

BOARD OF GOVERNORS

Executive Committee

Meeting Minutes – September 28, 2020

1055 West 7th Street, Los Angeles, CA 90017

Members

Hector De La Torre, *Chairperson*

Al Ballesteros, *Vice Chairperson*

Robert H. Curry, *Treasurer*

Layla Gonzalez, *Secretary*

Stephanie Booth, MD

Hilda Perez

Management/Staff

John Baackes, *Chief Executive Officer*

Terry Brown, *Chief Human Resources Officer*

Augustavia J. Haydel, Esq., *General Counsel*

Alex Li, MD, *Deputy Chief Medical Officer*

Marie Montgomery, *Chief Financial Officer*

Tom MacDougall, *Chief Information & Technology Officer*

**Absent*

California Governor issued Executive Order No. N-25-20 and N-29-20, which among other provisions amend the Ralph M. Brown Act. Members of the public can listen to this meeting via teleconference.

AGENDA ITEM/PRESENTER	MOTIONS / MAJOR DISCUSSIONS	ACTION TAKEN
CALL TO ORDER	<p>Hector De La Torre, <i>Chairperson</i>, called the meetings to order for the L.A. Care Executive Committee and the L.A. Care Joint Powers Authority Executive Committee at 2:11 p.m. The meetings were held simultaneously. He welcomed everyone to the meetings.</p> <ul style="list-style-type: none">• For those who provided public comment for this meeting by voice message or in writing: we are really glad that you provided input today. The Committee wants to hear your comments and we also have to finish the business on our Agenda today.• If you have access to the internet, the materials for today's meeting are available at the lacare.org website. If you need information about how to locate the meeting materials, please let us know.• Information for public comment is on the Agenda available on the web site. Staff will read the comment from each person for up to three minutes.• Chairperson De La Torre will invite public comment period before each item is discussed, not after. The public comment will be read before the Committee starts to discuss the item.• If the comment is not on a specific agenda item, it will be read at the general Public Comment item 2 on today's agenda.	

APPROVED

AGENDA ITEM/PRESENTER	MOTIONS / MAJOR DISCUSSIONS	ACTION TAKEN
APPROVE MEETING AGENDA	The Agenda for today’s meeting was approved.	Approved unanimously by roll call. 6 AYES (Ballesteros, Booth, Curry, De La Torre, Gonzalez and Perez)
PUBLIC COMMENTS	<p>Text received, September 12, 2020 at 5:02 a.m., from Anonymous <i>Public comment , executive committee meeting Sept 28-2020, documented agenda demand that Dept of Managed care corrective action regarding Synermed be discussed , corrective action regarding Synermed clearly mandates enrollees who were affected by Synermed be contacted in reference to the harm they suffered , I do not believe any of them have been contacted. LA Care has a stake in not notifying victims. Don’t lie again that you only contracted with EHS, EHS was confirmed by Dept of managed care to be a bogus company operated by Synermed , so for years you contracted with a company didn’t have any employees operated by Synermed, likely giving “EHS” millions in funding and they in turn blocked the care of likely 1,000s of LA Care enrollees , all while you ignored their pleas for help , you ignored our pleas ,so I know you’re capable of that! Stop using your board to help hide these facts, stop lying to your own board and the public! I can prove everything I’m stating, you can’t! Your board members are on hook but aren’t being told everything that was done to enrollees, especially special needs ones because of your negligence!</i></p> <p>Text received September 9, 2020 at 11:41a.m., from Anonymous <i>Public comment , what is LA Care doing to make sure another MSO doesn’t unjustly enrich themselves on the backs of our most vulnerable. I believe they are enriching themselves as I type , I see multiple complaints stating delay and denial of care and services , what has changed since your negligence regarding EHS who was actually Synermed operating EHS , that was verified by The DMHC!</i></p> <p>Text September 27, 2020 at 8:58pm, from Anonymous <i>Public comment , Ms Haydel ,I just read your comment my concern has already been discussed (but not to my satisfaction) . I have not seen any answer addressing why LA Care is not following up with Synermed affected</i></p>	

