Health Care Market Oversight

Public Comments

008 SCAN Group-CareOregon

This document includes written public comments related to the review of transaction 008 SCAN Group-CareOregon. OHA received written public comments via email at hcmo.info@oha.oregon.gov. This document presents the comments as received and may include typos or misspellings. Personal contact information for individuals has been removed.

OHA expresses no views on the substance of these comments, and their publication does not constitute an endorsement by OHA of the views expressed.

You can get this document in other languages, large print, braille or a format you prefer free of charge. Contact us by email at hcmo.info@oha.oregon.gov or by phone at 503-385-5948. We accept all relay calls.

Public Comments

1. SCAN/ Care Oregon Merger

Received 1/13/23

Hello,

I would like to voice opposition to this merger.

The CEO of Scan Health made $2,500,000 in salary last year. This is not community oriented and insurers do not exist to line the pockets of top executives. Healthcare entities like this need closer regulation as the “non-profit” façade needs a slap in the face for lying to its constituents funneling money to the top 1%.

This merger is unethical, bad for healthcare, bad for patients, bad for Oregonians, and bad for the workforce.

SCAN does not exist in the Care Oregon marketplace. They do not offer dental or Medicaid. This is being parroted as an “economies of scale” merger, but there is absolutely zero overlap between businesses. This is purely a restructuring to keep the rich rich and the poor poor.

Best,

CareOregon employee

2. Comments on the CareOregon SCAN Group Transaction

Received 1/25/23

John Santa MD MPH

The proposed CareOregon SCAN Group Transaction poses a unique set of challenges when it comes to health equity, quality, access and costs.

The organizations are similar in their history. Both were created in risky circumstances by leaders with a well-informed vision to focus on vulnerable Americans likely best served in a nonprofit environment. Subsequent leadership, for both, have pursued that vision with remarkable success.

In my view CareOregon is a remarkable organization that has thrived in a difficult market and become the dominant delivery system for good reason. Oregon should be careful with any transaction that might threaten this success.

CareOregon has played a key role in stabilizing the Oregon Health Plan in periods of instability. The Portland Metropolitan Medicaid market was a high-risk market in 1994, in 2000, in 2012 and in 2020, but in each period, CareOregon stepped up to play a key role in stabilizing that market, preserving if not improving health equity, cost, access and quality. CareOregon has played a key role in Health Share---the only CCO serving the Portland Metropolitan Medicaid market. Listen and read the CareOregon 2021 annual report and you will see and hear how successful CareOregon was in that year---strong financial performance resulting in over 1 billion in assets, significant investment in workforce and communities that improved access in unique circumstances, a persistent and successful commitment to health equity and a sustained effort to maintain quality. All in a pandemic of unprecedented magnitude. In 2020 as the pandemic began the ambulatory workforce declined by 25% in the first 6 months. Most of those clinicians did not quit their jobs. They were laid off. CareOregon ran towards that fire and led other CCOs and some insurers to an approach that stabilized the ambulatory workforce. CareOregon and HealthShare played a key role stabilizing the overall delivery system response to the epidemic.

CareOregon has always represented a diverse delivery system with three county health departments, multiple FQHCs and other organizations focused on the vulnerable. The rest of the delivery system prioritizes the most profitable patient populations---commercial and Medicare Advantage. Health Share reports 400,000 patients. I suspect the strong majority are in CareOregon. Statewide, CareOregon reports 500,000 patients. Many unique populations are included---tribes, dual eligible (the highest risk Medicaid patients), clinics serving the homeless, clinics serving migrant workers. I believe the appropriate market analysis to be done in this circumstance is the Portland Metropolitan Medicaid market. CareOregon is the dominant delivery system in this market and any change in its governance or financing runs the risk of destabilizing the care of hundreds of thousands of patients.

CareOregon is funded primarily by state of Oregon based Medicaid programs. Oregon has made a consistent commitment to the Oregon Health Plan over the last 30 years. During that time, to its credit, CareOregon has accumulated over 1 billion dollars in assets (see 2021 Annual Report). Those assets are the community's assets. They should be available for CareOregon's members if conditions change. It is likely conditions will change in the next 2 years as the federal government withdraws from the Public Health emergency.

