



**DAVE JONES**  
Insurance Commissioner

November 20, 2013

Diana Dooley, Chair and Board Members  
Covered California  
560 J Street, Suite 270  
Sacramento, CA 95814

Dear Chair Dooley and Board Members:

Californians were promised by the President of the United States that they could keep their existing health insurance policies if they wanted to. The question before you is what you are going to do about that promise.

I urge you to release the eleven health insurers (Qualified Health Plans) who are selling in the Exchange from your contract provision requiring that they cancel Californians' individual health insurance policies on December 31, 2013. Releasing health insurers from this contract provision will not harm the Exchange or our implementation of the Affordable Care Act.

There are over 1 million Californians with individual health insurance policies who are receiving cancellation notices. Although there is nothing in state law or federal law that requires them to issue December 31<sup>st</sup> cancellations, California health insurers have issued cancellation notices to Californians with non-grandfathered individual health insurance policies. Although I oppose these cancellations, there is also nothing in state or federal law that provides the authority to stop the cancellations.

Health insurers are not, however, cancelling their small business customers. Health insurers are allowing their small business customers to renew their 2013 policies into 2014. And Covered California did not impose a cancellation requirement on health insurers selling in the small business exchange.

Last week, President Obama announced an Affordable Care Act (ACA) transition policy under which health insurers can continue coverage for people in non-grandfathered individual market plans for one year. The President asked that health insurers allow individual policyholders to renew their policies for one year. This is also permitted under state law, which allows health insurers to offer policyholders the opportunity to renew 2013 coverage into 2014, so long as they do so by December 31, 2013.

Covered California included a contract provision in its contracts with eleven health insurers selling in the Exchange, requiring them to cancel their individual policies by December 31, 2013. This contract provision now stands in the way of some California health insurers' ability to respond to the President's request.

On November 14, 2013, I wrote to health insurers in California requesting -- consistent with President Obama's request of health insurers -- that they rescind their December 31<sup>st</sup> cancellation notices for non-grandfathered health policies and allow policyholders to continue their existing coverage through December 31, 2014. Most of the health insurers that have responded to date, have talked with Department of Insurance (Department) staff about the logistics of extending these policies, but are awaiting your Board vote this week before moving forward. However, Cigna Health and Life Insurance Company and Connecticut General Life Insurance Company, which have not signed your contract requiring December 31<sup>st</sup> cancellations, are providing an opportunity for their policyholders to renew in December 2013 and remain on their plan through December 31, 2014.

There are several reasons why releasing this contract provision will not harm the Exchange or the implementation of the Affordable Care Act in California.

Once concern raised has been that people in existing policies, if allowed to renew, will not purchase Covered California policies. That assumes, of course, that all existing policyholders are going to purchase Covered California policies if they are cancelled.

In fact, however, health insurers are steering cancelled customers into off-Exchange health insurance products. The Department has received copies of cancellation notices sent to policyholders by health insurers and health plans. These December 31<sup>st</sup> cancellation notices contain provisions that impact both Covered California enrollment and consumer protections. Though Department staff has discussed this with Covered California staff, I want to make sure you understand that the content of many of the December 31<sup>st</sup> cancellation notices steers people to policies outside Covered California. Many of the cancellation notices recommend that consumers allow their current health insurer to move them into off-Exchange products, for which the policyholder will be deprived of the federal premium subsidy even if they are income eligible for the subsidy.

Unless the cancellation dates for policyholders who received these notices are extended into 2014, their health insurers will move many of these existing policyholders into health insurance products outside the Exchange for January 1<sup>st</sup> coverage, regardless of whether that policyholder might be eligible for a premium subsidy inside the Exchange that would make the coverage more affordable. Even Blue Shield of California Life and Health Insurance Company, which advocated that you adopt the December 31<sup>st</sup> cancellation provision in your contract, steered policyholders to off-Exchange products.

Another argument made against allowing renewals is that all of the existing policies are "junk insurance." This is simply not the case. Contrary to statements made by some to the media, many of the policies provide good coverage, as required by mandates in California law, which is one reason that so many people are trying to hold on to them for an extra year. In fact, in addition to steering existing policyholders to off-Exchange products, some of these cancellation notices to policyholders recommend policies that have less robust coverage than what the policyholder enjoys today, without making that clear in the letter from the health insurer to the policyholder. People who received such cancellation notices, should have time to figure out what makes the most sense for their families and not be subject to a December 31, 2013 cancellation.

Another argument made against allowing renewals is that it is too late -- the health insurers can't rescind the cancellations at this late date. This is also not accurate. Earlier this month, Blue Shield of California Life and Health Insurance Company and Anthem Blue Cross Life and Health Insurance Company sent letters to approximately 220,000 policyholders allowing them to extend their policies into 2014. Due to notice requirements in state law, I required these health insurers to provide consumers with the option to extend their policies. Although it was challenging for them, the

Anthem Blue Cross and Blue Shield experience demonstrates that health insurers can rescind cancellation notices and extend coverage into 2014. Thus, a significant portion of the market is already benefitting from a coverage extension. It makes no sense for Covered California to prohibit other health insurers and health plans from extending policies into 2014 when two of the largest health insurers in the individual market have already done so.

Given the quotes I have seen attributed to various parties over the last week in the news coverage of this issue, I also want to point out that the rates for new 2014 products available both through Covered California and outside the Exchange are set and are not subject to change during the 2014 calendar year. And in setting rates for 2015, both those who sign up for new ACA compliant coverage on January 1, 2014 and those who are able to and elect to stay in their non-grandfathered policies in 2014 will all be in the same risk pool for 2015.

Concerns raised about the impact on the risk pool in 2014 are also misplaced. The ACA has a robust set of mechanisms to protect health insurers and offset impacts in the 2014 risk pool. The temporary reinsurance, risk adjustment and risk corridor programs are all designed to mitigate the risk to health insurers of having a disproportionate share of sick people in the risk pool in 2014.

Finally, Covered California has estimated that upwards to 400,000 of the existing individual market policyholders are eligible for premium subsidies. Even if allowed to renew their current coverage, many of these policyholders are going to purchase new health insurance through the Exchange because of the premium subsidy available to them. So allowing them to renew for one year is not going to prevent a successful Exchange.

Tens of thousands of California consumers are asking to have their 2013 policies extended through 2014, as they were promised. State and federal law allow policies to be renewed in 2013 to provide coverage through December 31, 2014. The President of the United States has called on states and health insurers to allow such renewals.

Like you, I am a supporter of the Affordable Care Act. It is as a supporter of the Affordable Care Act, who like you has worked hard to implement it successfully here in California, that I write to you today. Failing to rescind your contract provision will deprive Californians of the one year extension offered by the President last week. I urge you to vote to rescind your contract provision requiring December 31, 2013 cancellation which is preventing Californians who have been responsible and purchased health insurance coverage from holding on to the coverage they have for this one year transition period as they were promised they could do.

Sincerely,

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

**DAVE JONES**  
Insurance Commissioner