



# *Comments to the Board*

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November 20, 2014 Board Meeting

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**Congress of the United States**  
**Washington, DC 20515**

September 16, 2014

Peter V. Lee  
Executive Director  
Covered California  
1601 Exposition Boulevard  
Sacramento, CA 95815

Dear Mr. Lee,

As members of the California delegation, we are concerned with the September 30 deadline for Californians to verify their immigration status in order to retain health coverage. We understand that Covered California has taken a diverse and multi-channel approach to notify individuals of their need to verify their legal status in the U.S. However, we remain concerned that this is not a sufficient amount of time for Californians to gather the required documents to verify their status. With 98,000 Californians at risk of losing their health coverage, we are calling on Covered California to extend the verification deadline to ensure that Californians keep their coverage while they verify their immigration status.

Immigrants face unique barriers and challenges in obtaining health coverage. Problems with income verification, identity verification, immigration status verification, technology barriers and language access are just some of the many issues immigrants face in obtaining health coverage. According to the National Immigration Law Center, the typical processing time for a replacement naturalization certificate or immigration document is 90 days. In addition, the fees for replacement documents often exceed \$350-400 and not all families can afford to pay for these documents on short notice.

We appreciate the outreach Covered California has conducted to verify immigration status. However, many consumers who have already provided Covered California the required documents have not had their legal immigration status confirmed by the agency. There are still many others who believe that the notices are a scam and are reluctant to hand over additional sensitive information.

Given these inherent barriers and the short deadline, we urge Covered California to extend the deadline and offer additional assistance to these 98,000 Californians. Immigrant families face unique challenges and we should not deprive them of health coverage for any period while their status is verified.

Sincerely,

*Linda T. Sánchez*

Linda T. Sánchez  
Member of Congress

*Lucille Roybal-Allard*

Lucille Roybal-Allard  
Member of Congress

*Grace F. Napolitano*

Grace F. Napolitano  
Member of Congress

*Judy Chu*

Judy Chu  
Member of Congress

*Sam Farr*

Sam Farr  
Member of Congress

*Mike Thompson*

Mike Thompson  
Member of Congress

*Michael M. Honda*

Michael M. Honda  
Member of Congress

*Tony Cárdenas*

Tony Cárdenas  
Member of Congress

*Loretta Sánchez*

Loretta Sánchez  
Member of Congress

*Mark Takano*

Mark Takano  
Member of Congress

*Jim Costa*

Jim Costa  
Member of Congress

*Alan Lowenthal*

Alan Lowenthal  
Member of Congress



September 26, 2014

The Honorable Linda Sanchez  
The United States House of Representatives  
2423 Rayburn Building  
Washington, DC 20515

RE: Covered California's Process of Verifying Citizenship/Lawful Presence Status

Dear Representative Sanchez,

Thank you for your letter regarding ensuring Californians have adequate time to verify their immigration or citizenship status in order to retain health coverage. I appreciate the importance of this issue and welcome the opportunity to provide you with an update.

Federal regulations require Covered California to verify that all enrollees have a satisfactory citizenship/lawfully present status. Eligibility inconsistencies occur when an exchange cannot electronically verify an eligibility factor for an applicant for subsidized coverage through the Federal Data Services Hub. If we are unable to verify a consumer's citizenship/lawful presence status through electronic data sources, the consumer is given a 90-day period to provide documentation to prove their eligibility. After the 90-day period, if we still cannot verify that the enrollee meets the citizenship/lawfully present requirement, we must terminate the enrollee's coverage. Consistent with the Federally Facilitated Marketplaces, Covered California has not enforced a 90-day reasonable opportunity period during 2014.

Covered California is committed to helping its eligible consumers stay insured. In order to help consumers retain their health care coverage, we are taking several steps to notify them of their inconsistency and assist them in resolving it. Covered California engaged consumer advocates in the development of notices that were subsequently mailed and emailed to individuals requesting that they provide us with documents so we may verify their citizenship or immigration status. We collaborated with our Certified Insurance Agents so if a consumer enrolled with a Covered California Certified Insurance Agent, that agent was provided information and instruction to contact the consumer directly by phone to assist them in providing verification to Covered

California. We have also partnered with our health plans to conduct outreach to the consumers who have an immigration or citizenship inconsistency.

