

**FINAL**  
**MINUTES OF THE MEETING OF THE**  
**NEW JERSEY INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD**  
**HELD TELEPHONICALLY PURSUANT TO EXECUTIVE ORDER 103 (MURPHY)**  
**June 14, 2022**

**Directors participating:** Daniel Bradshaw (Oxford); Sandi Kelly (Horizon, *arrived at 10:10 A.M.*); Colleen Picklo; Thomas Pownall (Aetna); Gale Simon (DOBI); 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 10:05 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 and 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 emergency and state of emergency declared by Governor Murphy on March 9, 2020 through Executive Order 103, subsequently extended,<sup>1</sup> due to the COVID-19 pandemic, this additional Board meeting which was in addition to the regularly scheduled meetings, 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 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 – May 10, 2022 and May 23, 2022**

**T. Taliaferro made a motion, seconded by C. Picklo, to approve the minutes of the regularly scheduled meeting of May 10, 2022, without amendment. By roll call vote, the motion unanimously carried.**

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<sup>1</sup> Pursuant to N.J.S.A. 26:13-3(b), a Public Health Emergency lasts for 30 days unless extended, while States of Emergency declared in accordance with N.J.S.A. App A:9-33 et seq. remain in effect until declared ended by a subsequent executive order. The Public Health Emergency was continuously extended through multiple executive orders until E.O. 244 (Murphy), issued June 4, 2021, declared the Public Health Emergency ended. However, Governor Murphy has not yet ended the State of Emergency established by E.O. 103 (Murphy). Thus, the Board continues to meet remotely, and public access is limited to telephonic means. (Notably, E.O. 280 (Murphy, January 11, 2022) resulted in another Public Health Emergency due to COVID-19, lifted by E.O. 292 on March 4, 2022.)

**C. Picklo made a motion, seconded by D. Bradshaw, to approve the minutes of the special meeting of May 23, 2022, without amendment. By roll call vote, the motion unanimously carried.**

**III. Report of Staff – Expense Report; Good Faith Marketing**

*Expense Report*

R. Lenox presented the expense report, totaling \$12,708.87, for expenses related to salaries and fringe (\$12,077.77), actual 3Q charges of \$217.00 from the Division of Law, and final program audit costs for FY21 of \$414.10 from WithumSmith+Brown (WSB). She reported that salaries and fringe can be paid via a transfer from IHC DOBI-held funds to SEH DOBI-held funds, and that there are funds in the IHC Board's Wells Fargo checking account to pay the remaining expenses. R. Lenox requested the Board approve a transfer of \$42,774.48 from its Treasury account to its IHC DOBI Fund in anticipation of end of year expenses.

**T. Pownall made a motion, seconded by C. Picklo, to approve the expenses, the transfer of \$12,077.77 from the IHC DOBI Fund to the SEH DOBI Fund, the payment of the Division of Law and WSB expenses from the Board's Wells Fargo checking account, and the transfer of \$42,744.48 from the Board's funds in Treasury to its IHC DOBI Fund for future expenses. By roll call vote, the motion unanimously carried.**

*Good Faith Marketing*

E. DeRosa reminded Board members that Oscar's application had not been made available to staff for review in time for the May 23rd Board meeting, and so the Board had not taken a vote on that company's good faith marketing efforts for CY2021 when voting on the other IHC market participants. She explained that the issue was resolved, and referred Board members to the report prepared by staff indicating that Oscar made its plan information and its application available on its website, and that Oscar's marketing materials include plan brochures, a plan grid, a rate sheet, network information and broker communications. E. DeRosa noted the staff recommendation was to find that Oscar marketed individual standard plans in good faith in CY2021.

**T. Pownall made a motion, seconded by T. Taliaferro, to accept the recommendation and find that Oscar Garden State Insurance Corporation of New Jersey met the good faith marketing requirements of New Jersey law. By unanimous roll call vote, the motion carried.**

**IV. Report of the Operations & Audit Committee (OAC), and the Technical Advisory Committee (TAC) – FY2023 Budget; Final Administrative Assessment for FY2021; Initial Administrative Assessment for FY2023**

*FY2023 Draft Budget*

R. Lenox reported the OAC met to review and discuss the draft budget for FY2023. She stated that the budget for the fiscal year ending June 30, 2023 is similar to the budget for the current fiscal year, for a total of \$310,540, although fringe is being estimated at 62%, while legal fees are expected to be somewhat lower, and audit costs are being estimated to remain substantially the same.

*Final Administrative Assessment for FY2021*

R. Lenox reported that both the OAC and TAC met to review and discuss the draft Final Administrative Assessment for FY2021. She stated that, with completion of the program audit, the final administrative expenses – including the audit costs, which were favorable to budget – for FY2021 totaled \$277,431.73, which was under the budgeted administrative expense for FY2021 by \$27,598.27. She explained that, in addition to this amount, interest earned by the IHC Program of \$236.55 would also be distributed among carriers to which refunds were due, and accumulated miscellaneous (*de minimis*) amounts held by the Board for previous assessments, totaling \$27.52, would be distributed to carriers. She further reminded the Board that the initial assessment for FY2021 had been based on the CY2019 Net Earned Premium (NEP) and the FY2021 Budget, while the final administrative assessment is based on the CY2020 NEP and the audited expenses adjusted for the final audit costs.

