



To: Supervisor Debbie Arnold, CenCal Health Board Member  
Supervisor Joan Hartman, CenCal Health Board Member

Fr.: Michael Harris, Director  
Government & Administrative Services *Michael D. Harris*

Cc: Marina Owen, Chief Executive Officer  
Daniel Nielson, CenCal Health Board Member  
Van Do-Reynoso, PhD, MPH, CenCal Health Board Member  
Penny Borenstein, MD, MPH, Public Health Officer/Health Department Director  
San Luis Obispo County

Re.: Kaiser Permanente Health Plan No-Bid Medi-Cal Award

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### **Introduction**

As a CenCal Health Board Member directly associated with County government, we wanted to take a moment to ensure that you are aware of increased county interest and activity regarding the recent announcement by Governor Newsom that Kaiser would be allowed to circumvent the bidding requirement for commercial health plans in providing Medi-Cal health services. This announcement includes placing Kaiser in County Organized Health Systems.

### **Background**

California's Medi-Cal health services are provided throughout the state by a mix of local (County-sponsored) and commercial health plans. On a periodic basis, commercial health plans submit proposals and bids to the State of California to provide managed health care for Medi-Cal recipients alongside the local health plans. CenCal Health is in a unique position as the only Medi-Cal health plan designated through federal and State statutes in our two counties; a County Organized Health System (COHS).

In the beginning of February 2022, just as the State was opening the new RFPs for commercial health plans to prepare bids, the Governor announced that Kaiser would be allowed to provide Medi-Cal services in those counties they operated on 1 January 2022, without having to participate in a bidding process. In addition, Kaiser would be allowed to grow its membership in Medi-Cal and additional 25%.

Kaiser did not have health operations in either of CenCal Health's counties on 1 January 2022. At this time, the Governor's proposal does not immediately impact CenCal Health. However, the Governor's proposal establishes precedent that undermines the COHS model.



## **Concerns**

From a County perspective, and as a CenCal Health Board member perspective, there are two predominant concerns:

- The unilateral move by the Governor to bypass the bidding process and allow Kaiser to add additional members to its Medi-Cal enrollment will directly impact those local County-sponsored health plans in the loss of members. Kaiser also has a history of only taking healthier Medi-Cal members and leaving higher cost/sicker members for the local health plan. This directly undermines the local County's authority and interest in its Medi-Cal recipients.

This undermining of locally-managed health care is even more concerning because Kaiser will become a second health plan in some counties that are designated, like CenCal Health, as a COHS.

We believe that the Governor's addition of Kaiser into COHS counties is contrary to Federal authorities that limit Medi-Cal enrollment to a COHS health plan alone, that State statutes support legislative intent for COHS to be an exclusive Medi-Cal health plan and there is no specific statutory or regulatory authority to contract with any alternative health plan in COHS Counties.

- While the move by the Governor does not impact CenCal Health at this time, it leaves CenCal Health vulnerable to future political, closed door decisions where the Governor may again unilaterally act to introduce Kaiser as a Medi-Cal health plan into other counties; including into CenCal Health's two counties if Kaiser starts any business in the counties.
- To underscore concerns regarding future Kaiser expansion into those counties in which they do not currently operate, one only needs to look at the legislative language published by the Governor's office last week (attached).

The last sentence at the end of the first full paragraph, Section 14197.11. (b) states, "... in geographic regions designated by the department." It's unclear if this sentence adds authority to the department, under direction from the Governor to expand Kaiser into, "regions", in the future.

## **Recommendations/Requested Actions**

1. Closely monitor the Governor's legislative progress through the Trailer Bill and guard against any efforts by the State with the Federal government to obtain federal authorization to infringe on the COHS model.



CenCal Health staff are currently working with the CenCal Health legislative advocate in Sacramento, the local health plan association and CenCal Health's sister plans to voice strong concerns and opposition to the unilateral deal the Governor has negotiated directly with Kaiser. Through our association, Local Health Plans of California, CenCal Health will take a position of opposition.

2. CenCal Health and its partnering County governments advocate for the preservation of the exclusive COHS model and maintain that Governor's proposal lacks the State statutory and Federal authority and legislative intention to introduce another health plan into a COHS county.

Some Counties are working with CSAC in voicing their concerns that the Governor's closed-door deal with Kaiser directly undermines Counties' role in ensuring that quality local healthcare is delivered to the Counties' residence through a local health plan. Again, this occurs because of Kaiser's preferential selection of members.

CenCal Health staff will brief the full CenCal Health Board in its March meeting. Until that time, staff is providing this briefing for your awareness, sharing CenCal Health's position to determine if this poses a concern and is recommending that your Boards of Supervisors consider working through their legislative advocacy processes in opposing the Governor's bypass of the normal state procurement system.

Again, while Kaiser is not in the two counties served by CenCal Health, the precedent set by this action and the wording in the Governor's legislative language is of deep concern for the health plan and could be viewed as undermining of local County management of Medi-Cal services.

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