

December 30, 2019

Keely Martin Bosler, Director
California Department of Finance
915 L Street
Sacramento, CA 95814

Dear Ms. Keely Martin Bosler,

In accordance with the State Leadership Accountability Act (Leadership Accountability), the California Health Benefit Exchange submits this report on the review of our internal control and monitoring systems for the biennial period ending December 31, 2019.

Should you have any questions please contact Thien Lam, Program Integrity Director, at (916) 228-8600, Thien.Lam@covered.ca.gov.

GOVERNANCE

Mission and Strategic Plan

The California Health Benefit Exchange's (Covered California) 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.

Covered California's strategic pillars were designed by the Executive Leadership Team and reviewed and approved by the Board to guide the organization while making decisions, setting priorities, determining initiatives and preparing annual budgets with performance goals. Each of the strategic pillars have broad strategies which are assessed on an annual basis.

Covered California's five strategic pillars and the broad strategy behind each are:

Affordable Plans: Consumers purchase and keep Covered California products based on the perception that this is good value for them.

Broad Strategy:

- Actively negotiate rates and benefits with carriers to provide consumers with the best value.
- Invest in marketing and outreach to promote the value of coverage and maintain a healthy risk mix.
- Offer patient-centered benefit designs to make care more affordable by increasing a consumer's understanding of benefits that maximize access to appropriate care.

Staying Healthy and Getting Needed Care: Consumers receive the right care at the right time.

Broad Strategy:

- Work with all contracted qualified health plan issuers, in every corner of the state, to

ensure consumers have ready access to doctors, hospitals and care.

- Hold health insurance companies accountable for improving the care delivered, addressing disparities of care and moving to a patient-centered system that rewards quality and value, rather than being rewarded for quantity only.

Effective Outreach and Education: Consumers understand what we offer and have positive attitude about Covered California.

Broad Strategy:

- Make significant investments in marketing and outreach to motivate consumers to enroll and maintain their insurance coverage.
- Educate and support Covered California's 20,000 sales partners in order to promote enrollment and increase the number of insured Californians.

Positive Consumer Experience: Consumers have a positive experience from initial enrollment to keeping their coverage.

Broad Strategy:

- Operate and staff service centers as well as partner with 20,000 Certified Insurance Agents, enrollers and Navigators to assist consumers in a variety of languages.
- Mobile website design allows consumers to use all features on any device.
- Ombuds Office continues to help consumers as needed.

Organizational Excellence: Covered California has the right tools, processes and resources to support its team to deliver on our mission.

Broad Strategy:

- Operate as a nimble and responsive enterprise that responds quickly to the changing environment in health care.
- Implemented Healthier U, a program designed to improve the health and well-being of state employees; an employee recognition program to create a culture of acknowledgement; and a career development program to help staff prepare for career advancement at Covered California.

The objectives of the strategic goals are to guide the organization while making decisions, setting priorities, determining initiatives, and preparing annual budgets with performance goals.

As Covered California looks to the future, California is building on the success of the Affordable Care Act by taking actions at the state level to counter federal actions that have contributed to market instability and uncertainty. These state actions include lowering health care costs and reinstating the requirement of the individual mandate for people to have health care coverage; increasing the amount of financial support for consumers now eligible for subsidies; and making history by offering state subsidies to many middle-income consumers who were previously ineligible for federal assistance. Because of these bold actions by state leaders, California is protecting and building on a law that has benefited millions of people and bringing quality care and coverage within reach of even more consumers.

Control Environment

Covered California is governed by a five-member Board of Directors (Board). The Executive Office develops organizational strategy and provides leadership direction in concert with the Board. The Executive Office provides a broad oversight of operations and is tasked with supporting employees and a broad community of individuals and groups (including the Board, stakeholders, and the public) with the direction, information, tools, and support they need to achieve our mission.

Covered California embodies integrity and ethical values through its governance structure and processes; which includes the Board's and Executive Leadership oversight. In addition, management and all officials are required to complete the mandated state employee ethics training. Management uses policies and various communication strategies (e.g., emails, memos, newsletters, performance appraisals, and meetings) to communicate the standards of conduct to all staff. There is a zero tolerance for certain expected standards of conduct.

Documentation of internal control systems is developed and maintained at the organization and division level. Internal controls are communicated to staff through various channels such as written policy and procedures, Covered California University, enterprise-wide communication through task guides, board intranet, emails, and meetings. Documentation is reviewed and updates to the policies and procedures are made as changes occur within the organization's state regulations, or as business needs evolve.

In addition, an Enterprise Risk Management infrastructure was developed to foster collaboration across all divisions and share knowledge and resources on sound governance, risk, and compliance management principles and practices. This improves operational performance in order to support Covered California's mission and strategies.

