Comments to the Board

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October 17, 2013

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

Dear Mr. Lee:

The groups below are writing to share recommendations for training certified enrollment entities (CEE) and certified enrollment counselors (CEC) including navigators and assisters, regarding the selection and purchase of the pediatric dental essential health benefit (EHB) in Covered California. Given how the pediatric dental EHB will be offered in 2014 and our groupsô concerns with childrenôs access to and utilization of oral health services, we want to ensure that CEEs and CECs are making child enrollees and/or their parents and caregivers aware of and fully informed about this benefit.

Specifically, we are concerned that although pediatric dental is considered one of the ten ñessential health benefitsò required to be offered per the Affordable Care Act, the structure of how pediatric dental will be offered in Covered California for plan year 2014 is such that the pediatric dental EHB is:

1) A voluntary purchase;
2) Subject to a separate out-of-pocket maximum of $1,000 that is not coordinated with the medical plan out-of-pocket maximum; and
3) Not eligible for the advance premium tax credit (APTC) for which child enrollees and families might qualify.

Given the parameters listed above and the stated goals of Covered California to ensure CEEs and CECs are knowledgeable about and equipped with the information and expertise needed to successfully educate and enroll individuals in coverage, regardless of the type of program for which they are eligible, we request Covered California revise its training standards for CEEs and CECs. In the California Code of Regulations (Title 10. Chapter 12. Article 8) § 6660 Training Standards, subsection (b), we provide the suggested additions in bold italics:

All individuals or entities who carry out consumer assistance functions, shall complete training in the following subjects prior to carrying out any consumer assistance functions:

(1) QHPs (including the metal levels described at 45 CFR 156.140(b)), ***and specialized health care service plans such as stand-alone dental plans****,* and how they operate, including benefits covered, payment processes, rights and processes for appeals and grievances, and contacting individual plans;

(4) Eligibility requirements for premium tax credits and cost-sharing reductions, and the impacts of premium tax credits on the cost of ***qualified health plan*** premiums*, **and specifically that stand-alone dental coverage is subject to a separate out-of-pocket maximum.***

(6) Basic concepts about health insurance and the Exchange; the benefits of having health insurance***; the benefits of including dental coverage for their children, if applicable, to receive preventive and other needed oral health care services;*** and enrolling through an Exchange; and the individual responsibility to have health insurance;

We further recommend that a separate subsection regarding the pediatric dental EHB be included in the training standards (suggested language below):

In particular, for plan year 2014, training on the selection and purchase of the pediatric dental essential health benefit (EHB) should include the following components:

- ***a) Availability of and encouragement for child enrollees and/or families with children under age 19 to select and purchase the pediatric dental EHB;***
- ***b) Disclosure that pediatric dental EHB coverage in plan year 2014 is a voluntary, but highly recommended purchase;***
- ***c) Financial disclosure that pediatric dental EHB coverage in plan year 2014 is subject to a separate out-of-pocket maximum of $1,000 and that any advance premium tax credits for which a child enrollee or family with a dependent under 19 might qualify applies only to the qualified health plan (i.e. cannot be applied to the pediatric dental EHB coverage); and***
- ***d) The structure of the pediatric dental EHB is subject to change for plan year 2015.***

Finally, we understand that training materials have been updated given the recently made decisions on how to offer and market the pediatric dental EHB in

Covered California for 2014 and respectfully request the opportunity to review these materials.

If you have any questions about these recommendations, please contact Eileen Espejo at Children Now, eespejo@childrennow.org or 510-763-2444, x114.

Sincerely,

Access Dental Plan
California Primary Care Association
California Society of Pediatric Dentistry
Children Now
Delta Dental
LA Trust for Children's Health
LIBERTY Dental Plan of California
Maternal and Child Health Access
National Health Foundation
Premier Access
Search to Involve Pilipino Americans
The Children's Partnership

CALPIRG
Standing Up
To Powerful Interests

October 23, 2013

Board of Directors
Covered California
560 J Street, Suite 290
Sacramento, CA 95814

Dear Board of Directors,

I am writing on behalf of the California Public Interest Research Group (CALPIRG) to express concerns about the delays proposed for the Quality Rating System. We urge you to establish a hard deadline for implementing a quality rating system for the health plans offered on Covered California, no later than the open enrollment period for 2015 and ideally much sooner than that.

Covered California has a tremendous opportunity to offer consumers good information not only about the price of the insurance products sold on the marketplace, but the *value* of those products.

We understand that the historical information about the plans isn't as comprehensive or accurate as it could or should be. But the response to that shouldn't be to withhold *all* quality information from consumers. We urge the Board to provide the information that is available about the plans' historical quality ratings, and to provide an explanation to consumers describing how the ratings were determined.

In Colorado, for example, products are listed with either their historical quality ratings or the words "rating in progress." Maryland and Oregon have also moved forward with displaying quality ratings this year. Increased transparency will help consumers shopping on the marketplace to make decisions about the plans that are best value for their needs, and through competition should help to improve the quality of all of the plans sold on Covered California in the future.

