incorporation of voter registration services into the Exchange's application processes from the onset is an attainable and worthy goal. Many young adults will be obtaining health insurance for the first time, and this is a great opportunity to both insure young Californians and create a young generation of registered voters.

First, and most importantly, the NVRA is the law and both state exchanges and the federal exchange must comply with the law by facilitating voter registration. Failing to fully comply by October 1, when open enrollment begins, would violate the NVRA and deprive millions of Californians the ability to register to vote as part of this



process. Dozens of national and state voter rights groups are now monitoring the situation closely and failure to comply could open Covered California to legal liability. Furthermore, incorporating voter registration into the online voter registration system is straightforward and highly doable, given California's existing online voter registration system.

Second, incorporating voter registration into the online, phone, mail and in-person applications now – before the applications and attendant processes and trainings are finalized – will ensure that NVRA compliance is uniform and effective from the beginning. In addition, it will save time and money later since the addition of voter registration services to existing processes would be burdensome and likely inconsistent given how decentralized and dispersed the navigators and assisters will be.

Finally, the NVRA designation and the requirement that the Exchange offer voter registration from the onset ensures that every eligible Californian who accesses the Exchange – an anticipated one million consumers in the first year alone – will be given the opportunity to register to vote. This is critical in a state that ranks 45th in the nation in voter registration. In fact, one in four eligible Californians are not registered to vote. California should be a national leader both on health care implementation and voter registration.

Our hope is that the Board will embrace this opportunity and see it as a critical chance to engage a formerly disconnected population. Thank you for all you are doing to make California a healthier state.

Sincerely,

Tamika Butler
California Director
Young Invincibles

June 19, 2013

Mr. Peter Lee
Executive Director
Covered California
Sacramento, California 95814

Re: Translation Services for Covered California Outreach and Education Grantee Trainings

Dear Mr. Lee:

We are writing to you as a coalition of Outreach and Education grant recipients and concerned community organizations. By this letter, we respectfully request that grantees be permitted to utilize translation services at the required two and a half day trainings scheduled to take place in July. It is our concerted belief that all grant participants be given the option of being trained in their native language as they will be conducting extensive outreach and education activities in those native languages. Further, the coalition emphatically asserts that the core of the Outreach and Education grant program is met when and if its trainers accurately inform the most underrepresented and essentially linguistically diverse populations in California regarding their healthcare options.

It is irrefutable that the linguistically diverse group mentioned above is in essence the target population that Covered California intended to reach in the Outreach and Education grant. In fact, Covered California, in its call for applicants, stated that they are "particularly interested in receiving proposals to serve specific markets or communities that have a high number of uninsured individuals, as well as those that experience disproportionate barriers to accessing affordable health insurance programs." (pg. 16 Grant Program Application). The application goes on to describe examples of target populations including "populations with Limited-English Proficiency (e.g. Spanish, Cantonese, Mandarin, Vietnamese, Korean, Cambodian/Khmer, Hmong, Tagalog, Russian, Armenian, Farsi, Arabic, etc. speaking populations)." (Emphasis added). The intent of the grant drafters is clear; outreach of this program goes beyond an English only audience.

As organizations with established relationships with these hard-to-reach communities, including grantee organizations that have the capacity to employ strategies to conduct outreach and education across an extensive geography throughout the state, we urge Covered California to reconsider its decision to prohibit the use of translation services during grantee trainings. It is vital that grant recipients be permitted to employ translation services, as our staff represents the ethnically and linguistically diverse individuals that the Outreach and Education grant recipients

are expected to reach. In order for grant recipients to successfully outreach to and educate the highest number of uninsured persons in California, we need the proper tools to drive our strategies.

As a coalition of Outreach and Education grantees and community partners who are committed to the goals of this program, both for the success of this project, and as a representation of our core values, we once again request that Covered California reconsider its decision to prohibit the use of translation services during the July grantee trainings, and work with us to make this grant the most successful it can be.

We thank you for your time and look forward to a resolution of this issue that considers the intent of the Affordable Care Act and the goals of the grant.

Respectfully Submitted,

Access California Services*

American Civil Liberties Union of Southern California (ACLU of So Cal)

Asian Pacific American Labor Alliance (APALA)

Asian Pacific American Legal Center *

Brotherhood Crusade

California Alliance for Retired America (CARA)

Central American Resource Center (CARECEN)

Chinatown Community for Economic Development

Clean Carwash Campaign

Coalition for a Humane Immigrant Rights of Los Angeles (CHIRLA)*

Community Coalition Los Angeles

Connie Leyva, President California Federation of Labor

Consejo de Federaciones Mexicanas en Norteamérica (COFEM)

Instituto de Educación Popular del Sur de California (IDEPSCA)

Justice for Immigrants Coalition (JFIC)

Korean Immigrants Worker Alliance (KIWA)

Koreatown Immigrants Worker Alliance (KIWA)

Los Angeles Alliance for a New Economy (LAANE)