As we have structured our policy on verifying inconsistencies, we have been very mindful of the difficulties consumers can face securing copies of the needed documentation. For this reason, it is important to note that Covered California will continue to accept documents and resolve inconsistencies through the end of the calendar year. It is possible to prevent a gap in coverage for consumers who submit their documents after they have been notified that their coverage is terminated. Our policy is to reinstate individuals who clear their inconsistency after the September 30<sup>th</sup> deadline to submit documents and after they have received a notice that their policy will be cancelled effective October 31<sup>st</sup>. Provided we receive the needed documentation and the consumer pays their premium, coverage will be retroactively reinstated to November 1, 2014.

The upcoming renewal process for consumers is another important factor that has guided our policy. Covered California will begin sending renewal notices to Consumers in October. If consumers with inconsistencies do not have their eligibility resolved by the time our renewal cycle begins, they would risk being left out of the renewal communications, jeopardizing their smooth enrollment into a 2015 plan. September 30<sup>th</sup> was selected to give Covered California enough time to process all the documents we receive in time for this renewal deadline. Coupled with the reinstatement policy, and a helpline and appeals process to help consumers navigate it, we hope to help consumers maintain their coverage.

Nevertheless, Covered California is committed to clearing all citizenship and immigration inconsistencies prior to September 30<sup>th</sup> if possible to minimize consumer confusion and keep Californians enrolled in coverage. We are deploying the multi-touch, multi-channel outreach plan outlined below to notify individuals who risk losing coverage. We will also offer additional help to consumers who are attempting to provide us with their documentation so that we may clear their inconsistency.

### **Consumer Outreach**

- Covered California has mailed notices to individuals requesting that they provide us with documents so we may verify their citizenship or immigration status. The notices include instructions for submitting the documents and advise consumers of the resources available to them should they need assistance in providing the documents. The notices were sent in English and Spanish and included modified tagline page indicating “Important Information” in all of the Medi-Cal threshold languages. I am enclosing a copy of these notices for your convenience.

- We have sent electronic emails to individuals reminding them to send in their documents. The emails are sent weekly and begun during the first week in September. They are being sent out in English, Spanish, Vietnamese, Korean, and Chinese.
- We have established a “Helpline” to assist consumers who need help submitting documents or who have submitted documents that could not be verified.
- During the first week in October we will send a notice informing consumers their coverage will end on October 31, 2014.
- We developed an FAQ for consumers on our website:  
<http://www.coveredca.com/faqs/request-for-verification-clp/>
- We placed a list of documents that can be used to clear an inconsistency on our website: <http://www.coveredca.com/faqs/request-for-verification-clp/PDFs/Document-List.pdf>
- We placed a cover page that can be used to provide verification documents via fax or mail on our website: <http://www.coveredca.com/faqs/request-for-verification-clp/PDFs/Heres-My-Proof.pdf>

### **Partner Outreach**

- Covered California has partnered with our Certified Insurance Agent Partners. If a consumer enrolled with a Covered California Certified Insurance Agent, that agent will be contacting the consumer by phone to assist them with clearing their inconsistencies.
- We have also partnered with our health plan partners to do outreach to the consumers who have an immigration or citizenship inconsistency. Consumers may be contacted by their health plan by phone and email with information on how to clear their inconsistencies.
- Understanding that immigration status can be a sensitive issues for many of our consumers, Covered California has engaged partners and stakeholders who specifically serve immigrant communities to review and provide feedback on our outreach and communication strategies. This has helped set up best practices to reach out to specific communities who may need additional resources to send their documents.

### **Media Outreach**

- Covered California is engaged in an extensive media push about the importance of clearing up inconsistencies across the state, with a heavy emphasis in Spanish and Asian language television, radio and print media.
- During September Covered California will continue to engage the media, particularly Spanish language radio, on the different components of the notice,

the documents that can be used to verify lawful presence and the deadlines consumers need to be aware of to verify their lawful presence.