Sincerely,

Emily Rusch

Emily Rusch
Executive Director
CALPIRG
483 9th St. Suite 100
Oakland, CA 94706
510-844-6803
erusch@calpirg.org

October 22, 2013

Diana Dooley, Chair
and Members of the Board
Covered California
560 J Street
Sacramento, CA 95814

Dear Secretary Dooley and Members of the Board:

Consumers Union, the policy and advocacy division of Consumer Reports; Health Access California; California Pan-Ethnic Health Network (CPEHN); and Western Center for Law and Poverty write to urge the Board to reject the recommendation of staff to forego displaying quality information on Qualified Health Plans (QHPs) for the 2014 plan year.

Each of our organizations have worked on health plan quality issues for many years, and hold as a core belief that giving consumers information on quality as well as cost is essential to engage consumers in assessing the value of health plans—a core goal of Covered California as well, to which we know both Board and staff are committed. We have taken part in conversations with Covered California staff and QHP representatives about the methodology for a unique Quality Rating System in California, as well as about what quality measures should be displayed in this first year. We are thus well aware of the complexity of the issues, the concerns of some plan representatives, and the pros and cons of various alternatives for quality reporting.

With all these factors in mind and after reading the Board Recommendation Brief on the Quality Rating System, we conclude that California needs to provide QHP quality information as soon as possible for plan year 2014. To do otherwise would put California consumers at a disadvantage in making informed choices and not give them information validating that Covered California takes plan quality seriously. While Covered CA has been the "lead car"—a standout among all the state marketplaces in its start-up, standardization of benefit designs and many other issues"—to fail to provide any quality information for this first year would put California behind the pack.

Our preliminary research shows that approximately eight out of 16 state marketplaces have decided to provide quality information for the 2014 plan year based on historical data. Each of these states faces the issue of lack of contemporaneous data for the exact products and provider networks offered in their marketplaces. Some use data collected during the QHP certification process, others use NCQA data or rely on existing state databases by plan, rather than by product. They face the same issue of having some plans that were not NCQA-accredited and for which HEDIS and CAHPs data may not exist, and the issue of having "new plan entrants" into the market. To address the latter issue, they do not provide a rating and simply provide caveat language such as "Not rated yet—new carrier" or "In progress." While there is currently no perfect data, this is always the case with quality data: time lags are standard and unavoidable, and should not be seen as a reason to not take steps to put quality information forward.

We thus strongly urge you to direct that some quality measures be offered to consumers by December 2013. One viable alternative, at least for this first year, would be to post the most current results of the Consumer Assessment of Healthcare Providers and Systems (CAHPS)

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(415) 431-6747• (415) 431-0906 (fax)
www.consumersunion.org

survey for each carrier. Many of these measures relate to a plan's overall performance, and should not be highly dependent upon the providers in network or the enrollee characteristics. While CAHPS measures do not get at clinical measures, they are a first step, and the one that Colorado has taken. That marketplace, Connect Health Colorado, uses a CAHPS composite score and a link to HEDIS scores. Another option is to display plan data available through the Office of the Patient Advocate for HMOs and PPOs.

Having some plan quality information available for Californians choosing coverage—coverage they are required by law to have starting January 2014—validates for consumers that you have considered the quality of plans chosen as QHPs and is only fair to consumers spending scarce family dollars.

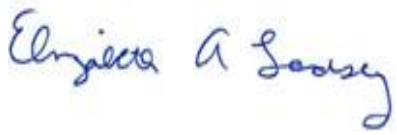
We know staff has worked diligently and in good faith to find a compromise on the quality data to be provided to Californians for the 2014 plan year. We appreciate those efforts and their including us in the dialogue. We just reach a different conclusion and recommendation to you.

Respectfully,

Betsy Imholz, Special Projects Director
Consumers Union

Anthony Wright, Executive Director
Health Access

Ellen Wu, Executive Director
CPEHN



Elizabeth Landsberg, Director of Legislative Advocacy
Western Center for Law and Poverty

cc Peter V. Lee
Jeffrey Rideout

PATRICIA TANQUARY, MPH, PhD
Chief Executive Officer

JAMES TYSELL, MD
Medical Director

CONTRA COSTA
HEALTH PLAN
A Division of Contra Costa Health Services

A Culture of Caring

ADMINISTRATION

595 Center Avenue, Suite 100
Martinez, California 94553
Main Number: 925-313-6000
Member Call Center: 877-661-6230
Provider Call Center: 877-800-7423

Se Habla Español

October 23, 2013

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

Dear Peter,

I am writing to you per our discussion to argue against implementing the current proposed quality scores for Plans under the Exchange in 2014.

CCHP has been a licensed federally qualified Health Plan for 40 years. During that time we have covered commercial lives, Medi-Cal Enrollees, Medicare recipients as well as the uninsured in both the County and Low Income Health Program. We have used HEDIS as specified by Medi-Cal and different HEDIS measurements as required by Medicare or for our commercial members. We also do member satisfaction surveys on all of these populations.

The real issue is not only whether the Plan has a different network under the Exchange. The real issue is that the Medi-Cal population is different from the commercial population. The Medi-Cal members consistently struggle with poverty, transportation and child care difficulties and lack of education which make their compliance with HEDIS and preventive care issues less than our more affluent employed commercial population. This finding has been true in our comparisons year after year despite making gains in our Medi-Cal HEDIS scores.

The rapid combining of these populations under single Quality scores to be listed as part of the Exchange choice process is flawed. We all need to work together next year to address appropriate quality scores which adjust for these different population issues. Then we would be supportive of including accurate quality measures as part of the competitive process under Covered Ca in future years.