Los Angeles County Federation of Labor*

NAACP of California *

The Pilipino Workers Center

SEIU United Long Term Care Workers (ULTCW)*

SEIU Local 521*

SEIU Local 99*

The Sierra Club

Special Needs Network
St. John's Well Child & Family Center
United Ways of California*
Vision Y Compromiso*

** Signifies Outreach and Education grant recipients*

Attachments: Letters in support of Coalition's efforts

Cc: Members of the California Health Benefits Exchange Board:
Secretary Diana Dooley (Chair), Kimberly Belshé, Paul Fearer, Susan Kennedy,
Dr. Robert Ross
Senate President Pro Tem Darrell Steinberg
Assembly Speaker John Pérez



www.californiaalliance.org

June 17, 2013

Dear Members of the Covered California Board:

We are writing to the Covered California Board as a coalition of Outreach and Education grant recipients to respectfully request that grantees be permitted to utilize translation services at the required two and a half day trainings scheduled to take place in July. We believe it is crucial to train all grant participants in their native language as they will be conducting outreach and education activities in those native languages, and will serve as the core of the grant program, reaching a very diverse and underserved population.

This diverse group is exactly the target population that Covered California intended to reach in the Outreach and Education grant. Specifically, on page 16 of the Grant Program Application, Covered California states that they are "particularly interested in receiving proposals to serve specific markets or communities that have a high number of uninsured individuals, as well as those that experience disproportionate barriers to accessing affordable health insurance programs." The application then goes on to describe some examples of target populations which include "populations with Limited-English Proficiency (e.g. Spanish, Cantonese, Mandarin, Vietnamese, Korean, Cambodian/Khmer, Hmong, Tagalog, Russian, Armenian, Farsi, Arabic, etc. speaking populations)."

As organizations with established relationships with these hard-to-reach communities, that have the capacity to employ strategies to conduct outreach and education across an extensive geography throughout the state, we urge Covered California to reconsider its decision to prohibit the use of translation services during grantee trainings. It is vital that our organizations be permitted to employ translation services, as our staff represents the ethnically and linguistically diverse individuals that the Outreach and Education grantees are expected to reach. In order for us to successfully outreach to and educate the highest number of uninsured persons in California, we need the proper tools to drive our strategies.

As a coalition of Outreach and Education grantees who are committed to the goals of this program, both for the success of this project, and as a representation of our core values, we once again request that Covered California reconsider its decision to prohibit the use of translation services during the July grantee trainings, and work with us to make this grant the most successful it can be. We thank you for your time and look forward to resolving this issue.

Sincerely,

A handwritten signature in black ink, appearing to read 'Vishnu Subramaniam', written over a horizontal line.

Vishnu Subramaniam
Community Organizer

California Alliance for Retired Americans



CENTRAL AMERICAN RESOURCE CENTER / CENTRO DE RECURSOS CENTROAMERICANOS

June 13, 2013

SEIU United Long-Term Care Workers
2910 Beverly Blvd
Los Angeles, CA 90057

Members of the Covered California Board:

We are writing to the Covered California Board as a coalition of Outreach and Education grant recipients to respectfully request that grantees be permitted to utilize translation services at the required two and a half day trainings scheduled to take place in July. We believe it is crucial to train all grant participants in their native language as they will be conducting outreach and education activities in those native languages, and will serve as the core of the grant program, reaching a very diverse and underserved population.

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As a coalition of Outreach and Education grantees who are committed to the goals of this program, both for the success of this project, and as a representation of our core values, we once again request that Covered California reconsider its decision to prohibit the use of translation services during the July grantee trainings, and work with us to make this grant the most successful it can be. We thank you for your time and look forward to resolving this issue.

Sincerely,

Martha Arevalo
Executive Director
Central American Resource Center



CHINATOWN COMMUNITY FOR EQUITABLE DEVELOPMENT
華埠公平發展會 Chinatown Para Un Desarrollo Justo
សហគមន៍ចិនដើម្បីការអភិវឌ្ឍន៍សមភាព
Phát Triển Công Bằng cho Cộng Đồng Chinatown

June 18, 2013

To Whom It May Concern,

Chinatown Community for Equitable Development (CCED) is a community organization based in Los Angeles Chinatown. Our goal is to make Chinatown a better place to live, work and visit. We are also involved as part of a collective effort to fight for social justice for working people and people of color. We work with people of Chinese, Vietnamese, Cambodian and Hispanic descents. Many are monolingual speaking only.

We are writing to the Covered California Board to respectfully request that grantees be permitted to utilize translation services at the required two and a half day trainings scheduled to take place in July. We believe it is crucial to train all grant participants in their native language as they will be conducting outreach and education activities in those native languages, and will serve as the core of the grant program, reaching a very diverse and underserved population. Without the bilingual training, for example, the outreach workers will not be able to explain some of the technical terms and concepts.

As a community organization supporting the coalition of Outreach and Education grantees who are committed to the goals of this program, both for the success of this project, and as a representation of our core values, we request that Covered California reconsider its decision to prohibit the use of translation services during the July grantee trainings, and work with the coalition to make this grant the most successful it can be.

We thank you for your time and look forward to resolving this issue.

