

TESTIMONY OF CINDY EHNES  
DIRECTOR  
DEPARTMENT OF MANAGED HEALTH CARE

January 26, 2005  
9:30 a.m.

DEAR MR. CHAIRMAN AND MEMBERS OF THE COMMISSION:

I AM CINDY EHNES, DIRECTOR OF THE CALIFORNIA DEPARTMENT OF MANAGED HEALTH CARE (DMHC).

I AM PLEASED TO APPEAR BEFORE YOU THIS MORNING TO DISCUSS THE FINDINGS AND RAMIFICATIONS OF THE CALIFORNIA PERFORMANCE REVIEW.

THE DEPARTMENT OF MANAGED HEALTH CARE REGULATES APPROXIMATELY 100 HEALTH PLANS THAT SERVE 22 OF OUR 37 MILLION CALIFORNIANS.

THE ORGANIZATION IS ABOUT FIVE YEARS OLD NOW, AND WE HAVE HAD THE BENEFIT OF TIME TO DETERMINE WHAT HAS WORKED AND WHAT MAY NOT HAVE WORKED AS WELL, AS THE DEPARTMENT HAS MATURED.

WE ARE HERE TODAY TO DISCUSS TWO KEY RECOMMENDATIONS INCLUDED IN THIS PHASE OF THE CALIFORNIA PERFORMANCE REVIEW CONCERNING THE DEPARTMENT, WHICH INCLUDE:

1. THE ABSORPTION OF THE CLINICAL ADVISORY PANEL INTO THE ORGANIZATION, AND;

2. THE ABOLISHMENT OF THE ADVISORY COMMITTEE ON  
MANAGED HEALTH CARE.

DURING MY TENURE AS DIRECTOR, IT HAS BEEN MY PRIORITY TO FULFILL AN OVERRIDING CONCERN THAT CONSUMERS HAVE INPUT ON MATTERS OF POLICY CONCERNING HEALTH PLANS AND HMO REGULATION. THE DMHC WAS FOUNDED TO GIVE CONSUMERS A VOICE AND I ALWAYS BEAR IN MIND THAT IT IS THE INDIVIDUAL CONSUMER THAT MOST LIKELY WILL NOT HAVE FORMAL REPRESENTATION INTO NEW POLICIES OR REGULATIONS. I OFFER MY PERSONAL AND PROFESSIONAL COMMITMENT, AS DIRECTOR, THAT I WILL CONSIDER THESE VIEWPOINTS IN THE DECISIONS MADE BY THIS DEPARTMENT AND IT IS MY JOB TO MAKE SURE THAT CONSUMERS VOICES ARE HEARD, NO MATTER WHAT THE FORUM.

THE DMHC ROUTINELY OBTAINS INPUT FROM CONSUMER GROUPS, TRADE ASSOCIATIONS, LEGISLATORS AND OTHERS THROUGH FREQUENT HEARINGS ON INDIVIDUAL FILINGS THAT ARE AT ISSUE. WE WILL LIKELY HOLD A NUMBER OF PUBLIC HEARINGS THROUGHOUT THE YEAR ON A VARIETY OF POLICY CONCERNS FACING THE DMHC AND THE STATE.

DURING THIS PAST YEAR, I HAVE ALSO INSTITUTED REGULAR QUARTERLY TOWN-HALL MEETINGS WITH STAKEHOLDER GROUPS TO GATHER THEIR INPUT IN A MORE ORGANIZED AND TIMELY MANNER. THE STAKEHOLDER GROUP – WHETHER CONSUMERS, PHYSICIANS, HOSPITALS OR HEALTH PLANS - DETERMINES THE ENTIRE AGENDA OF THESE

MEETINGS. THIS NEW PROCESS HAS BEEN WORKING WELL AND FEEDBACK I HAVE RECEIVED IS THAT THESE DIRECT MEETINGS PROVIDE A MORE DIRECT MEANS OF COMMUNICATION.

