

**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 22, 2014**

**Members participating:** Herbert Ames; Charles Cerniglia (Oxford); Gary Cupo; Patrick Gillespie (Cigna); Margaret Koller; Mary Ellen Peppard; Nicholas Peterson (Horizon); Thomas Pownall (Aetna Health Inc.); Gale Simon (DOBI); Christine Stearns; Tony Taliaferro (AmeriHealth); Dutch Vanderhoof.

**Others participating:** Ellen DeRosa, Executive Director; Chanell McDevitt, Deputy Executive Director; Rosaria Lenox, Program Accountant; Eleanor Heck, Deputy Attorney General.

**I. Call to Order**

E. DeRosa called the meeting to order at 10:03 A.M. E. DeRosa announced that notice of the meeting was provided to three newspapers and the State House Press Corps, and posted at the Department of Banking and Insurance (“DOBI”), the DOBI website, and 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 many of the Board members were participating by phone.

**II. Public Comment**

There were no public comments.

**III. Minutes – September 17, 2014**

**D. Vanderhoof made a motion, seconded by N. Peterson, to approve the minutes of September 17, 2014. By roll call vote, the motion carried.**

**IV. Staff Report**

*Expense Report*

R. Lenox presented the October expenses, totaling \$197.50, for the costs of attendance at a seminar for C. McDevitt. She explained that the expense is being shared with the IHC Board. R. Lenox noted that there is no need to transfer any funds to pay the expenses.

**G. Cupo made a motion, seconded by D. Vanderhoof, to approve the October expense report. By roll call vote, the motion carried.**

*Optional Benefit Riders*

*[T. Taliaferro recused himself from the discussion and any action that might be taken by the Board with respect to submissions by AmeriHealth Insurance Co., and AmeriHealth HMO, because of the interest of his employer in the outcome of any action regarding the submissions.]*

E. DeRosa reported that AmeriHealth Insurance Co. submitted a rider to amend its EPO and POS plans for the following purposes: providing a deductible carryover, waiving the cost-sharing requirement for readmissions; providing coverage for prosthetic and orthotic devices (which are separate from appliances), diabetic education, and access to network services outside of New Jersey (i.e., NY Access, and Guest Advantage). She recommended finding the filing complete.

E. DeRosa reported that AmeriHealth HMO submitted a rider to amend its HMO plans to add a Guest Advantage benefit. She recommended finding the filing complete.

**G. Cupo made a motion, seconded by T. Pownall, to find the filings complete. By roll call vote, the motion carried.**

## **V. Amendments to Policy Forms and Rules**

E. DeRosa discussed the proposed amendments, additions and deletions to the text of Exhibit F in the Appendix to N.J.A.C. 11:21, which sets forth the content for Plans B, C, D and E. She also explained that, following approval by the Board, substantially similar changes would be made to the other standard plan documents. She noted that she would also make appropriate changes to the Explanation of Brackets.

E. DeRosa highlighted the following:

- The largest Maximum Out-of-Pocket (MOOP) amount will become \$6,600, consistent with the maximum permitted under federal law. In addition, she noted the insertion of a cross-reference to the federal rule implementing changes in the MOOP, so that the standard plans will remain consistent up-to-date with the federally mandated cost-sharing amount without requiring regulatory action by the Board in the future.
- Removal of the 30-visit limit for therapy services for autism. E. DeRosa noted that this change is due to the Mental Health Parity and Addiction Equity Act (MHPAEA), and rules implementing that federal law, which permit limitations only to the extent that two-thirds of treatments for medical conditions are subject to such limits. She explained that, although therapy services are subject to visit limits regardless of whether for physical or mental health treatment, the two-thirds standard of MHPAEA is not met.
- Addition of language with respect to the Grace Period to accommodate the payment flow for those carriers that will be participating in the FF SHOP (because payments are made to the SHOP, which subsequently remits to the carrier)
- Changes in language regarding the waiting period to introduce the concept of an optional “orientation period” of up to one month after employment starts, per federal law. In essence, the employee’s eligibility date can be as early as the date of employment, the day after any applicable orientation period, or the day after any applicable waiting period (which still cannot exceed 90 days). The orientation period is now the timeframe during which an employer determines whether to retain an employee (which used to be part of

the waiting period). The waiting period is now just an additional period of time that must pass before the employee reaches the eligibility date; whether the person works without a lapse in full-time employment during the period can no longer be a condition of satisfying the waiting period. An employer may elect whether to have an orientation period and a waiting period, but the total period of time cannot exceed 120 days.

- Upon the request of a hospice organization, correction to the names of the accrediting bodies for hospice organizations within the definition of “Hospice.”
- Revised language regarding the definition of small employer to remove the requirement that the majority of employees be employed in New Jersey. (This change was already made in the rules.)
- Deletion of language permitting partners, proprietors and independent contractors to be considered employees.
- Addition of paragraphs regarding the family deductible and MOOP, which were inadvertently dropped during the printing of the current version of the forms.
- Addition of clarifying language regarding the benefit for treatment of morbid obesity, resulting in the benefit following the benefit language in the IHC forms more closely, and providing more detail about inclusions and exclusions.
- Amendments to the mammography benefit to match the most recent changes to New Jersey law, with which carriers should already be in compliance for purposes of administering their policies.
- Amendments to the provisions addressing Diagnosis and Treatment of Autism and Other Developmental Disabilities to clarify that existing visit limits still apply to treatment of developmental disabilities other than autism. In addition, the provision would be amended to remove reference to age 21 with respect to applied behavioral analysis treatments for autism because the age 21 limit is not permissible pursuant to MHPAEA’s two-thirds standard.
- Amendments to the pediatric vision benefit to be more consistent with the FedVIP plan, which New Jersey selected for purposes of compliance with the pediatric benefit requirement. The FedVIP includes a low vision benefit for vision aids, as well as an evaluation for low vision every 5 years.

E. DeRosa stated that she revised the group application form to add reference to the orientation period as an option. After some discussion, it was determined that the orientation period should be a month, rather than multiple options less than, but up to a month, for sake of simplicity. She noted that the application is not part of the rules proposal, but that she would send out a bulletin regarding it.

E. DeRosa stated that, if approved, the proposal would follow the Board’s expedited rulemaking process, with a 20-day comment period from the date the proposal is filed with the Office of Administrative Law. She explained that once the forms are adopted, she will send out a bulletin with a rider for carriers to use with the 2014 policy forms in 2015, so that carriers will not have to reissue the existing block in its entirety.

**G. Simon made a motion, seconded by T. Pownall, to propose the amendments, additions and deletions as presented in Exhibit F for all of the standard plans. In voting by roll call, the motion carried.**

**VI. Public Comment**

There were no public comments.

**VII. Additional Information**

It was affirmed that the open enrollment period applicable to the SHOP applies to the rest of the small employer health insurance market as well. It was affirmed that an employer unable to meet participation outside of the open enrollment period that enrolled during the open enrollment period could continue to renew coverage during succeeding open enrollment periods without meeting participation requirements.

It was affirmed that carriers must, in accordance with New Jersey law, start sending renewal notices 60 days prior to the date of termination for small employer plans.

It was affirmed that a compliance rider will be released to incorporate the changes, when approved, and that carriers may use it for at least a few months with the current 2014 contracts.

**VIII. Close of Meeting**

**D. Vanderhoof made a motion, seconded by C. Stearns, to adjourn the meeting. By roll call vote, the motion carried.**

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