The Enterprise Risk Management follows a multi-level risk assessment and evaluation process.

1. Division Directors assess and report risks.
2. The Enterprise Risk Management Unit provides oversight to ensure effective integration and coordination of risk management activities.
3. Risk Committee, which is comprised of a representative from each division, reviews, confirm ratings, and accuracy of all risks reported in the risk database.
4. Chief Risk and Compliance Officer reviews risks.
5. Governance, Risk & Compliance Committee (which is comprised of the Executive Leadership) reviews, approves and prioritizes the top risks that may have impacts on the organization.

Executive Leadership meets weekly with Directors to discuss escalated issues (e.g., new legislation, organizational goals, etc.), and any risk(s). Reports from the Enterprise Risk Management Database includes summary of risks, the risk rating criteria, the risk assessments, corrective action plans, and mitigating strategies.

Covered California's Talent Management and Succession Planning provides strategic talent leadership to ensure Covered California is considered an employer of choice and can attract, develop, retain, and recognize the best talent. The Executive Leadership sponsors a Leadership Academy to ensure there is a strong bench of future leaders who can navigate the organization through the complex changes and constant challenges.

All program areas encourage accountability, transparency, effectiveness, efficiency, and risk management by independently reviewing key policies, business areas and operations to help ensure compliance with federal and state laws, regulations, and policies.

Information and Communication

Covered California employs many different processes to collect and communicate relevant and reliable information necessary for operational, programmatic, and financial decision making. Covered California collaborates with the Centers for Medicare and Medicaid Services, State Controller's Office, and Department of Finance. In addition, Executive and Senior Leadership staff meets regularly with the Board to communicate relevant and reliable information to achieve the organization's mission, primary values, and objectives.

Covered California has been deeply engaged with providing technical assistance to the Governor and the Legislature to develop and implement new state initiatives, which includes new subsidies for many middle-income Californians, and a state penalty for consumers opting out of coverage. In the coming year, Covered California will operationalize these policy initiatives requiring significant technology, training, and outreach investments.

The Outreach and Sales Division organizes the Open Enrollment Kick-Off Meetings and are joined by agents, certified enrollers, county partners, elected representatives, and other stakeholders. On a regular basis, Covered California meets with external stakeholders and advocacy groups. We also publish press releases, webinars, and emails to communicate information to external parties.

Relevant and reliable information is communicated to staff through various channels. Executive Leadership hosts monthly meetings to share program updates. Unit, divisional, and project meetings are a normal practice for management and staff to share information on a timely basis. Risks are discussed, documented, and rated in team meetings. Staff understand the importance of reporting risks. Risks are regularly discussed at project meetings and cross-divisionally during the Risk Committee Meetings where high priority risks and mitigations are reviewed. These risks are then communicated and shared to Executive Leadership on a quarterly basis.

MONITORING

The information included here discusses the entity-wide, continuous process to ensure internal control systems are working as intended. The role of the executive monitoring sponsor includes facilitating and verifying that the California Health Benefit Exchange monitoring practices are implemented and functioning. The responsibilities as the executive monitoring sponsor(s) have been given to: Thien Lam, Program Integrity Director.

Covered California's Enterprise Risk Management models private and public industry best practices. Covered California's risk culture and framework starts with the tone at the top. Covered California's culture of awareness to risks which may negatively impact the organization reinforces the importance of our Enterprise Risk Management. Therefore, ongoing collaboration and partnership with all program areas occur, in order to improve system and operational efficiencies and compliance throughout the organization.

The Enterprise Risk Management process involves three progressive levels:

- The first level is the greatest opportunity to identify risks. All managers are risk managers that monitor and oversee their internal controls and their day-to-day risks.
- The second level involves activities covered by several components of internal governance, including Risk Management, Compliance Information Security, and Legal. Their primary roles are to provide broad compliance oversight and expertise to support Executive and Senior management.
- The third level involves the Office of Audit Services. This level helps Executive Leadership, Senior Management and the Board assure internal controls are effective.

The Enterprise Risk Management maintains a risk database which identifies, documents and tracks all risks. Risk identification, assessment, and reporting are standard practices throughout the organization.

The Office of Audit Services conducts risk-based internal and external audits for Covered California. The Office of Audit Services independently evaluates and assesses the effectiveness of the organization's risk management, internal controls, and governance processes by providing recommendations when area of opportunity exists.

