

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY
AND RECORD OF ACTION**

December 17, 2024

FROM

LEONARDO GONZALEZ, Director, Human Resources Department

SUBJECT

Kaiser Retiree Medical Plan Contract and 2025 Premium Rates

RECOMMENDATION(S)

1. Approve the **Contract No. 24-1278**, including non-standard terms, and proposed rates, as shown in Attachment A, with Kaiser Foundation Health Plan, Inc., to provide group medical plan benefits for retired employees, dependents and Consolidated Omnibus Budget Reconciliation Act retiree participants, for the period of January 1, 2025, through December 31, 2027, with the option to extend for one additional two-year term.
2. Approve retired employee medical premium rates for Kaiser Foundation Health Plan, Inc. for plan year 2025, as shown in Attachment A.

(Presenter: Leonardo Gonzalez, Director, 387-5570)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

FINANCIAL IMPACT

Approval of this item will not result in the use of additional Discretionary General Funding (Net County Cost). There is no additional cost to the County associated with the approval of this item, as the County does not contribute to the cost of premiums for retired employees, their eligible dependents or Consolidated Omnibus Budget Reconciliation Act (COBRA) retiree participants.

BACKGROUND INFORMATION

On May 21, 2024 (Item No. 35), the Board of Supervisors (Board) approved providers Blue Shield of California (Blue Shield) and Kaiser Foundation Health Plan, Inc. (Kaiser) as the group health plan providers for active employees, COBRA participants, and their eligible dependents for plan years 2024-25 through 2026-27, with the option to extend for one additional two-year term. The item also directed Human Resources Department (HR) staff to negotiate plan design, rates, and contracts with both carriers.

The recommended actions will authorize HR to continue to administer medical benefits for retired employees, COBRA participants, and their eligible dependents for retiree benefit plan years 2024-2025 through 2026-2027, with the option to extend for one additional two-year term.

Approval of this item by the Board provides the final action required in the negotiation of retiree benefits between the County and Kaiser for group medical plan benefits for retiree participants for plan years 2024-2025 through 2026-2027.

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Key provisions of the Contract with Kaiser includes the following:

- An approximate 5.3% increase to the current premiums for the Non-Medicare plans and an 8.3% increase for the Medicare plans.
- Kaiser will continue to provide benefits under the same design plan as those currently offered.

The recommended Contract includes terms that differ from the standard County contract and omits certain County standard contract terms. Kaiser is unwilling to negotiate these terms. The non-standard and missing terms include, but are not limited to, the following:

1. The Contract omits the requirement that Contractor's indemnification obligations apply regardless of the existence or degree of fault of indemnities.
 - (c) The County's standard contract language requires that the Contract's indemnification language apply regardless of the existence or degree of fault of indemnities.
 - (d) Potential Impact: Kaiser's indemnification obligations to the County may be potentially limited. If the County is sued for claims not covered by Kaiser's indemnification obligations, the County may be solely liable for the costs of defense and damages, which could exceed the Contract amount.
2. The Contract does not require Kaiser to meet all of the County's insurance requirements pursuant to County Policies 11-05, 11-07 and 11-07 SP, including the waiver of subrogation provisions, that policies be primary and non-contributory, the additional insured requirements, severability of interest requirements, proof of coverage requirements, acceptability of insurance carrier requirements, deductibles and self-insured requirements, failure to procure coverage provisions, insurance review and specification requirements, commercial/general liability requirements and automobile insurance requirements. The Contract excludes Workers' Compensation from the waiver of subrogation requirements, and further the Contract does not require that all general or auto liability insurance coverage provided shall not prohibit Kaiser and its employees from waiving the rights of subrogation, and that Kaiser waive all rights of subrogation against the County.
 - (c) County policy requires contractors to carry appropriate insurance at limits and under conditions determined by the County's Risk Management Department and as set forth in County policy and in the County standard contract.
 - (d) Potential Impact: The County has no assurance that the Contractor will be financially responsible for claims that may arise under the Contract, which could result in expenses to the County that exceed the total contract amount. No waiver of subrogation may allow Kaiser's insurers to bring suit against the County, which could result in expenses that exceed the total Contract amount. Additionally, the County's additional insured requirements may not be applicable to insurance policies (other than General Liability), which could result in expenses to the County that exceed the total Contract amount. Further, the County has no assurances that coverages provided by all of Kaiser's policies (other than General Liability) will be applicable separately to each insured and that there will be no cross-liability exclusions that preclude coverage for suits between Kaiser and the County or between the County and other insured. This could result in expenses to the County that exceed the total Contract amount.
3. This Contract provides that amendments that are required by law, subject to government approval, Medicare charges or changes, or due to tax or other charges imposed by a government agency or other taxing authority (other than a tax on or measured by net income) are exempt from this requirement.