Covered California is committed to ensuring Californians have ample time to clear their inconsistencies. We also believe our reinstatement policy will provide our consumers with an extra window of time to ensure they're able to retain their health coverage. Please feel free to reach out to me if I can provide you with additional information on this critical issue and thanks again for your interest.

Sincerely,

A handwritten signature in blue ink that reads "Peter V. Lee". The signature is fluid and cursive, with a long horizontal stroke at the end.

Peter V. Lee  
Executive Director

cc: The Honorable Lucille Roybal-Allard  
The Honorable Grace Napolitano  
The Honorable Judy Chu  
The Honorable Sam Farr  
The Honorable Mike Thompson  
The Honorable Michael Honda  
The Honorable Tony Cardenas  
The Honorable Loretta Sanchez  
The Honorable Mark Takano  
The Honorable Jim Costa  
The Honorable Alan Lowenthal

September 26, 2013

Mr. Peter V. Lee, Executive Director  
Ms. Diana S. Dooley, Board Chair  
Ms. Kimberly Belshé, Board Member  
Mr. Paul Fearer, Board Member  
Ms. Susan Kennedy, Board Member  
Dr. Robert Ross, Board Member  
Covered California  
560 J Street, Suite 290  
Sacramento, CA 95814

*VIA FAX AND E-MAIL*

RE: KAISER FOUNDATION HEALTH PLAN'S FAILURE TO MEET COVERED CALIFORNIA'S "GOOD STANDING" REQUIREMENT FOR RECERTIFICATION FOR 2015 PLANS

Dear Mr. Lee, Ms. Dooley, Ms. Belshé, Mr. Fearer, Ms. Kennedy and Dr. Ross:

In letters dated July 24, 2013 and August 2, 2013, we notified you that the Department of Managed Health Care's ("DMHC") regulatory sanctions against Kaiser Foundation Health Plan, Inc. ("Kaiser") appear to disqualify Kaiser from participating as a "Qualified Health Plan" ("QHP") in Covered California. Covered California's rules require HMOs to meet Covered California's regulatory "good standing" requirement in order to participate in California's health benefit exchange.

We understand that Covered California is now evaluating Kaiser's application to be "recertified" as a QHP for 2015. We are writing today with urgency to alert you that Kaiser is ineligible to be recertified as a QHP for 2015 because Kaiser still does not meet the regulatory "good standing" requirement that is a condition of participation in California's health benefit exchange.<sup>1</sup>

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<sup>1</sup> This requirement is specified in Section I "Licensed and in Good Standing" of Covered California's "QHP Issuer 2015 Renewal Application Version 2-19-14" and is further detailed in Appendix A "Definition of Good Standing" in the aforementioned document.



You are likely aware that earlier this month, Kaiser withdrew its appeal of a \$4 million fine levied against it last year by the DMHC for committing “serious” and “systemic” violations of California law, including California’s Timely Access Regulations and the Mental Health Parity Act. The fine, which was issued on June 24, 2013, is the second largest in the DMHC’s history. Kaiser’s agreement to pay the fine is additional proof that it does not meet the definition of “good standing,” which Appendix A of Covered California’s QHP Issuer 2015 Renewal Application defines as “Affirmation of no material statutory or regulatory violations, including penalties levied, in the past two years...”

Kaiser’s poor standing with its regulatory agency is further underscored by the heightened and ongoing oversight to which it has been subjected by the DMHC. For example, Kaiser continues to be subject to a “Cease and Desist Order” issued by the DMHC on June 24, 2013 due to the severity of Kaiser’s violations of state statutes and regulations. Additionally, the DMHC continues to conduct an “expedited follow-up survey” of Kaiser’s performance that was ordered due to the seriousness of Kaiser’s violations. The results of this survey, which will reportedly be issued in the next few months, may result in additional regulatory sanctions against Kaiser for ongoing noncompliance.