ANOTHER WAY THAT CONSUMERS HAVE BEEN ABLE TO BECOME MORE INVOLVED IN THE DEPARTMENT'S POLICY MAKING ACTIVITIES IS THE RECENTLY ENACTED CONSUMER PARTICIPATION PROGRAM. TO DATE, I HAVE APPROVED REIMBURSEMENT TO FOUR CONSUMER GROUPS FOR THEIR TIME SPENT RESPONDING TO SEVERAL PROPOSED REGULATIONS. FINALLY, I HAVE BEEN HAVING MONTHLY MEETINGS WITH KEY CONSUMER REPRESENTATIVES.

THE DEPARTMENT CAN SAVE SUBSTANTIAL STAFF TIME, EXPENSE AND DIVERSION FROM OTHER PRIORITIES IF THE CPR'S RECOMMENDATION IS FOLLOWED. MOST IMPORTANTLY, HOWEVER, I BELIEVE WE CAN AND MUST ENSURE A SIMILAR, IF NOT BETTER, DIRECT LEVEL OF COMMUNICATION ON ISSUES OF A CLINICAL NATURE OR OTHER POLICY MATTERS.

IN YOUR PACKETS, YOU HAVE ADDITIONAL INFORMATION ABOUT THE SPECIFIC PURPOSE OF THE TWO ADVISORY GROUPS IN QUESTION. I WOULD BE HAPPY TO VERBALLY DESCRIBE THEM TO YOU OR PROCEED DIRECTLY TO YOUR QUESTIONS.

## **CLINICAL ADVISORY PANEL (CAP)**

THE ORIGINAL PURPOSE OF THE CLINICAL ADVISORY PANEL WAS TO ASSESS THE OUTCOMES AND PERFORMANCE OF THE INDEPENDENT MEDICAL REVIEW SYSTEM (IMR) AND TO AID THE DMHC IN ENSURING THAT THE OVERALL INTENT AND GOALS OF THE IMR PROGRAM ARE MET. A SECONDARY PURPOSE WAS TO REVIEW THE DECISIONS MADE IN THE EXTERNAL REVIEW, TO ENSURE THAT DECISIONS ARE CONSISTENT WITH BEST PRACTICES AND MAKE RECOMMENDATIONS FOR IMPROVEMENT. THE CREATION OF THE DEPARTMENT FIVE YEARS AGO COINCIDED WITH THE ROLLOUT OF INDEPENDENT MEDICAL REVIEW. IMR HAS PROVED TO BE A SUCCESSFUL WEAPON IN THE ARSENAL AGAINST ILL-CONSIDERED OR MONEY-DRIVEN HMO TREATMENT DENIALS. WE NOW HAVE THE BENEFIT OF THAT EXPERIENCE WITHIN THE DEPARTMENT, BASED ON WHAT WE HAVE LEARNED OVER THE LAST SEVERAL YEARS.

THEREFORE, I AM UNCERTAIN THAT THE SAME RATIONALE FOR CONTINUATION OF THE CAP EXISTS, AS ORIGINALLY IT WAS NEEDED TO OVERSEE A SEMINAL NEW PROGRAM TO SECOND-GUESS CLINICAL “MEDICAL NECESSITY” DECISIONS BY HMO MEDICAL DIRECTORS. THE IMR EXTERNAL REVIEW ORGANIZATION, THE CENTER FOR HEALTH DISPUTE RESOLUTION, HAS A ROBUST QUALITY ASSURANCE (QA) PROGRAM THAT COMPLIES WITH EXTERNAL REVIEW ORGANIZATION ACCREDITING REQUIREMENTS. THE DEPARTMENT’S OVERSIGHT PROCESSES WILL CONTINUE TO FOCUS ON ENSURING THAT THE

CONTRACTED QA PROGRAM IS EFFECTIVE IN TERMS OF IDENTIFYING ANY OPPORTUNITIES FOR IMPROVEMENT AND TAKING ACTION TO IMPROVE PROCESSES. THE DEPARTMENT ALSO OVERSEES DAILY IMR OPERATIONS TO ENSURE, FOR EXAMPLE, THAT MANDATORY TIMEFRAMES AND OTHER PROCEDURAL REQUIREMENTS ARE MET IN THE PROCESSING OF IMR APPLICATIONS AND WILL INTERVENE, WHEN NECESSARY.

