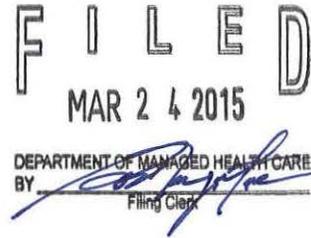


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DEPARTMENT OF MANAGED HEALTH CARE
9

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

12 **IN THE MATTER OF:**

13 **DCHS MEDICAL FOUNDATION,**

14 Respondent.

Enforcement Matter No.: 15-170

15 **ORDER TO CEASE AND DESIST**

16 **(Health & Saf. Code, §§ 1341, 1344, 1375.4,
and 1391 and Cal. Code Regs., tit. 28, §§
1300.70, 1300.75.4.2, 1300.75.4.5., and
1300.75.4.7,)**

17 **TO RESPONDENTS:**

18 Mary V. Anderson
Aetna Health of California, Inc.
19 2850 Shadelands Drive
Walnut Creek, CA 94598
20

21 Terry F. German
Blue Cross of California
22 dba: Anthem Blue Cross
1121 L Street, Suite 500
23 Sacramento, CA 95814
24

25 Mary C. St. John
California Physicians' Service
26 dba: Blue Shield of California
50 Beale Street, 22nd Floor
27 San Francisco, CA 94105
28

William S. Jameson
Cigna HealthCare of California, Inc.
400 N. Brand Blvd., Suite 400
Glendale, CA 91203

Parvis Kahen
Honored Citizens Choice Health Plan, Inc.
dba: Citizens Choice Healthplan
17315 Studebaker Road, Suite 200
Cerritos, CA 90703

Stephen Jones
Easy Choice Health Plan, Inc.
dba: EZ Choice Health Plan, Inc.
180 East Ocean Blvd., Suite 700
Long Beach, CA 90802

1 Elizabeth Hays
2 UHC of California
3 5995 Plaza Drive MS CA112-0267
4 Cypress, CA 90630

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

4 Nancy Monk
5 Scan Health Plan
6 3800 Kilroy Airport Way, Suite 100
7 Long Beach, CA 90801-5616

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

8 **ORDER TO CEASE AND DESIST**

9 **I. PARTIES**

10 1. Complainant is the Department of Managed Health Care (“the Department”), by
11 and through the Director of the Department, Michelle Rouillard, or her designee. The
12 Department of Managed Health Care is the state regulatory agency charged with administering
13 and enforcing the Knox-Keene Health Care Service Plan Act of 1975 (“the Knox-Keene Act”)
14 (Health & Safety Code, § 1341, et seq.), and California Code of Regulations, title 28,
15 promulgated pursuant to the Knox-Keene Act. The Department’s jurisdiction is broad: the
16 execution of the laws of this state relating to health care service plans (“health plans”) and the
17 health plan business. (Health & Saf. Code, § 1341(a).)

18 2. All RESPONDENTS are health plans licensed by the Department pursuant to
19 Health and Safety Code section 1353, and are subject to the Knox-Keene Act and California
20 Code of Regulations, title 28, promulgated pursuant to the Knox-Keene Act. A health plan is a
21 form of health care coverage commonly referred to as a health maintenance organization
22 (“HMO”). A health plan’s distinguishing characteristics include that it is a prepaid plan that
23 maintains a network of providers who have agreed to see the health plan’s enrollees at a fixed
24 cost. In other words, a health plan enrollee is obligated to pay premiums and select copayments,
25 but is otherwise fully covered for health care services rendered by the plan’s “network”
26 providers.

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1 3. DCHS Medical Foundation (“DCHS”) is a not-for-profit medical corporation that
2 contracts with RESPONDENTS, which are Knox-Keene licensed health care service plans,
3 and is delegated for specified delegable functions pursuant to the contract. Under the terms of its
4 delegation with the Plans, DCHS is a risk bearing organization (“RBO”) subject to Health and
5 Safety Code section 1375.4 and California Code of Regulations, title 28, section 1300.75.4 et
6 seq.