Sincerely,

King Cheung

Chair
Organizing Committee
Chinatown Community for Equitable Development



Community – Labor– Environmental Action Network

* 516 W. Vernon Avenue, Los Angeles, CA 90037 * P: 323-232-2089 * F: 323-232-2099 *

www.cleancarwashla.org

June 13, 2013

Members of the Covered California Board:

We are writing to the Covered California Board as a coalition of Outreach and Education grant recipients to respectfully request that grantees be permitted to utilize translation services at the required two and a half day trainings scheduled to take place in July. We believe it is crucial to train all grant participants in their native language as they will be conducting outreach and education activities in those native languages, and will serve as the core of the grant program, reaching a very diverse and underserved population.

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As organizations with established relationships with these hard-to-reach communities, that have the capacity to employ strategies to conduct outreach and education across an extensive geography throughout the state, we urge Covered California to reconsider its decision to prohibit the use of translation services during grantee trainings. It is vital that our organizations be permitted to employ translation services, as our staff represents the ethnically and linguistically diverse individuals that the Outreach and Education grantees are expected to reach. In order for us to successfully outreach to and educate the highest number of uninsured persons in California, we need the proper tools to drive our strategies.

As a coalition of Outreach and Education grantees who are committed to the goals of this program, both for the success of this project, and as a representation of our core values, we once again request that Covered California reconsider its decision to prohibit the use of translation services during the July grantee trainings, and work with us to make this grant the most successful it can be. We thank you for your time and look forward to resolving this issue.

Sincerely,

Justin McBride
Director, CLEAN Carwash Campaign
AFL-CIO, USW



Los Angeles
Junio 17, 2013

SEIU United Long-Term Care Workers
2910 Beverly Blvd
Los Angeles, CA 90057

Members of the Covered California Board:

IDEPSCA demands Health Care For All, because our health it's not for sale! Our struggle also concurs with Rev. Martin Luther King Jr. words, "Of all the forms of inequality, injustice in health care is the most shocking and inhumane." On January, 2004 the Workers Health Project was launched as an alternative to health education awareness, organizing a referral system and networking to facilitate some healthcare access, health and safety and other means of alternative health for the workers and the communities of vulnerable populations. Since then we have seen our communities of color excluded from many health care services, one of them its been the ineffective communication between physicians, nurses and administrator and the patients.

Members of the Covered California Board, we have become experts in reaching our communities and bridging the gap between health providers and the people, an we are part of a large family of Outreach and Education grant recipients to respectfully request that grantees be permitted to utilize translation services at the required two and a half day trainings scheduled to take place in July. We believe it is crucial to train all grant participants in their native language as they will be conducting outreach and education activities in those native languages, and will serve as the core of the grant program, reaching a very diverse and underserved population.

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As organization, with established relationships with these hard-to-reach communities, that have the capacity to employ strategies to conduct outreach and education across an extensive geography throughout the state, we urge Covered California to reconsider its decision to prohibit the use of translation services during grantee trainings. It is vital that our organizations be permitted to employ translation services, as our staff represents the ethnically and linguistically diverse individuals that the Outreach and Education grantees are expected to reach. In order for us to successfully outreach to and educate the highest number of uninsured persons in California, we need the proper tools to drive our strategies.

As a big family of Outreach and Education grantees who are committed to the goals of this program, both for the success of this project, and as a representation of our core values, IDEPSCA once again requests that Covered California reconsider its decision to prohibit the use of translation services during the July grantee trainings, and work with us to make this grant the most successful it can be. We thank you for your time and look forward to resolving this issue. If more information is needed, please contact me at my direct number (213) 252-2952, Ext. 15, my mobile (213) 215-8655 or email: maportillo@idepsca.org.

Sincerely,


Mariom Portillo
Executive Director

www.idepsca.org
www.vozmob.net

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Brenda Aguilera
Community Member

Vice-President
Veronica Federovsky
West Coast Coordinator
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Household Worker

Executive Director
Mariom Portillo
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Popular del Sur de California



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June 13, 2013

Attn:

Members of the Covered California Board:

In solidarity with other organizations and community groups, I am writing to the Covered California Board as a coalition of Outreach and Education grant recipients to respectfully request that grantees be permitted to utilize translation services at the required two and a half day trainings scheduled to take place in July. We believe it is crucial to train all grant participants in their native language as they will be conducting outreach and education activities in those native languages, and will serve as the core of the grant program, reaching a very diverse and underserved population.

The Justice for Immigrants Coalition of Inland Southern California (JFIC) is comprised of over two dozen groups and organizations in the Inland Empire region of California. As an immigrant rights group, we understand the importance of translation as a needed function to better our serve community.

This diverse group is exactly the target population that Covered California intended to reach in the Outreach and Education grant. Specifically, on page 16 of the Grant Program Application, Covered California states that they are “particularly interested in receiving proposals to serve specific markets or communities that have a high number of uninsured individuals, as well as those that experience disproportionate barriers to accessing affordable health insurance programs.” The application then goes on to describe some examples of target populations which include “populations with Limited-English Proficiency (e.g. Spanish, Cantonese,

Mandarin, Vietnamese, Korean, Cambodian/Khmer, Hmong, Tagalog, Russian, Armenian, Farsi, Arabic, etc. speaking populations)."

