

This document is an extract of a larger publication.

civilgrandjury.org is a project of UnGovr.org, a US-based 501(c)(3) nonprofit dedicated to government transparency and public accountability.



The Goal of Equal Employment Opportunity: NO VICTIMS

Acronyms Used In This Report

OC = Orange County

GJ = Grand Jury

EEO = Equal Employment Opportunity

EEOC = Federal Equal Employment Opportunities Commission

HR = Human Resources

HRSD = OC Human Resource Services Department (newly recentralized in second half of 2012)

DFEH = State of California Department of Fair Employment and Housing

EPA = Equal Pay Act of 1963

ADEA = Age Discrimination in Employment Act (1990)

ADA = Americans with Disabilities Act (1973)

GINA = Gender Information Non-Discrimination Act (2008)

FEHA = Fair Employment and Housing Act (State of California)

HIV = Human Immunodeficiency Virus

AIDS = Auto Immune Deficiency Virus

AB 1825 = State of California Assembly Bill Number 1825

HRD = Human Resources Department (the decentralized arrangement in place from post-bankruptcy 1994 to mid-2012)

HR = Human Resources

COC = Compliance Oversight Committee comprised of Director of Human Resource Services Department, Director of Internal Audit and County Counsel

OCEA = Orange County Employees' Association

RFP = Request for Proposal (essentially a bidding process)

SIR = Self Insured Retention (reference to the equivalent of a deductible, the amount a City alone must cover prior to level at which Joint Powers Authority Pool participation takes over)

CEO = Orange County's Chief Executive's Officer

CalOptima Burns While Majority of Supervisors Fiddle



2012-2013

CalOptima Burns While Majority of Supervisors Fiddle

SUMMARY

CalOptima provides healthcare for one out of three children in Orange County. That's correct!!! One-third of Orange County's children depend on CalOptima for their healthcare needs. In addition, CalOptima is responsible for the healthcare needs of one in five senior citizens and one in seven Orange County residents. It should also be pointed out that the 427,000 plus Members are either United States citizens or documented aliens. Projections for Membership growth in 2014 when the Affordable Health Care Act takes effect are as high as 27% or 540,000 Members.

In spite of many calling CalOptima "the Gold Standard" or a "National Model" for healthcare, political turmoil threatens the organization, jeopardizing its membership's access to quality healthcare and potentially putting the entire entity at risk. Over the last 18 months, CalOptima's leadership team has been decimated by the departure of 16 senior level executives, including the Chief Executive Officer (CEO), Chief Operations Officer (COO), Chief Medical Officer (CMO) and Chief Financial Officer (CFO). Its Board of Directors have experienced unprecedented turnover to the point that the most tenured Board member has only 20 months experience. The organization has been riddled by internal allegations of misconduct and inappropriate actions. Multiple Board members have been publicly accused of conflict of interest or other misdeeds. In all, the organization has spent more than \$520,000 on outside law firms and consumed countless hours of staff time investigating these allegations.

According to the former CEO, CalOptima is a complicated \$1.5 billion entity with a large member base, numerous regulations and challenging funding sources. When California's budget crisis is added to the mix and with anticipated growth, grappling for slices of the forthcoming \$2 billion pie will be fierce. Although the State sets the rates, CalOptima dictates to the Providers (hospitals, doctors, community clinics, etc.) what is required to retain or grow their slice. It has been a leader in incentivizing physicians to reduce the cost of patient care (example: utilizing surgical centers instead of hospitals) and improve their overall quality of care. However, an ordinance change in December, 2011 by Orange County's Board of Supervisors has made it possible for Providers to seize control of CalOptima's Board of Directors from Member organizations and their representatives. One Supervisor voting against the ordinance change was quoted as saying the proposal gave that individual "heartburn", while another dissenter was quoted, "It's like having the foxes watch the chicken coop."