Please use my letter in your Board deliberations tomorrow on this very important issue. Thank you for our conversation and for your consideration of our input.

Sincerely,

Patricia R. Tanquary

Patricia Tanquary, MSSW, MPH, PhD
Chief Executive Officer

Cc: Molly Tamashiro, Covered California Account Manager
Lisa Schenck, Executive Assistant to Covered California Plan Management

August 6, 2013

Peter Lee, Executive Director
Dr. Jeff Rideout, Medical Director
Covered California
Sacramento, CA 95814

Sent electronically via qhp@covered.ca.gov

Dear Jeff and Peter:

We write to indicate our concern with the proposed significant postponement to future years of the Quality Reporting System (QRS) ratings – a critical tool for consumers who hope to factor quality into their value decision – as part of the Cal-HEERS plan selection tool. We urge that this decision be reconsidered in the interest of both transparency to consumers and fair competition among Covered California's plan partners.

Quality Ratings Benefit Consumers. The commitment of the Covered California leadership to highlight, via a consumer-friendly star rating system, the quality ratings of the plans and their care delivery networks that will be available through Covered California, and to display this information prominently on the same screen that shows price and benefit levels, has been and should be applauded. The inclusion of quality ratings in the "smart sort" algorithm is also wise and is widely supported. This approach is in keeping with the vision of Covered California to serve as a catalyst for delivery system reform by promoting competition based on *both* quality as well as price.

The Board of Covered California adopted as its mission "to increase the number of insured Californians, improve health care quality, lower costs, and reduce health disparities through an innovative, competitive marketplace that empowers consumers to choose the health plan and providers that give them the best value." The Board consciously and appropriately chose "value" as a broader aspiration than "price." Indeed, a review of the six organizational values adopted by the Covered California Board is noteworthy for its focus on improving quality, reducing health disparities, improving value, and other goals independently of, and in addition to, improving affordability.

Quality information must be provided at the launch of mandatory coverage, if Covered California is to ensure a consumer-centric focus in a reformed marketplace. Consumers should not be asked to "click around" on the Covered California website to find quality ratings, nor should the ratings be restricted in some way – such as by preventing consumers from comparing the quality performance of different plan designs. Indeed – that is precisely the choice in front of consumers – a Medi-Cal plan or a commercial plan? A PPO with a limited network, or a broader network, or an HMO? The key, in our view, is to provide consumers with information that is relevant to them, in a manner in which they can easily understand it, and at the point where they can best make use of it – namely, as they are making their choice of plans.

While we recognize the priority that affordability in health coverage has for policymakers, it is wrong to presume that affordability is the only information consumers need when choosing a health plan, or candidly, even that its importance dwarfs all other factors. The strength of different plans in meeting core quality-of-care objectives is vital information, and for this reason, Covered California's previous decision that quality data comparing and contrasting the choices available to consumers must be prominently displayed is the right one. Moreover, we believe it far more closely tracks the priorities of the Covered California Board as laid out in its mission and organizational values last fall.

Dropping Quality Ratings Isn't Putting Consumers First. Regrettably, we understand a tentative decision has been made to abandon quality reporting for consumers in 2014, in response to criticism that 1) some plans selected for participation in Covered California have contracted with provider networks that are dramatically different than those upon which available quality ratings are based, and 2) the available data is "historical" and not based on service to the "Exchange population."

With regard to the latter criticism, we note that all quality data is historical. Quality rankings (in health care or in automobiles) presume that past performance is useful and valuable to consumers in predicting their experience. If the charge is that data presented to Covered California consumers must be drawn from quality scores derived from treating only the "Exchange population," we note two points. First, because of HEDIS score requirements regarding continuous enrollment of one year or longer, this simple-sounding limitation effectively means quality data would not be available to Covered California consumers for either the 2014 or 2015 open enrollment periods. Indeed, some HEDIS scores could not be reported for even the 2016 open enrollment period. As such, accepting a requirement that quality rankings presented to Covered California purchasers be based exclusively on data from the Covered California population as a pre-condition for quality reporting ensures no meaningful quality data will be available to Covered California consumers for two and perhaps three years.

Moreover, we note that a large portion of Covered California members are coming from exactly the two "pools" for which quality reporting today is readily available: the commercial market and Medi-Cal. How then can data drawn from quality performance serving the Medi-Cal and commercial population be dismissed as irrelevant? We also note there is no indication that plan and provider ratings for serving a commercial population, or for serving a Medi-Cal

population, are an insufficient basis for predicting the quality of care that will be experienced by Covered California consumers. Indeed, the evidence indicates quite the opposite. Delivery systems that score well in quality do so because they have organized systems to perform across broadly endorsed metrics of quality. The available evidence strongly indicates that organizations which perform well on one population-based set of quality metrics perform well on all of them.

Quality Ratings Should Match the Network Consumers Have Available To Them. The concern that proposed QRS scores do not reflect the performance of the particular provider networks some plans have contracted to offer to Covered California consumers, in our view, has merit. We disagree with the tentative solution to drop the QRS ratings as part of the plan selection tool, however, and believe it would be unfair to both consumers and those Covered California plan partners who will offer Covered California consumers identical or substantially similar networks as the highly rated networks they offer in the commercial market today. In short, when consumers have a choice of an existing high-quality provider network – a network that has delivered consistently superior performance on numerous quality ranking systems – they deserve to know it. We do not see an acceptable reason to conceal or suppress that information as consumers make their plan coverage choice, any more than it would be acceptable to conceal or suppress the price.