As organizations with established relationships with these hard-to-reach communities, that have the capacity to employ strategies to conduct outreach and education across an extensive geography throughout the state, we urge Covered California to reconsider its decision to prohibit the use of translation services during grantee trainings. It is vital that our organizations be permitted to employ translation services, as our staff represents the ethnically and linguistically diverse individuals that the Outreach and Education grantees are expected to reach. In order for us to successfully outreach to and educate the highest number of uninsured persons in California, we need the proper tools to drive our strategies.

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Sincerely,

Fernando Romero
JFIC Lead Coordinator

June 17, 2013

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International Brotherhood of Teamsters

Thomas Walsh
President
UNITE HERE! Local 11

EXECUTIVE DIRECTOR

Roxana Tynan

SEIU United Long-Term Care Workers
2910 Beverly Blvd
Los Angeles, CA 90057

Members of the Covered California Board:

We are writing to the Covered California Board as a coalition of Outreach and Education grant recipients to respectfully request that grantees be permitted to utilize translation services at the required two and a half day trainings scheduled to take place in July. We believe it is crucial to train all grant participants in their native language as they will be conducting outreach and education activities in those native languages, and will serve as the core of the grant program, reaching a very diverse and underserved population.

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Sincerely,


James Elmendorf
Deputy Director



*Leading the way in education, advocacy,
and public policy for children and adults
with developmental disabilities.*

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Seth Weisbord, Esq.

3530 WILSHIRE BOULEVARD

SUITE 1670

LOS ANGELES, CA 90010

OFFICE 213.389.7100

FAX 213.389.7112

June 18, 2013

SEIU United Long-Term Care Workers
2910 Beverly Blvd
Los Angeles, CA 90057

Members of the Covered California Board:

We are writing in support of SEIU United Long-Term Care Workers' (SEIU-ULTCW) effort to convince the Covered California Board to allow grant recipients utilization of translation services at the required two and a half day trainings scheduled to take place in July. We believe that such services are crucial to the impact Covered California grantee organizations can have in fulfilling the stated outcomes of the program.

As a long-term partner of SEIU-ULTCW we have served many of the same communities together and have a shared understanding of how vital it is to provide linguistically accurate services to these communities. SEIU-ULTCW, much like our own organization, is successful in its community outreach efforts because it relies on non-native English speakers to assist in outreaching. While these individuals are highly impactful in connecting services with the most hard to reach individuals and families in the community, they do require training in their own language to be as successful as possible.

We believe that utilization of translation services at the upcoming training can only help to further ensure the success of the Covered California Outreach program. This will help to successfully outreach to and educate the highest number of uninsured persons in California. As an organization serving hard-to-reach immigrant communities in Los Angeles, we fully support SEIU-ULTCW in their request.

We thank you for your time and hope you will resolve this issue for the benefit of the communities who need your services the most.

Very truly yours,

Areva Martin, Esq.
President & Co-Founder
Special Needs Network, Inc.



808 W. 58th Street
Los Angeles, CA 90037
(323) 541-1600 Fax (323) 541-1601

June 13, 2013

SEIU United Long-Term Care Workers
2910 Beverly Blvd
Los Angeles, CA 90057

Members of the Covered California Board:

We are writing to the Covered California Board as a coalition of Outreach and Education grant recipients to respectfully request that grantees be permitted to utilize translation services at the required two and a half day trainings scheduled to take place in July. We believe it is crucial to train all grant participants in their native language as they will be conducting outreach and education activities in those native languages, and will serve as the core of the grant program, reaching a very diverse and underserved population.

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As a coalition of Outreach and Education grantees who are committed to the goals of this program, both for the success of this project, and as a representation of our core values, we once again request that Covered California reconsider its decision to prohibit the use of translation services during the July grantee trainings, and work with us to make this grant the most successful it can be. We thank you for your time and look forward to resolving this issue.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jim Mangia".

Jim Mangia, MPH
President & CEO



May 23, 2013

Peter Lee, Director
Andrea Rosen, Health Plan Management Director
Jeffrey Rideout, Medical Director
Ken Wood, Senior Advisor for Products, Marketing and Health Plan Relationships
Covered California
560 J Street, Suite 290
Sacramento, CA 95814

Submitted electronically to info@hbex.ca.gov

RE: Covered California Plan Based Enrollers Guidelines

Dear Mr. Lee, Ms. Rosen, Dr. Rideout, and Mr. Wood:

On behalf of the California Pan-Ethnic Health Network (CPEHN) and Consumers Union (CU), we thank you for the opportunity to provide comments on **Covered California's Plan-Based Enrollers Guidelines**. We appreciate the important role that Qualified Health Plans (QHPs) can play in reaching out to and enrolling their current members into Exchange coverage. We thank the Exchange for clarifying in the current draft guidelines that only the Exchange, not QHPs, is authorized to make eligibility determinations for consumers under CalHEERS. That said, we continue to have concerns about the scope of the assistance contemplated in the draft guidelines, which may not comport with federal law. We provide the following comments below:

Background Issue and Purpose:

- **Plan-based eligibility assistance should be prohibited beyond current enrollees:** Our organizations continue to have concerns with Covered California granting health plan issuers the authority to handle eligibility for *all* consumers, including “individuals who respond to routine marketing and sales efforts (p. 2),” into Covered California insurance plans. As stated explicitly in the preamble to the federal rules, it is important that an applicant’s eligibility information is not shared with QHP issuers: “These provisions ensure that the **applicant’s information is collected only by the Exchange and thus firewalled from issuers and agents and brokers** and accordingly protected.” (see 77

Federal Register 59, pg. 18425 (March 27, 2012)). Allowing QHP issuers to undertake eligibility determinations could result in their employing practices that discourage the enrollment of individuals with significant health needs, in violation of 45 C.F.R. §156.225. For these reasons, we reiterate our earlier recommendation that the guidelines clarify that the eligibility assistance described is only for a plan's **current** enrollees. Specifically we urge you to delete the following reference from the draft guidelines:

- "Plan Based Enrollment contractors will be eligible to enroll:
 - ~~subsidy-eligible individuals who respond to routine marketing and sales efforts.~~
- **Requirements for the handling of private consumer information:** As currently drafted, the guidelines conflate the federal legal requirements with respect to the handling of private consumer information. For example, while health issuers may have access to sensitive Patient Health Information (PHI) for their current enrollees, they are prohibited from accessing that information for newly eligible enrollees. Also, federal regulations are clear (as stated above) that "an applicant's information is collected only by the Exchange and thus firewalled from issuers and agents and brokers." Additionally, for current enrollees we question the wisdom of authorizing health plan issuers to access other personal information, such as income, rather than having the Exchange simply perform the eligibility function. We seek clarification in these guidelines as to exactly what consumer information issuers would have access to, recognizing federally-defined parameters.
- **Encourage Plans to outreach to all current enrollees:** We reiterate our earlier recommendation that Covered California encourage plans to reach out to all of their current enrollees, not just those apparently subsidy-eligible individuals. We share the Exchange's desire to capture as many of the subsidy-eligible "incumbents" in the individual market as possible, but it is unlikely that health plans currently know their enrollees' income, in order to determine who within their currently covered pool is eligible for a subsidy. Either the plan is going to make assumptions about income, or request from enrollees personal information to determine whether they fall into the category "subsidy-eligible." Moreover, because individual income may vary considerably over even a short time span, subsidy-eligible individuals at a given point in time may not be subsidy-eligible in the near future and vice versa, making it extremely important for health plans to provide information about the Exchange and the availability of subsidies to **all** of their members, not just those who they think might be subsidy-eligible today. We thus urge you to make the following changes to the draft guidelines:
 - Plan Based Enrollment contractors will be eligible to enroll:
 - ~~Subsidy-eligible~~ All non-group members
 - ~~Subsidy-eligible~~ All COBRA members

Plan Based Enrollment Program Guidelines:

- We recommend strengthening Covered California's approved language as follows:
 - 1. Information presented must be clear and it must be apparent to potential applicants that they are free to choose among ALL of the plans offered. Language steering potential applications to a particular plan is prohibited. Covered

California approved language: “Other lower priced options may be available from Covered California. Would you like me to transfer you to Covered California?”

Approved Language Suggestions/Language to Avoid:

We understand these sections are forthcoming and would appreciate being given the opportunity to provide comments on them once text is available from Covered California.

Training and Certification:

As mentioned above, we question both the wisdom and legality of allowing health plan issuers access to sensitive information about consumers in CalHEERS.

Transition Plan Rules, Submission Requirements, and Time Frames (Model Contract Attachment 3):

- **Marketing Materials:** While the Guidelines state that they are meant to promote “effective marketing and enrollment of individuals inside *and outside* Covered California” (emphasis supplied) (pages 3 and 6), we are unclear why it would be a priority for Covered California to enroll outside the Exchange. Additionally, we believe there should be a distinction, not currently found in the draft guidelines, between *marketing plans* (which may for competitive reasons understandably need to be kept confidential) versus marketing *materials*, which will be disseminated to the public through plan mailings and emails to their members. We recommend Covered California delete the statement that marketing *materials* will be treated as “confidential information.”

Finally, given that Covered California is not requiring prior approval of marketing materials on the condition that Contractors “shall duly evaluate any changes proposed by Covered California with respect to such materials,” the draft guidelines should make it clear to Contractors that these materials are to be submitted to the Exchange *prior to use*. Below are our recommended amendments to the language on pages 3 and 6.