UNDER THE PRIOR ADMINISTRATION, THE CAP NEVER REVIEWED INDIVIDUAL IMR DECISIONS, MAINLY DUE TO THE SERIOUS PRIVACY ISSUES RAISED. THE DEPARTMENT WILL CONTINUE TO ENSURE THAT THE IMR CONTRACTOR OVERSEES THE QUALITY OF ALL IMR DETERMINATIONS THROUGH ITS QUALITY ASSURANCE PROGRAM AND THE OVERSIGHT AND REVIEW PROVIDED BY ITS MEDICAL DIRECTOR.

IN ADDITION, THE DEPARTMENT WILL CONTINUE TO UTILIZE OUTSIDE CLINICAL EXPERTISE, WITH ACADEMIC CENTERS SUCH AS THE UNIVERSITY OF CALIFORNIA AT SAN FRANCISCO CENTER FOR HEALTH POLICY, TO PROVIDE RECOMMENDATIONS RELATED TO THE IMR PROGRAM, PARTICULARLY IN REGARD TO EMERGING MEDICAL TECHNOLOGY AND HEALTH PLAN COVERAGE POLICIES. THIS WOULD SAVE STAFF TIME USED TO PREPARE FOR THE QUARTERLY MEETINGS OF THE PANEL, AND I WILL CONTINUE TO HAVE THE ABILITY TO SECURE CLINICAL ADVICE FROM PAID DEPARTMENT CONSULTANTS

## **ADVISORY COMMITTEE ON MANAGED CARE**

THE ORIGINAL PURPOSE BEHIND THE ADVISORY COMMITTEE WAS TO PROVIDE THE DIRECTOR WITH THE ADVICE AND RECOMMENDATIONS ON HOW THE DMHC COULD BEST SERVE CALIFORNIANS. THE SECONDARY PURPOSE WAS TO PRODUCE AN ANNUAL REPORT WITH RECOMMENDATIONS FOR THE ANNUAL HMO REPORT CARD – A TOOL USED BY THE OFFICE OF THE PATIENT ADVOCATE.

THE COMMITTEE HAS 22 MEMBERS WITH STAGGERED 3-YEAR TERMS. IT WAS DEVISED THAT THE COMMITTEE WOULD MEET QUARTERLY, BUT IT ACTUALLY MET APPROXIMATELY ONCE PER YEAR UNDER THE PRIOR ADMINISTRATION. THIS RESULTED IN PART FROM THE FACT THAT THE COMMITTEE HAS HAD DIFFICULTY ACHIEVING A QUORUM DUE TO ITS LARGE SIZE. ALSO, THE MEETINGS HAVE BEEN EXPENSIVE AND LOGISTICALLY DIFFICULT TO ARRANGE.

ACCORDINGLY, THE DEPARTMENT HAS FOUND THAT THE COMMITTEE HAS NOT BEEN ABLE TO PROVIDE THE INPUT IT NEEDED IN A TIMELY OR MANAGEABLE FASHION. TO WIT, BECAUSE OF THE DIFFICULTY OF GETTING CONSISTENT ATTENDANCE, THE COMPOSITION OF THE COMMITTEE MIGHT DIFFER FROM MEETING TO MEETING, AND WITH THAT ALTERED MAKEUP, THE PRIORITIES AND CONCERNS MIGHT DIFFER. THIS HAS MADE IT QUITE DIFFICULT TO ACHIEVE CLOSURE ON ANY FORMAL RECOMMENDATIONS. IT ALSO MAKES IT TERRIBLY UNWIELDY TO VET PROPOSED REGULATIONS TWENTY DAYS IN ADVANCE

OF THE FIRST COMMENT PERIOD, AS IS CURRENTLY REQUIRED BY  
STATUTE.

THAT CONCLUDES MY COMMENTS. I'M PLEASED TO ANSWER ANY  
QUESTIONS THAT YOU MAY HAVE AT THIS POINT.

THANK YOU.