

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
March 20, 2017

Directors participating: Mary Beaumont; Sandi Kelly (Horizon); Lisa Levine (United/Oxford arrived at 10:24); Brendan Peppard (DOBI); Colleen Picklo; Tom Pownall (Aetna); Tony Taliaferro (AmeriHealth)

Others participating: Ellen DeRosa, Executive Director; Chanell McDevitt, Deputy Executive Director; Rosaria Lenox, Managing Financial Officer; Eleanor Heck, Deputy Attorney General

I. Call to Order

E. DeRosa called the meeting of the IHC Board to order at 10:00 A.M., noting that the meeting was in place of the regularly scheduled meeting of March 14, which was cancelled due to a declaration of a state of emergency in New Jersey. She announced that notice of the meeting had been posted at the Department of Banking and Insurance (“DOBI”), on the DOBI website, at the Office of the Secretary of State, and submitted to the State House Press Corps, in accordance with the Open Public Meetings Act. A quorum was present. She stated that voting would be by roll call because some directors were participating by phone.

II. New Directors

E. DeRosa welcomed and introduced two new directors to the Board:

- Colleen Picklo, who is representing consumer interests, and replacing Lisa Yourman; and
- Mary Beaumont, who is representing employer interests, and filling a vacant seat.

III. Review of Minutes – February 14, 2017

T. Taliaferro made a motion, seconded by T. Pownall, to approve the minutes of the meeting of February 14, 2017. By roll call vote, the motion carried, with C. Picklo and M. Beaumont abstaining.

IV. Report of Staff

Expense Report

R. Lenox presented the expense report for March, totaling \$16,345.38, related to expenses for Division of Law services, R. Lenox’s CPA license, and expenses for salaries and fringe. R. Lenox explained that the Board would need to transfer \$16,400 from its Money Market account to pay the expenses if approved.

S. Kelly made a motion, seconded by B. Peppard, to approve payment of the expenses reported, and the transfer of \$16,400 from the Board’s Wells Fargo Money Market account to its Wells Fargo checking account to pay the operating expenses. By roll call vote, the motion carried.

Assessment Update

R. Lenox presented a spreadsheet reporting the net paid loss balances for each of the ten carriers reported losses for the 1997/1998 calculation period. E. DeRosa explained that consistent with the IHC Board's policy at the time, the Board had advanced payments to each of the carriers against the reported loss amounts (in the amounts shown on the spreadsheet), thus reducing the final amount to be reimbursed following completion of the audits, and that each carrier bore some responsibility for its audit costs, which also served to reduce the final amount to be reimbursed each carrier following completion of the audits. R. Lenox explained that in the process, the Board had advanced two of the companies – Metropolitan and UICI – funds in excess of the audited loss amounts owed to them. The balance of losses to be paid by the Board is \$1,760,109.71. R. Lenox stated that the Board has the funds to pay the loss balances, and can separately seek repayment of the excess amounts paid to Metropolitan and UICI.

In response to an inquiry from a new Board member, E. DeRosa provided the following background information explaining why the Board is only now making final payments for the 1997/1998 loss calculation period: there were a total of 10 carriers claiming losses, so a total of 10 audits were required to be completed, with some audits being more difficult and/or contentious than others, and the final audit not completed until the summer of 2016. She further explained that the reconciliation process has been difficult primarily because it has been about 20 years, and some companies have merged, some have changed names and some no longer exist. She noted the Board had a prior policy of advancing carriers monies towards satisfaction of their reported losses, adding that all carriers receiving advances signed an agreement to return funds upon request in the event of overpayment. E. DeRosa stated that the carriers that currently owe funds back to the Board will be given 30 days to pay, and will incur the interest penalty if payment is late.

S. Kelly made a motion, seconded by B. Peppard, to approve the transfer of funds from Treasury to the IHC Boards' Wells Fargo checking account for the purpose of making payment of the balance of the audited reimbursable losses for the 1997/1998 loss calculation period to the carriers to which an amount is still owed, and to commence collection of amounts advanced to carriers by the IHC Board that are in excess of those carriers' audited reimbursable losses and related audit costs. By roll call vote, the motion unanimously carried.

V. Report of the Operations and Audit Committee (OAC)

E. DeRosa reported that the OAC had met with WithumSmith+Brown (WSB) to receive the results of the IHC Program audit of FY2016. She stated that WSB found nothing of concern during the audit, and anticipated issuing the final reports soon. E. DeRosa explained that staff will forward the report to the directors, and have the report posted on the IHC Board's website when the final report becomes available.