- (c) Marketing Materials. In order to promote the effective marketing and enrollment of individuals ~~inside and outside~~ Covered California, Contractors shall provide Covered California with marketing material and all related collateral used by Contractors for Covered California and non-Exchange plans prior to use on an annual basis and at such other intervals as may be reasonably requested by Covered California. ~~The Exchange shall treat such marketing materials as confidential information.~~

Micro-targeting versus Macro-targeting of membership: The draft guidelines on page 3 require plans to target and identify specific subsidy-eligible populations to market to. We urge the Exchange to encourage Contractors to target all of their members as recommended above, in order to ensure the broadest swathe of potentially eligible individuals are aware of Covered California and their potential eligibility for Exchange subsidies. We recommend the following amendments:

- On or before August 1, 2013, Contractor shall submit to the Covered California a transition plan for notification of the benefits available through Covered California to Contractor’s current enrollees in individual coverage, including

those who may be eligible for subsidies in Covered California. The plan shall include, without limitation, a description of Contractor's plan with respect to the following:

- (a) Identifying and targeting specific populations, including those who may be eligible for subsidies, including (i) non group incumbents, (ii) COBRA incumbents and (iii) all incumbents terminating coverage, including 25-year-old dependents (b) Processes for identification, outreach and enrollment of non-subsidy and subsidy-eligible individuals who respond to Contractor's normal marketing efforts.

Prohibited Activities for Contractor's that Provide Application Assistance:

- **Door-to-door marketing should be expressly prohibited:** We agree with Covered California's list of prohibited activities for Contractors; however, we remain concerned that there is no explicit bar on Plan-Based Assisters engaging in door-to-door marketing despite California's history of prior abuses in the Medi-Cal program. We urge Covered California to make it clear to Plan-Based Enrollment Assisters that this type of activity is prohibited. Specifically, we urge Covered California to insert the following language:

Contractors and their employees may not:

6. Conduct door-to-door marketing.

Monitoring, Oversight & Disciplinary Action Process:

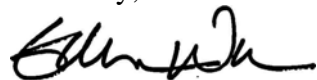
- **Disciplinary Action Process:** We appreciate that Covered California plans to monitor and track applications assisted by Plan-Based Enrollers to ensure quality assistance is provided. While this section alludes to a disciplinary action process (DAP), we do not see any language outlining such a process should Covered California identify "allegations of questionable application assistance practices by Contractors (p.4)." We would appreciate further information from the Exchange outlining the disciplinary process and an opportunity to comment on this language.

Attachment #1 3.20 Enrollment and Eligibility:

Role of Web-Based Entities: We are concerned by new language in this section that suggests that Covered California is contemplating authorizing Qualified Web-Based Entities (WBEs). We request clarification from Covered California as to whether a decision has been made to authorize them to do enrollment in Covered California and, if so, when this matter will be presented for public discussion.

Thank you for your consideration of these joint comments. If you have any questions or concerns please do not hesitate to call.

Sincerely,



Ellen Wu, MPH
Executive Director/CPEHN



Betsy Imholz
Special Projects Director/CU

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June 12, 2013

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VIA E-MAIL David.Panush@covered.ca.gov

Mr. David Panush
Director of External Affairs
Covered California
560 J Street, Suite 290
Sacramento, CA 95814

**Re: Revised California Supplemental Vision Coverage Proposal and
Notice re June 10, 2013 Action in Colorado Health Benefit Exchange
(Connect for Health Colorado) for Supplemental Vision Coverage**

Dear David:

On behalf of our client, VSP Global ("VSP"), it is my pleasure to forward news of a positive and encouraging development in Colorado of direct relevance to our proposal for California consumer access to supplemental vision coverage submitted May 16, 2013. Also, attached to this letter is VSP's revised proposal for consumer access to a range of choices for Supplemental Vision Coverage via a mechanism that will require little to almost no utilization of Covered California resources. This furthers the collaborative course for work by Covered California with stakeholder partners, such as VSP, to initiate other, federally-permissible options for offering stand-alone and/or supplemental vision benefits beginning as soon as possible.

As you may have noted, earlier this week, the Colorado Health Benefit Exchange board voted to enable stand-alone vision plans to offer supplemental vision care coverage via a link from state exchange EHB offerings, with multiple plans stepping forward to provide such care.

The opportunity for consumers to access the link for supplemental coverage would occur at the conclusion of their enrollment for general medical and dental coverage within the Colorado Exchange. The link will be provided to Exchange enrollees directly to the stand-alone vision plans to shop for, and possibly purchase, full service vision insurance. In their model, there will be no third party landing page, or shopping page summary, unless it is, eventually, provided directly by the

Colorado Exchange. Barring any impediments that arise to implementation, supplemental vision coverage in Colorado is scheduled to begin January 1, 2014.

Revised and Update Proposal for Covered California:

The vision insurance solution outlined in this updated proposal to Covered California will meet the following objectives:

- Provide a direct link from the Covered California website for the purpose of informing Covered California customers of the availability of quality vision insurance options available for individual purchase.

- No cost to Covered California

- Execute with simplicity for:

- Consumers

- State of California

- Vision insurance carriers

- Create a consumer purchase experience that is consistent with the Covered California experience.

- Mitigate antitrust risk for carriers participating in a vision insurance marketplace.

- Speed to market via a market-proven, third-party web entity.