AGENDA ITEM/PRESENTER	MOTIONS / MAJOR DISCUSSIONS	ACTION TAKEN
	<p><i>enrollees , the answers I have heard is denial there was a contract , stating no longer have a contract, I specifically asked why LA Care is not adhering to the DMHC corrective action you signed that stated LA Care is to “identify and follow up with affected enrollees”, I know of affected people who have not been followed up with ,I know of dead people because of those jokers , WHO has LA Care followed up with regarding Synermeds aka EHS’s atrocities against enrollees, NO ONE has notified us? I believe the name EHS has been an excuse that EHS wasn’t Synermed when DMHC determined EHS was run by Synermed, I will ask about it all I want, other people are disgusted by this also, that they begged for help and you people ignored them for years ! (3 minutes expired.)</i></p> <p><i>Email received September 28, 2020, 11:28 a.m., from Maria Vazquez I cannot believe that Synermed is not taking any responsibility for their fraud. They hurt people and denied many health care without them knowing their rights and appeals. I have the contracts that Synermed and EHS and LA Care is denying they had. I was the one that provided the DOJ and State of California the contracts. I hope someone is held accountable for the death of many and the healthcare that were denied.</i></p> <p><i>Text received September 28, 2020, 1:34 p.m. from Anonymous I cannot believe that Synermed is not taking any responsibility for their fraud. They hurt people and denied many health care without them knowing their rights and appeals. I have the contracts that Synermed and EHS and LA Care is denying they had. I was the one that provided the DOJ and State of California the contracts. I hope someone is held accountable for the death of many and the healthcare that were denied. Synermed had a contest to dump high risk patients. The winner got a cash prize of 500 dollars</i></p>	
APPROVE MEETING MINUTES	The minutes of the August 24, 2020 meeting were approved as submitted.	Approved unanimously by roll call. 6 AYES
CHAIRPERSON’S REPORT	Chairperson De La Torre stated that the next couple of months will be very uncertain. There is COVID-19, the State budget is in limbo pending, hopefully, some federal financial support. The wild fires have wreaked havoc on the State and are costing even more money to put down. There is a court case to be heard on November 10 by the Supreme Court of the United States (SCOTUS) that is more in flux than it was the last	

APPROVED

AGENDA ITEM/PRESENTER	MOTIONS / MAJOR DISCUSSIONS	ACTION TAKEN
	<p>time just a few weeks ago. There is a lot of uncertainty with L.A. Care’s financial situation. John Baackes, <i>Chief Executive Officer</i>, and L.A. Care staff are planning and thinking ahead. But this is going to be a very uncertain time for the next couple of months, at least. He thinks it is important to understand that, be patient and work our way through this. This is probably the most challenging time ever for L.A. Care. We need to accept and understand this, but continue to work our way through it as has been done for over 20 years. This needs to be out in the open and talked about.</p> <p>Any kind of luck we will make our way through this and be back where we were before the chaos started.</p>	
<p>CHIEF EXECUTIVE OFFICER REPORT</p>	<p>Mr. Baackes reported that since there will not be an October Board of Governors’ meeting, Mr. Baackes will send a written CEO Report.</p> <p>There is a case that will come before the SCOTUS challenging the constitutionality of the Affordable Care Act (ACA). This is a momentous case, even before Justice Ruth Bader Ginsburg’s death. With the potential nomination of Judge Amy Coney Barrett, who has a documented history of opposition to ACA, it would seem that the case that will be argued the week after the Presidential Election is even more ominous for L.A. Care’s future. Mr. Baackes reviewed how this developed:</p> <ul style="list-style-type: none"> • The Federal budget adopted in 2017 eliminated a tax through the individual mandate, which stopped a source of revenue to support premium subsidies for enrollees in the ACA programs. That action was interpreted by Attorneys General (AGs) in several states, who were Republicans, that without the individual mandate there is no penalty for not enrolling in health care, and the entire law should be thrown out. They took the case to federal court in Texas, where there was a sympathetic judge and he ruled in their favor. The ACA was declared unconstitutional. Originally the Trump Administration defended the law, but along the way they decided to abandon the case. Democratic AGs across the country, led by Xavier Becerra in California, took up the defense and appealed the decision to the Circuit Court of Appeal in New Orleans, Louisiana. That court, which is a three-judge panel, sent the case back to the lower court for reconsideration. Recognizing the case could go back and forth leaving the future of the ACA up in the air, the Democratic AGs petitioned the SCOTUS to consider the case, which was likely to ultimately end up at the SCOTUS anyway. The SCOTUS agreed to hear arguments in the case after the Presidential Election. There will likely not be a decision until June 2021. For L.A. Care, about 	

