

**FINAL**  
**MINUTES OF THE MEETING OF THE**  
**NEW JERSEY INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD**  
**HELD TELEPHONICALLY PURSUANT TO EXECUTIVE ORDER 103 (MURPHY)**  
**October 13, 2020**

**Directors participating:** Joseph Camargo; Philip Gennace (DOBI); Sandi Kelly (Horizon); Robert Morrow (United); Colleen Picklo; Thomas 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. 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.

E. DeRosa noted that, pursuant to P.L. 2020, c. 2, as a result of the public health state emergency declared by Governor Murphy on March 9, 2020 through Executive Order 103, subsequently extended,<sup>1</sup> due to the COVID-19 pandemic, the IHC Board’s regularly scheduled meeting was being held telephonically, and not at the Board’s offices in Trenton. She stated that, in accordance with P.L. 2020 c. 11, electronic notice of the change in the meeting and the means by which the public could attend the meeting telephonically was posted on the Board’s website, and issued electronically to all known interested parties.

E. DeRosa determined a quorum was present. She stated that voting would be by roll call.

Members of the public were asked to identify themselves; public attendees, if any, are identified at the end of these minutes.

**II. Minutes – *September 15, 2020***

**T. Pownall made a motion, seconded by S. Kelly, to approve the minutes of the meeting of September 15, 2020, without amendment. By roll call vote, the motion carried.**

**III. Report of Staff – *Expense Report***

R. Lenox presented the expense report for October 2020, explaining that the IHC Board owed its share of staff salaries and some additional shared expenses, totaling \$11,979.51, to the Small Employer Health Benefits (SEH) Program. She stated that the Board can approve an internal transfer by the DOBI fiscal office of the specific amount due from the IHC Board’s DOBI Fund to the SEH Board’s.

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<sup>1</sup> Executive Order 103 (Murphy) has been continuously extended multiple times since originally issued, the most recent extension occurring on September 25, 2020, pursuant to Executive Order 186 (Murphy).

**T. Taliaferro made a motion, seconded by J. Camargo, to pay the expenses as presented on the October expense report, and authorize the internal transfer of \$11,979.51 from the IHC Program's DOBI Funds to the SEH Program's DOBI Funds. By roll call vote, the motion carried.**

#### **IV. Nongroup HINT Enrollment/Change Form and Bulletins 20-35 and 20-36; Policy Form Amendments**

S. Kelly noted that the DOBI posted a revised nongroup HINT Enrollment/Change (nongroup HINT) form on its website as Bulletin 20-36, with inclusion of an additional triggering event that results in a special enrollment period (SEP), addressed in somewhat more detail in Bulletin 20-35, both posted on October 9, 2020.<sup>2</sup> She indicated that, based on a preliminary review, Horizon had several questions.

P. Gennace explained that Bulletin 20-35 was written to include pregnancy as a triggering event for purposes of the State-based Exchange (SBE), whereby someone not currently enrolled in coverage who becomes pregnant will have the opportunity, along with any dependents, to seek coverage through the SBE (whether or not eligible for any subsidies) following confirmation of a pregnancy. He further explained that the nongroup HINT form attached to Bulletin 20-36 included the new triggering event based on the expectation that the Board would define triggering events consistently with respect to the plans when offered outside of the SBE.

In the discussion that followed, several issues were raised:

1. Whether the revised nongroup HINT form is intended to preclude carriers from issuing any plans with January 15th effective dates for applications submitted January 1 through 14th off-exchange. The nongroup HINT form states that the effective dates for all January applicants must be February 1. Board members noted that carriers have the option to offer a 15th-of-the-month effective date for plans offered off-exchange for SEPs, and have been allowed to do so in prior years when open enrollment extended into January or later. Several Board members questioned why January 15th could not be an effective date for open enrollment this year, too. P. Gennace stated he would review the issue and provide guidance.
2. Whether the Board should vote to propose an additional amendment to the current policy form proposal to bring the policy forms into compliance with Bulletin 20-35. Neither the Board's rules nor the existing exhibits in the appendix setting forth the policy forms include pregnancy as a triggering event.
3. How claims are to be addressed. Bulletin 20-35 specifies that the triggering event is the confirmation of pregnancy by a health care provider, but gives the individual an option as to the effective date of the coverage, which can be either the first of the month in which confirmation of pregnancy occurred, or the first of the month following the date the individual makes a plan selection. Board members expressed some uncertainty about how the pregnancy triggering event/SEP would operate with respect to claims, especially when global fee structures are used. There was also uncertainty about the intention of the

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<sup>2</sup> NB: DOBI bulletins are posted on its Legislative and Regulatory Affairs – Rules, Orders, Bulletins, and Notices webpage (<https://www.state.nj.us/dobi/legsregs.htm>), grouped by the year the bulletin was issued.

Bulletin with respect to enrollment of dependents. There was acknowledgment that most members had not fully digested the meaning of the bulletins as of the date of the meeting.

E. DeRosa offered proposed language to amend the policy forms for the Board's consideration, which she distributed electronically during the meeting.

**S. Kelly made a motion, seconded by P.Gennace, to amend the proposed amendments to the IHC policy forms previously approved by the IHC Board, but not yet published for proposal, to incorporate language setting forth a new triggering event for Plan Year 2021, effective as of February 1, 2021.**

In discussion following the motion, some members expressed reluctance to vote on amendatory language without having more opportunity to discuss issues within their separate companies. Some members requested clarification regarding the action for which a motion had been made, and E. Heck suggested the Board move into Executive Session so that she could provide legal advice to the Board.

**S. Kelly made a motion, seconded by J. Camargo, to move the meeting into Executive Session for the purpose of obtaining advice from legal counsel regarding Board action. By roll call vote, the motion unanimously carried.**

E. DeRosa instructed Board members to that they would need to disconnect from the current call, while any public that may have been present could remain on the open session phone-in line. She directed Board members to call the Executive Session-designated phone line to continue discussions. She announced that the Board would return to open session after it closed its Executive Session, and that the Board may take action in the subsequent open session of the meeting.

*[The Board entered Executive Session at 10:40 A.M.]*

*[The Board returned to Open Session at 10:55 A.M.]*

S. Kelly withdrew the open motion, and the Board agreed to discuss the new triggering event issue at its regularly scheduled November meeting.

## **V. Close of Meeting**

**R. Morrow made a motion, seconded by J. Camargo, to adjourn the meeting. By roll call vote, the motion carried.**

*[The meeting ended at 11:00 A.M.]*

### **Identified Public Attendees:**

No members of the public identified themselves as participating in the meeting.