Proposal:

VSP, and all other interested stand-alone vision plans, seek the approval of the Covered California Board of Directors to authorize the simple provision of a utility to link Covered California participants directly with VSP, and other plans, as part of the Covered California enrollment experience. Upon the successful conclusion of non-EHB/Supplemental Vision enrollment, the participant will be linked back to the Covered California website.

The non-EHB/Supplemental Vision offering will be at no cost to Covered California and will have little or no administrative impact. VSP, and presumably other stand-alone vision plans, understands that Covered California participants that select non-EHB/Supplemental coverage will not receive federal subsidies and will enter into a private transaction for individual vision coverage with the vision carrier.

More complete details are contained in the attachment PDF document.

VSP Global respectfully submits that, with no impact and no cost to Covered California, a solution that is in full compliance with federal guidance can, and should, begin consonant with the October 1, 2013, opening of enrollment in Covered California plan offerings, with a January 1, 2014 effective date for non-EHB/Supplemental Vision coverage. We would respectfully urge the Covered California Board to make a decision to allow VSP, and all other interested stand-alone vision plans, to provide Supplemental Vision coverage in this manner.

In short, with little more than a “link” to the sources for Supplemental Vision coverage, Californians utilizing the Exchange will enjoy the fullest options available to secure coverage.

As always, throughout this process, VSP Global is committed convening the appropriate team to meet and confer with Covered California staff or answer your questions in any format, prior to consideration by the Covered California Board.

Please do not hesitate to call on me at (916) 441-2430, or by e-mail at jvalencia@wilkefleury.com.

Respectfully submitted,

A handwritten signature in black ink, reading "John R. Valencia". The signature is fluid and cursive, with the first name "John" and last name "Valencia" clearly legible.

JOHN R. VALENCIA

JRV:mab
Attachment1 (1)
cc: Board of Directors, Covered California
via info@hbex.ca.gov

Covered California (Revised) Vision Proposal

Background

Covered California (CC) Exchange staff held a conference call with VSP on April 16, 2013 to discuss the CMS/FAQ on the reuse of Exchanges for Ancillary products issued on March 29th, 2013. Exchange personnel indicated the terms of this FAQ inhibit the ability of Covered California to allow VSP and Stand-Alone Vision Plans (SAVP) to provide coverage associated with the Exchanges, any time before July 1, 2014 or later. Exchange personnel indicated an interest in reviewing a VSP proposal to provide non-Essential Health Benefit (EHB) vision services and benefits in compliance with the CMS/FAQ.

Meeting was held with CC Exchange staff on May 21st, 2013 to discuss a proposal to enable VSP and other SAVP to provide vision care to CC Exchange members. Options were discussed and VSP was asked to provide an updated proposal on behalf of the SAVP industry.

Related Development

The *Connect for Health* Colorado Exchange Board of Directors voted favorably at their June 10, 2013 meeting to allow SAVP to provide Supplemental vision care. Upon conclusion of the Colorado Exchange enrollment process - effective October 1st, 2013, Exchange enrollees in Colorado may enroll in extended vision coverage through SAVP that begins January 1st, 2014. The approach in Colorado is similar to that desired by Covered California. However, the Colorado Exchange wanted to avoid a middleman solution that could add to cost. As such, if there is a vision landing page with vision plan designs in Colorado, it will be sponsored by the Colorado Exchange. However, their intention is to provide direct links to the selected vision vendors that will be authorized by the Colorado Department of Insurance (DOI) and subject to Colorado insurance law.

Updated proposal for Covered California follows:

Objectives

The vision insurance solution outlined in this updated proposal to Covered California seeks to meet the following objectives:

- Provide a direct link from the Covered California website for the purpose of informing Covered Californian customers on the availability of quality vision insurance options available for individual purchase.
- No cost to Covered California

- Execute with simplicity for:
 - Consumers
 - State of California
 - Vision insurance carriers
- Create a consumer purchase experience that is consistent with the Covered California experience.
- Mitigate antitrust risk for carriers participating in a vision insurance marketplace.
- Speed to market via market-proven third party web entity.

Proposal

VSP and SAVP seek approval of the Covered California Board of Directors to authorize the simple provision of a utility to link Exchange participants directly with VSP/SAVP as part of the same Covered California enrollment experience. Upon the successful conclusion of non-EHB/Supplemental vision enrollment, the participant will be linked back to the Covered California website.

The non-EHB/Supplemental offering of said vision services and benefits will be at no cost to Covered California and with little or no administrative impact. VSP and SAVP understand that Covered California participants that select non-EHB/Supplemental coverage will not receive federal subsidies and will enter into a private transaction for individual vision coverage with the vision carrier.

Recommendation for Vision Insurance Solution

- A direct link from Covered California website will be provided to site users connecting them to a vision marketplace featuring carriers offering individual vision insurance in California
- The vision marketplace will be constructed and managed by eHealth (or similar platform partner)
 - Marketplace will be a vision-only offering (no access to Health, Dental, etc.), plan information and purchase functionality
 - Carriers must meet the following requirements to be allowed to sell their plan(s) in the marketplace:
 - Licensed by the State of California to sell vision insurance to individuals in the State of California
 - Carrier must generate a minimum annual premium (\$100M?) revenue and/or a minimum net asset threshold, to ensure all carriers are well established with a proven model for providing vision insurance
 - Other requirements from marketplace as determined by platform partner (eHealth or similar platform partner may have proprietary criteria for inclusion as well)
 - Other requirements as desired/ determined by Covered California

Why eHealth?