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- The County's standard contract language requires Contractors to agree that Contract amendments will be valid only when reduced to writing, executed and attached to the original Contract and approved by the person(s) authorized to do so on behalf of Contractor and County.
 - Potential Impact: By excluding amendments required by law or subject to government approval, Medicare charges and tax or other charges from the requirement that such amendments be reduced to a writing and approved by the person's authorized to do so on behalf of the parties, amendments may become effective without prior written approval by the County where such amendments are required by law, subject to government approval, or due to Medicare charges and tax or other charges.
4. The Contract does not require Kaiser to provide the County with specific background check results on all of Kaiser's personnel providing services to the County and does not require that the background checks must have been performed at a minimum within the preceding 12-month period. The Contract does not require that personnel who do not meet the County's hiring criteria, in the County's sole discretion, will not be assigned to work on County property or services or that the County has the right to refuse access to Kaiser's personnel.
- County standard contract language requires that if requested by the County, Contractors must provide the results of a background check of each individual providing Services to the County. The background check must have been performed within the preceding 12-month period. Further, Contractor's personnel who do not meet the County's hiring criteria will not be assigned to work on County property/services, and that the County has the right to refuse access to any personnel.
 - Potential Impact: The County's ability to request the results of background checks on individuals providing services to the County and control Kaiser personnel who do not meet the County's hiring criteria, will be limited as specified.
5. The Contract does not require Kaiser to obtain the County's written consent before entering into contracts with subcontractors that may supply services to the County. The Contract does not require Kaiser to provide information regarding subcontractors' qualifications or a listing of key personnel.
- The County's standard contract language requires Contractors to obtain the County's written consent before entering into Contracts or engaging subcontractors who may supply services to the County. Further, at the County's request, Contractor is required to provide information regarding subcontractor's qualifications and a listing of a subcontractor's key personnel, as well as resumes of proposed personnel.
 - Potential Impact: Kaiser will be able to contract with subcontractors without the County's prior written consent and will not be required to provide the County with information regarding subcontractors' qualifications or a listing of key personnel.
6. Kaiser may terminate the Group Agreements (for retiree employees and COBRA participants) with 30 days' notice for nonpayment of premiums, with 90 days written notice due to discontinuance of a product, or with 180 days written notice due to termination of all Kaiser products. Kaiser may also terminate the Group Agreements due to failure to comply with Kaiser's participation or contribution requirements. The Group Agreements may also terminate due to non-acceptance of amendments subject to government approval, amendments due to Medicare changes, and other amendments within 30 days of the County's non-acceptance of the amendments or the day before the effective date of the amendment.

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- The County's standard termination clause states that the County reserves the right to terminate the contract for convenience with 30 days written notice.
 - Potential Impact: Although the County may terminate the Contract for any reason with 30 days written notice, Kaiser also reserves the right to terminate the Group Agreements as summarized above. Such termination could occur prior to the end of the three-year Contract term.
7. If Kaiser does not receive the required premiums after a 45-day grace period has been exhausted, the Contract will terminate and all coverage issued under the Contract will end on the date specified in a notice of nonpayment, which will be at least 30 days after the date of the notice. Further, if payments of premiums are not made by the end of the grace period, the Premiums may include an additional administrative charge upon renewal.
- County standard payment term is Net 60 days with no interest or late payment penalties.
 - Potential Impact: Failing to pay by the due date would allow Kaiser to terminate the Group Agreements and obtain an additional administrative charge from the County upon renewal, which could exceed the Contract amount.
8. The Contract requires the County to provide reasonable notice to Kaiser to conduct an audit and limits the County's ability to audit to only records related to the services procured under this Contract.
- The County's standard contract language provides the County, State and Federal government the absolute right to review and audit all records, documents, and other pertinent items.
 - Potential Impact: The County's ability to audit Kaiser's documents and records will be limited as specified.
9. In the event of a material breach, the Contract does not provide the County the right to discontinue reimbursement to Kaiser during the period in which Kaiser is in breach, and it does not provide the County the right to offset against any monies billed by Kaiser but yet unpaid by County.
- In the event of a material breach, the County's standard contract language allows the County to discontinue reimbursement to contractor for and during the period of the breach (which is not subject later recovery) and/or to offset against any monies billed by contractor but yet unpaid by County.
 - Potential Impact: The Contract limits the remedies available to the County under the Contract in the event of a breach and could require additional costs and expenses for the County to seek remedies available at law, which could exceed the Contract amount.

