

1 CAROL L. VENTURA
Deputy Director | Chief Counsel, Bar No. 99570
2 DEBRA L. DENTON
Assistant Chief Counsel, Bar No. 164482
3 KRISTIN S. DOOR
Attorney III, Bar No. 84307
4 CALIFORNIA DEPARTMENT OF
MANAGED HEALTH CARE
5 980 9th Street, Suite 500
Sacramento, CA 95814-2725
6 916-323-0435 -Phone
916-323-0438 -Fax
7

FILED
AUG 08 2013
DEPARTMENT OF MANAGED HEALTH CARE
BY *Jan B. Kallangry*
Filing Clerk

8 Attorneys for Complainant
DEPARTMENT OF MANAGED HEALTH CARE
9

10 BEFORE THE DEPARTMENT OF MANAGED HEALTH CARE
11 OF THE STATE OF CALIFORNIA
12

13 IN THE MATTER OF:

Enforcement Matter No.: 13-277

14 California Physicians' Service, dba Blue
Shield,
15 Care 1st Health Plan,
Easy Choice Health Plan, Inc.,
16 Health Net of California, Inc.;
Local Initiative Health Authority for LA
17 County;
Molina Healthcare of California,
18 UHC of California,

**NOTICE AND ORDER TO CEASE AND
DESIST**

**(Health & Saf. Code, §§ 1341, 1344, 1375.4,
and 1391 and Cal. Code Regs., tit. 28, §§
1300.70, 1300.75.4, 1300.75.4.2, 1300.75.4.5,
and 1300.75.4.8.)**

19 Respondents.

20
21 **TO:**

22 California Physicians' Service
Attn: Mary C. St. John
23 dba: Blue Shield of California
P. O. Box 7168
24 San Francisco, CA 94120-7168
25

Care 1st Health Plan
Attn: Anna Tran
601 N. Potrero Grande Drive
Monterey Park, CA 91755

26 Easy Choice Health Plan, Inc.
Attn: Ron McGinnis
27 180 East Ocean Blvd., Suite 700
28 Long Beach, CA 90802

Health Net of California, Inc.
Attn: Douglas Schur
21650 Oxnard Street, Suite 1560
Woodland Hills, CA 91367

1 Local Initiative Health Authority for L.A. County
2 Attn: Augustavia J. Haydel
3 1055 West 7th Street
4 Los Angeles, CA 90017

Molina Healthcare of California
Attn: Richard Chambers
200 Oceangate, Suite 100
Long Beach, CA 90802

4 UHC of California
5 Attn: Payman Pezhman
6 5995 Plaza Drive, MS CA112-0267
7 Cypress, CA 90630

8 **NOTICE AND ORDER**

9 **PLEASE TAKE NOTICE THAT** the Department of Managed Health Care (Department) has
10 determined that Serra Community Medical Clinic, Inc. (RBO # 10393)(“Serra”), a risk-bearing
11 organization (RBO) under Health and Safety Code section 1375.4(g), failed to file its Quarterly Survey
12 Report for the first quarter of 2013 by May 15, 2013 (45 days after the close of the first quarter of 2013),
13 and has failed to initiate a Corrective Action Plan (CAP) to address the deficiencies of the fourth quarter
14 2012 that were identified in the 2012 Annual Survey Report filed on July 2, 2013.

15 Due to the deficiencies identified in the 2012 Annual Survey Report for the fourth quarter of
16 2012, the RBO was required to timely submit a CAP but failed to do so. Consequently, California
17 Physicians’ Service dba Blue Shield, Care 1st Health Plan, EASY CHOICE HEALTH PLAN, INC.,
18 Health Net of California, Inc., Local Initiative Health Authority for LA County, Molina Healthcare of
19 California, and UHC of California (Respondents) are each required to take appropriate action against
20 Serra upon receipt of this written Notice.

21 **I. PARTIES**

22 1. Complainant is the Department of Managed Health Care, by and through the Director of
23 the Department, Brent Barnhart, or his designee.

24 2. California Physicians’ Service dba Blue Shield (Blue Shield) is now, and has been since
25 July 27, 1978, a full service plan (File No. 933-0043) licensed pursuant to Health and Safety Code
26 section 1353. Its principal place of business is located at 50 Beale Street, 22nd Floor, San Francisco, CA
27 94105. Blue Shield is subject to the Knox-Keene Act and California Code of Regulations, title 28,
28

1 promulgated pursuant to the Knox-Keene Act. As of March 31, 2013, 233 of Blue Shield's enrollees
2 were assigned to the RBO.

3 3. Care 1st Health Plan Partners (Care 1st) is now, and has been since November 1, 1995, a
4 full service plan (File No. 933-0326) licensed pursuant to Health and Safety Code section 1353. Its
5 principal place of business is located at 601 N. Potrero Grande Drive, Monterey Park, CA 91755. Care
6 1st is subject to the Knox-Keene Act and California Code of Regulations, title 28, promulgated pursuant
7 to the Knox-Keene Act. As of March 31, 2013, 1,707 of Care 1st's enrollees were assigned to the RBO.

