

FINAL
MINUTES OF THE MEETING OF THE
NEW JERSEY SMALL EMPLOYER HEALTH BENEFITS PROGRAM BOARD
HELD TELEPHONICALLY PURSUANT TO EXECUTIVE ORDER 103 (MURPHY)
March 17, 2021

Members participating: Herb Ames; Robert Axelrod (Oscar); Robert Benkert (United); Natalie Bernardi (Cigna); Chrissy Buteas; Gary Cupo; Philip Gennace (DOBI); Laura Gunn; Margaret Koller; Taylor Kopelan (Horizon); Thomas Pownall (Aetna Health); Tony Taliaferro (AmeriHealth).

Others participating: Ellen DeRosa, Executive Director; Chanell McDevitt, 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 10:00 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.

E. DeRosa noted that, pursuant to P.L. 2020, c. 2, as a result of the state of emergency and public health emergency declared by Governor Murphy on March 9, 2020 through Executive Order 103, as subsequently extended,¹ due to the COVID-19 pandemic, the SEH Board’s regularly scheduled meeting is being held entirely telephonically rather than 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.

Members of the public were asked to identify themselves, and are listed at the end of these minutes.

II. Public Comments

There were no public comments.

III. Review of Minutes of February 17, 2021

M. Koller made a motion, seconded by N. Bernardi, to approve the minutes of the meeting of February 17, 2021, without amendment. By roll call vote, the motion carried.

IV. Report of Staff – *Expense Report; Enrollment Report*

Expense Report

R. Lenox presented the March expense report, totaling \$3,689.50, including 2Q actual charges from the Division of Law, audit costs from WithumSmith+Brown (WSB) for FY20, and half of

¹ Executive Order 103 (Murphy) has been continuously extended multiple times since originally issued, the most recent extension occurring on February 17, 2021 pursuant to Executive Order 222 (Murphy).

the cost for renewal of R. Lenox's CPA license. She recommended that the Board authorize a transfer of \$3,700.00 from its Wells Fargo Money Market Account to its Checking Account to pay the reported expenses.

G. Cupo made a motion, seconded by H. Ames, to approve the payment of the expenses reported for March, and to authorize a transfer of \$3,700.00 from the SEH Board's Wells Fargo Money Market Account to its Wells Fargo Checking Account for the purpose of paying the expenses as reported. By roll call vote, the motion carried.

Enrollment Report

E. DeRosa stated that she had expected to discuss the quarterly enrollment report but had some questions regarding the information received thus far. She noted that she would send out the data to the Board members when it appeared that all of the enrollment data was complete and correct.

V. Finance and Audit Committee (FAC) Report – Audit; Financial Statements for FY2020

R. Lenox reported that the FAC met with WSB to close-out the Program audit for the fiscal year ended June 30, 2020. She explained that WSB was issuing an unqualified opinion and found no material or non-material issues. She noted that the FAC members had a few questions that WSB answered satisfactorily. E. DeRosa stated that the final audit report should be issued soon, that she would send a copy of it to the Board members when received, and that it would be posted to the Board's website.

VI. New Jersey Educator's Plan

In follow-up to its February meeting, the SEH Board again discussed the New Jersey Educator's Health Plan (NJEHP).² E. DeRosa explained that she began drafting a plan that would be consistent with the NJEHP because the legislation enacted in December 2020 clearly intends that the SEH Act not prevent carriers from offering the equivalent of the NJEHP to school boards that constitute small employers. She pointed out that there are aspects of the NJEHP's design, set forth in statute, that are inconsistent with State insurance law (e.g. closed formulary, a mandatory generic requirement, and a number of cost-sharing requirements that differ from minimum standards). She further explained that the NJEHP concept is also inconsistent with the federal ACA in some respects for purposes of offering in the small employer market, noting that it does not really meet any of the actuarial value categories of the ACA (the NJEHP is generally richer than a platinum plan). Further, the NJEHP is problematic in terms of rating pools at the very least, given that the ACA requires a single rating pool.

There was discussion of whether there might be a pathway for carriers to move forward with the product in compliance with both federal and state laws, with a consensus that no such pathway is readily apparent, short of some legislative fixes, which cannot be guaranteed to occur in any specific timeframe. While acknowledging that at least some school boards are covered through the SEH market, it was also acknowledged that the scope of the problem is not clear, because no enrollment data identifies the number of small employers that may be school boards. The Board agreed to first try to determine the scope of the problem before asking the Legal Committee or the Deputy Attorney General to research the legal issues involved, and make recommendations, if any,

² Collectively, P.L. 2020, c. 44 and P.L. 2020, c. 137. These statutes were enacted on July 1, 2020 and December 18, 2020, respectively.

with respect to potential solutions. It was agreed that a poll of the carriers with SEH business as to the number of school boards with in force small employer plans would be helpful.

VII. American Rescue Plan Act (ARPA) and Continuation Coverage

A Board member asked how the federal ARPA, enacted March 11, 2021, interacts with New Jersey requirements regarding continuation coverage rights in terms of whether individuals continuing coverage pursuant to the SEH Act's mini-COBRA provisions will be eligible for subsidies. P. Gennace acknowledged that the DOBI is still reviewing the ARPA, and does not have any answers to provide at this time.

It was agreed that the ARPA would be on the April agenda for further discussion of continuation coverage and other issues created by the federal law.

VIII. Public Comments

There was no public comment.

IX. Close of Meeting

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

[The meeting adjourned at 10:40 A.M.]

Public known to be in attendance:

- Paige Chan, NJBIA