With respect to Covered California’s regulatory “good standing” requirement, we are concerned that Covered California has altered the definition of the term “material,” which is a fundamental element of the “good standing” requirement. Specifically, Appendix A of the QHP Issuer 2015 Renewal Application defines “material” by stating: “Covered California, in its sole discretion and in consultation with the appropriate health insurance regulator, determines what constitutes a material violation for this purpose.” This represents a substantial alteration of the definition heretofore in effect. Until recently, “QHP Solicitation Final Release – November 16, 2012 as amended 12/28/12,” defined “material” as the following: “Material violations are those that represent a relevant and significant departure from normal business standards that a health plan issuer is expected to adhere to.” We would like to understand who altered the definition of “material,” what is the purpose of such changes, and how these changes were approved, recorded and noticed to the public.

Finally, given Kaiser’s failure to meet Covered California’s “good standing” requirement, we request that Covered California disqualify Kaiser from recertification in California’s health benefit exchange for 2015. As we understand it, such action would allow Kaiser’s existing Covered California enrollees to continue their coverage by Kaiser, but would freeze Kaiser’s future enrollment until it successfully remedies the severe violations affecting its behavioral health services and finally complies with Covered California’s “good standing” requirement. We remain acutely concerned that, during the past year, Covered California allowed Kaiser to enroll hundreds of thousands of Californians despite the fact that the DMHC had earlier cited Kaiser for “serious” and “systemic” violations of state law that continue to deprive thousands of

enrollees of adequate behavioral health services. Such action will ensure California's consumers that they can trust the Exchange's products and its system for ensuring quality coverage for Californians.

Sincerely,

A handwritten signature in black ink, appearing to read "Sal Rosselli".

Sal Rosselli, President



October 9, 2014

Sal Rosseli, President  
NUHW Northern California  
5801 Christie Avenue, Suite 525  
Emeryville, CA 94608-1986

Send via US Mail, E-Mail and Fax. (510) 834-2019

Dear Mr. Rosseli:

Thank you for your letter to Executive Director Peter Lee and the members of the California Health Benefit Exchange Board, received at the Board offices on September 26, 2014.

In your letter, you raised questions about the definition of "good standing" as it appears in the 2015 recertification regulations. In that regard, you should be aware that the definition of good standing was established in the regulation promulgated in 10 CCR 6420 in accordance with the California Administrative Procedures Act, including publishing by the Secretary of State on March 3, 2014.

Notice of the proposed regulation for Board action was placed on the Board agenda which was made public ten days prior to the February 20, 2014 Board meeting in conformance with the Bagley-Keene Open Meeting Act. The matter was heard on that date and, after public comment, was approved by a public vote of the Board.

Throughout your letter, you make references to Kaiser and good standing. As I am sure you are aware, on September 4, 2013, your organization filed a lawsuit in Sacramento Superior Court naming the Board as respondent/defendant and raising issues with regard to Kaiser and good standing. Therefore, you should raise your concerns, assertions and questions regarding these issues with the attorneys representing NUHW.

Thank you for your continued interest in Covered California.

Sincerely,

Cyrus J. Rickards  
Staff Counsel

CC: Peter V. Lee, Covered California Executive Director  
Covered California Board Members

**General Comment Received via E-mail**

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Subject: Proposition 45

Dear Executive Director Peter Lee and the Covered CA Board,

Prop 45 would protect Californians against large health insurance rate hikes and increase transparency of the rate review process. This is already practiced in 35 other states and other insurance markets in California. Only five companies control 88% of the health insurance market and currently do not have to justify rate increases.

For these reasons I strongly urge the board of Covered California to consider endorsing Prop 45 or take no public position on Prop 45, the Justify Rates Initiative. Opposition from the board would severely undermine consumer confidence in Covered California and our state exchange.

I personally have experienced outrageous premium charges as a single mother attempting to help my college age son pay for health insurance. Allowing the insurance commissioner to reject enormous premium rate increases is not only the right thing to do, but it must be enforced. As a voting citizen, we are helpless without the support of a board who cares about its citizens.

