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To: ALL INTERESTED PARTIES

From: Department of Managed Health Care

The following is a brief summary of the comments and events that occurred during the Financial Solvency Standards Board (FSSB) meeting April 23, 2002.

I. Introduction: Opening remarks

Prior meeting minutes were approved and adopted by the Board members.

II. Board/Stakeholder Discussion Regarding SB 260 Next Steps

1. The Department sent a letter to stakeholders seeking written input regarding the appropriate interpretation of Health & Safety Code Section 1375.4(a)(1). This section establishes the requirement that risk-bearing organization furnish financial information to their contracting health plans and meet any other financial requirements that assist the health plans in maintaining the financial viability of their arrangements for the provision of health care services "in a manner that does not adversely affect the integrity of the contract negotiation process." The Department also requested that stakeholders make a formal presentation to the Board.

2. Public Comment:

A. Health Plan perspective: (1) To the extent that a regulation supplementing Section 1375.4(a)(1) is adopted, and that regulation limits a plan's ability to request financial data from risk-bearing organizations, plans would encounter significant difficulties complying with the Knox-Keene requirements to maintain the financial viability of its arrangements and would have to rely upon other regulatory mechanisms to maintain proper fiscal oversight of these groups. (2) Regulatory requirements as well as member safeguards may require consideration of the regulation of medical groups. (3) Plans generally receive financial statement information from their providers on a regular basis pursuant to the terms of their contracts. (4) The legislation's use of the word "integrity" means that the risk-bearing organization's financial data

disclosures to health plans is to be done in a way that does not affect the honesty and ethics of the contract negotiation process. Sharing financial information is necessary when two businesses collaborate to provide health care services. Due diligence requires plans to be aware of the financial condition of delegated providers before transferring the risk for the cost of health care services for enrollees. (5) Plans have the responsibility to ensure, when collecting financial data, that the manner or format of risk-bearing organization disclosures do not compromise the integrity of the negotiation process. (6) Plans require complete financial information, not plan-specific data. Plans do not request the disclosure of proprietary information relating to the rates that other health plans are paying the risk-bearing organization.

B. Providers: (1) While neither SB 260 nor the judge's order prohibits the Department from collecting financial data from risk-bearing organizations, collectively they set limits on the type of information that may be disclosed. Providers desire is to preserve the integrity of the negotiation process while allowing health plans access to their financial information to meet the requirements of the Knox-Keene Act. (2) All stakeholders need to participate in the process to ensure that patients are protected. It is necessary to develop a mechanism to demonstrate the financial solvency of the risk-bearing organizations while preserving the confidentiality of the financial data. If groups do not meet with the four financial criteria enumerated in SB 260, further review by the Department into the organization's financial situation would be important. (3) The CMA and the Department should approach the court to determine if a resolution of the data reporting mechanism is achievable. Thereafter, the confidentiality issue can be addressed, followed by the development of a corrective action plan process. (4) Medical groups and IPAs are private entities that should not be regulated in the same manner as non-profit or publicly traded corporations. Publicly traded corporations are subject to financial reporting to protect the shareholders. (5) Medical groups have accepted the responsibility to work with health plans under the current regulation and believe that financial information disclosures should include some of the same elements previously required by the Department. (6) It is important that risk-bearing organizations only be required to disclose aggregate financial information and not plan-specific data. (7) Standardization of the financial information disclosures provides a level playing field, which is important in maintaining the integrity of the contract negotiation process. (8) Medical groups have no particular problems with the scope of the prior data collection regulation other than the director's confidentiality determinations. Medical groups would like a moderate amount of flexibility in the financial reporting requirements and believe that there is financial information, such as footnotes, that should remain confidential. (9) A third party independent review commission supported by trade associations, within the ambit and intention of SB 260, should be established to verify and report the financial condition of risk-bearing organizations to the Department and consumers.

Groups failing to meet the minimum financial threshold should be required to establish a corrective action plan.

C. Consumers: (1) Because consumers are not financial experts, they would defer to health plans to identify the minimum level of information necessary to determine financial viability of risk-bearing organizations. (2) In addition to financial data, quality of care indicators, such as access to care and referral times, should be evaluated. (3) The concept of a third party, depository is unacceptable since it lacks accountability and could be used to circumvent public disclosure. (4) While de-delegation and contract terminations can be disruptive, medical group closures often result in the disruption of continuity of care for patients or result in severed doctor/patient relationships. (5) Consumers support the Department's efforts to fashion a corrective action plan process. (6) With regard to the integrity of the contract negotiation process, health plans already have access to medical group financial information so any advantage or disadvantage to the contracting process already exists. The public release of this information will have no impact upon the integrity of the contract negotiation process between risk-bearing organizations and their contracting health plans. (7) Simply disclosing whether an organization meets the four minimum statutory criteria is unacceptable, because it does not accurately reflect the organization's true financial viability.

III. Next Steps/Closing Remarks

Following closing remarks, the meeting was adjourned.