7 4. All RESPONDENTS contract with DCHS to arrange for or provide health care
8 services to their enrollees. By maintaining “risk arrangements” with health plans, DCHS accepts
9 the financial risks associated with the enrollees of its contracted health plans, and promises to
10 provide the care (i.e., accepting the risk that enrollees need more care than expected, while
11 profiting if enrollees need less). As an RBO, and by virtue of its contracts with health plans,
12 DCHS is responsible or liable for the processing and payment of claims made by providers for
13 services rendered that are covered under DCHS’s risk arrangements with its contracted health
14 plans. As such, the financial health of DCHS falls under the jurisdiction of the DMHC. (Cal.
15 Code Regs., tit. 28, § 1300.71, subd. (b)(2)(H)(1).)

16 5. Respondent, AETNA HEALTH OF CALIFORNIA, INC. (“AETNA”), is now,
17 and has been since August 6, 1981, a full service plan (File No. 933-0176). Its principal place of
18 business is located at 2850 Shadelands Drive, Walnut Creek, CA 94598. As of March 5, 2015,
19 AETNA had enrollees assigned to DCHS.

20 6. Respondent, BLUE CROSS OF CALIFORNIA, DBA ANTHEM BLUE CROSS
21 (“ANTHEM”), is now, and has been since January 7, 1993, a full service plan (File No. 933-
22 0303). Its principal place of business is located at 1121 L Street, Suite 500, Sacramento, CA
23 95814. As of March 5, 2015, ANTHEM had enrollees assigned to DCHS.

24 7. Respondent, CALIFORNIA PHYSICIANS’ SERVICE, DBA BLUE SHIELD OF
25 CALIFORNIA (“BLUE SHIELD”), is now, and has been since July 27, 1978, a full service plan
26 (File No. 933-0043). Its principal place of business is located at 50 Beale Street, 22nd Floor, San
27 Francisco, CA 94105. As of March 5, 2015, BLUE SHIELD had enrollees assigned to DCHS.

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1 8. Respondent, CARE 1ST HEALTH PLAN (“CARE”), is now, and has been since
2 November 1, 1995, a full service plan (File No. 933 0326). Its principal place of business is
3 located at 601 N. Potrero Drive, Monterey Park, CA 91755. As of March 5, 2015, CARE had
4 enrollees assigned to DCHS.

5 9. Respondent, CIGNA HEALTHCARE OF CALIFORNIA, INC. (“CIGNA”), is
6 now, and has been since March 23, 1979, a full service plan (File No. 933-0152). Its principal
7 place of business is located at 400 N. Brand Blvd., Suite #400, Glendale, CA 91203. As of
8 March 5, 2015, CIGNA had enrollees assigned to DCHS.

9 10. Respondent, EASY CHOICE HEALTH PLAN (“EASY”), is now, and has been
10 since June 11, 2007, a full service plan (File No. 933 0457). Its principal place of business is
11 located at 180 East Ocean Blvd., Suite 700, Long Beach, CA 90802. As of March 5, 2015,
12 EASY had enrollees assigned to DCHS.

13 11. Respondent, HEALTH NET OF CALIFORNIA, INC. (“HEALTH NET”), is
14 now, and has been since March 7, 1991, a full service plan (File No. 933-0300). Its principal
15 place of business is located at 21281 Burbank Blvd., Woodland Hills, CA 91367. As of March
16 5, 2015, HEALTH NET had enrollees assigned to DCHS.

17 12. Respondent, HONORED CITIZENS CHOICE HEALTH PLAN, INC., DBA
18 CITIZENS CHOICE HEALTHPLAN (“CITIZENS CHOICE”), is now, and has been since May
19 25, 2004, a full service plan (File No. 933-0414). Its principal place of business is located at
20 17315 Studebaker Road, Suite 200, Cerritos, CA 90703. As of March 5, 2015, CITIZENS
21 CHOICE had enrollees assigned to DCHS.

22 13. Respondent, SCAN HEALTH PLAN (“SCAN”), is now, and has been since
23 November 30, 1984, a full service plan (File No. 933 0212). Its principal place of business is
24 located at 3800 Kilroy Airport Way, Suite 100, Long Beach, CA 90801-5616. As of March 5,
25 2015, SCAN had enrollees assigned to DCHS.