There is only speculation regarding the future of CalOptima and its Members. Some of those interviewed believe that having for-profit Providers included in or potentially controlling all decisions, is bad news for Members and Member

CalOptima Burns While Majority of Supervisors Fiddle

organizations. Others interviewed believe CalOptima's \$150 million reserves and ownership of a \$40-\$50 million building are attractive to several of the County's Board of Supervisors professing a budget crisis locally. Although there would certainly be debate and scrutiny from the California State Legislature, those funds could become discretionary for the Board of Supervisors.

Without CalOptima, the most likely scenario for Orange County would be a Geographic Managed Care system; the model used by San Diego County. In that scenario, insurance companies such as HealthNet, Blue Cross, Molina or Aetna would control healthcare for the County's neediest. Nationally, those firms have already begun positioning for 2014. Aetna, a large provider of commercial and individual health care plans, merged with Coventry Health Care in August, 2012 in a deal targeting Coventry's Medicare and Medicaid customers. "Expect other companies with government exposure to see greater investor interest," wrote a Credit Suisse analyst to his clients recently.

REASON FOR STUDY

This is a study by the 2012 - 2013 Orange County Grand Jury into why an award-winning and highly acclaimed public agency appears to be imploding. The goal is to determine what caused the turmoil, who will ultimately benefit and will the 427,000 Orange County residents that currently depend on state and federal aid for their healthcare needs be the biggest losers.

METHOD OF INVESTIGATION

Methods of investigation for this study were:

1. Interviewed employees, past employees, CalOptima Board members, past Board members, Provider representatives and Member organization representatives.
2. Reviewed various documents including confidential documents as well as investigation reports, email communication and letters.
3. Reviewed minutes and transcripts of relevant Board of Supervisors and CalOptima Board of Directors' meetings.
4. Reviewed newspaper and online media accounts of material allegedly leaked to the media following or during CalOptima Board of Directors' closed sessions.

CalOptima Burns While Majority of Supervisors Fiddle

5. Listened to presentations made by County personnel regarding CalOptima to the current Grand Jury.
6. Attended CalOptima's regularly scheduled and special Board meetings.
7. Attended Board of Supervisors regularly scheduled meetings and heard first hand Supervisors' comments regarding CalOptima.
8. Reviewed County ordinances pertaining to CalOptima.

BACKGROUND AND FACTS

CalOptima is not well known to the general public. Most know it by the label Medi-Cal (California's Medicaid label) since the majority of Members qualify for Medi-Cal services. It is the only plan responsible for administering Medi-Cal in Orange County. In addition to serving low income families, CalOptima provides publicly funded health coverage for 20% of the County's seniors and people with disabilities and receives federal funding under Medicare programs. In fact, CalOptima's One Care program serves almost 14,000 County residents who qualify for both Medi-Cal and Medicare coverage.

CalOptima is a County Organized Health System, a public agency authorized by county, state and federal actions. Although it's funded by state and federal government, it operates independently under a Board of Directors appointed by the County's Board of Supervisors. Under this structure, Orange County is not responsible for CalOptima's financial, legal or program obligations.

CalOptima, a dba for the Orange County Health Authority, was created in 1993 by a County ordinance and began operations in 1995. Prior to then, Orange County's Medi-Cal system operated on a fee-for-service basis. Medi-Cal beneficiaries (Members) would seek out willing Providers who received payment directly from the State after registering with it. The problem with this model was Providers had an incentive to do more, such as ordering unnecessary tests, prescribing unnecessary drugs, etc., so they got paid more; ultimately costing taxpayers more money. Eventually, payment delays and other issues caused the Provider network to dwindle, so California's State Legislature decided healthcare could be better managed closer to all involved and gave counties the authority to select a health plan better suited to their constituents.