Sincerely,

Ms. Cyd Rochford



# The Health Consumer Alliance

1764 San Diego Avenue, Suite 200 • San Diego, CA 92110  
Phone 619-471-2637 • Fax 619-471-2782  
Statewide Consumer Assistance 888-804-3536

14 November 2014

Diana Dooley, Chairwoman  
Kimberly Belshé, Board Member  
Paul Fearer, Board Member  
Susan Kennedy, Board Member  
Dr. Robert Ross, Board Member  
Covered California  
1601 Response Road  
Sacramento, CA 95814

**Re: Inadequacy of Covered California Notices**

Dear Members of the Covered California Board:

We write to call to your attention serious concerns we have about notices going out to Covered California applicants and enrollees. As detailed below, consumers are receiving notices with incorrect, confusing and conflicting information; receiving multiple notices (sometimes dozens) which often conflict with one another; not receiving notices in their primary spoken language; and not receiving notices when they are legally required to.

The Health Consumer Alliance (HCA) is the program that contracts to provide independent consumer assistance to Covered California applicants and enrollees. We feel it our duty to make you aware of these very serious problems which are a violation of applicants and enrollees' due process rights and are resulting in people not getting the coverage and care they need, heavier use of the Customer Service Center (which could be avoided with clear, accurate notices) and harming Californians' perception of Covered California and Medi-Cal. We meet regularly with Covered California staff and have worked since the fall of 2013 to try to improve the notices. As these issues have not been resolved after more than a year of meetings with staff we are now communicating these concerns to the Board.

We have attached a few notices so you can see the types of notices Covered California is sending out.

## **History / Background**

A design decision was made early on by Covered California and DHCS to have consumer notices generated from CalHEERS and to brand all notices as "Covered California." When someone applies for health coverage using the single, streamlined application, whether online, on paper, in person or by phone, their eligibility results are sent via a paper Covered California notice. Federal and state

### **Health Consumer Alliance Partners**

#### **Consumer Centers**

Fresno Health Consumer Center  
Health Consumer Center of Imperial Valley  
Kern Health Consumer Center  
Health Consumer Center of Los Angeles  
Orange County Health Consumer Action Center  
LSNC – Health  
Consumer Ctr. for Health Education & Advocacy  
Health Consumer Center  
Health Consumer Center of San Mateo County  
**National & State Support** National Health Law Program

#### **Consumer Center Sponsors**

Central California Legal Services  
California Rural Legal Assistance  
Greater Bakersfield Legal Assistance  
Neighborhood Legal Services of Los Angeles County  
Legal Aid Society of Orange County  
Legal Services of Northern California  
Legal Aid Society of San Diego  
Bay Area Legal Aid  
Legal Aid Society of San Mateo  
**State Support** Western Center on Law and Poverty, Inc.

law require notices to inform an applicant what program they are eligible for, what factual information this determination is based on (e.g. income and household size), and what the consumer can do if she or he disagrees with the determination.

Covered California currently sends all applicants an “NOD01” (Notice of Decision 1). If a consumer is found eligible for APTCs, the NOD01 is supposed to tell them the level of subsidy for which they are eligible. If a consumer is found eligible for Medi-Cal, the NOD01 tells them they are not eligible for Covered California, that they are probably eligible for Medi-Cal, that their application has been sent to the county for further assessment and that the county will advise them when their Medi-Cal is granted.

HCA partners from the Western Center on Law & Poverty and the National Health Law Program came before the Board more than a year ago to raise concerns about the content of these notices and had many meetings with staff on proposed modifications to the content. In February 2014 Covered California, DHCS and advocates agreed on changes to the “snippets” of language which populate the notices based on a consumer’s situation. Although these changes were agreed to nine months ago, they still have not been programmed into CalHEERS. We understand the many problems with and changes needed in CalHEERS but cannot ignore the fact that many consumers are not getting the basic, legally required notices they need to understand and use their coverage.