AGENDA ITEM/PRESENTER	MOTIONS / MAJOR DISCUSSIONS	ACTION TAKEN
	<p>800,000 members are enrolled because of the ACA. About 700,000 are enrolled because the income limit for Medicaid eligibility was raised from 100% to 138% of the federal poverty level. L.A. Care’s participation in Cal MediConnect, which is a demonstration program authorized by the ACA adds 18,000, and L.A. Care’s participation in L.A. Care Covered includes 82,000 members.</p> <p>If the ACA is declared unconstitutional, no action will be taken immediately. The distressing thing, that will keep L.A. Care in limbo for years, is that in the 10 years since the ACA was passed, those opposed to the ACA have not proposed an alternative. So it is the unknown, and now the potential appointment of a judge who has a track record of opposing the ACA, that makes this case very concerning.</p> <ul style="list-style-type: none"> • There is the potential that this could all go away if a Democrat is elected president and if the majority of the U.S. Senate also goes to Democrats, all they have to do is reinstate a tax penalty in the ACA. They could make it \$1, and make the entire case moot. He offered that as something to think about, and he noted that registering to vote is very important. L.A. Care will continue to monitor the situation closely, and to seek other options that may develop. This is what is at stake, and of grave concern to L.A. Care’s members. • Mr. Baackes also reported that at the Finance & Budget Committee meeting earlier today, Marie Montgomery, <i>Chief Financial Officer</i>, reported a much better than forecast result in the August financial reports, with a net operating gain for the month. This also had a positive effect on L.A. Care’s year to date results. He cautioned Board Members that many risks discussed with the Board during its consideration of the Operating Budget remain in the immediate future. Some risks have been favorably resolved for L.A. Care. Remaining risks include rate development for January, 2021. It is now the end of September and L.A. Care has not been notified of the 2021 rates. It seems that is heavily dependent on another stimulus bill being approved by the U.S. Congress. The bill has been mired in a deadlock for a couple of months. • L.A. Care learned this morning through a trade association that there appears to be an emerging deal that would provide a fourth stimulus bill of \$2.4 trillion. This is less than the \$3 trillion that would have been provided through the HEROES Act passed by Congress back in late June. This is a lot more than the Republicans offered in their so-called “skinny” stimulus bill. So the passage of a bill, in whatever amount devoted to aiding states and their Medicaid programs, will greatly impact the rates that L.A. Care will be paid beginning in January 2021. 	

AGENDA ITEM/PRESENTER	MOTIONS / MAJOR DISCUSSIONS	ACTION TAKEN
	<ul style="list-style-type: none"> • L.A. Care Health Plan is operating smoothly despite the headwinds affecting the financial future, and the threat to the ACA, on which so much of the enrollment has been built. • Mr. Baackes commended the staff which has remained energetic and forward-looking. Staff is working to make the plan as responsive as possible to the needs of all of the members. <p>Member Curry asked whether Mr. Baackes will begin running possible scenarios if the SCOTUS is leaning toward disbandment of the ACA that will affect the 800,000 members in the health plan. The financial impact is a consideration, but the main concern is to maintain health care coverage for those 800,000 L.A. Care members.</p> <p>Mr. Baackes noted that it would be idle speculation without any information about a replacement program. Without a replacement program, these members would be uninsured. The question may become about how to restore the safety net of care that existed prior to the ACA and provided some services as a last resort for the uninsured. Those uninsured would not have managed care, they would have whatever services that could be made available, with funding through taxes on health care entities. There would be no continuity of care, no care management and no primary care physician of record. That system was not good for patients or providers. Health plans would need to develop a legislative contingency plan for health coverage if the ACA ends.</p> <p>Member Curry noted his concern that if the system unfortunately defaults to the Medicaid program of 10 years ago, and realizing that the premise of the ACA was that there are going to be so few people that remain uninsured, that the program has been cut voraciously year after year, so there simply would be no funding for replacement of ACA.</p> <p>Mr. Baackes indicated that results of the election will guide the need for planning to encourage legislators to propose suitable health care coverage programs that would recreate the safety net systems so people can access care in the absence of a comprehensive plan for managed care coverage.</p> <p>Member Booth stated that they don't pay a lot for health care insurance but L.A. Care Covered members pay a small premium. She asked if California will continue to fund Covered California.</p>	