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1 16. An RBO is responsible or liable for the processing and payment of claims made
2 by providers for services rendered that are covered under the RBO's risk arrangements with its
3 contracted health plans. Under the Knox-Keene Act, an RBO is required to have the financial
4 capacity to meet its contractual obligations. These financial solvency requirements include:

- 5 • the maintenance of a cash-to-claims ratio of 0.75 (Cal. Code Regs., tit. 28, §
6 1300.75.4(f)); and
- 7 • the compliance of a number of criteria in the reviewing or grading of RBOs
8 ("Grading Criteria"), including:
 - 9 • the timely payment of claims,
 - 10 • the estimation of incurred but not reported ("IBNR") claims by a
11 method acceptable to the Department,
 - 12 • the maintenance of a positive Tangible Net Equity ("TNE"), and
 - 13 • the maintenance of a positive working capital.

14 (Health & Saf. Code, § 1375.4; Cal. Code Regs., tit. 28, § 1300.75.4.2.)

15 Cash-to-claims ratio is the measure of the RBO's ability to pay its unpaid claims using its cash
16 and readily available short-term investments and receivables. IBNR reflects the total estimated
17 amount owed by an RBO for services provided to its enrollees but not yet reported to the RBO,
18 and the calculation of the estimate of IBNR is provided for in California Code of Regulations,
19 title 28, section 1300.77.2. TNE is the minimum threshold of financial health for an RBO.

20 Working capital represents the operating liquidity available to the RBO, and a positive working
21 capital is required to ensure that the RBO has sufficient funds to continue its operations. These
22 financial tools allow the Department to determine an RBO's financial capacity to meet its
23 contractual obligations.

24 17. The Knox-Keene Act requires each health plan that contracts with an RBO to
25 ensure that the RBO has the administrative and financial capacity to meet its contractual
26 obligations. (Cal. Code Regs., tit. 28, § 1300.70, subd. (b)(2)(H)(1).)

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1 18. Every contract that involves a risk arrangement between a plan and an RBO shall
2 require the plan and the organization to comply with a process for the development and
3 implementation of Corrective Action Plans (“CAPs”) as defined in California Code of
4 Regulations, title 28, section 1300.75.4(g). (Cal. Code Regs., tit. 28, § 1300.75.4.8.)

5 19. When an RBO fails to comply with the Solvency Regulations, provided for in
6 California Code of Regulations, title 28, sections 1300.75.4 through 1300.75.4.8, it must produce
7 a viable CAP pursuant to the California Code of Regulations, title 28, section 1300.75.4.8.

8 20. The Department may direct an RBO to initiate a CAP when it determines that the
9 organization may not be meeting the Grading Criteria defined in Health and Safety Code section
10 1375.4(b)(1)(A). (Cal. Code Regs., tit. 28, § 1300.75.4.8(k).)

11 21. Where an RBO fails to comply with the Solvency Regulations, a health plan that
12 maintains a risk arrangement with that RBO is required to take appropriate actions against the
13 RBO pursuant to California Code of Regulations, title 28, section 1300.75.4.5(a)(2)(B).

14 22. California Code of Regulations, title 28, section 1300.75.4.5(a)(3), further
15 provides that appropriate actions by health plans include:

16 a prohibition on the assignment or addition of any additional
17 enrollees to the risk arrangement with that organization without the
18 prior written approval of the Director. ... The prohibition on the
19 assignment of additional enrollees shall take effect thirty (30) days
20 after the date of Department's notification to the organization's
21 contracting plan(s), and shall remain in effect until the Department
22 notifies the organization's contracting health plan in writing that
23 the organization's non-compliance has been remedied.

24 23. The Director may adopt orders as are necessary to carry out the provisions of the
25 Knox-Keene Act. (Health & Saf. Code, § 1344, subd. (a).) This includes an order directing a
26 health plan to cease and desist from engaging in any act or practice in violation of the Knox-
27 Keene Act or title 28 of the California Code of Regulations. (Health & Saf. Code, § 1391, subd.
28 (a)(1).)

