

**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**  
**September 11, 2018**

**Directors participating:** Joseph Camargo; Ulysses Lee (United); Philip Gennace (DOBI); Colleen Picklo; Thomas Pownall (Aetna); Nick Peterson (Horizon); Tony Taliaferro (AmeriHealth).

**Others participating:** Ellen DeRosa, Executive Director; Rosaria Lenox, Managing Financial Officer; Chanell McDevitt, Deputy Executive Director; Christine Machnowsky, Deputy Executive Director; Jeffrey Posta, 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 – August 14, 2018**

**T. Pownall made a motion, seconded by C. Picklo, to approve the minutes of the meeting of August 14, 2018 without amendment. By roll call vote, the motion carried. N. Peterson abstained from voting.**

**III. Report of Staff**

*Expense Report*

R. Lenox presented the expense report for September, with expenses totaling \$10,542.00, primarily for salaries for August to be paid to the Small Employer Health Benefits Program. R. Lenox stated that a transfer of \$10,500 from the IHC Board’s Wells Fargo Money Market account to its checking account would be necessary to pay these expenses.

**T. Pownall made a motion, seconded by C. Picklo, to approve payment of the expenses reported, and the transfer of \$10,500 from the Board’s Money Market account to its checking account to do so. By roll call vote, the motion carried.**

**IV. Report of Operations and Audit Committee**

R. Lenox discussed the report from the Operations and Audit Committee (OAC). She noted that the OAC Committee met on September 10, 2018 and discussed the year-end financials as of June 30, 2018, which is the end of the Fiscal Year. R. Lenox specifically discussed a narrative

prepared by staff entitled Management's Discussion and Analysis of the Individual Health Coverage Program. This document provides an overview and analysis of the financial highlights and financial statements of the IHC Program for June 2018 and 2017. In her financial analysis she discussed, for both 2018 and 2017, the total assets, the liabilities due to the carriers for losses and other liabilities, the total revenue and expenditures and the total budgeted expenditures.

R. Lenox also discussed the Statement of Net Assets for the IHC Program as of June 30, 2018. R. Lenox further discussed the Statement of Changes in Net Assets for the Year Ended June 30, 2018, the Statement of Changes in Assets and Liabilities-Loss Assessment Fund for the Year Ended June 30, 2018, the Statement of Cash Flows for the Year Ended June 30, 2018 and the Comparison of Budget and Actual Expenditures for the Year Ended June 30, 2018 noting that the IHC Program was favorable to budget by \$66,585.32. R. Lenox noted that, with respect to the Agency Fund/Loss assessment Fund, the balance is currently zero and, since there is no longer a balance for reimbursable losses, the Agency Fund will no longer be shown as part of the financial statements.

**U. Lee made a motion, seconded by T. Taliaferro, to accept the financial statements as presented. By roll call vote, the motion carried.**

#### **V. Report of the Ad Hoc Committee**

##### *Oxford's Supplemental Good Faith Marketing Report*

*[U. Lee recused himself from any action taken by the IHC Board regarding the Oxford Good Faith Marketing Report due to the interest of his employer and its affiliates in the outcome of the IHC Board's actions.]*

E. DeRosa noted that, at the August 14, 2018 IHC Board Meeting, the IHC Board formed an Ad Hoc Committee to consider the supplemental Good Faith Marketing materials submitted by Oxford for 2017. E. DeRosa noted that, during the July IHC Board Meeting, Paul Marden, Healthplan CEO New Jersey at UnitedHealthcare, Inc, gave a presentation describing additional marketing efforts in 2017 beyond what had been documented in Oxford's Good Faith Marketing Report or any supplemental material, specifically by having available a broker portal called the eStore. At the request of the IHC Board, Oxford submitted a Supplemental Good Faith Marketing Report on July 31, 2018. However, the Ad Hoc Committee found that this Supplemental Good Faith Marketing Report was a narrative of its additional marketing efforts but did not provide actual evidence to establish proof of such additional marketing efforts. Therefore, the Ad Hoc Committee requested that Oxford submit evidence of the efforts. The Committee reconvened to consider the newly provided information. Oxford provided an Affidavit of Darla Galovic, Vice President of Sales Operations for United Healthcare, with responsibility for marketing individual health plans offered by Oxford; a screen shot of the model environment from November 1, 2016 (the first day of Open Enrollment); and a screen shot from the model environment from January 1, 2017. E. DeRosa explained that Ms. Galovic's Affidavit provided key information. Ms. Galovic attested to the fact that, during all times in 2017, the information that Oxford provided in its latest submission regarding the model environment, is what was present and available for the consuming public in 2017.

