

**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**  
**August 14, 2018**

**Directors participating:** Ulysses Lee (United); Philip Gennace (DOBI); Colleen Picklo; Thomas Pownall (Aetna); Sandi Kelly (Horizon); Tony Taliaferro (AmeriHealth).

**Others participating:** Ellen DeRosa, Executive Director; Rosaria Lenox, Managing Financial Officer; Christine Machnowsky, Deputy Executive Director; Jeffrey Posta, Deputy Attorney General; 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. 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, submitted to the State House Press Corps, and published in three newspapers of general circulation 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. Review of Minutes – July 10, 2018**

**S. Kelly made a motion, seconded by C. Picklo, to approve the minutes of the meeting of July 10, 2018 without amendment. By roll call vote, the motion carried.**

**III. Report of Staff**

*Expense Report*

R. Lenox presented the expense report for August, noting that the expenses include Fiscal Year 2018 Fringe (which is charged at the end of the year). The expenses total \$89,938.66. R. Lenox stated that a transfer of \$99,000 from the IHC Board’s Wells Fargo Money Market account to its checking account would be necessary to pay these expenses.

**T. Taliaferro made a motion, seconded by C. Picklo, to approve payment of the expenses reported, and the transfer of \$99,000 from the Board’s Money Market account to its checking account to do so. By roll call vote, the motion carried.**

**IV. Report of the Technical Advisory Committee (TAC)**

*Hospital Indemnity Coverage*

S. Kelly noted that TAC initially met in May to review the hospital indemnity formula in the IHC regulations. The current formula is as follows: 1<sup>st</sup> day benefit – 2<sup>nd</sup> day benefit/5 + 2<sup>nd</sup> day benefit < \$250. The corresponding IHC regulation also requires hospital indemnity coverage to provide

no less than \$40.00 but no more than \$250.00 in daily benefits except that the benefit for the first day of hospital confinement may exceed \$250.00 as long as the formula is satisfied.

S. Kelly noted that this formula has not been updated since 1993. S. Kelly reminded the IHC Board that UNUM had made a presentation to the Board last year urging the IHC Board to change the formula. While TAC acknowledged that an adjustment to the formula may be appropriate, TAC recognized that further analysis would be necessary to determine any adjustment.

S. Kelly further noted that TAC met again in August and had the advantage of materials prepared by Department Chief Actuary Seong-Min Eom. During this discussion, TAC noted that the current formula allows a first day benefit as high as \$1090, assuming the second day benefit is \$40. TAC discussed many different scenarios for changing and updating the formula. For example, TAC was concerned with increasing the \$250 formula limit to \$600, as proposed by AFLAC, because such a steep increase could potentially yield too rich of a first day benefit.

S. Kelly noted that, under this scenario, a maximum first day benefit could be as high as \$2500. TAC was concerned that this arrangement may cause an incentive for individuals to only purchase hospital indemnity coverage to the exclusion of individual coverage.

S. Eom also noted that, prior to the TAC Meeting, she had extensive conversations with AFLAC actuaries. E. DeRosa noted that both AFLAC and UNUM, requested a change to this formula. S. Eom demonstrated to AFLAC the flexibility of the formula, even as currently constituted. For example, S. Eom noted that, under the current formula, by reducing the 2<sup>nd</sup> day benefit, the 1<sup>st</sup> day benefit can be increased far above \$250. She also noted that the length of the hospital stay also factors into the overall benefit provided.

E. DeRosa noted that, should the IHC Board want to accept TAC's recommendation to change the formula to reflect a formula limit of \$400, the IHC Board would have to propose changes to the regulation which would require a rule proposal, a public comment period and a rule adoption.

One IHC Board member asked for clarification regarding the hospital indemnity coverage formula. The IHC Board discussed the following example: if a 1<sup>st</sup> day benefit of \$1000 is provided and a second day benefit of \$250 is provided, \$250 would be subtracted from \$1000 to yield \$750. \$750 would then be divided by 5, yielding \$150. \$150 would then be added to \$250 which would yield a total of \$400. Pursuant to the formula as proposed to be changed by TAC, this type of benefit could not be offered because the final number is not **less than** \$400. To resolve this issue, the first day benefit could be reduced to \$999 or the IHC Board could choose to change the formula as follows: 1<sup>st</sup> day benefit – 2<sup>nd</sup> day benefit/5 + 2<sup>nd</sup> day benefit is less than **or equal** to \$400.