HR recommends approval of this contract, including the non-standard terms, in order to continue providing retirees, COBRA participants, and eligible dependents with medical plan benefits for the plan years of 2024-2025 through 2026-2027. Kaiser's rates for Plan Year 2024-2025 are listed in Attachment A. Future premium rates will be negotiated annually.

PROCUREMENT

On November 20, 2023, HR began the request for proposals (RFP) process and issued RFP No. HRD223-HR2-5185 to solicit vendor proposals for medical plan benefits by the deadline of December 22, 2023. All respondents (i.e., Blue Shield, United Health Care, Kaiser, and Anthem Blue Cross) met the minimum proposer requirements.

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The proposals were evaluated according to the following criteria: proposed rates, benefits, provider access, network enhancement, quality of care, financial stability, customer service, and demonstrated experience with implementing innovative wellness and cost containment strategies. The County’s contracted benefits consultant, The Segal Company (Segal) conducted a comprehensive analysis of the proposals and provided its conclusions to HR and the Employee Benefits Advisory Committee (EBAC) for review and consideration.

After a thorough examination of the analysis provided by Segal, HR and the EBAC invited all four medical insurance proposers to interview. The carriers were also asked to submit a last, best, and final (LBF) proposal of premium rates, which were provided as follows:

Active Plans:

Medical Carrier	Initial Proposal	LBF Proposal	LBF 2nd Year Rate Cap	LBF 3rd Year Rate Cap
Kaiser Foundation Health Plan, Inc.	8.6%	8.6% or 8.0% excluding \$500,000 wellness allowance	None	None
Blue Shield of California	7.9%	5.9% or 5.4% excluding \$500,000 wellness allowance	6.9%	8.9%
United Health Care	5.8%	3.3% or 2.8% excluding \$500,000 wellness allowance	Full HMO: 8.7% Harmony HMO: 6.0% PPO: 9.50%	Full HMO: 9.8% Harmony HMO: 6.5% PPO: 9.90%
Anthem Blue Cross	5.2%	5.2% or 4.8% excluding \$500,000 wellness allowance	9.9%	9.9%

Retiree Plans:

Medical Carrier	Initial Proposal	LBF Proposal	LBF 2nd Year Rate Cap	LBF 3rd Year Rate Cap
Kaiser Foundation Health Plan, Inc.	22.0%	12.0%	None	None
Blue Shield of California	1.6%	1.6%	6.9%	8.9%
United Health Care	50.4%	27.8%	Medicare plans: none COB plans: 9.5% and 8.7%	Medicare plans: none COB plans: 9.9% and 9.8%
Anthem Blue Cross	37.1%	8.2%	None	None

Segal analyzed the LBF proposals, including provider access, network enhancement, and plan design and provided the final analysis to HR and the EBAC. HR and the EBAC evaluated the final proposals and recommended that the County contract with Blue Shield and Kaiser as these proposals were the most beneficial to County employees and retirees, producing the least disruption in plan benefits, prescription drug formulary and provider network. Additionally, Blue Shield provided the greatest premium stability through the term of the contract and the lowest

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retiree premium rates, while offering a generous allowance used to support the County employees' wellness program. The recommendation for the County to contract with Kaiser is being presented to the Board on an accompanying item. The vendors not recommended for contract award were notified by email on March 28, 2024. No protests were received.

The Purchasing Department supports this competitive procurement based on the formal solicitation described above.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Kenneth Brown, Deputy County Counsel, 387-5455) on November 20, 2024; Purchasing (Jessica Barajas, Supervising Buyer, 387-2065) on November 11, 2024; Finance (Abigail Grant, Administrative Analyst, 387-4603) on November 11, 2024; and County Finance and Administration (Paloma Hernandez-Barker, Deputy Executive Officer, 387-5423) on December 2, 2024.

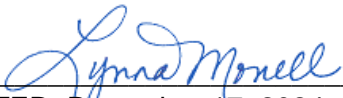
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Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

Moved: Curt Hagman Seconded: Joe Baca, Jr.
Ayes: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: December 17, 2024



cc: HR - Wakcher w/agree
 Contractor - c/o HR w/agree
 File - w/agree
MBA 12/19/2024