

FINAL
MINUTES OF THE MEETING OF THE
NEW JERSEY INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD
HELD TELEPHONICALLY PURSUANT TO EXECUTIVE ORDER 103 (MURPHY)
December 14, 2021

Directors participating: Philip Gennace (DOBI); Sandi Kelly (Horizon); Robert Morrow (United); 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 emergency and state of emergency declared by Governor Murphy on March 9, 2020 through Executive Order 103, subsequently extended,¹ 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 – November 9, 2021

T. Taliaferro made a motion, seconded by S. Kelly, to approve the minutes of the meeting of November 9, 2021 as amended. By roll call vote, the motion carried.

III. Report of Staff – Expense Report; Reinsurance (1332 Waiver)

Expense Report

R. Lenox presented the expense report for December 2021, totaling \$12,062.85, which she explained included the Board’s portion of staff salaries and other shared expenses payable to the Small Employer Health Benefits (SEH) Program (\$11,336.74), 1QFY22 actual expenses from the

¹ Due to the requirements of N.J.S.A. 26:13-3(b), which limits declaration of a Public Health Emergency by the Governor to 30 days, the Public Health Emergency established by E.O. 103 (Murphy) was continuously extended through multiple executive orders until E.O. 244 (Murphy), issued June 4, 2021, which declared the Public Health Emergency ended; however, E.O. 244 (Murphy) did not end the State of Emergency established by E.O. 103 (Murphy). Consequently, the Board continues to meet remotely, and public access is limited to telephonic means.

Division of Law (\$560.00), and 3 public notices for the Board's 2022 meetings (totaling \$166.11). R. Lenox stated that the Board can approve an internal transfer by the DOBI fiscal office of the amount due from the IHC Board's DOBI account to the SEH Board's DOBI account for the salaries and shared expenses (\$11,336.74), but should transfer \$726.11 from the Board's Wells Fargo Money Market account to its Wells Fargo Checking account to pay the remaining expenses. R. Lenox also suggested the Board approve the transfer of \$70,000 from the Board's DOBI account to its Wells Fargo Money Market account for the primary purpose of earning interest.

T. Taliaferro made a motion, seconded by T. Pownall, to approve: the expenses; the payment of the shared salaries and other shared expenses via a transfer by the DOBI of \$11,336.74 from the IHC Board's account to the SEH Board's account within the DOBI; the transfer of \$726.11 from the Board's Money Market account to its Checking account at Wells Fargo for the purpose of paying the remaining December expenses; and, the transfer of \$70,000 from the IHC Board's account in the DOBI to the Board's Wells Fargo Money Market account to earn interest. By roll call vote, the motion carried.

Reinsurance Program

E. DeRosa reminded Board members that they had asked during the November Board meeting for further discussions regarding the Reinsurance Program but the suggestion had been that they submit specific questions so the discussion includes topics the carriers find helpful. She noted she received no questions from anyone yet, and that, while no deadline had been set for submitting questions, it seemed that time may be of the essence, so it would be helpful to have questions before the January Board meeting. Several Board members indicated that they are still working with people in their companies to put questions together, but Board members also expressed some confusion as to whether the requested group meeting between carriers, staff and the DOBI was dependent upon the submission of questions, with an indication that the Board members did not think the meeting should be predicated solely upon the questions received. E. DeRosa stated that having at least some questions prior to the meeting would assure that carrier issues are addressed, and would help to determine whether the auditor should be a participant in the meeting.

A Board member asked whether there is a way for the carriers to anticipate the questions/issues the auditor will focus on each year. E. DeRosa explained that the auditor's questions arise from what is found in the samples selected, and because the samples are random, the issues are not truly predictable. She noted that multiple carriers had errors in their randomly drawn samples that involved Medicare eligible individuals, but the result was happenstance, because neither the DOBI nor the auditor were searching for those errors. Board members stated this was good information. Some Board members noted an explanation about the extrapolation method would be helpful.

Board members again agreed to send questions to E. DeRosa, and E. DeRosa and P. Gennace agreed to consult on details of the group meeting.

IV. Limited Geographic Access Products

E. DeRosa noted that, although Horizon has statewide networks, it had been approved by the DOBI to offer in plan year 2022 plans that use a network limited to providers in only four counties, and in which only people residing in those counties may enroll, specifically: Hunterdon, Morris, Sussex and Warren. She noted the issue now arising is what happens when people enrolling in those plans relocate within New Jersey but outside of those four counties: should those individuals

be eligible for a special enrollment period (SEP) by all carriers. It was acknowledged that the current interpretation of IHC and federal rules regarding triggering events and SEPs do not address squarely the scenario of someone relocating from one place to another within a state and having access to a different complement of plan options that are not otherwise new.² S. Kelly noted that, because Horizon offers its plans statewide – with the exception of the new Value Access plans – the company would not traditionally consider providing a SEP to someone relocating among counties within New Jersey strictly based on the relocation. She also noted that Horizon could not terminate the Value Access individuals, but that a voluntary termination by the enrollee is not a triggering event resulting in a SEP either, leaving the enrollees in a bind.

P. Gennace indicated it is the DOBI's preference that relocating individuals have a SEP, and that a re-examination of the rule was warranted in terms of what constitutes a permanent move. It was noted that, while traditionally, the IHC definition has been interpreted to mean a move across state lines (into New Jersey), neither the IHC nor the federal rules explicitly say that, and that an older federal rule³ discussed relocations among service areas.

There was a suggestion to send the question to the Board's Legal Committee, but it was noted that a review by the Legal Committee might not be timely enough. T. Taliaferro stated that he would need to discuss the issue within his company before trying to come to conclusions. It was agreed that further discussion and a decision before February would be acceptable. T. Taliaferro asked that the situation be put into writing for companies to review, and also asked if there would be guidance forthcoming about any decision made; P. Gennace acknowledged there would be guidance, noting that it would be necessary to align things between GetCoveredNJ and the off-exchange market.

V. Close of Meeting

S. Kelly made a motion, seconded by P. Gennace, to adjourn the meeting. By roll call vote, the motion carried.

[The meeting ended at 10:48 A.M.]

Identified Public Attendees:

Robert Axelrod, Oscar Garden State Health Ins. Corp.⁴

²45 C.F.R. 155.420(d)(7) specifies that a special enrollment period is triggered when someone gains access to new QHPs as a result of a permanent move, while the definition of triggering event at N.J.A.C. 11:20-1.2 includes the scenario when someone gains access to plans in New Jersey as a result of a permanent move.

³ Promulgated as a result of the Health Insurance Portability and Accountability Act, which the Affordable Care Act subsequently amended.

⁴ Robert Axelrod 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.