As indicated previously, quality ratings should reflect, as closely as possible, the performance of the plan/provider network that is being made available to consumers. <u>If the networks offered by certain plans in Covered California do not reasonably resemble those of an existing network for which quality data is available, the appropriate information to convey to consumers is "not yet rated," rather than suppress the reporting of quality scores for all plans, including those with identical and highly rated networks.</u>

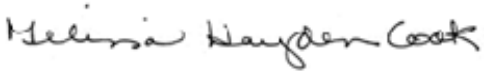
Just as "the price is the price," and more expensive plans must bear the consequences in seeing a higher price prominently displayed alongside those of lower-priced competitors, so too should quality rankings be clearly shown – and in a manner that tells consumers the unvarnished facts on matters that are highly relevant to them. Simply stated, consumers deserve to know what they are buying – and if they are buying something that is new and innovative, but relatively unproven also, they deserve to know that as well.

Finally, we wish to make a practical observation. If quality reporting is delayed, there will always be future changes in the Covered California marketplace – provider network modifications, new plans entering Covered California, low consumer response rates – that can be used to justify further delays. And, candidly, if stakeholders that score poorly on quality can succeed in delaying the reporting of quality scores, they will be highly motivated to preserve the status quo through further delay. In contrast, if quality metrics are presented for plans that offer comparable networks to Covered California consumers, and other plans are listed as "not yet rated," the incentives will be reversed. <u>All</u> plans will have an incentive to work for rapid and consistent quality reporting.

We appreciate the commitment of you, and of Covered California's Board, to improving the experience of consumers in choosing health insurance. We also recognize your consistent focus on partnership in terms of your relationship with contracting health plans. We believe the right course in light of both is to proceed with the QRS for 2014 for those plans where the data is reliable for the network they have chosen to assemble on behalf of Covered California consumers.

Sincerely,

Jerry Fleming
Senior Vice President
Health Reform Implementation and Policy
Kaiser Permanente



Melissa Hayden Cook
President and Chief Executive Officer
Sharp Health Plan

Garry Maisel
President and Chief Executive Officer
Western Health Advantage

cc: Members of the Board of Covered California

October 21, 2013

Members of the Board of Covered California
Sacramento, CA 95814

Members of the Board:

Regrettably, we must write to indicate our deep concern regarding a pending staff recommendation that Covered California postpone the display of health plan quality ratings for consumer use when selecting a health plan for 2014. We strongly urge that the display of health plan quality ratings go forward as originally planned, in the interest of both transparency to consumers and fair competition among Covered California's plan partners.

Cost and Quality Both Are Important to Consumers of Health Care. Previously, we have expressed our views regarding the importance of quality ratings, and urged that they be incorporated as part of the Cal-HEERS 2.5 release scheduled for November 15, and therefore available for the bulk of consumers who will select their plan for 2014 in the coming months. We find it disappointing that taxpayer resources have been expended to delete this capability from the version of Cal-HEERS that is available to consumers today, and believe making this information available to consumers should be accomplished without further delay.

As we've previously stated, plan quality ratings represent valuable information for Covered California consumers as they contemplate a very important decision for themselves and their families. We find it unimaginable that consumers would prefer to be kept in the dark when quality information is readily available for their consideration. In our view, consumers deserve to know that Covered California has made available to them a number of health plans with stable provider networks – providers that have performed consistently and exceptionally in independent measures of customer satisfaction and, most importantly, the quality of care they deliver, year in and year out.

In the spirit of 'evidence-based decision-making,' we note this is not merely our opinion. In a report prepared for Covered California by the National Opinion Research Center (NORC) at the University of Chicago and released by Covered California today, consumers were asked to rank the most important factors in their decision about whether to shop for a plan through Covered California. According to the report:

> *"The following were rated as very important to consumers (about 8 or higher on a 10 point scale): no one will be denied coverage, ease of plan comparison and selection, and the screening of plans for quality."*

The first two points Covered California has addressed emphatically. All Covered California advertising and marketing materials emphasize no denials for pre-existing conditions. And, Covered California elected to standardize metal tier products across all carriers – in a decision that drew

national attention as a precedent-setting move to make plan comparison and selection simple for consumers.

The third factor the report describes as most important to consumers, that Covered California screens health plans for quality, is one the Board can underscore by ensuring health plan quality ratings are prominently displayed on the plan selection pages of the Covered California website.

Withholding Important Information Is Never the Route to Consumer Credibility and Trust. We are aware that most plans in Covered California are made up of new network combinations, and therefore, that existing quality ratings cannot reasonably be used to demonstrate their performance on crucial quality of care indicators. Instead, these plans would be designated as "not yet rated." We understand there is concern that this may reflect poorly on Covered California, and undermine its reputation among consumers.

We disagree. In our view, a fierce commitment to transparency is the only route by which Covered California can earn and keep the trust of the consumers it wishes to help and serve. We can't imagine a decision to tell consumers, in effect, "we didn't tell you so you'd trust us."

