

FINAL
MINUTES OF THE 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
August 15, 2018

Members participating: Herb Ames; Natalie Bernardi (Cigna); Gary Cupo; Philip Gennace (DOBI); Margaret Koller; Ulysses Lee (Oxford); Nick Peterson (Horizon); Thomas Pownall (Aetna).

Others participating: Ellen DeRosa, Executive Director; Christine Machnowsky, Deputy Executive Director; Rosaria Lenox, Managing Financial Officer; Jeffrey Posta, Deputy Attorney General.

I. Call to Order

E. DeRosa called the meeting to order at 10:05 A.M. She announced that notice of the meeting was provided to three 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 Comments

A member of the public was present at the meeting but had no comments.

III. Minutes of July 18, 2018

Open Session Minutes

H. Ames made a motion, seconded by T. Pownall, to approve the minutes of the July 18, 2018 meeting without amendment. By roll call vote, the motion carried.

Executive Session Minutes

T. Pownall made a motion, seconded by G. Cupo, to approve the minutes of the July 18, 2018 meeting without amendment. By roll call vote, the motion carried.

IV. Board Discussion of Association Health Plans (AHPs)

E. DeRosa explained that, at the last meeting, SEH Board members had requested that the SEH Board discuss issues and questions related to AHPs. Following the last meeting, Oxford sent a number of questions regarding AHPs to SEH staff.

One Board member raised concerns about DOBI’s regulatory authority over AHPs noting that, prior to the enactment of the health reform laws in the State of New Jersey, issues arose with

respect to a group of Texas Trusts. E. DeRosa explained that these programs were impermissible under the New Jersey Individual Health Reform Act (the Act) because they were membership associations in which the individuals paid the entire premiums and thus they were subject to the Act.

P. Gennace noted that DOBI issued a comment letter to CMS regarding AHPs and that DOBI is considering issuing further guidance in the near future. E. DeRosa agreed to forward the comment letter to the SEH Board members.

P. Gennace further explained that AHPs are MEWAs and that New Jersey laws and regulations regulate MEWAs. He further noted that the DOL guidance that has been released seems to indicate that the authority of each state to regulate AHPs is the same and that the newly adopted Federal AHP rules have not altered this authority.

One Board member asked if coverage under AHPs or MEWAs would qualify as minimum essential coverage in satisfaction of the individual mandate law that was recently enacted. E. DeRosa noted that the individual mandate statute specifically talks about MEWAs and outlines what provisions such programs would have to satisfy to qualify as minimum essential coverage.

One Board member noted questions and concerns about out-of-state AHPs. This Board member asked how active DOBI would be in policing out-of-state AHPs to ensure that insurers are not cherry-picking healthy lives from the New Jersey market. This Board member further noted concerns about the integrity of the risk pool and questioned whether the passage of the Federal AHP rule might provide opportunities for further erosion of the market.

P. Gennace responded that DOBI will pursue any impermissible activity.

J. Posta noted that NJ joined a number of other states, including New York and Massachusetts, in filing a complaint in District Court in Washington D.C. challenging the Federal AHP regulations.

One Board member expressed an eagerness to receive DOBI guidance regarding AHPs.

V. Executive Session

There was no need for Executive Session.

VI. Public Comments

There were no public comments.

VII. Close of Meeting

M. Koller made a motion, seconded by P. Gennace, to close the meeting. By roll call vote, the motion carried.

[The meeting adjourned at 10:22 A.M.]