8 4. EASY CHOICE HEALTH PLAN, INC. (Easy Choice) is now, and has been since June
9 11, 2007, a full service plan (File No. 933-0457) licensed pursuant to Health and Safety Code section
10 1353. Its principal place of business is located at 180 East Ocean Boulevard, Suite 700, Long Beach ,
11 CA 90802. Easy Choice is subject to the Knox-Keene Act and California Code of Regulations, title 28,
12 promulgated pursuant to the Knox-Keene Act. As of March 31, 2013, 182 of Easy Choice's enrollees
13 were assigned to the RBO.

14 5. Health Net of California, Inc. (Health Net) is now, and has been since March 7, 1991, a
15 full service plan (File No. 933-0300) licensed pursuant to Health and Safety Code section 1353. Its
16 principal place of business is located at 21281 Burbank Boulevard, Woodland Hills, CA 91367. Health
17 Net is subject to the Knox-Keene Act and California Code of Regulations, title 28, promulgated
18 pursuant to the Knox-Keene Act. As of March 31, 2013, 7,048 of Health Net's enrollees were assigned
19 to the RBO.

20 6. Local Initiative Health Authority for L.A. County (L.A. Care Health Plan) is now, and
21 has been since April 1, 1997, a full service plan (File No. 933-0355) licensed pursuant to Health and
22 Safety Code section 1353. Its principal place of business is located at 1055 West 7th Street, Los
23 Angeles, CA 900178. L.A. Care Health Plan is subject to the Knox-Keene Act and California Code of
24 Regulations, title 28, promulgated pursuant to the Knox-Keene Act. As of March 31, 2013, 854 of L.A.
25 Care Health Plan's enrollees were assigned to the RBO.

26 7. Molina Healthcare of California (Molina), is now, and has been since March 14, 1994, a
27 full service plan (File No. 933-0322) licensed pursuant to Health and Safety Code section 1353. Its
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1 principal place of business is located at 200 Oceangate, Suite 100, Long Beach, CA 90802. Molina is
2 subject to the Knox-Keene Act and California Code of Regulations, title 28, promulgated pursuant to the
3 Knox-Keene Act. As of March 31, 2013, 494 of Molina's enrollees were assigned to the RBO.

4 8. UHC of California (UHC) is now, and has been since May 15, 1978, a full service plan
5 (File No. 933-0126) licensed pursuant to Health and Safety Code section 1353. Its principal place of
6 business is located at 5995 Plaza Drive, MS CY20-267, Cypress, CA 90630. UHC is subject to the
7 Knox-Keene Act and California Code of Regulations, title 28, promulgated pursuant to the Knox-Keene
8 Act. As of March 31, 2013, 35 of UHC's enrollees were assigned to the RBO.

9 9. Serra is a risk bearing organization ("RBO") that contracts with each of the Respondents,
10 which are Knox-Keene licensed health care service plans, and as an RBO is delegated for specified
11 functions pursuant to these contracts. Under the terms of its agreement with each of the Respondents,
12 Serra is an RBO subject to Health and Safety Code section 1375.4 and California Code of Regulations,
13 title 28, section 1300.75.4 et seq.

14 **II. STATUTORY AUTHORITY**

15 10. The Director has and may exercise all powers necessary or convenient for the
16 administration and enforcement of, among other laws, the Knox-Keene Act. (Health & Saf. Code,
17 § 1341.)

18 11. The Knox-Keene Act requires each health plan that contracts with an RBO to require the
19 RBO to meet financial requirements to assist the health care service plan in maintaining the financial
20 viability of its arrangements to provide health care services. These financial requirements include the
21 timely payment of claims, the estimation of incurred but not reported (IBNR) claims by a method
22 acceptable to the Department, maintaining positive Tangible Net Equity (TNE), positive working
23 capital, and a cash-to-claims ratio of 0.75. (Health & Saf. Code § 1375.4, subd. (a); Cal. Code Regs., tit.
24 28, § 1300.75.4.2.)

25 12. The Knox-Keene Act requires that every contract between a health plan and an RBO
26 must require the RBO to submit periodic financial survey reports to the Department. (Cal. Code Regs.,
27 tit. 28, § 1300.75.4.2). These reports include a quarterly financial survey to be filed within 45 days of
28

1 the close of each calendar quarter. (Health & Saf. Code, § 1375.4, subd. (a); Cal. Code Regs., tit. 28, §§
2 1300.75.4.2(b) and 1300.75.4.2(c). The quarterly financial survey is to include a balance sheet, an
3 income statement, and a statement of cash flows, or in the case of a non-profit entity, comparable
4 financial statements, reflecting the results of operations for the immediately preceding quarter, and
5 prepared in accordance with Generally Accepted Accounting Principles. (Cal. Code Regs., tit. 28, §§
6 1300.75.4.2(b)(1)(A) and 1300.75.4.2(b)(2).)