SCAN seems an admirable organization. As mentioned above they were founded in risky times in the California Medicare market in the 1970. Over 5 decades they have grown steadily. Recently their growth has accelerated via a variety of transactions. Evaluating the status of all of those transactions is difficult SCAN offers its services in multiple markets. As far as I can tell they are not a dominant Medicare Advantage Plan in any market. Their major risk appears to be keeping track of multiple recent transactions, avoiding any significant failures in multiple venues. SCAN has an impressive Board. Some of their Board members are very familiar with Oregon. The SCAN staff is well qualified. Their challenge is to maintain and prosper in a complex growth environment. That can be difficult and is risky.

SCAN primarily focuses on Medicare Advantage plans---a solid strategy these days given their profitability. CMS appears to support maximal enrollment in Medicare Advantage plans, despite the fact that it appears CMS is paying higher PMPMs to MA plans than Traditional Medicare patients cost. Multiple well established MA plans have been notified of CMS concerns that there are problems with population risk reports they have submitted. And many advocacy groups have expressed concern that MA plans succeed because of the marketing and sales strategies they employ. Overall, the Medicare fund is nearing the time when adjustments will be needed by Congress to keep the fund solvent. Given the profitability of Medicare Advantage it is not surprising to see health delivery systems seek out a preferred MA plan. But the risks are substantial in the near term that the federal government may make adjustments that would affect profitability. MA profitability has largely been driven by clever reporting and selection. That approach is not consistent with improving health equity.

Oregon has seen many health mergers and acquisitions that resulted in key decision-making processes occurring out of state. I believe the weight of the evidence is that such mergers or acquisitions do not result in positive changes when it comes to costs, health equity, access or quality. During the last 5 years we have repeatedly seen the importance of key decisions being influenced or made at community levels or regional levels. Health care is local. This transaction would seem to head in the opposite direction.

I urge Oregon delay this transaction and require further information. Specifically:

1) An independent assessment of the reaction of CareOregon members and community organizations to this proposed transaction should be done. How do members feel about a larger organization with investments and risks in multiple states making decisions? How can they be assured their care will remain the priority?
2) An assessment of the likely impact on key Portland Metropolitan Medicaid organizations---Health Share especially but also OHSU and other delivery systems providing specialty care to CareOregon members.
3) An assessment of the impact on the Multnomah County, Washington County and Clackamas County health delivery systems. These delivery systems are especially important to tricounty taxpayers.
4) An assessment of the viability of SCAN's multiple ventures in the last 2 years—their profitability, growth, leadership stability
5) The timing here is unfortunate, awkward. Oregon faces a major shift in resources due to the end of the public health emergency. These are the kind of times CareOregon has led the way in the past. It might be best to proceed when this crisis is over. These are the times when CareOregon's reserves may be needed.

Until this information can be assessed Oregon should not risk the progress made by the dominant delivery system in the Portland Metropolitan Medicaid market. The statute calls for the state to evaluate the impact on health equity, cost, access and quality. Given all the factors above I believe that it is more likely these 4 domains will decline if this transaction goes forward. Better information and patience are needed. Oregon and Portland have a lot at risk here. Do no harm.

3. Comment on SCAN Group/ Care Oregon merger review

Received 2/11/23

Hello,

I received the recent press release regarding the review of the SCAN GROUP / Care Oregon merger.

I am confused and alarmed to hear read the following-

"*CareOregon will contribute up to $70 million over multiple years to affiliate with HealthRight."*

I really hope that this doesn't mean that Oregon's precious and limited Medicaid and Medicare dollars that are funneled into Care Oregon and the CCO's it services for the benefit of a California "Non-Profit," instead of the OHP members, Oregon tax payers, and the Oregon health care providers committed to providing care to them.

I'd like to add that most of us behavioral health providers have not received any portion of the updated fee for service increases announced by OHA. Care Oregon recieves a larger fee for service now, but we mental health providers in the community have not received any increase in fees for service from Care Oregon/ Health Share. Trillium has made sure to get the funds to the clinics and providers. I am very grateful for their choice. It really does help keep the lights on in my practice. I hope to bring on additional providers (newly minted therapists) to help us in the battle to provide effective treatment to surge of OHP members.