*Initial Administrative Assessment for FY2023*

R. Lenox reported that both the OAC and the TAC met to review and discuss the draft initial Administrative Assessment for FY2023. She explained that the amount to be assessed is based on the draft FY2023 budget of \$310,540, using the CY2021 NEP derived from carriers' 2021 Exhibit K reports. She further explained that the committees agreed to follow the procedure used last year, whereby the FY2023 assessment is adjusted to include the results of the Final FY2021 Administrative Assessment, eliminating the need to issue both refunds and billings to carriers for amounts for the separate fiscal years. She noted that \$12.00 was added to Shenandoah Life Insurance Company's assessment to collect a penalty amount owed by it to the Medicare Supplement Under Age 50 Program, while United States Life Insurance Company of NY's assessment is being reduced by \$55.76 to address a situation in which the company inadvertently overpaid the IHC Board. R. Lenox stated that after all amounts owed are considered, the IHC Board will issue invoices to IHC Program members to collect a total of \$282,799.80, and refund a few carriers a total of \$165.85.

**S. Kelly made a motion, seconded by G. Simon, to approve the draft FY2023 budget; to approve as presented the Final Administrative Assessment for FY2021 and the initial Administrative Assessment for FY2023; to authorize invoicing of IHC Program members accordingly; and to authorize the issuance of refunds. By roll call vote, the motion unanimously carried.**

**V. Plan Management Instructions, and Coverage of Multiple Children**

Board members requested an overview of the recently released Plan Year 2023 Plan Management Instructions (PM Instructions), and in particular, some additional explanation of the requirement to cover multiple children on plans in which no adult is enrolled.

*Requirement regarding children-only coverage*

E. DeRosa explained that staff of GetCovered New Jersey (GetCoveredNJ, New Jersey's State-based Exchange) indicated that, when an adult seeks to cover more than one child without also covering an adult, all carriers (whether offering medical plans or dental plans) must cover the children under one policy, rather than covering each child under separate single person policies, and further, that carriers must apply the 3-child rating cap when three or more children are covered under one policy. E. DeRosa stated that, based upon this, she drafted language to amend the standard plans, as follows:

- Adding a definition of “eligible applicant,” as a resident of New Jersey who applies to cover one or more children claimed as dependents for federal tax purposes by that person under a standard health benefits plan notwithstanding that the applicant is not seeking personal coverage under the standard health benefits plan;
- Adding a notation that the new definition is not to be used for standard plans offered as high deductible health plans, nor used in catastrophic plans;
- Adding changes to the eligibility section of the standard plans to clarify that types of coverage include eligible applicant and children coverage, which is coverage for the children only;
- Expanding who is eligible to be covered to include an eligible applicant’s children, subject to bracketed language to address citizenship and lawful presence requirements for plans offered through GetCovered NJ;
- Clarifying that newborns of an eligible applicant can be added to the child/ren only policy.

Following discussions among Board members, E. DeRosa explained that language will be provided to carriers as soon as feasible, but the policy form amendments will still be subject to Board proposal and adoption. She also noted that other changes to the standard plans had been suggested by carriers, but additional explanations from the carriers regarding their suggestions were necessary before amendments could be drafted.

#### *Plan Management Instructions*

E. DeRosa highlighted certain aspects of the PM Instructions, as follows:

- The PM Instructions are posted in SERFF<sup>2</sup> and should be posted on the Department’s website shortly.
- The PM Instructions discuss the general requirement that all carriers cover multiple children – without an adult – under one policy.
- The deadline for filing of the initial binder information is June 21, and carriers generally should be using CMS’ templates, as in years past.
- A copy demonstration template has been added in SERFF and referenced in the PM Instructions for carriers to use to show (in a standard format) compliance with certain of New Jersey’s minimum standards for health benefits plans set forth at N.J.A.C. 11:22-5. E. DeRosa explained that the Department’s consulting actuarial firm, RRC, developed the template to avoid the wide variety of demonstrations provided in the past.
- The PM Instructions specify New Jersey expects carriers to comply with the 35% threshold for Essential Community Providers set out by CMS, but is not yet imposing the requirement that the demonstration be specific to Tier 1 in the event that a plans has multiple tiers.
- The PM Instructions explain how a carrier needs to respond to the new Gender affirming care benefit line in the Plans & Benefits Template.
- The PM Instructions explain that, if a carrier is offering plans with a network limited to fewer than 21 counties (“limited network”) when the same carrier also has a statewide network approved, the carrier may market and issue the limited network plans to the counties in which the limited network is approved, but must provide coverage when services are accessed outside the service area of the limited network but within the statewide network.

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<sup>2</sup> System for Electronic Rate and Form Filing

Board members expressed some frustration with the timing of the posting of the PM Instructions, and asked about rate filings.

Seong-Min Eom, the Department's Chief Actuary, stated that Rate-filing instructions have also been posted recently, and rate filings are due by close of business on June 16, noting that there have been some discussions with carriers already regarding some rate issues. She requested that carriers please reach out to members of the Department's rate review team, including her, if they need to discuss issues prior to the deadline. E. DeRosa noted that both she and C. McDevitt are available to discuss plan management questions, and can be reached by email and phone.

#### **VI. Close of Meeting**

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

*[The meeting ended at 10:55 A.M.]*

**Identified Public Attendees:** Robert Axelrod, Oscar Garden State Health Ins. Corp.<sup>3</sup>

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<sup>3</sup> Oscar is a member of the Small Employer Health Benefits Program Board of Directors, as are several of the Directors on the IHC Board; however, there was not a quorum of the SEH Board present, and all discussions and actions at the meeting concerned the specific public business of the IHC Board.