JOHN CHIANG
California State Controller

August 16, 2011

Toby Douglas
Director, Department of Health Care Services
P.O. Box 997413
Sacramento, CA 95899-7413

Dear Mr. Douglas:

My staff reviewed your plan for the elimination of Adult Day Health Care (ADHC) program resulting from passage of AB 97 (Chapter 3, Statutes of 2011). In accordance with this legislation your office is required to provide comprehensive risk assessments, care coordination, case management and appropriate ongoing services to former ADHC clients. This includes referral to enrollment in managed care plans.

My staff noted that the Senior Care Action Network (SCAN) may play a major role in the implementation of this plan in three of the largest counties in California (Los Angeles, Riverside and San Bernardino). This is because SCAN is focused on the provision of medical care to persons who are assessed at a nursing home care level. Your plan indicates that nearly 20 percent of clients who will lose ADHC services would be referred to SCAN, and other providers providing similar services. While enrollment is voluntary, it is likely that many of the clients referred will have little other option than to enroll in SCAN.

In 2008, my office alerted the Department of Health Care Services (DHCS) regarding excessive capitation rates charged by SCAN. Based on these findings, DHCS reduced the capitation rates for SCAN effective January 1, 2009, an action we estimated would save the state Medi-Cal program approximately $88 million per year over a four year period.

However, we also estimated that, prior to this change, SCAN's excessive capitation rates unjustly enriched that agency by nearly $339 million, of which nearly one-half would have been paid from the state's General Fund. Consequently, prior to allowing SCAN to participate in the enrollment and placement process described in your implementation plan, the Department should first take all actions necessary to ensure recovery of the overpaid amounts. A copy of my previous letter dated August 11, 2010, is enclosed for your reference.

If you have any questions concerning the prior review of SCAN, please contact Jeffery V. Brownfield, Chief of the Audits Division at (916) 324-1696.

Sincerely,

Original signed by

JOHN CHIANG
California State Controller

Attachment

COPY

JOHN CHIANG

California State Controller

August 11, 2010

David Schmidt
Chief Executive Officer
SCAN Health Plan
3800 Kilroy Airport Way, Suite 100
Long Beach, CA 90806

Re: Senior Care Action Network (SCAN)

Dear Mr. Schmidt:

My office recently completed a review of the May 14, 2010, report the Department of Health Care Services (DHCS) sent Senator Elaine Alquist and Senator Alan Lowenthal regarding the results of a special financial evaluation of the monthly capitation rates provided to the Senior Care Action Network (SCAN) for the period January 1, 2007, to August 31, 2008.

As you may be aware, in 2008 my office conducted an investigation into these rates because of complaints referred to us by Senator Lowenthal. Based on this inquiry, I sent a letter to former DHCS Director Sandra Shewry, in which I indicated the capitation rates DHCS agreed to in its contract with your health plan were excessive, thereby resulting in the expenditure of hundreds of millions of dollars for no legitimate purpose. At that time, I recommended that the DHCS take action to determine the reasonableness of the rates.

The May DHCS report concludes that the capitation rates for the period of January 1, 2007, through August 31, 2008, resulted in DHCS paying SCAN a profit margin of 82-83%, well above the normal industry standard of 4%. Moreover, while the DHCS report does not mention the period of July 1, 2001, through December 31, 2006, it appears relatively clear that SCAN was paid these excessive profit margins during this earlier period.

The DHCS report indicates that rates were cut in 2009 in order to eliminate the excessive profits paid to your company and make other modifications. My office estimates that will save the state Medi-Cal program approximately $88 million per year over the remaining four years on the new contract with SCAN. In that regard, the adjusted rate is commendable.

However, while the rate adjustment is serving to curb SCAN's ability to line its pockets with disproportionately large and grossly unfair profits at taxpayer expense from January 2009 and on,

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action fails to address the overpayments made to SCAN during the period of July 1, 2001, to December 31, 2008.

Assuming the 70% rate reduction is appropriate and should have been in place during this prior period, my auditors estimate SCAN was unjustly enriched by approximately $339 million, of which roughly one-half would have been paid from the state's General Fund.

While I am deeply concerned that DHCS conducted no analysis of SCAN's effectiveness before renewing a $1.44 billion contract for five years, I am even more troubled by the fact that SCAN failed to meet its contractually-obligated reporting requirements. This denied California the ability to determine SCAN's true health care costs.

As you already know, the Medi-Cal program, which serves as the only source of healthcare for one out of every six Californians, is facing another round of severe budget cuts. Out of both legal compulsion and civic responsibility to the citizens of the State in which SCAN is headquartered, I urge you to work with the Attorney General's Office and DHCS to return any excess profits made from payments to your agency by DHCS prior to January 1, 2009.

To ensure the Attorney General is apprised of this matter, I have taken the liberty of copying him on this communication.

Sincerely,

John Chiang

JOHN CHIANG
California State Controller

cc: Honorable Edmund G. Brown Jr., California Attorney General
Honorable Senator Alan Lowenthal
Honorable Senator Elaine K. Alquist
David Maxwell-Jolly, DHCS Director