AGENDA ITEM/PRESENTER	MOTIONS / MAJOR DISCUSSIONS	ACTION TAKEN
	<p>Mr. Baackes responded that it would need a lot of money. Prior to last January, when they raised the income limit for premium subsidies, all of the subsidies for Covered California were federally funded. Given the current recession and all the items that Chairperson De La Torre mentioned earlier, the resources would not seem to be available for funding the program. Covered California provides a health care program for people who have income above the threshold for Medi-Cal, which is 138% of the federal poverty level. If the ACA ends, California might be able to find funding, but it seems almost impossible given the current State financial challenges.</p> <p>Mr. Baackes displayed his shirt with the phrase, “Just Wear the Damn Mask”.</p>	
<p>Government Affairs Update</p>	<p>Cherie Compartore, <i>Senior Director, Government Affairs</i>, reported:</p> <ul style="list-style-type: none"> • Governor Newsom has until September 30 to act on legislation sent to him. • Last Friday the Governor signed several mental health bills, including for mental health parity, that will require health plans to cover substance use disorders and addiction in accordance with medical necessity. Other sets of standards apply to peer addiction services and mental health, and with expansion of Laura’s Law. There is a bill that deals with funding changes to Prop 63, the Mental Health Services Act. • The Governor vetoed a bill for Federally Qualified Health Centers, which L.A. Care supported, that would have prohibited the requirement for face to face contact between a health care provider and Medi-Cal enrollee. The Governor has stated he vetoed the bill because the issue will be considered with broader telehealth policy legislation proposed for the next session. • L.A. Care submitted a public comment letter to U.S. Housing and Urban Development Department in opposition to a proposed rule that would have continued to increase homelessness and put at further risk thousands of transgender and non-binary individuals experiencing homelessness. If passed, the rule would shut them out of any temporary housing and shelters if they identify with a gender different from what they were assigned to at birth. • The House passed a continuing budget resolution and the Senate is back in session and is expected to consider a continuing budget resolution through December 12. The President is expected to sign this legislation to avoid a government shutdown. <p>Member Booth asked about the Mental Health Services act. Ms. Compartore responded that funding for this Act can be used only for new and not for existing programs, and it</p>	

AGENDA ITEM/PRESENTER	MOTIONS / MAJOR DISCUSSIONS	ACTION TAKEN
	was opened up a bit more to allow funding for co-occurring mental health and substance abuse disorder programs.	
Facilities Services Policy & Procedure FS-010 Injury and Illness Prevention Program (IIPP)	<p>Terry Brown, <i>Chief Human Resources Officer</i>, summarized a motion on the revisions to the IIPP policy and procedure to include a response to a pandemic. Additional legislation was passed and may require additional updates.</p> <p>He noted that he received comments from Member Booth and those will be incorporated in the policy. Staff will also provide her with the documents she requested.</p> <p>Member Booth, in reference to section 4.2, asked if employees are exposed at home, are those required to be reported. Mr. Brown responded that it is now required reporting, since home is now considered to be a workplace.</p> <p>Member Booth amended the motion to include “staff may include any necessary non-substantive changes.”</p> <p><u>Motion EXE A.0920</u> To approve the Facilities Services Policy & Procedure FS-010, as presented, and staff may include any necessary non-substantive changes.</p>	Approved unanimously by roll call. 6 AYES
Approve the Consent Agenda for November 5, 2020 Board of Governors meeting	<ul style="list-style-type: none"> Minutes of September 3, 2020 Board of Governors retreat and meeting 	Approved unanimously by roll call. 6 AYES
PUBLIC COMMENTS	<p>Text received September 28, at 1:48 pm from Anonymous <i>Public comment: why isn't LA Care identifying and following up with Synermed affected enrollees per the DMHC mandate, I spoke to DMHC lawyers about this today, that a DMHC corrective action is being ignored by LA Care!</i></p> <p>Text received September 28, at 2:21 pm, from Anonymous <i>Public comment , I believe you kept Synermed people working with enrollees knowing full well these people have no business making decisions or treating patients again . I hope the Feds shut you down!</i></p> <p>Text received September 28, at 2:23 pm, from Anonymous</p>	