It's About the Mission, and the Mission Has Never Been About Price Alone. We're also aware that a variety of additional arguments have been advanced, at one point or another, to dissuade Covered California from staying true to its strong mission statement to promote quality and put consumers first, no matter where the proverbial shoe may pinch.

In candor, we think it is rare in public policy debates that one side of an argument has no valid points to make. Instead, as all of you well know, policy debates such as this often must be resolved by deciding which among competing goals matters most. For the members of the Board of Covered California, we believe upholding the mission you have set out on behalf of consumers is what must matter most, and that it falls to you, at occasional, crucial points in the journey we are collectively making, to call attention to this fundamental value.

Among the 16 state Exchanges, Covered California stands out for having put a stake in the ground that it will put to enthusiastic use its unique authority as an active purchaser -- to promote health care quality, to address health outcomes disparities among those who consistently suffer them, to ensure that consumers are spoken to in their own language, and always, that they be treated with dignity and respect… And also that Covered California would negotiate a lower price.

It has been plain on many occasions that the Board meant what it said. We've watched you uphold a broad mission statement when the faster, easier course would have been to focus on the nuts and bolts (and IT systems and telephones), or to congratulate yourselves on lower-than-expected prices and call it a day.

On This Issue, Covered California Has Surrendered It's "Pace Car" Status. Regrettably, on the display of quality ratings to consumers, California is no longer leading. Covered California has surrendered its spot as the "pace car." In at least three states -- Colorado, Oregon, and Maryland -- health plan quality ratings are displayed immediately next to price on the plan selection webpage for consumers to consider, side-by-side with the price (please see attachments). In both Colorado and Maryland, this is true even though some plans, as in California, are "not yet rated." Indeed, the leader may be Colorado, where not only are quality ratings displayed, but rating is the default "sort"

– the highest rated quality plans are displayed first, apparently because Colorado policy makers believe health care quality may matter to consumers even more than price.

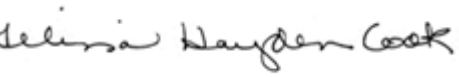
Presumably, the same arguments against making quality ratings available for consumers as we've heard in California were also heard in these states – perhaps by some of the same companies that are participating in Covered California. No doubt, new networks were deployed uniquely for these state Exchanges – including in both Colorado and Maryland, for example, a new health plan "co – op" established under the Affordable Care Act exclusively to serve Exchange members. And, presumably, consumer groups urged policy makers to come down on the side of consumers and state, plainly and clearly, what is known about the quality performance of the competing plans, even if the information was imperfect.

In short, the leadership of these three state Exchanges faced a choice, as California's does now – and they chose to put consumers first.

Over 100,000 Californians Are Weighing Their Choices Today. We write to ask that you ensure California joins these other leading states, and with no further delay. We believe there has never been a compelling reason to deny this information to consumers. And as of this writing, there are over 100,000 Californians in some stage of applying for coverage through Covered California, weighing a difficult and important choice. We urge you to give them information they deserve to know. Whether these Californians choose a highly rated plan or not, we are certain they will appreciate that you let them know what <u>you</u> know about their choices.

Sincerely,

Jerry Fleming
Senior Vice President
Health Reform Implementation and Policy
Kaiser Permanente



Melissa Hayden Cook
President and Chief Executive Officer
Sharp Health Plan

Garry Maisel
President and Chief Executive Officer
Western Health Advantage

cc: Peter Lee, Executive Director
Dr. Jeff Rideout, Medical Director

October 15, 2013

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

Via Electronic Mail: Peter.Lee@coverec.ca.gov

Howard A. Kahn
Chief Executive Officer

Dear Mr. Lee:

On behalf of L.A. Care, a Qualified Health Plan (QHP) participating in Covered California, I am writing to voice my concerns regarding Covered California's most recent health plan quality rating system proposal. I am surprised and disappointed that Covered California is considering reversing its earlier plan to display a quality rating system beginning with open enrollment 2015 and instead is considering to display a quality rating system as early as January 2014. L.A. Care does not agree with Covered California's confusing and contradictory stance and further objects to displaying a quality rating system sooner than open enrollment 2015.

L.A. Care fully endorses the use of a quality rating system that assists consumers in making informed decisions when choosing a health plan. As you know, the ACA requires the use of health plan quality ratings beginning in Year 3. This requirement ensures that there will be two years of exchange-specific historical data available that result in uniform measurement amongst the health plans. With two full years of data, the quality ratings would represent the actual Exchange provider network and population, thereby providing meaningful information to the consumer. With that being said, L.A. Care has and will continue to work with Covered California and other stakeholders to explore ways to quickly collect exchange-specific data to be used in open enrollment 2015 – which still results in California implementing a quality rating system a full year earlier than the ACA requirement.

It is surprising that Covered California would consider such a controversial change when there has been no new evidence or rationale to support the change, and since the proposal represents a complete departure from previous representations from Covered California. In fact, an August 2, 2013 memo from Covered California specifically declared holding off implementing quality rating scores as the most appropriate course of action after meeting with numerous stakeholders and determining it was not in the best interests of consumers to institute a quality rating system for 2014. The memo cited several reasons for Covered California's conclusion including the potential differences in the current ratings based on populations, product lines, and networks, which all or some of the elements could result in different quality ratings in the Exchange. Covered California concluded in its August 2 memo, "*Taken together, these factors raise substantial concerns that the historic performance of plans may not represent or complete enough to allow for direct comparisons among plans*."