What is Care Oregon doing with this extra money? My fee for services reimbursement from Care Oregon remains unchanged. They continue to reimburse the hundreds of us that serve OHP members through "single case agreements" (because Care Oregon will not allow us to become paneled with them even though we have OHA/OHP Open Card in-network status), they tell us that SCA's aren't entitled to the additional fee for services. They withhold the additional balance of fee for services for themselves. So, what are they doing with the money then?

The OHA director said that the rate increases were intended to help those of us treating OHP members; those of us serving the front line mental health patients in the community. The increased fees for service, as I understood the Director to mean, was to help us to overcome the increasingly adverse market forces and inflation in order to help us grow and continue providing critical behavioral health services to the surging number of OHP members struggling with mental illnesses.

OHA might not fully appreciate that these CCO's only provide "in-network" status to community mental health centers. These clinics have nowhere near the staff to treat the number of OHP members in the community, they never have! The CCO's rely on a HUGE number of us private practitioners in the community. They're essentially allowed to stiff us by forcing us to apply for pre-authorization (Single Case Agreements) to treat OHP members, despite the fact that we are medicaid approved providers. We don't have to apply for pre-authorization with Open Card members. This, in and of itself isn't a major problem, it's that they can pay us a lower rate and pocket the balance they're paid by OHA. Care Oregon is doing this right now! I can tell you that when the additional funding was distributed to the CCO's, Trillium made sure to distribute the funds to the actual providers.

This makes sense. It helps us stay in the community, pay our increasingly costly overhead, and bring on new providers who are willing to join the fight.

I really hope I'm wrong about this, but something seems fishy here. Many of us humble mental health clinicians are so fatigued and so busy that we often don't have the time or energy to advocate for ourselves. We just get beat up, bogged down, and burned out...then we give up. I am desperately trying not to give up.

Who is looking out for us? Who is looking out for Oregonians? Who is looking out for OHP members who are struggling with mental health disorders? Why is our limited and extremely valuable healthcare funds even being considered to be allowed to flow out of state in order to benefit the growth of an already large California "Non Profit."

Please don't approve this deal. It's simply insult to injury. I can't see how this merger will help improve clinical outcomes, which at the end of the day is what we all are hoping to see, right?

I welcome any clarity on the matter. I don't assume that I have a full grasp of the consequences. I want to understand how, if at all, this is going to be of service to those of us that depend on these funds to benefit Oregonians.

Respectfully,

Ryan Grassmann, M.A., LPC

4. Jcc proposed merger

Received 2/12/23

Our office serves many JCC members as a non-contracted office for mental health services. If this merger were to change our ability to service these clients, it would be a huge hit to our already underserved population in Southern Oregon.

Angela McCoy

5. Public comment regarding 008 SCAN Group-CareOregon transaction

Received 5/15/23

Thank you for providing a public summary of this proposed transaction. As a naturopathic doctor, I have some concerns about this transaction and how it may affect my patients. CareOregon insures many of my patients and I often need to go through a prior authorization process to get necessary medical treatments covered and to get durable medical goods covered. I don't understand why CareOregon can't cover some of these items, many of which are fairly inexpensive, but is able to spend millions of dollars towards this transaction. Why can they not use some of those millions to buy my disabled patients wheelchairs? I agree with the prior public comments that this transaction needs to be delayed and further studied. We need to make sure that the patients who are covered by CareOregon's service are able to access the care they need before pursuing a transaction of this nature that may take Oregon dollars out of state.

Thank you,

Vera Alcorn, ND, MS

6. Care Oregon

Received 6/3/23

Hi,

In regards to CareOregon and SCAN, I would need to know whose idea it was to merge and what each organization seeks to gain. I'm not sure if one is buying out the other or not. I have significant concerns that if SCAN takes controlling interest, that it would hurt CareOregon providers and clients.

Especially down here in Jackson County, we are already "one step removed" via JCC and CareOregon because much of the admin staff and provider relations are up in Multnomah county and are just not accountable to Jackson county residents, providers, and JCC clients, in the same way they might be if they were more "local".