In a report by the Institute of Medicine, *Better Care at Lower Cost*, the arm of the National Academy of Sciences estimated \$765 billion per year is wasted on U.S. healthcare. They broke down that figure as follows:

CalOptima Burns While Majority of Supervisors Fiddle

Unneeded Services	\$210 billion	27%
Excess Administrative Fees	\$190 billion	25%
Mistakes	\$130 billion	17%
Artificially High Prices	\$105 billion	14%
Fraud	\$75 billion	10%
Missed Prevention	\$55 billion	7%

The federal government is the largest purchaser of health care services in the United States. In 1980 healthcare accounted for 11% of federal spending. In 2011, it accounted for 27%.

Currently California has three managed care models serving 4.3 million beneficiaries while 3.3 million remain in a fee-for-service arrangement. The three managed care models include Geographic Managed Care, where the state contracts with various commercial plans (large insurance companies); the Two Plan, in which the state contracts with a local public plan and a commercial plan; and the County Organized Health System model, where the State contracts with a local public plan. Los Angeles County has the Two Plan and designated HealthNet as the commercial plan. San Diego County implemented Geographic Managed Care, designating Molina and HealthNet as their commercial plans. Neither County has received the high praise or tangible awards for quality given to Orange County's plan by public officials at all levels, the media and Member support organizations.

CalOptima has been considered a national model and the gold standard for county healthcare. In a Board of Directors' meeting minutes, one current Board member is quoted as saying they received unsolicited praise for CalOptima from the Director of California's Department of Health Care Services. Over the years the organization has been named multiple times one of the *Best Places to Work in Orange County* by the Orange County Register (2009, 2010, 2011), Orange County Business Journal (2009, 2011), OC Metro (2009) and Modern Healthcare (2010), a national publication. The CalOptima One Care HMO has a four star rating (as of 10/31/12), the highest quality score for a plan in the State of California.

The following represents a timeline of significant CalOptima events from Fall, 2010 to the present. These events have been documented and are a matter of public record. Other than the conclusions made in this Report's Findings

CalOptima Burns While Majority of Supervisors Fiddle

section, no other conclusions have been drawn at this time from the following sequence of events.

- 2010 CalOptima received three stars from the National Committee for Quality Assurance, a commendation which was considered exceptional.
- Jan 2011 A CalOptima lawyer made more than 100 allegations against CalOptima's senior executives prompting the CalOptima Board of Directors to commission an outside legal firm to conduct an investigation.
- March 2011 The existing Orange County Supervisor sitting on CalOptima's Board was replaced by a different Supervisor.
- March 2011 A registered lobbyist in Orange County and Los Angeles County helped rewrite the Orange County ordinance to change the make-up of CalOptima's Board, giving more control to Providers and less to Members and organizations representing Members. This was in spite of recent studies showing Medicare and Medicaid fraud perpetrated by clinics, doctors, pharmacists and other medical Providers had spiked in recent years, reaching \$60-\$75 billion a year nationwide. The proposal also included a standing Board position for the Supervisor whose District contained the most CalOptima members. The registered lobbyist also received final approval of the new ordinance language. CalOptima's Board Chairman opposed changes to the language. An email trail exists between a CalOptima lawyer and Deputy County Counsel documenting the involvement of the registered lobbyist organization.
- July 2011 Exodus of 16 senior level managers begins.
- Aug 2011 The Supervisor sitting on the CalOptima Board reported on a trip taken with CalOptima executives to Washington, D.C. and said that Orange County's D.C. delegation praised CalOptima and "recognized the value of CalOptima's model of providing Members access to care in an effective and efficient manner." This is documented in Cal Optima's Board minutes.
- Sept 2011 The Cal Optima Board approved a CEO bonus of 20% (7/1/10-6/30/11) in a closed session and the fact was leaked to the media. The leak also cited 12 other executives that received bonuses.