Based on recent discussions with Covered California staff, it is my understanding that if quality ratings are posted in January 2014, L.A. Care and most other plans would be classified as "*Not Yet*

Rated". Regardless of how "*Not Yet Rated*" may be defined, it will have a negative undertone and would unfairly mischaracterize L.A. Care. For instance, if a consumer is comparing one health plan that has a star rating against a plan that is noted as "*Not Yet Rated*" it is expected the consumer would be apprehensive and consider the non-rated health plan to be less credible/inferior, even though the non-rated health plan may be better for the enrollee's specific needs. In such a scenario, all parties experience detriment by the inadequate quality rating system.

I am at a loss in understanding what significant event transpired that resulted in Covered California's complete departure from its prior pronouncement to work with stakeholders to develop a quality rating system that could be implemented in Year 2 – still one full year ahead of the ACA requirement. I am further surprised that Covered California would act without an ability to clearly state how consumers will benefit from this information. It will be providing an incomplete picture to consumers, as well creating an uneven playing field among the health plans in the exchange.

L.A. Care worked tirelessly throughout 2012 in order to meet all statutory and regulatory requirements standards and is pleased to be chosen as a QHP in Covered California. L.A. Care is fully committed to providing transparent and accurate information to California's consumers and believes the best approach to achieving these goals is through the policies outlined in Covered California's August 2, 2013 memo.

If you have any questions, please contact me at (213) 694-1250 ext. 4102.

Sincerely,

Howard A. Kahn

cc: Covered California Board Members

October 18, 2013

Dianne Koezler
SHOP Interim Director

Anne Gezi
SHOP Manager

Re: Proposed SHOP Appeals Regulations and Employer/Employee Application

Dear Ms. Koezler and Ms. Gezi:

Please find below our written comments on the proposed appeals regulations and employer and employee application. We welcome the opportunity to further discuss these recommendations with you all.

SHOP Appeals Regulations

In general, the SHOP appeals regulations should be cross-referenced with the appeals requirements and specifications under Article 7 and should refer directly to the board approved language in Article 7. We plan to provide more detailed recommendations by Monday, which include:

1. Need for acknowledgment in the regulations that an employer and/or employee has the right to request a free language interpreter including American Sign Language if they need one.
2. Need to formally outline a complaint process for issues other than those dealing with eligibility determinations (e.g. being assigned to the wrong plan, not having one's doctor in a network). This should be separate from the appeals process because complaints will not need to be dealt with in the same manner as an appeal.
3. A complaint process for issues with the call center or website should be created to specifically address SHOP related questions.

4. The regulations must include an explicit requirement that the SHOP is required to provide notice and a right to appeal as one of its duties similar to what the individual market regulations specify.
5. Appealable issues under the SHOP should not be limited to denial of eligibility. The regulations should be revised to indicate that any decision (or lack of decision) on the eligibility and enrollment issues required under Article 6 should be appealable.
6. Employees should have a right to appeal to the SHOP if they are not deemed a qualified employee by their employer, if their employer is participating in the SHOP.
7. Any violation of privacy and confidentiality protections by the SHOP (i.e., inappropriate sharing of information with QHPs or employers or other agencies) shall be appealable and the employee should also have a private right of action.
8. Any appeal filed should be considered valid if related to any eligibility or enrollment requirement under Article 6.
9. Regulations should require that if an appeal is not considered related to eligibility and enrollment that the SHOP must notify the appellant what CA agency has jurisdiction to take that appeal.
10. Regulations should include "good cause" requirements at the initial step of filing the appeal so that the SHOP can accept an appeal past the deadline if the appellant can demonstrate "good cause" for filing late.
11. If an enrollee is terminated for coverage, he/she should be allowed to remain enrolled during the appeal process once he/she files an appeal of the termination. This should also apply to qualified employers who are terminated by the SHOP.

Employer and Employee Applications

We also have specific recommendations for the employer and employee application outlined below:

Employer Application

1. On first page, where it gives information on how to Get Help, also state that the employer can get help in other languages by calling the service center. In fact, 6452(c)(2)(B) requires taglines in non-English languages regarding the availability of translation services– subsection (a) of this section is clear that that this requirement applies to *all* applications put out by the Exchange or QHPs. Just Spanish or an English mention of help in other languages is insufficient. This section should also have information on how a person can access auxiliary aids and services. The "Need Help" language at the bottom of the application appears insufficient.
2. Ask what language an employer would like to be spoken to or written to in, similar to the language on the individual and employee applications.
3. An employer should only be required to provide information in Step 4 for employees for whom the employer has offered coverage. It should also be restated here that providing employee information is optional, which is in line with the federal application.
4. Move step 5 to coincide with questions 11 and 12 in step 2, for better clarity and understanding for the employer;