So, for a California entity to have their hands in how CO runs would be further bad news. Or, if CO is further distracted in trying to run Medicare stuff in California, that's again, not a plus for us down here in JCC.

I cannot see any upsides and only potential negative consequences. So, I oppose the deal, unless further information about the benefits to JCC providers and clients is presented.

Thanks,

Victor Chang

7. CareOregon

Received 6/5/23

Hello,

Although I don't know much about SCAN, this doesn't seem like a good idea. Cigna and Aetna have tons of subsidies and it causes a lot of issues. Providers will be in network with Cigna or Aetna, but not with all of their subsidies. The providers and patients don't realize this, so the patient ends up paying out of pocket, or the provider doesn't get paid for their services. This is of course after a month of services have gone by when the first EOB comes back and everyone discovers that the provider wasn't actually in network.

I also feel that CareOregon is the best run CCO. Ever since they took over from HealthShare, this CCO has been running really well. The providers really feel supported. Rather than taking back money for mistakes during an audit, CareOregon works with providers to educate them on how to make their chart notes completely compliant. This is very valuable to everyone involved and is something most insurance companies don't do.

I'm not seeing an advantage to CareOregon becoming a SCAN subsidy. What is SCAN offering? California pays their mental health providers terribly. Will SCAN be able to lower the provider's fee schedules?

There is a lot of value in CareOregon remaining a local company, run by people that live here.

Best,

Emily Sangston

8. Problems with SCAN-CareOregon merger

Received 11/9/23

Please add this information to the Public Record.

It is clear that SCAN must not be trusted with Oregon taxpayer money. How convenient to take control of millions of CareOregon's (these are Oregon taxpayer dollars) to shore up there financial misdeeds.

SCAN Health Plan pays record $323M overpayment settlement | Healthcare Finance News

From the article:

"Under the terms of the settlements, non-profit SCAN, the Senior Care Action Network, will pay California $190.5 million, the federal government $129.4 million and also a separate $3.8 million to settle a Medicare Advantage whistleblower lawsuit from a former SCAN employee whose actions brought all of the other payments to light.

In complaints to California lawmakers in 2009, James Swoben, a former SCAN data encounter manager, accused the company of fraudulent Medicare billing and not disclosing contractually required financial information to MediCal, the state's Medicaid program. His complaints eventually led to state and federal investigations that put the federal government and the state of California at odds over who is to blame for the overpayments, which may spark more dogged billing and payment oversight of publicly-funded health plans.

Justice Department officials blame the California Department of Health Care Services (DHCS) for "actuarial errors" in their rate-setting between 1985 and 2008 for at-home, long-term care based on the much-higher fee-for-service reimbursements for long term care at nursing homes. In addition, between 2001 and 2007, the state paid SCAN for long-term care patients who had spent some time in a nursing home but were no longer under the company's care. DHCS blames SCAN for not reporting information that would've let state officials correct those errors. SCAN did not admit to any misconduct as part of the settlements.

"There's certain truths and omissions in all of this stuff," said Swoben's attorney William Hanagami, of the competing explanations from the government agencies.

While SCAN did not respond to a request for comment, its CEO and president Chris Wing said in a statement on the company's website: "We played no role in how the state set rates for the population at issue, and we were previously unaware of the mistake the state made. Once we learned that the state made errors, we decided to refund all the money mistakenly paid."

An investigation by the U.S. Attorney's Office of Central California seems to support SCAN's defense, pinning the blame on the state.

"We did not develop any evidence that SCAN participated in the setting of the rate or that SCAN ever knew the rates exceeded the legal cap set by state statute and regulations," Susan Hershman, an assistant U.S. attorney on the case, told the Los Angeles Times. "It was a mistake by the state of California."

But Dylan Roby, a healthcare policy professor at the University of California, Los Angeles, thinks it hard to determine who is right and who is wrong. Roby called the settlement "a fairly complex case," due in large part to the fact that SCAN has many "dual eligible patients" and was submitting claims to both the Centers for Medicare & Medicaid Services for Medicare payments and DHCS for Medicaid reimbursements.

