

FINAL
MINUTES OF THE OPEN SESSION MEETING OF THE
NEW JERSEY SMALL EMPLOYER HEALTH BENEFITS PROGRAM BOARD
AT THE OFFICES OF THE
NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE
TRENTON, NEW JERSEY
October 21, 2015

Members participating: Herbert Ames; Mary Beaumont; Gary Cupo; Patrick Gillespie (Cigna); Margaret Koller; Lisa Levine (United/Oxford); Matthew Malat; Avnee Parekh (DOBI); Nicholas Peterson (Horizon); Ryan Petrizzi (AmeriHealth); Thomas Pownall (Aetna Health Inc.); Dutch Vanderhoof.

Others participating: Ellen DeRosa, Executive Director; Chanell McDevitt, Deputy Executive Director; Eleanor Heck and Ryan Schaffer, Deputy Attorneys General.

I. Call to Order

E. DeRosa called the meeting to order at 10:02 A.M. She announced that notice of the meeting was provided to two newspapers of general circulation and the State House Press Corps, and posted at the Department of Banking and Insurance (“DOBI”), on the DOBI website, and at the Office of the Secretary of State in accordance with the Open Public Meetings Act. Following a roll call, she determined there was a quorum present, and stated that all votes would be by roll call because some of the Board members were participating by phone.

II. Public Comment

There were no public comments.

III. Minutes – September 16, 2015

T. Pownall made a motion, seconded by R. Petrizzi, to approve the minutes of September 16, 2015. By roll call vote, the motion carried, with M. Beaumont and M. Malat abstaining.

IV. Staff Report

Expense Report – October

E. DeRosa presented the October expenses, totaling \$114.73, for public notices associated with the notices for proposed amendments to the policy forms. She noted that no transfer of funds would be needed to pay for the expenses.

T. Pownall made a motion, seconded by R. Petrizzi, to approve the October expense report and payment of the expenses. By roll call vote, the motion carried.

Draft Adoption of proposed amendments without adoption of proposed new rules – Policy Forms

E. DeRosa explained that a hearing was held on Thursday, October 1, 2015, as required for proposed amendments to the policy forms, and that there was one attendee who offered

comments regarding the concern of the Medical Society of New Jersey (MSNJ), which were followed up by written comments submitted timely during the comment period. E. DeRosa stated that, as hearing officer, she offered no recommendations regarding the comments received, but noted that the draft adoption responds to the MSNJ's written comments without making any change to the Board's proposed amendments. She explained that the MSNJ supported the changes in the policy forms that would permit carriers to utilize and reimburse telemedicine, but in general, the MSNJ requested changes to the policy forms or rules requiring carriers and health care providers to comply with the rules of professional conduct and scopes of license in the states in which they practice when delivering telemedicine/e-visit/virtual visit services. E. DeRosa said that the draft responses in the adoption specifies there are other regulatory bodies that license or regulate the conduct of health care practitioners, not including the SEH Board, and thus, none of the changes to the policy forms suggested by the MSNJ is necessary or appropriate.

E. DeRosa stated, however, that she was suggesting the Board not adopt the new infertility treatment rider set forth in the proposal as Exhibit I, because changes to the federal law no longer made the proposed rider necessary. She explained that the Board proposed the rider to accommodate the federal definition of small employer as amended by the Affordable Care Act, which included employers with 1 to 100 employees, but permitted states to maintain the definition as 1 to 50 employees until 2016 (which New Jersey had done). She further explained that the rider would have allowed carriers to comply with the guaranteed issue requirements of the federal law as well as the New Jersey infertility mandate requiring various treatments of infertility be covered in policies sold to employers with more than 50 employees (i.e., the rider would be offered to all defined small employers, but could be rejected by employers with fewer than 50 employees). She noted that on October 7, 2015, the Protecting Affordable Coverage for Employees (PACE) Act was signed into law, allowing a state to retain (or institute) a definition of small employer at 1 to 50 full time employees at the discretion of the state, meaning that New Jersey's definition of small employer (at 50 or fewer employees) would remain in place, eliminating the need to offer small employers the infertility mandate.

E. DeRosa said she has received many questions asking what actions New Jersey will take to define small employers given the PACE Act, but noted that New Jersey defined the term many years ago, and does not need to do anything further in order to comply with the PACE Act.

E. DeRosa explained that the operative date of the policy form amendments would be January 1, 2016, but that carriers could use the Compliance and Variability Rider to make the 2016 changes for a period of time for newly issued policies. The Board agreed that carriers could use the Compliance & Variability Rider through March, but should be using the revised policy forms no later than April 1, 2016.

P. Gillespie made a motion, seconded by N. Peterson, to approve as drafted the adoption of the amended rules as proposed, without adoption of proposed Exhibit I. By roll call vote, the motion carried.

V. Rates and rate filing changes following the vote to not adopt Exhibit I

A. Parekh acknowledged that carriers had already assumed the need to include the infertility mandate for employers with 1 to 50 employees in their rate filings for 2016, but explained that carriers cannot change the rates prior to the second quarter of 2016, because carriers offering

SHOP plans would not be able to make *any* changes prior to 2Q2016, based on systems issues for the federally-facilitated Marketplace. She stated that the DOBI will accept changes to the benefit descriptions in rate filings submitted in SERFF, and will authorize submissions to HIOS to make such changes, but that changes in rates cannot be effective for any plans until 2Q2016. She noted that, because of the need to submit revised rates at least 105 days prior to their effective dates, carriers seeking to change rates effective for 2Q2016 must submit the rate change no later than December 18.

VI. Public Comment

There was one question as to whether carriers that have traditionally used four-tier rating (single, two adults, adult and child, family) in their group markets for employers with more than 50 employees could revise their rate filings for small employer groups of 1 to 100 employees to limit the small employer rating standards established by the Affordable Care Act to employer groups with less than 51 employees. A. Parekh stated that it would be acceptable for carriers to re-open the rate filing page to change 1-100 to 1-50.

VII. Close of Meeting

M. Koller made a motion, seconded by M. Malat, to adjourn the meeting. By roll call vote, the motion carried.

[The meeting adjourned at 10:45 A.M.]