E. DeRosa noted that, based on the requirements set forth in N.J.A.C. 11:20-24.6, the Ad Hoc Committee recommends that the IHC Board find that Oxford satisfied the Good Faith Marketing Requirement for 2017. However, E. DeRosa noted that the requirements in N.J.A.C. 11:20-24.6 set a very low bar and that the committee suggested that the Board should review and possibly amend the standard in the regulations. E. DeRosa also emphasized that, while Oxford met the minimum requirement, Oxford did not do anything beyond the minimum requirement while other carriers far exceeded the requirement in N.J.A.C. 11:20-24.6.

One Board Member noted that the statute which gives authority for the Good Faith Marketing regulations to be promulgated was enacted with the intent to ensure carriers' genuine participation in the individual market. Therefore, to the extent that the current Good Faith Marketing regulations do not reflect this intent, the regulations should be modified. The IHC Board agreed to further explore this issue.

**J. Camargo made a motion to accept the Ad Hoc Committee's recommendation that Oxford be found to have marketed in good faith in 2017. T. Pownall seconded this motion. By roll call vote, the motion carried.**

#### **VI. Board Officers and Committee Membership**

E. DeRosa reported that S. Kelly stated she would be willing to serve again as Chair if nominated.

**T. Pownall nominated, and U. Lee seconded, S. Kelly as Chair for an additional one-year term. By roll call vote, the motion carried.**

*Vice-Chair* – T. Pownall indicated his willingness to continue serving as Vice-Chair, if nominated.

**T. Taliaferro nominated, and C. Picklo seconded, T. Pownall as Vice-Chair for an additional one-year term. By roll call vote, the motion carried.**

*Legal Committee* –E. DeRosa noted that the current Legal Committee includes representatives from the DOBI, Horizon and Aetna. DOBI, Horizon and Aetna indicated a willingness to continue to serve on this committee.

**C. Picklo made a motion, seconded by T. Taliaferro, to reconstitute the Legal Committee with its current representatives. By roll call vote, the motion carried.**

*Technical Advisory Committee (TAC)* – E. DeRosa noted that the current TAC includes representatives from the DOBI, Horizon and AmeriHealth. DOBI, Horizon and AmeriHealth indicated a willingness to continue to serve on this committee.

**C. Picklo made a motion, seconded by T. Pownall, to reconstitute the TAC with its current representatives. By roll call vote, the motion carried.**

*Marketing Committee* – E. DeRosa noted that this committee currently has only two representatives, specifically Horizon and Oxford, and could use another. J. Camargo expressed interest in joining this committee. Oxford’s representative for this committee, Chuck Cerniglia, no longer works in NJ and Oxford agreed to find a replacement for him to serve on this committee.

**T. Pownall made a motion, seconded by C. Picklo, to reconstitute the Marketing Committee with its current representatives, and J. Camargo. By roll call vote, the motion carried.**

*Operations and Audit Committee (OAC)* – E. DeRosa noted that the current OAC includes representatives from the DOBI and United/Oxford, as well as Colleen Picklo.

**T. Pownall made a motion, seconded by N. Peterson, to reconstitute the OAC with its current representatives. By roll call vote, the motion carried.**

## **VII. Close of meeting**

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

*[The meeting ended at 10:39 A.M.]*