



June 4, 2015

Director Shelley Rouillard
Department of Managed Health Care
980 9th Street, Suite 500
Sacramento, CA 95814-2725

**“The Public Deserves a High Level of Scrutiny Regarding
Blue Shield’s Proposed Acquisition of Care 1st Health Plan”**

Dear Director Rouillard:

The Greenlining Institute writes to express our concerns regarding Blue Shield of California’s impending acquisition of the for-profit Medicaid plan, Care 1st Health Plan, and its subsidiaries in Texas and Arizona.

In August 2014, the Franchise Tax Board ruled that Blue Shield was not meeting its nonprofit obligations to provide resources and services for the general public and thus, revoked Blue Shield’s tax exemption. We believe this ruling represents sufficient justification to review and scrutinize this transaction. The Greenlining Institute strongly believes that the DMHC has the legal authority and obligation to determine whether this acquisition serves the public good.

Under Article 11 of the Knox-Keene Act, a nonprofit plan proposing a transaction that would result in that plan’s restructuring must submit a report to the DMHC that specifies its public benefit activities.¹ Additionally, the nonprofit plan must denote its public benefit activities and expenditures for the coming year.² Furthermore, this law empowers the Director of the DMHC the authority to mandate a health plan to provide “any additional information as the director deems necessary to ascertain whether the plan’s assets are appropriately being used by the plan to meet its nonprofit obligations.”³

The DMHC has the authority to enforce charitable trust obligations of nonprofit health plans. Among these responsibilities is the power to “ascertain to what extent, if at all, it has failed or is failing to comply with trusts it has assumed.”⁴ Again, the Franchise Tax Board’s revocation of Blue

¹ Health and Safety Code Section 1399.70(b)

² Health and Safety Code Section 1399.70(c)

³ Health and Safety Code Section 1399.70(d)

⁴ Corporations Code Section 7340. Note that under Section 10821 all references to the Attorney General in the provisions of the Corporations Code dealing with nonprofits are “deemed to refer to the Director of the Department of Managed Health Care.”

Greenlining Coalition:

4C Council of Santa Clara County
Allen Temple Baptist Church
American G.I. Forum
AnewAmerica
API SBP
Asian Business Association
Asian Inc.
Asian Journal
BBA-LA
Brightline Defense Project
CAABA-CAL
California Black Chamber
California Hispanic Chambers

California Journal for FilAm
California Rural Legal Assistance
Chicana/Latina Foundation
CHOC
Community Resource Project, Inc.
El Concilio of San Mateo County
Ella Baker Center for Human Rights
FAME Renaissance
Fresno Metro Black Chamber
Greater Phoenix Urban League
HAGA
Hispanic Chamber of Commerce - Alameda Co.
Hispanic Chamber of Commerce - Orange Co.

KHEIR Center
Korean Churches for Comm. Development
La Maestra Family Clinic
MAPA
Mentoring in Medicine & Science, Inc.
Mission Housing Development Corporation
Mission Language & Vocational School
NaFFAA
NAMCO
OCCUR
Our Weekly
Precinct Reporter Group
Rising Sun Energy Center

Sacramento Observer
San Francisco African American Chamber
Search to Involve Pilipino-Americans
Southeast Asia Community Center
TELACU
The Unity Council
Time for Change Foundation
Visión y Compromiso
WAGES
Ward EDC
West Angeles CDC
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Shield's tax exemption provides enough reason to support a substantive investigation into whether Blue Shield is failing to meet its nonprofit responsibility.

As Blue Shield seeks approval for this \$1.2 billion transaction, the DMHC should verify whether this purchase is truly in the best interest of the public. Blue Shield claims that it "does not currently hold and has not previously held assets subject to a charitable trust obligation,"⁵ and thus, is not subject to the public benefit-related requirements applying to restructurings. This assertion is contrary to Blue Shield's articles of incorporation, its history, and its stated public purpose. We contend that its articles of incorporation, its decades-long federal and state tax-exempt status, its decades-long status as a 501(c)(4) organization, and the clear intent of the original founders of the organization, illustrate that Blue Shield holds significant charitable assets subject to charitable trust obligations. DMHC has broad responsibility under California law to determine if Blue Shield holds any charitable assets and ensure that those assets are protected.

The public deserves a high level of scrutiny from regulators today to ensure that nonprofit, charitable assets of Blue Shield of California are protected. DMHC has the ability to enforce the charitable trust obligations of nonprofit health plans. It is imperative that you act to ensure that the public is protected against the misuse of these assets. Please exercise your authority to mandate that, as a requirement for approval, Blue Shield prove that this purchase is in the best interest of the public benefit.

If you have any questions or concerns, please contact Tahira Cunningham, Health Policy Director at The Greenlining Institute, at tahirac@greenlining.or or (510) 926 - 2993.

Thank you for your consideration.

Sincerely,



Orson Aguilar
Executive Director
The Greenlining Institute

⁵ Exhibit E-1, DMHC File Number 933-0043, Notice of Material Modification to License Application, January 30, 2015.

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