Employee Application

1. On first page, where it gives information on how to Get Help, also state that the employee can get help in other languages by calling the service center. In fact, 6452(c)(2)(B) requires taglines in non-English languages regarding the availability of translation services– subsection (a) of this section is clear that that this requirement applies to *all* applications put out by the Exchange or QHPs. Just Spanish or an English mention of help in other languages is insufficient. This section should also have information on how a person can access auxiliary aids and services. The "Need Help" language at the bottom of the application appears insufficient.
2. Remove the question about disabled y/n from the information that an employee provides about themselves, their spouse or DP, and their dependents. This question violates California law and the information cannot be provided to the carrier. It would also be a violation if this question was asked by a plan-based enroller and potentially an agent since the agent is considered and "agent of the company."
3. Also need to remove the question regarding current patient because it violates California law and the information cannot be provided to the carrier. It would also be a violation if this question was asked by a plan-based enroller and potentially an agent since the agent is considered an "agent of the company."
4. There should be a FAQ at the end of the application to provide Q&A for the employees. One suggested Q&A would be to include that an employee can apply for health coverage through their employer regardless of immigration status. Applying for health coverage won't affect their immigration status or chances of becoming a permanent resident or citizen.

Thank you for your consideration of our comments.

Sincerely,

Carla Saporta, Greenlining Institute
Sonal Ambegaokar, National Health Law Program
Jen Flory, Western Center on Law & Poverty
Cary Sanders, California Pan-Ethnic Health Network

cc: Peter Lee, Executive Director
David Panush, Director, External Affairs
Corky Goodwin, Policy Advisor, The Torie Group

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October 18, 2013

JVALENCIA@WILKEFLEURY.COM

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: California Supplemental Vision Coverage – Covered California

Dear David:

As you know, given your extensive involvement in the issue on behalf of Covered California, our client, VSP Global ("VSP"), has been engaged in collaborative efforts with the state exchange for over a year to ensure 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.

The opportunity for California consumers to access supplemental coverage should occur in close temporal proximity to their enrollment for general medical and dental coverage within the state exchange. As we have seen from policy choices made in other state exchanges around the country, the options for providing this consumer service are widely varied, and several choices adopted by other states are slated to be in effect when the federal Affordable Care Act takes full effect on January 1, 2014.

We understand the application in California of the Center for Consumer Information and Insurance Oversight (CCIIO) guidelines of March 29, 2013:

→A State Exchange may only offer qualified health plans or dental-only plans;

→A State Exchange can make information available about supplemental benefits;

→Supplemental benefits can be made available through a separate, state program, provided certain, key conditions are met, including: (1) The program facilitating the coverage is legally and

publicly distinct; (2) Federal funds and user fees may not be used; and, (3) program costs must be paid by the legal and publicly distinct, non-Exchange state program.

Your report of September 19, 2013, to the Board of Covered California concluded that, among then-pending options, the establishment of a "state-hosted vision care exchange" was likely to require approval of state legislation to produce that result. As we have, collectively, been unable to identify an existing state entity with sufficient, current legal authority to undertake this effort, or without other conflicts or impediments to the undertaking, we concur.

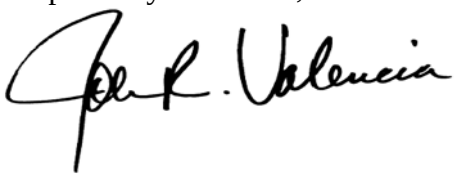
Together with our colleagues and competitors in the vision care field, VSP Global has resolved to achieve this objective. All involved will look to Covered California for necessary technical consultation and input to achieve consumer-friendly results in California.

We expect that the result will be a minimalist, efficient, consumer-friendly "vision care exchange," with no impact and no cost to Covered California, and is a solution that is in full compliance with federal guidance, and is inclusive of any and all other interested stand-alone vision plans wishing to provide Supplemental Vision coverage to California consumers.

We appreciate the commitment of time and expertise, to date, by you, your staff colleagues and the Board at Covered California to bring about a means by which vision coverage may be extended to adult, individual purchasers in California, and will continue our efforts in that vein.

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

Respectfully submitted,



JOHN R. VALENCIA

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

1018658.1

October 23, 2013

Chairwoman Diana S. Dooley
Board Member Kimberly Belshé
Board Member Paul Fearer
Board Member Susan Kennedy
Board Member Dr. Robert Ross
California Health Benefit Exchange
560 J Street, Suite 290
Sacramento, CA 95814

Via email

To Members of the California Health Benefit Exchange Board:

We want to congratulate the Board on the successful launch of Covered California and all that it has accomplished to date. We understand the Board still faces considerable obstacles to meeting many of its initial goals for Covered California. Among those goals is compliance with its legal obligations under the National Voter Registration Act (NVRA) and Senate Bill 35 of 2012 (SB 35, Padilla). We would like to take this time to remind the Board of those legal requirements and request a timeline for accomplishing full compliance.

For the past two years, the ACLU of California Voting Rights Project has been working closely with the Secretary of State's office, county elections officials, disability rights advocates, and other voting rights advocates to improve and modernize the implementation of the NVRA in California. In that time California has made significant strides in improving NVRA implementation, and we look forward to seeing Covered California join other state agencies in bringing voter registration opportunities to millions of Californians each year.

When we learned of the Health Benefit Exchange's designation as a voter registration agency in May we created a toolkit for the Board that outlined the steps to be taken to make Covered California fully compliant with the NVRA and SB 35. Since then we have had conversations with and supplied materials to Covered California staff and the Secretary of State's staff on how to implement these requirements. We have also repeatedly offered our assistance to make the integration of voter registration into the Covered California application process as successful as possible.