The Office of Audit Services is heavily involved in external audits performed by independent third-party entities which include independent audit firms, California State Auditor, and other state and federal oversight agencies. The external audit coordination activity leads the federally required annual programmatic and financial audits; including reporting audit results, findings, and corrective action plans to the Centers for Medicare and Medicaid Services. In addition, Office of Audit Services conducts audit follow-up regarding all internal and external audit findings, recommendations, and the completion of applicable corrective action plans. Audit reports, findings and recommendations are, furthermore, reported to the Audit and Finance Committee which is comprised of two members of the Board.

While each program area is responsible for monitoring their day-to-day operations and their program compliance, ongoing User Acceptance Testing is performed on the California Healthcare Eligibility, Enrollment and Retention System's (CalHEERS) key functionalities prior to implementation to help ensure the system meets Covered California's business needs and operations. Post-Implementation Reviews are also performed on the system functionalities to independently validate its performance and compliance with federal and state regulations and mandates.

Covered California continues to document the framework for internal oversight and monitoring along with the implementation of best practices through the Oversight and Monitoring Plan, to ensure Covered California's compliance with applicable federal and state laws and regulations. This Plan fosters accountability and transparency, mitigates the risk of systemic vulnerabilities being undetected, and reduces the frequency of operational issues.

The Plan requires each division to:

- Establish detailed guidelines, policies, and procedures;
- Establish a set of consistent procedures;
- Develop standards of conduct;
- Promote effective training;
- Create mechanisms for monitoring and reporting; and
- Define roles and responsibilities to provide a well-functioning, secure and compliant organization.

Any deficiencies in controls that have been identified through the various channels will be prioritized, measured, and monitored by the Risk Committee Members, staff, and management until the corrective action plans are fully implemented.

RISK ASSESSMENT PROCESS

The following personnel were involved in the California Health Benefit Exchange risk assessment process: executive management, middle management, front line management, and staff.

The following methods were used to identify risks: brainstorming meetings, employee engagement surveys, ongoing monitoring activities, audit/review results, other/prior risk assessments, questionnaires, consideration of potential fraud, performance metrics, and other.

The following criteria were used to rank risks: likelihood of occurrence, potential impact to mission/goals/objectives, timing of potential event, potential impact of remediation efforts, and tolerance level for the type of risk.

Covered California's Enterprise Risk Management oversees and monitors the risk management assessment and reporting process within the organization. The risk management process assists all program areas with their risk analysis and evaluation of operations, internal controls, policies, and procedures. As part of the reporting process, divisional managers are required to provide an assessment of each risk identified. The assessment requires consideration of likelihood of the occurrence; the impact the risk could potentially have to the organizations and its strategic pillars; an evaluation of the current internal controls or mitigating strategies; and corrective action plans. When a corrective action plan is developed, it is tracked and monitored on an ongoing basis and reviewed by the Risk Committee.

The Risk Committee was established to foster and promote transparency, collaboration, communication and partnership across all divisions and recommend priorities to the Executive Governance Risk and Compliance Committee.

RISKS AND CONTROLS

Risk: Key Person Dependence, Workforce Planning

Covered California is a newly established organization within the last 10 years. In order to quickly implement the programs and establish our operations in a short amount of time, Covered California hired a well experienced and in-depth knowledgeable workforce to launch its organization.

As are other state agencies, Covered California is facing the loss of a large percentage of its experienced workers because of its aging workforce and increased competitive job opportunities. Similarly, Covered California has identified a lack of bench strength as a workforce risk at several levels within the organization. Throughout the organization there are a number of program experts who are the only experts within their respective program. If they separate from Covered California, either temporarily or permanently, historic program knowledge will be lost without a knowledge management plan. Additionally, in many program areas there are new staff (hired within the last two years) that do not yet possess in-depth program knowledge.

It is these challenges that have resulted in Covered California identifying eleven strategies contained in

its 2017-2020 *Workforce and Succession Plan* to help meet current and future workforce needs and to mitigate the loss of institutional knowledge through attrition. Of the eleven strategies, the following six have been fully implemented, 1.Promote Core Leadership Competencies, 2.Implement Comprehensive Career Development Program, 3.Expedite Hiring Processes and Ensuring Application and Decision-Making Processes Are Not Unduly Burdensome or Time Consuming, 4.Maintaining a Culture That Values and Engages People, 5. Continue Steps Establishing Covered California as an Employer of Choice, and 6.Expand and Enhance Covered California's Recruitment Efforts and Become Expert Talent Identifiers.

These other five remaining strategies are still in the process of being implemented, 1.Develop and Implement Career Executive Development Program, 2.Develop Formal Knowledge Management and Knowledge Transfer System to Ensure That We Integrate Institutional Knowledge for Future Successes, 3.Leverage Technology, 4.Workforce Integration and 5.Language Access and Cultural Competency.