### **Incorrect and Inadequate Notices**

Many notices contain inaccurate information. Sample notice “A” enclosed, dated 10/1/14, was sent to a family of four who file taxes together and are in one household with the same income. The notice tells family member #1 that she is not eligible for a particular subsidized Covered California (CC) plan because she is not eligible for Medi-Cal, member #2 that she does not qualify for the subsidized CC plan because she is likely Medi-Cal eligible, member #3 that he qualifies for CC for the next 90 days while they get income information, and member #4 that CC is reviewing his information to decide whether he qualifies for a special enrollment period. In addition to the fact that these family members should have all been assessed at the same income level and were all in fact eligible for tax credits through Covered California, the message to family member #1 that she is not eligible for subsidized coverage in CC because she is not Medi-Cal eligible is incorrect. There is no explanation as to why only family member #3 would be conditionally eligible (a child with no income) or family member #4 would require a special enrollment period when the rest did not.

Other incorrect information that we have seen in CC notices includes incorrect income calculations and incorrect income levels for Medi-Cal and Covered California. Having such basic incorrect information in the notices means that consumers do not know what program they are eligible for, how to access services, or what to do if they disagree. Accurate information is central to an effective and legally adequate notice.

### **Notices with Confusing and Conflicting Information**

We have also heard from many consumers who received notices they could not understand and/or had conflicting information – sometimes in the same notice and sometimes in multiple notices. For example, we have talked to consumers and seen notices where a consumer was told they were either eligible for both Covered California subsidies and Medi-Cal or ineligible for both. If someone is eligible for full-scope Medi-Cal they are ineligible for Exchange subsidies. Other consumers have received notices telling them they are eligible for coverage in which they were already enrolled. They were understandably confused as to why they were getting another notice as if they had applied when they did not have any change of circumstances. It is no wonder that in this context, calls to the

Service Center remain high as consumers cannot know what is happening with their coverage.

Notices B and C were sent to the same consumer on October. She has been on a Covered California plan since January 2014. In February 2014, the consumer contacted CC to report a change of income based on her 2014 projected income. As a result, she was told that her APTC would be higher and the change would not go into effect until July 2014. Inexplicably on October 22, 2014 she received two notices – one stating that she does not qualify for APTCs and one stating that she qualifies for health insurance with APTC. These notices created much confusion to the consumer because she has had APTC since January 2014.

Notices D and E were also sent to the same consumer – in different months. Notice D includes no determination at all and Notice E tells the consumer she is eligible for both Covered California with APTCs and Medi-Cal which is not possible.

We urge you to read the few samples attached to understand our concerns. While we have had excellent collaborative working arrangements with Covered California and DHCS staff about many issues, advocates were not consulted before the notices were programmed and while staff agreed in February 2014 to content changes which will increase the understandability, those changes have not yet been incorporated.

### **Failure to Translate or Completely Translate Notices**

Notices have only been translated into Spanish. Thus for anyone applying through [www.coveredca.com](http://www.coveredca.com) or the paper single streamlined application, regardless of what an applicant puts down as the language they need to communicate in, CalHEERS will only send the notice in English or Spanish. To not translate the first notice consumers receive after applying denies them meaningful access to California's insurance affordability programs.

The Spanish notices we have seen are just as confusing as the English notices and often contain wrong, confusing, or conflicting information. In addition, the names of certain Covered California products have not been translated nor are described in Spanish. For example, in Notice F, the consumer is told "*Usted no es eligible para Premium Tax Credits, Enhanced Silver Plan, porque . . .* .(You are not eligible for [many untranslated words in English] because . . ." Nowhere in the notice does it define in Spanish "Premium Tax Credits, Enhanced Silver Plan." Common translation practice would be to translate proper nouns in parentheses after the first usage or otherwise describe words not translated.

### **Multiple Notices**

We have several clients who have received multiple notices. One Bay Area consumer received 40 notices over a period of less than one month. Another family with a pregnant mom who had twins born prematurely received 34 notices between May and October of 2014. We have attached a summary of the families' situation and the notices they received as Attachment G. Often these notices contain messages and eligibility results that directly conflict with one another such as telling a consumer she is eligible for a program and another notice saying she is not.