Through our conversations with your external affairs director, lobbyist, and general counsel, we understood Covered California would not be able to achieve full NVRA/SB 35 compliancy by October 1st. However, our conversations with your staff and Executive Director Peter Lee's presentation at the September 19th board meeting led us to believe that Covered California had accomplished an important incremental step towards compliance by including a voter

registration question and a link to California's online voter registration system in the CalHEERS application in time for the launch on October 1st. We were also told that the Secretary of State's voter registration training materials were being incorporated into trainings for Certified Enrollment Counselors. We were disappointed to learn on October 1st that Covered California was unable to integrate voter registration into the application process as planned, and that the Secretary of State's materials had not been included in Enrollment Counselor trainings.

While we are concerned by the delay in implementation, the Board's accomplishments to date give us confidence that Covered California is capable of reaching full compliance with its obligations under the NVRA and SB 35 in the immediate future. To that end, we want to remind the Board of its legal responsibilities under the NVRA and SB 35. Under state and federal law, Covered California must:

- Designate an NVRA Coordinator responsible for Covered California's compliance with the NVRA and SB 35. At the September 19th meeting, Mr. Lee reported that Covered California was still working on identifying an NVRA coordinator. It has now been over five months since the Secretary of State designated the Health Benefit Exchange as an NVRA agency and we believe that is more than sufficient time to identify an employee responsible for overseeing compliance with the NVRA and SB 35.
- Offer consumers applying online an online voter preference form that includes all federally mandated disclosures and allows consumers to answer a question regarding whether they would like to register to vote. Federal law requires that every consumer must be informed that registering to vote is not a condition for receiving health care coverage.
- Save consumers' responses to the online voter preference form for two years.
- Provide a link to California's online voter registration system for voters who answer yes to the voter registration question.
- Establish a protocol whereby consumers who do not answer the voter registration question are mailed a voter registration card.
- Include a voter preference form and a California voter registration card in every paper application packet.
- Ensure that in counties with language requirements under Section 203 of the Voting Rights Act, there are application packets available with voter preference forms and California voter registration cards in applicable minority languages.
- Ensure that consumers who apply by phone are asked if they wish to register to vote. Covered California must record their answers, and those that wish to register to vote must be mailed a California voter registration card.
- Ensure that all Certified Enrollment Counselors, as well as service center employees that assist consumers with applications, receive a training on NVRA and SB 35 requirements that is based on training materials provided by the Secretary of State. Enrollment Counselors should be instructed that when they assist consumers with online applications

they must give consumers an opportunity to complete the online voter registration form. Enrollment Counselors must provide consumers assistance, if requested, with filling out a voter registration card to the same extent as they provide assistance with Covered California's application. Enrollment counselors should be trained to never influence a person's political party preference. Finally, consumers always have the right to complete the voter registration card without assistance.

The toolkit we created for NVRA implementation at Covered California outlines your responsibilities in more detail and we hope it will help you and your staff think through how best to incorporate your voter registration responsibilities in a timely manner. We look forward to receiving a timeline for implementation and the name of your NVRA Coordinator in the near future. Please do not hesitate to contact us for further assistance.

Best regards,

Lori Shellenberger, Director
ACLU of California Voting Rights Project

Raul Macias, Voting Rights Advocate
ACLU of California Voting Rights Project

CC:

Peter Lee, Executive Director, Covered California

Diane Stanton, Deputy Director of External Relations, Covered California

Debra Bowen, Secretary of State, California Secretary of State's Office

Jennie Bretschneider, Assistant Chief Deputy and Counsel, California Secretary of State's Office

San Francisco Rising Alliance
Building the electoral power of working class communities of color in San Francisco
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September 19, 2013

Peter V. Lee
Executive Director, Covered CA
560 J Street, Suite 290
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peter.lee@covered.ca.gov

Re: Voter Registration for the Affordable Care Act in California

Dear Mr. Lee,

We write to passionately exhort you to do everything possible to follow the National Voter Registration Act and register people to vote as part of the enrollment process for Affordable Care Act.

As per the Secretary of State's February Voter Registration Statistics report, there are an estimated 5, 801,949 individuals that are eligible and not registered to vote.

San Francisco Rising remains convinced that those Californians who will have direct experience with the new health exchange program should have a say in determining the political future of our state.

It would be a shame to not take advantage of this great opportunity to register the estimated 2.3 million California residents are expected to enroll in a health plan through Covered California by 2017.

Please let us know what you are doing to ensure that voter registration of Affordable Care Act enrollees is happening. You can reach us at mario@sfrising.org.

Thank you for your attention and leadership on this important matter.

Sincerely,

Mario Yedidia
Political Coordinator, San Francisco Rising

CC: Diana Dooley, Board Chair, Covered California

The members of San Francisco Rising are base-building organizations rooted in the city's low-income and working class communities of color. They are:

Causa Justa::Just Cause (CJJC); Chinese Progressive Association (CPA); Coleman Advocates for Children and Youth; Filipino Community Center (FCC); Mujeres Unidas y Activas (MUA); People Organized to Win Employment Rights (POWER); People Organized to Demand Environmental and Economic Rights; SF Day Labor Program/La Colectiva de Mujeres; South of Market Community Action Network (SOMCAN)