> **FINAL**
> **MINUTES OF THE MEETING OF THE**
> **NEW JERSEY INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD**
> **AT THE OFFICES OF THE**
> **NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE**
> **TRENTON, NEW JERSEY**
> **DECEMBER 19, 2008**

Directors participating: Darrel Farkus (United – *by phone*); Sandi Kelly (Horizon – *by phone*); Ulysses Lee (Guardian – *by phone*); Gale Simon (DOBI); Mary Taylor (Aetna Health Inc. – *by phone*)

Others present: Ellen DeRosa, Executive Director (*by phone*); Chanell McDevitt, Deputy Executive Director; Rosaria Lenox, Accountant; Vicki Mangiaracina, DAG (*by phone*).

I.   Call to Order

E. DeRosa called the meeting to order at 10:05 A.M. She announced that notice of the meeting had been published in two newspapers and posted at the Department of Banking and Insurance ("DOBI"), the DOBI website, and the Office of the Secretary of State in accordance with the Open Public Meetings Act. Upon roll call, it was determined a quorum was present. She indicated any votes would be by roll call.

E. DeRosa noted that the sole purpose of the meeting is to discuss the amendments, new rules and repeals proposed to implement P.L. 2008, c. 38 and several other statutory changes, and take action if appropriate.

II.   Discussion of Comments and Agency-Initiated Changes to the original Proposal

E. DeRosa noted one comment was received from Celtic Insurance Company that was not responsive to the rule proposal. She stated Celtic commented that it believed P.L. 2008, c. 38 requires immediate payment of reimbursable losses, to which the response is that the Board disagrees.

E. DeRosa then described the agency-initiated changes she anticipated making upon adoption, including:

1. Adding a definition of "specialist" to the Plan A/50 – D forms and amending the HMO plan to copy the definition of "specialist" proposed by the Department in amendments to N.J.A.C. 11:22-5, published in the *New Jersey Register* on December 15, 2008. G. Simon explained that the Department's proposal addresses the application of higher copays for the use of specialists by limiting the providers who may be considered a specialist to those health care providers licensed as medical doctors or doctors of osteopathy. There was debate whether the change would be considered substantive if made now (because the

       Department has not yet adopted the specialist requirement), but the Board agreed to try making the change upon adoption.

2. Additional changes in the Basic and Essential form to revise use of the "reasonable and customary" term missed in the proposal.

M. Taylor made a motion, seconded by D. Farkus, to adopt, in accordance with the Board's expedited rulemaking authority set forth at N.J.S.A. 17B:27A-16.1, the amendments, new rules and repeals to N.J.A.C. 11:20 proposed October 30, 2008, with the agency-initiated changes discussed. The Board voted unanimously in favor of the motion.

III.   Compliance & Variability Rider

There was discussion of use of the rider. E. DeRosa noted that the changes to the forms are not numerous, and thus, carriers should have the option not to reissue their contracts to come into compliance with the adopted changes. (She noted the Board will have to readopt its rules in 2010 anyway, after which it may be a more appropriate time for carriers to reissue contracts.) She stated she had already drafted a bulletin that she expected to issue on or about December 29, 2008 letting carriers know they may use the rider for existing business. She explained the December 29th date is based on when she expects to be able to file the adoption with the Office of Administrative Law following submission of the adoption to Governor's Counsel. She reminded Board members that there will be a delayed operative date for the repeals, and noted the Department proposal substituting rules for those the IHC Board is repealing will be published in the *New Jersey Register* on January 5, 2009.

IV.   Close of Meeting

S. Kelly offered a motion to close the meeting, seconded by G. Simon. The Board voted unanimously in favor of the motion.

The meeting adjourned at 10:35 A.M.