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1 V.

2 **ORDER**

3 Michelle Rouillard, in her capacity as the Director of the Department of Managed Health
4 Care, by and through her designee, Carol L. Ventura, Deputy Director | Chief Counsel, pursuant
5 to Health and Safety Code section 1391 and California Code of Regulations, title 28, section
6 1300.75.4.5, subdivisions (a)(2)(A) and (a)(3), **ORDERS AS FOLLOWS:**

7 1. AETNA HEALTH OF CALIFORNIA, INC. shall prohibit the assignment or
8 addition of any additional enrollees to the risk arrangement with DCHS without the prior, written
9 approval of the Director, to ensure the financial viability of its arrangements with DCHS.

10 2. BLUE CROSS OF CALIFORNIA, DBA ANTHEM BLUE CROSS shall prohibit
11 the assignment or addition of any additional enrollees to the risk arrangement with DCHS
12 without the prior, written approval of the Director, to ensure the financial viability of its
13 arrangements with DCHS.

14 3. CALIFORNIA PHYSICIANS' SERVICE, DBA BLUE SHIELD OF
15 CALIFORNIA shall prohibit the assignment or addition of any additional enrollees to the risk
16 arrangement with DCHS without the prior, written approval of the Director, to ensure the
17 financial viability of its arrangements with DCHS.

18 4. CARE 1ST HEALTH PLAN shall prohibit the assignment or addition of any
19 additional enrollees to the risk arrangement with DCHS without the prior, written approval of the
20 Director, to ensure the financial viability of its arrangements with DCHS.

21 5. CIGNA HEALTHCARE OF CALIFORNIA, INC. shall prohibit the assignment
22 or addition of any additional enrollees to the risk arrangement with DCHS without the prior,
23 written approval of the Director, to ensure the financial viability of its arrangements with DCHS.

24 6. EASY CHOICE HEALTH PLAN shall prohibit the assignment or addition of any
25 additional enrollees to the risk arrangement with DCHS without the prior, written approval of the
26 Director, to ensure the financial viability of its arrangements with DCHS.

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1 7. HEALTH NET OF CALIFORNIA, INC. shall prohibit the assignment or addition
2 of any additional enrollees to the risk arrangement with DCHS without the prior, written
3 approval of the Director, to ensure the financial viability of its arrangements with DCHS.

4 8. HONORED CITIZENS CHOICE HEALTH PLAN shall prohibit the assignment
5 or addition of any additional enrollees to the risk arrangement with DCHS without the prior,
6 written approval of the Director, to ensure the financial viability of its arrangements with DCHS.

7 9. SCAN HEALTH PLAN shall prohibit the assignment or addition of any
8 additional enrollees to the risk arrangement with DCHS without the prior, written approval of the
9 Director, to ensure the financial viability of its arrangements with DCHS.

10 10. UHC OF CALIFORNIA shall prohibit the assignment or addition of any
11 additional enrollees to the risk arrangement with DCHS without the prior, written approval of the
12 Director, to ensure the financial viability of its arrangements with DCHS.

13 11. This Order shall not apply to dependents of enrollees who are already under the
14 risk-arrangement with DCHS or to enrollees who selected the organization during an open
15 enrollment or other selection period that was prior to the effective date of the prohibition on the
16 assignment of additional enrollees.

17 12. On or before thirty (30) days from the date of this Order, RESPONDENTS shall
18 provide to the Department a full and complete report detailing the cessation of the assignment of
19 additional enrollees to DCHS and, any and all actions that each RESPONDENT has taken to
20 ensure DCHS complies with solvency requirements specified in Health and Safety Code, section
21 1375.4, and California Code of Regulations, title 28, sections 1300.75.4(f) and 1300.75.4.2.

22 13. RESPONDENTS shall file proof of compliance of this ORDER with the
23 Department within sixty (60) days of the filing of this ORDER.

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1 This ORDER shall be effective as of April 23, 2015 and shall continue in full force and
2 effect until further ORDER by the Director.

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4 Dated: March 24, 2015

MICHELLE ROUILLARD
Director
Department of Managed Health Care



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