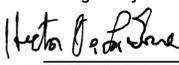
AGENDA ITEM/PRESENTER	MOTIONS / MAJOR DISCUSSIONS	ACTION TAKEN
	<p><i>My above public comment is about Mr. DeLaTorres hardtymes speech , hardtymes is seeing ones kid in a 9 day coma that could've been prevented , hope you get a taste of your own garbage!</i></p> <p><i>Someone else I know commented you don't read all your comment</i></p>	
<p>ADJOURN TO CLOSED SESSION</p>	<p>Augustavia J. Haydel, Esq., <i>General Counsel</i>, announced the items to be discussed in closed session. She announced there is no report anticipated from the closed session. The meeting adjourned to closed session at 2:49 p.m.</p> <p>CONTRACT RATES Pursuant to Welfare and Institutions Code Section 14087.38(m)</p> <ul style="list-style-type: none"> • Plan Partner Rates • Provider Rates • DHCS Rates <p>REPORT INVOLVING TRADE SECRET Pursuant to Welfare and Institutions Code Section 14087.38(n) Discussion Concerning New Service, Program, Business Plan Estimated date of public disclosure: <i>September 2022</i></p> <p><i>The following item was not discussed:</i></p> <p>CONFERENCE WITH LABOR NEGOTIATOR Pursuant to Section 54957.6 of the Ralph M. Brown Act Agency Designated Representative: John Baackes Unrepresented Employee: All L.A. Care Employees</p> <p>CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION Significant exposure to litigation pursuant to Section 54956.9(d) (2) of Ralph M. Brown Act Three Potential Cases</p> <p>PUBLIC EMPLOYEE PERFORMANCE EVALUATION Section 54957 of the Ralph M. Brown Act Title: Chief Executive Officer</p>	
<p>RECONVENE IN OPEN SESSION</p>	<p>The meeting reconvened in open session at 3:28 pm. No reportable actions were taken during the closed session.</p>	
<p>ADJOURNMENT</p>	<p>The meeting adjourned at 3:29 p.m.</p>	

AGENDA ITEM/PRESENTER	MOTIONS / MAJOR DISCUSSIONS	ACTION TAKEN

Respectfully submitted by:

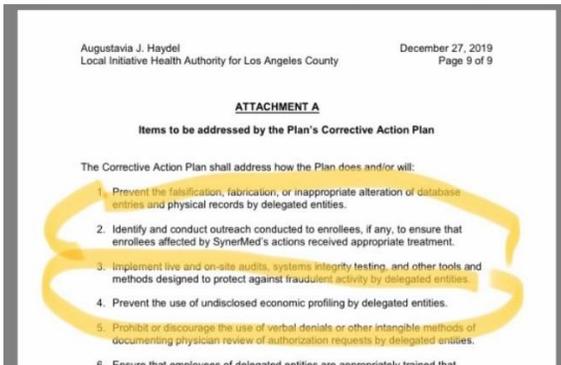
Linda Merkens, *Senior Manager, Board Services*
 Malou Balones, *Board Specialist III, Board Services*
 Victor Rodriguez, *Board Specialist II, Board Services*

APPROVED BY:

DocuSigned by:

 01907F81EB7B442...
 Hector De La Torre, *Chair*
 Date: 10/26/20

The following written Public Comment was not read during the meeting due to timing:

September 28, 2020 at 9:10pm Anonymous



Public comment , (see photo of DMHC action) . It says to contact affected enrollees, I don't believe LA Care has done this so you are in breach of a state corrective action !

APPROVED

SynerMed operated EHS as though it was actually EHS.

From approximately 2006 through January 7, 2018, SynerMed and EHS operated as substantially the same entity. The board of directors for SynerMed and EHS were nearly identical, and both corporate headquarters occupied the same physical address. Furthermore, James Mason (Mason), SynerMed's Chief Executive Officer and EHS' attorney-in-fact, directed the day-to-day operations of both EHS and SynerMed with virtually no oversight, and SynerMed employees acted on behalf of EHS when performing their assigned administrative duties throughout this timeframe.

At the time this investigation was opened, EHS employed no individuals. It relied on SynerMed to perform the claims, credentialing and utilization management functions for which EHS had contracted with the Plans. EHS maintained no independent information systems where its medical records and health data were maintained, stored, and controlled. Instead, SynerMed maintained, stored, and controlled all EHS medical and health data. SynerMed managed all of EHS' financial operations, including, but not limited to, financial reporting to regulators, and payments to EHS medical directors. Mason, as EHS' attorney-in-fact, screened, interviewed, and hired the medical directors on behalf of EHS.