"When having both coverage sources, there is often confusion over which program/plan covers what," Roby said. "In Medicare fee-for-service, it ends up being easier, but with the Medicare Advantage HMO plans, where a private HMO is managing part of the care and they have to coordinate with fee-for-service MediCal or another MediCal managed care plan, it can be more difficult to navigate."

Some of the confusion, Roby said, might be the result of Medicare Advantage policy that tries to make sure health plans taking on riskier, more expensive members are compensated enough, with the CMS-HCC risk adjustment reporting methodology.

"In this case," Roby said, "it appears SCAN's risk adjustment data vendor was not accurately reporting data to CMS on specific diagnosis codes that made payments higher for the plan enrollees than they should have been."

With more public healthcare dollars set to be spent through private plans, especially in state insurance exchanges, Roby thinks the claims and coding confusion in the SCAN case might prompt new government monitoring strategies.

"If health plans are engaged in systematic 'upcoding' to get higher risk adjustment payments, CMS and the state-based exchanges that run risk adjustment programs for the private insurers may play a more active role in policing and auditing the results to avoid situations like this one," Roby said. "These are very small coding details that require lots of data and computing to detect, but CMS may view it as a worthwhile area to invest in."

Hanagami, the whistleblower's attorney, agreed: "I think there will be greater scrutiny in connection with how retrospective reviews are performed and there'll be greater scrutiny for how risk adjustment payments are calculated."

All of these findings were spurred by Swoben's findings in what eventually became the $3.8 million Medicare Advantage settlement. Swoben alleged SCAN was deliberately gaming the reimbursement system, with both a capitated rate and HCC diagnosis codes, by filing claims using retrospective review of medical charts, with data analysis performed by a vendor and data submitted selectively.

"The retrospective review process was developed for accuracy," Hanagami said, to find claims that should be deleted and claims that should be added. SCAN was using the retrospective review as a "revenue enhancement" strategy, Hanagami said.

Swoben "noticed there were only adds, no deletes," Hanagami said.

After two state senators intervened, Swoben's complaints led to an audit by California Controller John Chiang, who reviewed the state DHCS's contract with SCAN and found what he called a "flawed methodology for setting contract rates." DHCS then did its own investigation and found SCAN had profit margins around 80 percent in 2007 and 2008, far higher than the typical 4 percent for similar managed care contracts. The agency also found that SCAN had "co-mingled" MediCal and Medicare capitation claims and data, a violation of its contract."

Take Care,

Tom Sincic, MSN, Family Nurse Practitioner-Retired

9. CareOregon merger thoughts

Received 11/17/23

First I concur and support the various thoughtful comments of John Santa and Ian Timm that question the wisdom of allowing CareOregon assets to be ultimately controlled by a different non Oregon organization As the first Executive Director of OCHIN I am quite familiar with CareOregon which was the initial administrative home for OCHIN.

As I reflect on what this potential merger is all about, my sense is that it is truly unwise to give up local control and ownership of CareOregon If you analyze this by “following the money “ the conclusion is quite clear- do not lose assets that were built by Oregonians for our fellow Oregonians. Our legacy for Oregon should not be compromised for some questionable bigger is better scheme

Michael Leahy

10. CareOregon merger thoughts

Received 11/17/23

Hello,

I am a seasoned, educated administrator in the healthcare community - so much that I was a previous employee of Care Oregon in the Quality Improvement department. Aside from this, I have a degree in health policy and I've also worked with the Oregon Medicaid community as part of my work with Legacy Health's Care Management department, which services an extremely high Medicaid population as part of their payor mix, and whose department is responsible for dealing with Oregonians suffering the most. Currently, I serve as a consultant for improving value based care in rural communities.

There are many things wrong about the merger between Care Oregon and SCAN; health equity, corporate social responsibility, business ethics, and

From a health equity perspective, Care Oregon has an extremely small Medicare population, which is the primary membership of SCAN. Given this extremely small overlap, any touting of economies of scale in this merger is an attack on Care Oregon employees - those who not only contribute to the social well-being of members in our communities but also rely on careers at Care Oregon to fulfill their livelihood.