CalOptima Burns While Majority of Supervisors Fiddle

- Nov 2011 The Outside law firm hired to do an independent investigation gave its report to the CalOptima Board on November 3. The report stated none of the CalOptima lawyer's allegations were founded and that he retracted over 50 allegations prior to any executive interviews. The report listed several procedures and policies requiring improvement. The outside law firm retained a health care management expert to "offer insight from a management perspective."
- Nov 2011 The healthcare expert wrote a letter with his findings and recommendations to the outside law firm's President and it was included as a supplement to the law firm's report. However, the healthcare expert's letter was apparently leaked to the media. Since it was reported out of context, it portrayed the executive management team of CalOptima as inept. The Grand Jury has the letter. A high ranking executive from the registered lobbyist sent an email to CalOptima's CEO and Board Chairman saying, "If what was in the article is correctly reported, then whoever did the CalO (registered lobbyist's nickname for CalOptima) review was unqualified and issued some irresponsible findings."
- Nov 2011 On November 9, the same CalOptima lawyer brought additional allegations to the CalOptima Board. This time the allegations were regarding the CEO approving the bonuses for 12 other executives. The CalOptima Board retained the same law firm to investigate the new allegations.
- Dec 2011 The Orange County Board of Supervisors passed an ordinance changing the structure of CalOptima's Board of Directors. The new ordinance provided two additional Board seats and changed the structure and made it possible for more Providers to qualify for the 11 seats. One dissenting Supervisor is quoted as saying, the proposal gives that individual "heartburn" while another Supervisor says, "It's like having the foxes watch the chicken coop." This individual also criticized the Supervisor championing the ordinance change for having County Counsel make the proposal instead of them. "It's not how the Board does business; to try to use staff as a proxy," said the Supervisor. Instead of including a CalOptima Board seat for the Supervisor with the most members in their District, they extended the current Supervisor's seat for another year. According to the Agenda Staff Report (ASR) that recommended the ordinance change, Staff claimed this new Board make-up would reduce potential for conflict of interest. The media also reported the Supervisor

CalOptima Burns While Majority of Supervisors Fiddle

championing the new ordinance received too many complaints about CalOptima; however, CalOptima's statistics uncovered only five in the previous four months.

- Jan 2011 A senior executive from the registered lobbyist organization wrote in a Payers and Providers newsletter, "It is true that doctors and hospitals have not always agreed with the policies and practices of CalOptima. Many, including [registered lobbyist organization's name], supported the successful recent efforts to expand and restructure its governing board." The Grand Jury has a copy of the newsletter.
- Feb 2012 An anonymous letter was faxed to the media, selected Providers and selected CalOptima Board members alleging conflict of interest against its Board Chairman and another Board member. The Board Chairman was accused of using his position to benefit his company in an effort to help Managed System of Care secure a Center for Medicare & Medicaid Innovation grant.
- Feb 2012 Two months after the ordinance change, the registered lobbyist organization held a \$250 per plate fund raiser for the Supervisor sitting on the CalOptima Board. This event was hosted at the home of the CEO of a for-profit hospital.
- Mar 2012 Wanting to clear his name, the CalOptima Board Chairman requested an investigation. The CalOptima Board approved (8-0 vote, with three absent) a different outside law firm to look into the legality of the allegations made against the Board Chairman and three other Board members. (This was documented in the March 23, 2012 Board minutes and confirmed by interviews.) The law firm was never hired since while preparing to sign the agreement, the Interim CEO received a call from a Board member instructing him not to sign it because he did not understand the Board's decision. The Board's decision to hire the law firm morphed into an internal compliance investigation released in September 2012 and concluded that two past Board Chairmen owed CalOptima a combined total of \$90,321.
- April 2012 The CEO resigned and took the position as President of a large healthcare organization.