SynerMed failed to send notifications approving, modifying, or denying requests for authorization to enrollees, in violation of Health and Safety Code section 1367.01, subdivision (h)(3), then falsified documents during audits to make it appear as though it had actually sent notifications.

Under Health and Safety Code section 1367.01, subdivision (h)(3), decisions to deny, delay, or modify requested health care services must be communicated to the enrollee within two business days of the decision.

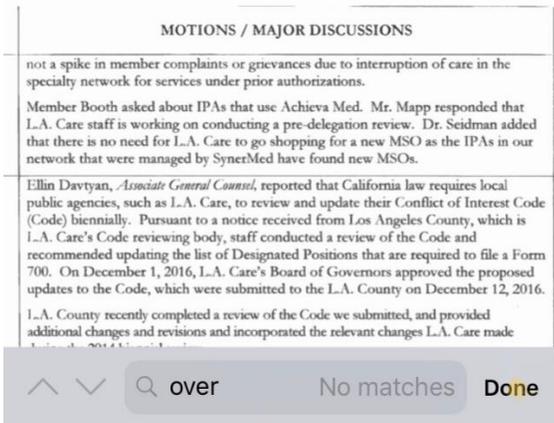
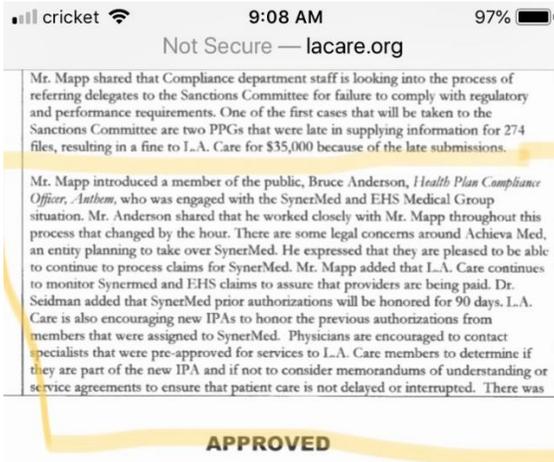
The Department's investigation determined that SynerMed did not send thousands of Notice of Action letters for denied or modified treatment authorization requests to enrollees and their providers. The failure to provide these notifications is a significant barrier to enrollees' ability to timely obtain care, appeal a denial, or take other action to address their health needs. This problem was systemic and is believed to have initially started due to a lack of staffing. Over time, it appears the failure to send these notices became a part of SynerMed's routine course of business.

Compounding this violation were the steps that SynerMed took to conceal its failure to send these notices in compliance with statutory timeliness requirements. As admitted by SynerMed staff, documents were falsified and altered during health plan and Department audits for the purpose of making it appear that EHS was compliant with

This enforcement (see photo) signed by LA Care attorney's clearly states who LA Care was dealing with for years while likely thousands of enrollees tried to alert your "advocates " there was a serious issue going on and you people ignored the problem! People are dead because of your negligence handing money over to those scammers who in turn blocked people's care ,including the care of special needs people and they or their guardians are not being told as ordered in the state corrective action ! I believe LA Care is still using abusive , corrupt people to oversee people's "care " !

Text received September 28, 2020 at 9:15am Anonymous

Public comment , if LA Care never had a contract with Synermed, why does your own board minutes (you forgot to take down) state Achieva Med was taking over for Synermed, I find it odd Achievamed is misspelled !



Why doesn't this say Achievamed (oddly misspelled "Achieva Med") was "taking over for EHS", this tells me LA Care likely knew Synermed and EHS were /are the SAME PEOPLE! It says taking over for Synermed, how do you explain that?

LA Care stinks to high heaven !

Text received September 28, 2020 at 10:14am Anonymous

Public comment :It's suggested your legal and medical people read this , there are strict rules about clarity at a board meeting and trying to confuse a consumer who makes a (accurate) public comment. Once again , I don't believe LA Care has "identified and followed up with " people harmed by Synermed as mandated in the DMHC corrective action, I have every right to ask since my autistic adult

APPROVED

daughter was harmed and no one has educated me about the harm , I only know because I'm a damned good investigator! I WILL get people jailed over the harm to Vanessa or other people I keep locating , watch me!

Text received September 28, 2020 at 1:29pm Anonymous

Public comment , the other public commenter asked me to make sure her comment is read , it also said Synermed people got \$500 bonuses for intimidating enrollees and getting them to disenroll which is exactly what they did to our autistic adult daughter!