7 13. A health care service plan that contracts with an RBO must ensure that the RBO has the
8 administrative and financial capacity to meet its contractual obligations. (Cal. Code Reg., tit. 28, §
9 1300.70 subdivision (b)(2)(H)(1).)

10 14. Every contract that involves a risk arrangement between a plan and an RBO shall require
11 the plan and the organization to comply with a process for the development and implementation of
12 Corrective Action Plans as defined in California Code of Regulations, title 28, section 1300.75.4(g).
13 (Cal. Code Regs., tit. 28, § 1300.75.4.8.)

14 15. An RBO must initiate a CAP and submit it to the Department whenever it reports
15 deficiencies in any of the Grading Criteria defined in Health and Safety Code section 1375.4(b)(1)(A)(i),
16 (ii), (iii), (iv), and the cash-to-claims ratio defined in California Code of Regulations, title 28, section
17 1300.75.4(f). (Cal. Code Regs., tit. 28, § 1300.75.4.8(b).)

18 16. A health care service plan must have adequate procedures in place to ensure that
19 appropriate action is taken following the Department's written notification to it that one of its RBOS's
20 fails to substantially comply with the requirements of California Code of Regulations, title 28, section
21 1300.75.4.2, subdivision (b) and (c). Appropriate action includes a prohibition on the assignment of
22 enrollees to the risk arrangement, and the Director may require a plan to reassign or transfer plan
23 enrollees to alternate providers or organizations to prevent harm to enrollees. (Cal. Code Regs., tit. 28,
24 § 1300.75.4.5, subds. (a)(3) and (a)(7).)

25 17. Any failure of a health care service plan to comply with the requirements of Health and
26 Safety Code section 1375.4 and the Solvency Regulations shall constitute grounds for disciplinary action
27 against the plan pursuant to Health and Safety Code section 1386. (Cal. Code Regs., tit. 28,
28

1 § 1300.75.4.5, subd. (d).)

2 18. The Director may from time to time, adopt orders as are necessary to carry out the
3 provisions of the Knox-Keene Act. (Health & Saf. Code, § 1344, subd. (a).) This includes an Order to
4 Cease and Desist from engaging in any act or practice in violation of the Knox-Keene Act or Title 28 of
5 the California Code of Regulations. (Health & Saf. Code, § 1391, subd. (a)(1).)

6 19. The Director may employ any combination of remedies and enforcement procedures
7 provided under the Knox-Keene Act to enforce Health and Safety Code section 1375.4 and the solvency
8 requirements of Health and Safety Code section 1375 and California Code of Regulations, title 28,
9 sections 1300.75 through 1300.75.4.8 (“Solvency Requirements”). (Cal. Code Regs., tit. 28, section
10 1300.75.4.5, subd. (e).)

11 **III. STATEMENT OF FACTS**

12 20. Respondents are California licensed health plans providing basic health care services to
13 enrollees and maintain risk arrangements with Serra.

14 21. Serra operates principally in the managed health care industry in Los Angeles County,
15 and as of March 31, 2013, Serra oversees approximately 10,559 enrollees enlisted with the Respondents
16 at issue in this matter. Serra, as a risk-bearing organization, is required to file periodic financial survey
17 reports on an annual, quarterly, or monthly basis in accordance with generally accepted accounting
18 principles.

19 22. Serra filed its Annual Survey Report for 2012 on July 2, 2013. This filing was untimely
20 and showed that Serra was not in compliance with the Solvency Regulations for the fourth quarter of
21 2012 (Q4 2012). Serra was therefore required to submit a CAP. Serra submitted the Quarterly Survey
22 Report for the first quarter of 2013 on July 2, 2013, but reopened the report approximately 30 minutes
23 later. Serra has advised the Department it reopened the report to file a CAP, but to date the quarterly
24 report remains outstanding and no CAP has been filed with the Department.

25 **IV. FINDINGS**

26 23. Serra provides health care services in Los Angeles County to approximately 10,559
27 HMO enrollees pursuant to its contracts with the Respondents.
28

1 its arrangements with Serra pursuant to Title 28, California Code of Regulations, sections 1300.75.4
2 through 1300.75.4.8.

3 4. Each Respondent shall file proof of compliance of this Order with the Department within
4 sixty (60) days of the filing of this Order.

5 This Order shall be effective immediately and shall continue in full force and effect until further
6 Order by the Director.

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8
9 Dated: August 8, 2013

DEPARTMENT OF MANAGED
HEALTH CARE

10
11
12 By:



CAROL L. VENTURA
Deputy Director | Chief Counsel
Office of Enforcement