### **Failure to Send Notices**

Anytime a consumer's eligibility is modified or they are terminated from coverage they have the legal right to a notice of action informing them of the action, what the action is based on, and what to do if they disagree with it. However, some of our offices have been contacted by consumers who

discovered their health coverage was terminated without ever having received a notice when they tried to receive services. These terminations seem to occur when case elements are verified, often months after an initial determination has been made. The consumer is confused because they did not report anything to initiate such a change. Similarly, persons who report changes are often terminated from their plans with the expectation that they be reenrolled into the same or similar plan with the new information. Sometimes this automatic reenrollment does not occur and the consumer has no idea that she does not have coverage. While unlawfully terminating eligible consumers due to technological shortcomings is another problem in need of fixing, consumers are at least entitled to notices.

### **Branding / Communication Problems**

We have heard from many consumers who applied for Medi-Cal and are eligible for Medi-Cal who do not understand why they received a notice from Covered California – an entity they may never have heard of and have no pre-existing relationship with. Advocates strongly urged Covered California and DHCS to jointly brand the notices to avoid this confusion but currently the notices only have the Covered California name and logo. In the worst cases, the consumer is still waiting for a Medi-Cal decision and fails to act on a Covered California letter telling the consumer to pick a plan not understanding why he is getting such a letter from Covered California. Later, the consumer needs medical care and finds out he is not eligible for Medi-Cal *and* outside of the open enrollment period, thus without coverage despite having submitted an application.

We hope the Board will address these problems with the notices and ensure that consumers receive accurate, understandable notices with the legally required information as soon as possible. Specifically, we request a concrete timeline for when the snippet changes will be programmed and a plan to correct the accuracy of notices. Thank you for your attention.

Sincerely,



Elizabeth A. Landsberg

Jennifer Flory

Kimberly Lewis

cc: Peter Lee, Executive Director, Covered California  
Toby Douglas, Executive Director, Department of Health Care Services



## **General Comment Received via E-mail**

---

Subject: Proposition 45

Good morning Covered California Board!

Not too long ago I read a very interesting - yet disturbing article in the Los Angeles Times regarding your Director Peter Lee's position on the upcoming Proposition 45, which would give our state insurance commissioner Dave Jones the actual power and ability to (finally) effectively regulate our California state health insurance industry. In this article we learn that Director Peter Lee is quite vehemently opposed to this proposition, which I find to be inconsistent with the foundational mission statement of Covered California.

"Consumer focused goals" along with the virtue of "integrity" are two of your six very excellent guiding values that I see explicitly stated on your state web site. I quote "at the center of the Exchange's efforts are the people it serves". Yet - Peter Lee's very strongly held position against Proposition 45 suggests that your board is actually working on behalf of the insurance industry, in that Proposition 45 is clearly framed as a pro-consumer protection initiative that finally begins to give our Insurance Commissioner Dave Jones the administrative power that he truly needs in order to effectively represent - and protect! - we the consumers of California.

By virtue of your Board Director Peter Lee asserting a strong position against this proposition 45 - you seem to undermine this fundamental notion of your own mission statement - " Our mission is 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".

Your stated mission is to lower costs for consumers (premiums) and to push for a more competitive marketplace. Yet with only a very small number of health insurance companies actively participating in Covered California, our existing state health insurance market is effectively still controlled by only 2 or 3 very large insurance companies - which strongly suggests the continuation of this health insurance industry's policy to use their existing monopoly position to their own advantage by furthering their own financial advantage to the detriment of "we the citizens of California".

Proposition 45 finally gives we the California Citizens some real protection from what has proven to be over many years of very close observation an ethically-challenged industry whose chief mission is to maximize their own very profitable bottom line (per their corporate charters) and not the health and well being of its insured members. Of this there has never been any doubt unfortunately.