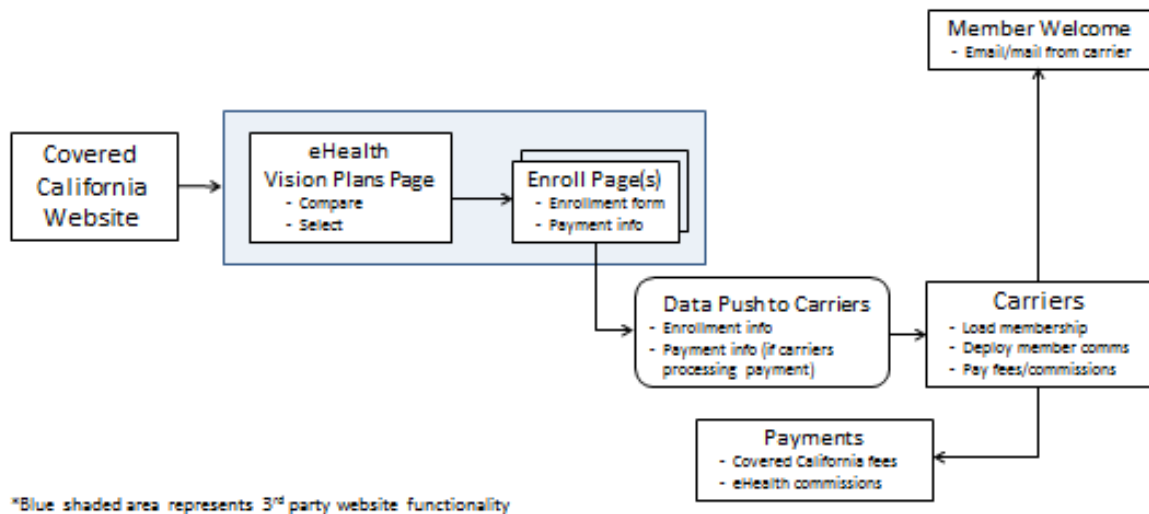
- eHealth is a market-tested, web-based entity that has been operating for 15 years with a proven platform, technology and user experience
- eHealth is a licensed broker in all 50 states, and would be broker of record for all vision insurance purchases made on the site
- eHealth is currently working with HHS on a deal to sell QHPs for all 34 FFEs
- 3 million individuals have enrolled in insurance products through eHealth
- Speed to market – ready to go with enrollments beginning October 1st, 2013 and coverage beginning on January 1st, 2014.
- No cost to the State of California

Description of Customer/transaction flow (see diagram below)

- User clicks link for vision insurance marketplace on Covered California website
- Link lands user on eHealth landing page that welcomes Covered California customer
 - Site can be co-branded with Covered California or other brand
 - User can get a quote on available plans or browse information about vision insurance and the importance of one's eye health
- User selects plan, provides enrollment and payment info
- eHealth passes subscriber and payment info to carrier
- Carrier loads subscriber into their systems:
 - Pays commissions to eHealth
 - Pays fees (if any) to Covered California
 - Sends new subscriber their plan welcome kit

User Flow from Covered California Site to Vision Plan Carriers

Scenario I: Link from Covered California site to 3rd party neutral site hosting transaction engine (eHealth)



Administrative Responsibilities

Covered California:

- ✓ Provides web and telephone links to eHealth landing page (personalized or co-branded for Covered California)

eHealth (or other platform partner):

- ✓ Provides user with easy-to-understand plan information from each carrier via their platform
- ✓ Provides easy online enrollment for consumers
 - Collects subscriber and payment information
 - Transmits subscriber payment information to carrier for processing
 - Transmits subscriber information to carrier for upload into their systems
- ✓ Provides Covered California (CC) with monthly report of link activity (clicks/conversions/etc.)

Carriers:

- ✓ Processes subscriber payment (in annual and/or monthly payments)
- ✓ Loads subscriber information; fulfills new subscriber information and on-going member communications
- ✓ Pays fees to CC (monthly)
- ✓ Pays commissions to eHealth (monthly)
- ✓ Provides CC with monthly count of new members enrolled (if required)
- ✓ Provides customer service to handle questions from prospective or existing members, handles claims issues
- ✓ Sends renewal notices to subscribers
- ✓ Processes renewal payments (credit card, bank draft, etc.)

Next Steps

- Covered California Board of Directors approval to provide access via website link to its customers to a vision insurance marketplace for California residents
- Identify location of link(s) in Covered California website
- eHealth (or other platform partner) to build out vision market place
- eHealth (or other platform partner) to solicit other SAVP vision carriers to participate on their platform in California

Target Implementation Date

- Under this proposal, a vision marketplace could be operational by October 1, 2013