One Board member asked if AFLAC provided evidence that hospital indemnity policies nationwide allowed for a higher benefit. E. DeRosa responded that AFLAC wants more flexibility but did not initially understand, until they met with S. Eom, that, under the current formula, the 1<sup>st</sup> day benefit could be higher than \$250. S. Eom also explained that, the number of days during a stay in the hospital factors in to the overall benefit.

One Board member asked how much overlap exists between individuals who purchase coverage through the individual market and who also purchase hospital indemnity coverage. E. DeRosa noted that we don't have this specific information. E. DeRosa also noted that this is often sold in the workplace as an enhancement to a group plan and the overlap is likely small.

E. DeRosa recommended and the IHC Board agreed that the IHC Board wait to propose the change, as agreed upon, until other amendments need to be made to the rules.

#### **V. Report of Legal Committee**

E. DeRosa noted that the Legal Committee met on August 13, 2018 to discuss and consider the text in N.J.A.C. 11:20-24.6. E. DeRosa discussed the need to form an Ad Hoc Committee to consider Oxford's Supplemental Good Faith Marketing Report. E. DeRosa reminded the IHC Board that J. Camargo had already volunteered to participate in the Ad Hoc Committee.

U. Lee questioned why Oxford did not receive a copy of the Legal Committee Minutes. He was informed that advice from counsel was dispensed during this meeting and that it was not appropriate for Oxford to have the minutes at this time since the discussion related to a matter from which Oxford was recused.

S. Kelly and P. Gennace also volunteered to participate in the Ad Hoc Committee.

Upon request for clarification from one IHC Board member, E. DeRosa clarified that the Ad Hoc Committee will be responsible for discussing Oxford's Supplemental Good Faith Marketing Report. She reminded the IHC Board that, at the last IHC Board Meeting, P. Marden, Healthplan CEO New Jersey at UnitedHealthcare, Inc., made a presentation describing Oxford's marketing efforts and much of this information was not included in Oxford's original Good Faith Marketing Report submission. This included such marketing efforts as the E-Store. As a result of this presentation, the IHC Board requested that Oxford submit supplemental information and such report was provided. She noted that it will be helpful for a committee to consider this information before the IHC Board votes on the Oxford filing. This Ad Hoc Committee will make a recommendation to the IHC Board as to whether this supplemental information substantiates that Oxford engaged in marketing efforts for individual health insurance in New Jersey in 2017.

S. Kelly noted that, for this Ad Hoc Committee, one spot should be filled by a carrier representative, one should be filled with a representative from the DOBI and one spot should be filled by a representative of the public. After some discussion, all agreed that the Ad Hoc Committee which includes J. Camargo as a representative of the public, S. Kelly as a carrier representative and P. Gennace as a Department representative, satisfied this criteria.

E. DeRosa noted that the Ad Hoc Committee will meet some time before the next IHC Board Meeting.

#### **VI. Executive Session**

S. Kelly asked if we need to enter Executive Session to consider the minutes from the Executive Session from the July 10, 2018 meeting. Ellen explained that there would only be a need to enter Executive Session if one or more IHC Board member wants to comment or discuss the minutes. Since no comments were offered, the IHC Board did not enter Executive Session.

**S. Kelly made a motion, seconded by C. Picklo, to approve the Executive Session Minutes from the July 10, 2018 IHC Board Meeting without change. By roll call, the motion was approved. U. Lee, who had been recused from the Executive Session, did not vote.**

## **VII. Close of meeting**

Prior to the close of the meeting, one IHC Board member inquired as to whether either the IHC Board staff or DOBI will be recommending any change or providing any guidance regarding the individual mandate because the carriers are trying to gear up regarding notice. E. DeRosa responded that nothing in the policy forms needs to be changed and that the State will provide some general outreach about the New Jersey individual mandate.

**S. Kelly made a motion, seconded by T. Taliaferro, to adjourn the meeting. By roll call vote, the motion carried.**

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