

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
October 17, 2018

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

Others participating: Ellen DeRosa, Executive Director; Chanell McDevitt, Deputy Executive Director; Christine Machnowsky, Deputy Executive Director; Jeffrey Posta, Deputy Attorney General.

I. Call to Order

E. DeRosa called the meeting to order at 10:00 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

There were no public comments.

III. Minutes of September 20, 2018

T. Pownall made a motion, seconded by N. Bernardi, to approve the minutes of the meeting of September 20, 2018, without change. By roll call vote, the motion carried.

IV. Common questions recently received: *Newborn Coverage; New Jersey State Continuation; Employer Open Enrollment Period*

E. DeRosa stated that she had recently received several questions from brokers regarding three topics that she found concerning, because the topics involved are not new, nor the situations in question unique. She stated she wanted to bring the issues to the attention of Board members, and suggested that carrier members pass along the information to relevant marketing and sales representatives, among others, at their companies. G. Cupo stated he would pass the information along to the New Jersey Association of Underwriters.

Newborn Coverage

E. DeRosa stated that the requirement to provide coverage for newborns sans premium payment for a period of time has been in place since the inception of the standard health benefits plans. She acknowledged that the period of time for which newborn coverage is required had been extended from 31 days to 60 days (P.L. 2017, c. 361, effective as of January 16, 2018), and this

seems to have resulted in questions as to whether the carrier can require premium payment for all or some portion of the 60 days in order to provide the coverage. She confirmed that the answer is no – carriers have not heretofore been permitted to require payment of premium for standard health benefits plans for the 31-day period, nor are they permitted to require premium for any portion of the 60-day period as a condition of coverage during that period.

New Jersey Continuation Requirements

E. DeRosa noted that the state continuation requirements have been in place since 1994, but there is still misunderstanding of the law, or perhaps confusion generated by the interplay of state continuation and COBRA. She explained the following questions:

- When must the continuation election be made?
 - The continuation election must be made within 30 days after termination of coverage eligibility.
 - Unlike COBRA, the New Jersey small employer continuation statute does not impose a notice requirement upon employers. Board bulletins have encouraged employers/carriers to provide notice of the continuation right, but the SEH Board cannot enforce such an obligation against an employer.
- What is considered the termination date from which to count for purposes of making an election?
 - The 30-day election period starts the day following the date coverage ends. The standard small employer health benefits plans have variable text with respect to this issue: coverage may end on the same date that employment terminates, or coverage may end immediately after the expiration of the last day of the month in which employment terminated. The contract should be consulted.
- When must premium payment be received?
 - Payment must be received within 60 days of the election. Premium cannot be required earlier than 30 days after the election, and a grace period applies as well. If payment is made at 60 days, premium should cover two months, rather than one.
 - One of the things that many employers seem not to understand is that it is incumbent upon them to establish a due date for the payments.
- Is there a grace period for continuation coverage?
 - There is a grace period, which runs 30 days from when premium payment is due (as specified by the employer).
 - Employers should pay premium as billed by the broker/carrier, but let the broker/carrier know when a continuee is in a grace period, and notify the broker/carrier when the grace period has ended without payment received.
 - If no payment is received during the grace period, termination will be retroactive to the payment due date.

- Carriers may suspend payment of claims during the grace period, but cannot apply claims against the employer's premium. If premiums ultimately are not paid, the carrier may elect not to pay the claim, or seek to recoup claims paid against the continuee.

Employer Open Enrollment

E. DeRosa reminded Board members that the employer "open enrollment" period runs from November 15 through December 15. She noted the following:

- The terminology is a little misleading, because employers can purchase year-round, but that the participation and contribution requirements that otherwise apply are suspended during this specific period with respect to standard small employer health benefits plans that are to be effective as of January 1 of the immediately following year (2019 in this instance).
- Some brokers seem to believe that they can request any effective date during this period, and the waiver of participation and contribution will apply, but that is a misconception. If an employer wants to purchase a plan on November 15, 2018 with a December 1, 2018 effective date, then the employer would need to meet the normal participation and contribution requirements.
- Some brokers and employers seem to believe that essentially ALL eligibility requirements are suspended when purchasing small employer health benefits plans from November 15 to December 15, but that is also a misconception. There is no waiver of the definition of small employer, or other eligibility requirements: owner-only groups are still not permitted to purchase standard small employer health benefits plans. To qualify for small employer coverage, an employer must have a defined employee.

V. Public Comments

There were no public comments.

VI. Close of Meeting

G. Cupo made a motion, seconded by H. Ames, to close the meeting. By roll call vote, the motion carried.

[The meeting adjourned at 10:25 A.M.]