CalOptima Burns While Majority of Supervisors Fiddle

- May 2012 The CalOptima Board Chairman was removed from the Board during a Special Meeting of which neither he nor the other Board member mentioned in the anonymous letter was notified. He was later reinstated, but not as Chairman. The Director of the Orange County Health Care Agency was named CalOptima Chairman of the Board. The CEO of St. Jude Medical Center was named Vice-Chair.
- June 2012 According to interviews, a CalOptima employee resigned without another job after receiving a text from a newspaper reporter at 5:36 p.m. citing information discussed in a closed Board session that ended at 5:16 p.m. Months later, this employee was hired by the former CEO's firm.
- July 2012 Now reinstated, the former CalOptima Board Chairman sent a letter to the Board of Supervisors' Chairman resigning from the CalOptima Board. In the letter, another CalOptima Board member is referenced as the "subject of multiple compliance complaints" and of "delaying or completely halting the inquiry into [his] alleged wrongdoings." The Grand Jury has reviewed the letter.
- Aug 2012 The current Interim CEO, formerly the CFO, resigned from CalOptima and took a position with another county's County Organized Health System. The reason given was his long commute, but interviews substantiate that CalOptima had become "an unsafe environment for senior executives."
- Aug 2012 The CalOptima Board called a Special Meeting on a day the Interim CEO was off and a former County employee was named Interim COO.
- Aug 2012 During a meeting of the Board of Supervisors, the Supervisor sitting on the CalOptima Board responded to a public comment regarding CalOptima in what one publication's headline read, *[Supervisor] Blames Former CalOptima Executives for Agency's Brain Drain*.
- Sept 2012 At a CalOptima Board meeting, the Vice Chair reported CEO candidates had removed their names from consideration.
- Sept. 2012 Based on the results of the previously mentioned internal compliance investigation, the CalOptima Board instructed the Compliance Director to send letters to two former Board Chairmen requesting a total reimbursement of \$90,321 for unauthorized use of CalOptima employees and resources.

CalOptima Burns While Majority of Supervisors Fiddle

NEW FACTS UNCOVERED DURING INVESTIGATION

1. A trail of correspondence between a CalOptima lawyer and an Orange County Deputy Counsel confirmed that a representative from a registered lobbyist helped author the proposed ordinance change (approved by the Board of Supervisors (3-2 vote) on December 6, 2011) that potentially gave Providers control of CalOptima's Board and had final approval of its language.
2. In January, 2011, a CalOptima lawyer submitted a report to the Board of Directors with over 100 allegations against senior management, who in turn commissioned an outside law firm to investigate. The objective of the investigation was to determine if any of the issues raised by him and another in-house CalOptima lawyer involved violations of the law or failure on the part of a CalOptima executive to follow proper and required legal procedures in the specific areas identified. The firm's final report, never seen by CalOptima staff, concluded that "most of the concerns lacked sufficient supporting evidence, were directly contradicted by documents produced by [CalOptima lawyer's name] and/or were determined to be non-issues. In fact, [CalOptima lawyer's name] withdrew more than 50% of his initial claims before we met with a single member of the executive team." The report added that "[CalOptima lawyer's title] and another in-house lawyer had done a poor job of interacting with the executive team." The report concluded by stating, "We uncovered no flagrant misconduct by any CalOptima executive, no gifts of public funds and no conduct that exposes CalOptima to immediate significant liability to regulators or third parties." They cited an interview with CalOptima's financial auditor, who confirmed that it had not found any material misstatements or significant issues regarding CalOptima's financial records for the most recent fiscal year. In the firm's final recommendations, they stated, "Our investigation did reveal that there are some operational and structural problems that need to be corrected at CalOptima. To a person, the executives say they recognize these problems, were aware of most of them and want to fix them." As part of the report, the law firm solicited "the perspective of an experienced healthcare business executive to make sure the Board received a balanced view of the issues and that our recommendations for resolution of the problems identified were practical and workable from an executive standpoint."