Control: A

Covered California leadership will continue to remain focused on implementing and monitoring the strategies outlined in its *Workforce and Succession Plan* to help it meet its current and future workforce needs. Covered California has already taken a number of steps in championing a formal development process and laid the foundation to create an environment that promotes job mastery, professional development, and career planning activities. Strategies such as these will positively impact Covered California as it continues to invest in the professional development of employees, improve knowledge transfer throughout the department, increase employee engagement and retention, and prepare employees for career advancement within Covered California.

Risk: Political, Reputation, Media (Texas Lawsuit)

Texas v. United States is a lawsuit filed by 20 Republican state attorneys general and Republican governors challenging the constitutionality of the federal individual mandate after Congress enacted the Tax Cuts and Jobs Act (TCJA) of 2017 which reduced the penalty to \$0. On December 14, 2018, U.S. District Judge Reed O'Connor declared the entire ACA to be invalid. According to the district court, the individual mandate can no longer be interpreted as a tax because it does not raise revenue. Additionally, the individual mandate is "essential" to the ACA, so it cannot be severed from rest of statute. The U.S. Court of Appeals for the Fifth Circuit took the appeal and rendered its decision on December 18, 2019. The Fifth Circuit held that the federal individual mandate is unconstitutional because it can no longer be interpreted as a tax. It remanded the issue of severability to the district court to review which current ACA provisions may be severable from the mandate.

Covered California will work with the Attorney General to determine the next steps and more fully assess the impact. Covered California will also inform the public of the impact and educate consumers on how the outcome potentially affects their health insurance and subsidies. Depending on future developments of the case, Covered California may also need to promulgate regulations; implement new policies and procedures; and make changes to CalHEERS to accommodate changes to the ACA.

Control: Workgroup

Covered California has formed an internal workgroup lead by the Office of Legal Affairs. The workgroup is tasked with tracking developments in the case, analyzing possible outcomes with the decision, and informing all relevant internal stakeholders. The workgroup prepared and created talking points to educate the public and consumers regarding potential impacts to their health coverage. Covered California's Executive Leadership has also been involved in tracking this litigation and is prepared to respond to any outcome. Covered California remains in close contact with state regulators and stakeholders regarding this case in order to mitigate the impact of an adverse decision.

Risk: Funding-Sources, Levels

The California State Budget Act of 2019 appropriated funding for Covered California to establish the California Individual Market Assistance Program (the Program). The Program will provide support to individuals to reduce the cost of premiums for health insurance plans purchased through Covered California. It is authorized for years 2020 through 2022. The Program will function by providing payments to health plans so that the health plans can reduce consumers' monthly premiums. Covered California will work with the State Controller's Office to provide monthly payments to participating health plans for the total amount of state premium subsidy owed by Covered California on behalf of the plans' members.

The Program was not established as an entitlement and Covered California is expected to design a premium subsidy structure that will not exceed the annual appropriation for the Program (approximately \$429 million for 2020). Because of this funding structure, there is a risk that Covered California could overspend the authorized budget in a given year if enrollment is greater than projected. This would mean that health plans would not be reimbursed for the state's share of the gross plan premium, due to lack of funding.

Control: A

The authorizing legislation provided a process for Covered California to request a current year funding allocation if Program costs exceed the authorization. The process requires Covered California to request a funding augmentation from the Department of Finance. Prior to approving an augmentation, the Department of Finance must notify the Joint Legislative Budget Committee.

Control: B

Covered California is developing and implementing a monitoring system that incorporates contract budget logs that will be reconciled prior to each subsidy payment being released. In addition, supplemental reporting will be performed to evaluate expenditures on a monthly basis. Any projected budget variances will be escalated to Executive Leadership so that we will be able to inform the Department of Finance before exceeding our expenditure authority or altering them that additional funding may be necessary.

Control: C

Covered California reforecasts enrollment each month, as monthly actuals are recorded. That is, Covered California forecasts Fiscal Year enrollment for the remaining months of each Fiscal Year based on actuals throughout the year. This allows for an assessment of anticipated enrollment through the end of the Fiscal Year and corresponding state subsidy payments.

CONCLUSION

The California Health Benefit Exchange strives to reduce the risks inherent in our work and accepts the responsibility to continuously improve by addressing newly recognized risks and revising risk mitigation strategies as appropriate. I certify our internal control and monitoring systems are adequate to identify and address current and potential risks facing the organization.

Peter V. Lee, Executive Director

CC: California Legislature [Senate (2), Assembly (1)]
California State Auditor
California State Library
California State Controller
Director of California Department of Finance
Secretary of California Government Operations Agency