



Edmund G. Brown Jr., Governor  
State of California  
Health and Human Services Agency

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November 12, 2015

Paul Markovich  
President and Chief Executive Officer  
California Physicians' Service, dba Blue Shield of California  
50 Beale Street  
San Francisco, CA 94105

**Re: Charitable Contribution Obligations in Undertaking 21 for Material Modifications  
Nos. 20150295 and 20150302**

Dear Mr. Markovich:

I write to you regarding some confusion that has been expressed surrounding the charitable contributions California Physicians' Service, dba Blue Shield of California (Blue Shield) is required to make based on the Undertakings that were conditions of the DMHC approving Blue Shield's acquisition of Care1st.

The DMHC's goal in approving the transaction was two-fold. First, the DMHC sought to ensure compliance with the rigorous consumer protections and financial solvency requirements of the Knox-Keene Act. Second, the DMHC required Blue Shield to commit to making substantial investments to strengthen the health care delivery system, in particular for Medi-Cal enrollees, and to support consumer assistance programs. The DMHC insisted on these commitments because Blue Shield acquired Care1st in order to participate in the Medi-Cal program, a line of business in which it had not previously operated. Through the negotiated undertakings, Blue Shield also made commitments to improve its health care quality and access.

The confusion relates to Undertaking 21, subparagraphs (c) and (d), which commits Blue Shield to making the following charitable contributions:

*(c) For ten years following the close of this transaction, Blue Shield agrees to make annual contributions of not less than \$14 million per year to the Blue Shield Foundation (or another charitable organization approved by the Department dedicated to charitable purposes, whose mission includes but is not limited to expanding access to care for uninsured persons, including undocumented individuals). Blue Shield agrees to file an annual report to the Department on the total amount of such contributions and the organizations to which they were made. If in any year such contributions would result in Blue Shield incurring a net loss for the year (based on Blue Shield's statutorily required quarterly financial reporting form filed with the Department, prepared in accordance with*

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*US GAAP, consistently applied), then such contributions for that year may be reduced by the minimum amount necessary to avoid such an occurrence.*

*(d) For ten years following the close of this transaction, Blue Shield will also continue to follow its customary practices regarding funding decisions for the Blue Shield Foundation, taking into account the commitments in section c) above. Customarily, decisions regarding funding are made annually by the Blue Shield Board of Directors in the Board's discretion, based on Board-approved funding guidelines that take into account management recommendations, Blue Shield's rolling three-year average net income, and Blue Shield's current financial performance.*

Both sets of agreements were critical to the DMHC's approval. Blue Shield will provide a minimum of \$14 million per year to the Blue Shield Foundation, *AND*, the Blue Shield Board, in its discretion and based on a Board-approved process, will determine any additional contribution the plan will make to the foundation in any given year. Although reasonable people may disagree about the meaning of the language in Undertaking 21, the DMHC's expectation in approving the transaction was that Blue Shield would increase its overall charitable contributions to improve health care delivery in California. This intent was expressed during the negotiations process and is reflected in the Undertakings text which includes additional commitments of \$10 million for consumer assistance programs and \$50 million to strengthen the health care delivery system. The DMHC will leave it to Blue Shield to determine its ultimate overall contribution to the Blue Shield Foundation, as long as it contributes a minimum of \$14 million per year for the next ten years as explicitly provided in the Undertakings.

The Undertakings were negotiated in good faith and I expect Blue Shield will honor them and its nonprofit mission, "to ensure all Californians have access to high quality health care at an affordable price."

Sincerely,



Shelley Rouillard  
Director