Respectfully yours,

Phil Rogul



September 17, 2014

Ms. Diana Dooley  
Chair, Covered California  
1601 Exposition Boulevard  
Sacramento, California 95815

*RE: Proposition 45*

Dear Secretary Dooley:

We are writing to inform you of our opposition to Proposition 45 and urge Covered California to officially oppose this ballot initiative as well.

As you know, small business owners have been hit hard in recent years with skyrocketing healthcare costs paying, on average, 18% more than large businesses. The Affordable Care Act and Covered California are finally bringing our state's entrepreneurs much-needed relief. In the first year of implementation alone, we are already seeing increased competition and lower costs. What sets Covered California apart from marketplaces in other states is its ability to be an active negotiator with its health plan partners. This provides Covered California with the flexibility and authority it needs to work on behalf of California consumers and small businesses.

However, Proposition 45 has the potential to jeopardize this success. While we believe more needs to be done to lower healthcare costs, this initiative is not the answer. If this ballot measure were to become law, the California Department of Insurance would have the power to override agreements struck between insurance carriers and Covered California, undermining its authority to negotiate. What's more, this adds an additional complex step in getting insurance rates approved in time for open enrollment, already a challenge in a state with many carriers and two regulators.

Because the ramifications of this initiative have the potential to be so severe, we urge Covered California to oppose this measure. Millions of Californians now rely on Covered California to work on their behalf to lower healthcare costs and boost quality. Covered California's own staff analysis indicates that Proposition 45 could severely diminish its ability to do its job. Opposing this measure will let the individuals, families and small businesses you serve know where you stand on this consequential issue.

If you have any questions about our position, please contact David Chase, our California Director at (916) 479-1045 or [dchase@smallbusinessmajority.org](mailto:dchase@smallbusinessmajority.org).

Sincerely,

A handwritten signature in black ink that reads "John C. Arensmeyer".

John Arensmeyer  
Founder & CEO



CHILDREN NOW

September 18, 2014

Mr. Peter Lee, Executive Director  
Ms. Diana Dooley, Chair  
California Health Benefit Exchange Board  
1601 Exposition Blvd.  
Sacramento, CA 95815

Re: Ballot Measure position

Dear Mr. Lee and Chairwoman Dooley,

Our organizations are writing to urge the California Health Benefit Exchange Board to not adopt a position on Proposition 45.

As was noted at the August Board meeting, where some discussion of this option occurred, the Board is widely noted for its laser focus on the critical work needed to secure and operate a successful state-based health insurance marketplace for California consumers. The Board has carefully avoided detours and distractions, has promulgated well its priorities, and is recognized for its skill in reaching consensus and resisting divisiveness.

In our view, the Board would put at risk that impressive reputation if it were to take a position on Proposition 45.

The staff analysis of the potential implications of Proposition 45 on Covered California's operations was an appropriate and responsible undertaking. It is, however, necessarily narrow in its scope and does not provide an in-depth analysis of the initiative as a whole. Accordingly, there is no basis on which the Board can responsibly take a position on the whole proposition. In any case, to do so would position the Board in the middle of a heated political joust and imperil the Board's impartial reputation.

Such an outcome can only result in difficulty completing your important work in a timely and trusted way, and would result in distracting from the critical priority to renew and enroll Californians in health coverage this fall. It would be naïve to believe that the Board could take a position on this ballot measure and not then be swept into the campaign effort and rhetoric.

Furthermore, we believe that if the Board were to align itself in such a high-profile manner with the vested interests of insurers, that consumer confidence in Covered California's neutrality would be imperiled. While we appreciate your attention to the operational complexities Proposition 45 could pose, we hope your greater concern is to preserve well-earned consumer confidence.


Mr. Peter Lee, Executive Director  
Ms. Diana Dooley, Chair  
September 18, 2014  
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Perhaps most fundamentally, there is a long history suggesting that state agencies stepping into election issues do so at their peril, risking being drawn into the election process and even protracted litigation with attendant costs, to the detriment of their missions. The Board has important work to do – and impacting election outcomes should not be on the list.

We respectfully urge the Board to not take a position on Proposition 45.

Sincerely,

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

  
Ted Lempert  
President  
Children Now