VI. Proposed amendments to policy forms to comply with P.L. 2017, c. 28 (Chapter 28)

E. DeRosa discussed the draft of proposed amendments to the policy forms primarily intended to bring the forms into compliance with the requirements of Chapter 28, which substantially alters the manner of administration of the benefits for treatment of substance use disorders under health benefits plans issued in New Jersey, largely through restrictions on application of utilization

management practices. It was noted that, in addition, carriers must use a peer-reviewed tool selected by the Department of Human Services (DHS), with E. DeRosa explaining that she has been in contact with DHS, and the agency is working on the issue. She highlighted the following proposed changes to the policy forms:

- The term substance use disorder would substitute for the term substance abuse throughout the forms
- The definition of medical necessity would address the tool(s) to be used for review of substance use disorder services
- Revisions would be made to the definition of substance abuse/substance use disorder to reference the DSM-5. E. DeRosa noted that the DSM's definition of substance use disorder is not limited to opioids, despite that being the focus of Chapter 28, and she said carriers need to be aware that the change in definition applies more broadly
- Revisions would be made to the definition of facility to add variable text that permits (but does not require) carriers to consider facilities that are accredited by the Committee for Accreditation of Rehabilitation Facilities, or the carrier's own accreditation standards for substance use disorder treatment programs
- Additional instructions would be in the appeals section, reminding carriers to include the special appeal rights applicable for substance use disorder treatment, which include 24-hour timeframes for providing decisions, and reminding carriers to explain the process for obtaining in-plan exceptions
- Addition of language that would separately explain the standards for admission for treatment of a substance use disorder and the limitations on the application of utilization management, consistent with Chapter 28.
- Revisions would be made to correct grammar or terminology – for example, mental health centers would be referred to as mental health facilities instead throughout the forms

E. DeRosa reminded Board members that Chapter 28 only applies with respect to services received in-network, and has no impact when services are obtained out-of-network. It was noted that the 180 days (of inpatient or outpatient services provided without being subject to prior approval) applies whether the days run concurrently or intermittently in a calendar year, regardless of the number of episodes of treatment that may be sought in a calendar year.

E. DeRosa acknowledged that the New Jersey Association of Health Plans has already submitted a series of questions regarding the requirements of Chapter 28 and that guidance will be provided, as appropriate.

E. DeRosa stated that the Board could possibly have its proposal adopted by the effective date of Chapter 28 – which is May 16, 2017 – if it used the expedited rulemaking process. She noted that, unlike the case with the SEH Program plans, the vast majority of IHC Program plans would not have to be in compliance with Chapter 28 until January 1, 2018, because that is the effective date of the majority of new and renewed plans. She pointed out, however, that there are still new IHC plans issued throughout the calendar year due to people having triggering events that make them eligible for special enrollment periods, so it is incumbent upon carriers offering IHC plans

to be able to issue new, complying plans by May 16, 2017. E. DeRosa acknowledged that the SEH Board is using its expedited rulemaking authority to propose virtually the same policy form changes as presented to the IHC Board.

T. Taliaferro made a motion, seconded by B. Peppard, to propose the draft as presented, with minor modifications discussed, amending the IHC Program standard plan policy forms to bring them into compliance with Chapter 28, and to take such action consistent with the IHC Board's expedited rulemaking authority. By roll call vote, the motion unanimously carried.

When asked about timing for an adoption, E. DeRosa stated that she anticipated that the intergovernmental approval process for proposing rules would run fairly quickly because the SEH Board's rules were previously submitted and are already in the review process. She stated that there is a slight chance the Board would be able to approve adoption of the proposed changes at the Board's April meeting, but that in all likelihood, the best case scenario is that the Board could adopt the proposed changes in May, holding a special Board meeting to assure the effective date of its action is in place by the effective date of Chapter 28. She said she would let the Board know more after she obtains approval to send the proposal to the Office of Administrative Law (OAL)

E. DeRosa stated that she would draft rider language shortly, but only after final approval is provided to forward the proposal to the OAL.

VII. Close of meeting

S. Kelly made a motion, seconded by C. Picklo, to adjourn the meeting. By roll call vote, the motion carried.

[The meeting ended at 11:05 A.M.]