



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

**Department Name:** Public Health  
**Department No.:** 041  
**For Agenda Of:** September 22, 2015  
**Placement:** Administrative  
**Estimated Tme:** N/A  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

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**TO:** Board of Supervisors  
**FROM:** Department Takashi M. Wada, Director and Health Officer, Public Health  
Director: Department  
Contact Info: Dan Reid, Assistant Deputy Director. Ext. 5173  
**SUBJECT:** Affordable Care Act Certified Application Entity Agreement

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**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: N/A

**CEO, Human Resources:**

Approved: Yes

**Recommended Actions:**

That the Board of Supervisors:

- a) Authorize, ratify, and direct the Public Health Department Director to sign the attached Agreement with the California Health Benefit Exchange as part of an application process that will allow the Public Health Department to become a Certified Application Entity.
- b) Determine that the above actions are organizational and administrative activities of government that are not a project under the California Environmental Quality Act (CEQA) pursuant to section 15378(b)(5) of the CEQA Guidelines.

**Summary Text:**

In 2013, the Public Health Department (PHD) entered into an agreement with the California Health Benefit Exchange (aka: Covered California) to become a Certified Enrollment Entity (CEE). This allowed PHD to train its staff and contractors to become Certified Enrollment Counselors (CECs) and assist more than 12,000 individuals with activities related to enrollment in health care coverage since the Fall of 2013. PHD's CEE status is being maintained pending a new agreement. Covered California is revising its requirements for healthcare coverage assistance to be more aligned with national standards and is therefore changing its agreements.

Approval of Recommendation A will authorize the Public Health Department Director to enter into an Agreement, which includes submission of an online application, with the California Health Benefit Exchange for PHD to become a Certified Application Entity. This will allow PHD to continue to enroll individuals in health care coverage expansions through Health Care Reform until June 2018.

**Background:**

In response to Health Care Reform under the Affordable Care Act, PHD became a CEE in the Fall of 2013. This allowed PHD to train its staff and contractors to become Certified Enrollment Counselors and assist and enroll individuals (patients and community members) in health care coverage. PHD has successfully assisted more than 12,000 individuals since 2013 and enrolled more than 6,000 individuals into health care coverage.

PHD has many existing individuals that previously had or have recently obtained Medi-Cal coverage that must be renewed. Entering into a new Agreement with Covered California to become a Certified Application Entity will permit the PHD to continue to assist individuals with enrolling in and maintaining health care coverage and to assist those without health care coverage to obtain it if eligible.

Existing PHD CECs will become Certified Application Counselors (CACs) and will be eligible to continue to enroll individuals in health care coverage. CACs will be required to take and pass refresher courses mandated by Covered California later this year.

**Key Contract Risks and Mitigations:**

This Agreement is to replace the existing Certified Enrollment Entity; however, there are additional requirements that pose potential risks to the county including:

- Record Retention
- Security and Breach Reporting Requirements
- Indemnification

**Record Retention:** The CAE Agreement requires maintenance of records for performance of this agreement for up to 10 years. Currently, the PHD is required to maintain patient eligibility records that are a Release of Information form for one year, and an Authorization for Enrollment Assistance form for 6 years. The authorization form contains the client's name and signature, no other identifying information is included, and will be kept on file for 10 years as required by the new Agreement. All client eligibility information is uploaded into the Covered California database at the time of application assistance is provided and no client information is retained outside of this system by the PHD. Security and Breach records are discussed below.

**Security and Breach Reporting Requirements:** Currently, the PHD, in compliance with the Centers for Medicaid and Medicare (CMS) report any known breaches of member protected health information to CMS in accordance with HIPAA and the HITECH Act requirements. CMS requires record retention for CMS claims and breach reports for up to 10 years. PHD adheres to these breach reporting and record retention requirements. If a Breach of Protected Health Information (PHI) or Protected Identifying Information (PII) were to occur as a result of a PHD staff or contractor action related to this Agreement, PHD would follow the already established protocols for CMS reporting. It is also likely this will be required as 88.5% of all PHD patients are currently Medi-Cal and/or Medicare members and the focus of current healthcare coverage activities by PHD is its own patients. Finally, PHD is in the process of establishing and implementing a robust electronic and physical safety program to protect PHI and PII including staff training, auditing, encryption and ongoing risk reduction activities.

**Indemnification:** The CAE Agreement requires the County to defend and hold harmless the State of California, its officers, agents and employees against any adverse action from a breach of PII caused by the Parties in this Agreement. In this Agreement the Parties are the PHD and the California Health Benefit Exchange. This also includes the potential payment of penalties and/or attorney fees as part of

the defense of any actions associated with these breaches. The PHD has not had any breaches of PII associated with this Agreement and has put into place controls that are designed to prevent breaches and identify weaknesses that could lead to breaches. The PHD has requested revision of this element of the Agreement which was refused by the State of California through its subcontractors - the California Health Benefit Exchange. To date there have been no associate claims under the existing Agreement from any breach or adverse action from the California Health Benefit Exchange against the County of Santa Barbara.

**Fiscal Impacts:**

There are no fiscal impacts or associated staffing impacts associated with this action. PHD will manage enrollments and re-enrollments through the conversion of existing CECs to CACs.

**Special Instructions:**

Please send an electronic copy of the minute order to: [phdcu@sbcphd.org](mailto:phdcu@sbcphd.org).

**Attachments:**

- A. Certified Application Entity State Agreement

**Authored by:**

Dan Reid, Assistant Deputy Director, Public Health Department