CalOptima Burns While Majority of Supervisors Fiddle

3. Aside from the law firm's internal staff, CalOptima Board members were the only individuals allowed to view the report. However, a portion of the healthcare expert's letter, printed in its entirety in the Appendix of the law firm's final report, was apparently leaked to the media. Since it was not in the context of the full report, CalOptima's senior executives were portrayed as inept. A paragraph missing from the media's version or not reported by the media stated, "It is clear from its inception in 1994 that CalOptima has grown in significant ways and stands as a unique national model for organizing and administering healthcare financial resources to optimize the delivery of care to citizens of Orange County."
4. Following the CalOptima Board of Directors approving a CEO bonus in a closed session, someone apparently leaked the decision to the media along with the fact the CEO authorized bonuses for 12 other CalOptima executives. Six days after submitting their final report, the law firm hired to investigate the CalOptima lawyer's initial allegations was once again commissioned to investigate their new allegations regarding executive incentive compensation. According to the new final report, the CalOptima lawyer sent an email to the lead investigator citing six allegations in connection with the payment of incentive compensation to senior executives for the 2010/2011 fiscal year. In their findings, the law firm stated that, "contrary to [CalOptima lawyer's name] allegations, there was no gift of public funds, no misrepresentations to the Board, no breach of fiduciary responsibility and no self dealing." The report also said the CEO had been delegated the authority to pay incentive compensation to CalOptima executives in a November, 1994 OBAR (CalOptima Board Action Referral—original name was Optima). The findings and facts portion of the report stated, "What is surprising and disappointing, is that [CalOptima lawyer's name] continues to assert facts which he knew, or should have known, were not true."
5. A copy of the faxed anonymous letter sent February 2012 to the media and selected CalOptima Board members alleging conflict of interest by the then Board Chairman contained unique markings created in the scanning process. Identical markings from another fax sent from the Orange County office of a registered lobbyist conclude the anonymous letter came from the same machine.
6. A Supervisor's response to a public comment during the August 14, 2012 Board of Supervisors meeting and published by the media inaccurately claimed that only nine senior executives had left and that the former CEO and

CalOptima Burns While Majority of Supervisors Fiddle

COO recruited them after they resigned. In fact, two secured positions at the former CEO's current business. One resigned without a new position after receiving a text from a newspaper reporter at 5:36 p.m. regarding the contents of the CalOptima Board's closed session which adjourned at 5:16 p.m.. Two became principals in the former COO's firm. Additionally, former CalOptima executives interviewed indicated they were never recruited by anyone that had previously left CalOptima. Former senior executives interviewed all claim that if not for the dirty politics perpetrated on CalOptima over the past 18 months, they would still be there. Most are now in highly prestigious positions and earning more income.

7. Representatives from Member organizations indicated they were intimidated by the new CalOptima Board structure and feared losing funding.
8. Determining that two past CalOptima Board Chairmen owe a combined total of \$90,321 for unauthorized use of CalOptima staff and resources is a puzzling conclusion by CalOptima's Board of Directors. The request had all the earmarks of retribution by the retooled Board of Directors against the Chairmen for fervently opposing the ordinance change. Any use of CalOptima staff and resources by the two was in conjunction with Managed System of Care. The CalOptima Board had previously approved \$50,000 of "seed" money to fund the start-up of the Managed System of Care. That sum was matched by the County of Orange Health Care Agency and exceeded by CHOC, Hoag Hospital, Integrated Healthcare Holdings, Inc., Irvine Health Foundation, Kaiser Permanente, Memorial Health Services, Prime Health Care, St. Joseph Health System Foundation, Tenet Health Systems and the University of California, Irvine. Since CalOptima, particularly CalOptima's Members, were the primary beneficiaries, common sense dictates the CEO had authority to assign an individual to assist with securing a \$14 million Center for Medicare and Medicaid Innovation grant and allow the two individuals to use vacant offices and unused conference rooms. The Grand Jury's research indicates these individuals have contributed significantly to CalOptima, their own organizations and society as a whole. Their legacies should not be tarnished by strategic media leaks or anonymous and questionable allegations never publicly refuted. CalOptima Board members are volunteers and receive no stipend for Board meetings or compensation for their many hours of service. The majority of those interviewed believe that having former executives and past CalOptima Board members subjected to smear campaigns and potentially slanderous remarks made during Board of

CalOptima Burns While Majority of Supervisors Fiddle

Supervisor's meetings is reprehensible and a black mark on Orange County government and politics.

