Wednesday, June 13, 2012 **Contact:** Jerry Flanagan, (310) 889-4912
Mark Reback, (310) 392-0522 ext. 326

NEWS RELEASE

Blue Shield of California Sued for Pushing Policyholders into Bare Bones Coverage and Hiking Premiums

Blue Shield's Illegal Practice Causes "Death Spiral"

Santa Monica, CA – Blue Shield has used enormous rate hikes, and the threat of rate increases, to force patients into lower-benefit and higher-deductible health coverage in violation of state law, according to a class action lawsuit filed today by Blue Shield policyholders and consumer advocates.

The lawsuit alleges that Blue Shield is illegally gaming the health insurance system by alternately closing older policies and opening new ones in order to push older, sicker consumers who are more expensive to insure into lower benefit, higher deductible coverage that requires consumers to pay more out of pocket.

The lawsuit seeks to stop Blue Shield from shoving its policyholders into what is known as a "Death Spiral"–the industry term for what happens when a health insurer "closes" certain insurance policies to new customers, and later raises rates to those remaining in the closed policy until those enrollees can no longer afford coverage. Since consumers with preexisting conditions cannot switch to a comparable or better policy, consumers trapped in the closed policies must either accept greatly inferior coverage or face bigger and bigger premium increases.

"Blue Shield closed my family's policy and then threatened us with a 23% premium increase. We had no choice but to switch to the only bare-bones policy Blue Shield offered us. When Blue Shield canceled the original rate increase, the company refused to let us transfer back into our old, higher benefit policy. Then, Blue Shield raised the rate of our bare bones policy by 14.8%!" said Robert Martin of Gilroy, California, one of the Blue Shield customers representing other consumers in the class-action lawsuit. "It's just plain unfair. Blue Shield is pushing families like mine with pre-existing health conditions out of their health plans – either into higher deductible coverage or into the ranks of the uninsured."

Robert Martin and his family suffered triply as result of the Death Spiral: they were forced to switch to lesser coverage, were hit with a big rate increase for their new high deductible, lower-benefit policy, and were not allowed to switch back to their better coverage.

"Death Spirals are the result of insurers behaving at their worst," said Jerry Flanagan, staff attorney for Consumer Watchdog. "Instead of providing coverage to loyal customers who have paid their premiums, Blue Shield pushes consumers into skimpier coverage or prices them out of care altogether when they are sick and need insurance the most."

The lawsuit was filed in San Francisco Superior Court by the nonprofit consumer advocacy group Consumer Watchdog and the law firm of Whatley Kallas, LLC. Download the lawsuit here: http://www.consumerwatchdog.org/resources/martinvblueshield_conformed.pdf

According to legislative records, it was Blue Shield's own past business practices, resulting in Death Spirals for consumers, that spurred the Legislature to adopt the same 1993 law that Consumer Watchdog and Whatley Kallas, LLC now allege the company has violated.

The violations are taking place among certain insurance plans in the individual market that Blue Shield is closing down. California law requires that when health insurers close a policy the insurer must either offer consumers new comparable coverage, or minimize rate increases on the closed policies.

Two regulatory agencies – the California Department of Managed Health Care ("DMHC") and the California Department of Insurance ("CDI") – oversee different segments of Blue Shield's insurance business. In the lawsuit, Blue Shield is accused of illegally closing eight policies regulated by the DMHC, and announcing it will close 23 policies regulated by the CDI on July 2, 2012 without offering consumers comparable policies or limiting rate increases as required by law.

Considered together the closures of the Blue Shield policies at the DMHC, and the impending closures at the CDI, demonstrate a broader scheme to illegally manipulate blocks of health insurance business, according to the lawsuit. The attached chart demonstrates the alternating opening and closing of policies under the DMHC and CDI which, according to the lawsuit, were implemented in order to trap older and sicker consumers who are more likely to need health care services in closed or lower-benefit policies, while only new healthy consumers are offered open, higher-benefit coverage.

"Blue Shield is playing a shell game with our health," said Deborah Goodwin of Santa Monica California, representing consumers enrolled in CDI-regulated Blue Shield policies in the lawsuit. "I have been fighting Blue Shield to get the care I need for a serious eye condition and now I find out that Blue Shield is planning to close my policy, trap me in an illegal Death Spiral, and force me either to pay increased premiums for my closed coverage or into a bare-bones policy that does not provide the full coverage I need. Consumers like me are helpless and need the court to tell Blue Shield it has to abide by the law."

Consumer Watchdog and Whatley Kallas, LLC settled a similar class action lawsuit last year targeting Blue Cross of California's illegal Death Spiral practices. Read more about that lawsuit and settlement here: http://www.consumerwatchdog.org/legal/court-approves-blue-cross-death-spiral-settlement. Under the terms of that settlement, Blue Cross must both offer consumers in the closed policies access to comparable coverage and limit rate increases in the closed policies if consumers choose to remain enrolled in the older, closed policy.

"We successfully resolved a similar action with Blue Cross last year," said Edith Kallas of Whatley Kallas, LLC. "We hope that Blue Shield will likewise recognize the significance of these issues to its members and address them on a timely basis."

-30-

Consumer Watchdog is a nonpartisan consumer advocacy organization with offices in Washington, D.C. and Santa Monica, CA. Find us on the web at: http://www.ConsumerWatchdog.org

WhatleyKallas has earned a national reputation—based on trust, respect, demonstrated commitment and tangible results—in connection with its representation of healthcare providers and members of the organized medicine community. The firm's lawyers have negotiated settlements with most of the major health insurers in the country on behalf of hundreds of thousands of consumers, physicians and medical associations that resulted in monetary relief and revolutionary practice changes valued in the billions of dollars. These settlements fundamentally changed the way managed care companies do business. The lawyers of WhatleyKallas have been repeatedly recognized in legal publications, such as *The National Law Journal* and *American Lawyer*, by their peers and by leaders of organized medicine for our work in the healthcare field. For more information, go to: http://www.whatleykallas.com/