Those same people whose wages contribute not only to local economies, but to fund the very Medicaid system they service, an asset created by Oregonians starting with the formation of the Affordable Care Act (ACA), which is heavily based on the public healthcare system created by Oregonians and Governor Kitzhaber when the ACA started and Cover Oregon was created. From learning experiences, the Coordinated Care Organizational system was founded - the very system we use today, which Care Oregon is a structural part of.

From a financial perspective, Care Oregon is a tax exempt 501c3, defined as:

> "religious, educational, charitable, scientific, literary, testing for public safety, fostering national or international amateur sports competition (as long as it doesn't provide athletic facilities or equipment), or the prevention of cruelty to children or animals."

With an operating profit revenue margin of over 4%, Care Oregon is an industry leader in profitability. This type of profitability directly goes against anything constituting a 501c3 and a stockpiled value of over $1,000,000,000 (that's a billion - with a B) is value that has been swindled from taxpayers over the pandemic where utilization dropped to record lows and value-based programs continued to provide value payments when providers didn't have staff around and patients were staying home, staying safe. This created value has no business going to an organization whose CEO alone will receive more than 2% of the annual payment given.

I am very happy to see my former Care Oregon coworkers signing this petition, given the timestamps from after I encouraged staff to speak up about this given our below-inflation "raises" after we received a $2,000 bonus the morning the acquisition was suddenly announced without Directors even having knowledge.

Care Oregon states that it's mission is

> "to inspire and partner to create quality and equity in individual and community health. Our vision is healthy communities for all individuals, regardless of income or social factors."

Absolutely nothing good will come of this merger for our communities. So much so that the NIH has been sounding the alarm about the profit seeking behaviors of being associated with an MA plan who have the highest denial rates and highest profitability of **any type of plan in the history of managed care**.

Respectfully,

The guy they fired for talking about this and trying to blame it on racism instead of owning up to incompetency in management and not doing the right thing

11. Proposed merger of Scan and CareOregon

Received 12/7/23

My take on the possible merger of Scan and CareOregon

Having read all the testimony to date there is no doubt in my mind that both entities are performing to the standards in place and could even be performing beyond. With that in mind, why on earth would a merger be necessary? CareOregon is mainly providing services to Medicaid folks and Scan is providing services in the Medicare arena.

A notable difference between the two organizations after reviewing their 990 filings in 2021 is that Scan has 7 employees making in excess of $1M dollars. From a surface standpoint it looks like CareOregon wants to get into the same type of compensation. Not a good reason to merge.

The United States Attorneys Office Central District of California reported the following:
On August 10, 2012, SCAN Health Plan paid $129,380,632 to the federal government and $190,470,301 to the State of California to resolve an investigation into overpayments for services provided to long-term-care patients.

Not a good history for Scan and makes one wonder about their ethics.

Why would CareOregon have to pay $125 million to Scan to merge and why an additional $25 million to form a charitable foundation? Why not keep this money here in Oregon and expand CareOregon services

This whole thing smells of a way to boost executive compensation at the expense of Oregon taxpayers.

John Rickert
HCAO Yamhill Oregon Chair Person

12. URGENT REJECT Care Oregon merger with Scan

Received 2/9/24

DO NOT MERGE CARE OREGON WITH SCAN HEALTH CARE IN CALIFORNIA.

TO DO NOT TURN OVER MILLIONS OF DOLLARS PAYED FOR BY OREGON TAXPAYERS.
OREGON WILL LOOSE CONTINUED OVERSIGHT OR ACCOUNTABILITY TO OUR CITIZENS.

CEO'S CAN BE CORRUPTED BY POWER.

THE BOARD MEMBERS ARE BEING GIVEN POSITIONS IN THE NEW BIGGER ORGANIZATION.

COMMON SENSE SAYS TO KEEP OUR HEALTH CARE LOCAL.

GRETCHEN RANDOLPH, PH.D,
PSYCHIATRIC NURSE PRACTITIONER
PRTLAND, OREGON

About HCMO

The Health Care Market Oversight program reviews proposed heath care business deals to make sure they support statewide goals related to cost, equity, access, and quality. For more info, you can connect with HCMO staff:

- Visit our website
- Email us at hcmo.info@oha.oregon.gov
- Subscribe to program updates