FINDINGS

In accordance with *California Penal Code* Sections §933 and §933.05, the 2012-2013 Orange County Grand Jury requires responses from each agency affected by the findings presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court with a copy to the Grand Jury.

Based on its investigation the Orange County Grand Jury has arrived at seven principle findings as follows:

- F1 A majority of Orange County's five Board of Supervisors have failed to take an active role in preserving an entity playing a vital role in the healthcare needs of the County's young, disabled, low income and senior residents. Sadly, 20 months ago, CalOptima received glowing reviews from Member organizations, politicians and government officials at all levels and was an entity Orange County's residents could be proud of.
- F2 A Board of Supervisors majority permitted an organization that is a registered lobbyist in Orange County and Los Angeles County to not only write a County ordinance, but have final approval of its language.
- F3 Member organizations have expressed fear of retaliation if they do not support certain causes or candidates and the Board of Supervisors majority has not attempted to curtail or dispel these fears.
- F4 A majority of the five Supervisors have allowed CalOptima senior executives, highly qualified individuals who performed their duties with passion and a belief they were making a difference, leave highly specialized positions.
- F5 A CalOptima Board member and two CalOptima lawyers have been disruptive and created an atmosphere that according to current and former CalOptima employees is "unsafe for senior executives."
- F6 Having a single Supervisor on the CalOptima Board lends to a perception of intimidation either real or perceived. County employees are reluctant to vote against a Supervisor.

CalOptima Burns While Majority of Supervisors Fiddle

- F7 Several current CalOptima Board members and recent hires lack the healthcare experience to understand the complexity of CalOptima as proven by their comments and questions during CalOptima Board meetings.

RECOMMENDATIONS

In accordance with *California Penal Code* Sections §933 and §933.05, the 2012-2013 Orange County Grand Jury requires responses from each agency affected by the Recommendations presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its investigation the 2012-2013 Orange County makes the following five recommendations:

- R1 The Board of Directors of CalOptima should include more than one County Supervisor. This would minimize potential conflict of interest and reduce any opportunity for CalOptima to be used for political gain or to advance personal agendas. The entity is larger than OCTA, which currently has all five Supervisors on its Board. (F1, F2, F3, F4, F5, F6)
- R2 Remove County employees from the Board of Directors of CalOptima since they report to the CEO of Orange County who is selected by the Board of Supervisors. (F1, F2, F3, F5, F6)
- R3 In order to attract more qualified individuals to fill vacant positions, offer salaries and incentive packages that are competitive in the healthcare industry. (F7)
- R4 Educate CalOptima's Board of Directors on the agency's role now and in 2014; why it operated effectively as a hybrid between private industry and County agency; its relevance to the County's less fortunate's well-being and healthcare needs and why CalOptima should be free from lobbyists and those who want to use it for political gain. (F2)
- R5 Ensure CalOptima Board members reaffirm their accountability to Members, Member organizations, staff and each other and refrain from leaking closed session details or partial reports to the media. (F5,F7)

REQUIRED RESPONSES

CalOptima Burns While Majority of Supervisors Fiddle

The California Penal Code §933 requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors. Furthermore, California Penal Code Section §933.05 (a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

(a.) As to each Grand Jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b.) As to each Grand Jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the Grand Jury report.
- (4) The recommendation will not be implemented because it is not warranted, or is not reasonable, with an explanation therefor.

CalOptima Burns While Majority of Supervisors Fiddle

(c.) If a finding or recommendation of the Grand Jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the Grand Jury, but the response of the Board of Supervisors shall address only those budgetary/or personnel matters over which it has some decision making aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code Section §933.05 are required from:

Responses Required:

Orange County Board of Supervisors: F1, F2, F3, F4, F6

CalOptima Board of Directors: F5, F7

Responses Required:

Orange County Board of Supervisors: R1, R2, R3

CalOptima Board of Directors: R3, R4, R5