Adequate notice of this meeting has been provided through the annual notice of the schedule of regular meetings of the Commission filed with and prominently posted in the offices of the Secretary of State. The 2021 annual meeting schedule was mailed to the Secretary of State on December 19, 2020, and Star Ledger and the Trenton Times on December 23, 2020. Updates regarding the telephonic meeting were sent to the Secretary of State on December 29, 2020.

The meeting of the State Health Benefits Commission of New Jersey was called to order on Monday, January 25, 2021 at 10:00 am. Due to health and safety concerns for the public regarding COVID-19, the meeting of January 25, 2021, was not be held in-person and instead be conducted via teleconference.

The text of Resolution A (Closed Session) and Resolution B (Executive Session) were read in their entirety in the event that the Commission desires, at any point in the meeting, to approve a motion to go into Closed or Executive session.

Acting Secretary Nicole Ludwig took Roll Call and established that a quorum was present.

Commissioners:
Thomas Gallagher, Interim Chair
Kevin Kelleher
Michael Mallairo
Dan Goldman
Sonia Rivera-Perez
Cynthia Jahn
Julie Giordano Plotkin

Also Present:
Alison Keating, Deputy Attorney General
Amy Chung, Deputy Attorney General
Austin Edwards, Deputy Attorney General
Christin Deacon, Division of Pensions and Benefits
Nicole Ludwig, Division of Pensions and Benefits
Debra Pelto, Division of Pensions and Benefits
Andrew Lawson, Division of Pensions and Benefits
Binsy Francis, Horizon
Donna Ruotola, Horizon
Paul Eberle, Optum RX
Kate Miller, Optum RX
Kim Ward, Aetna
Interim Chair

Commissioner Kelleher nominated Thomas Gallagher to Interim Chair. Commissioner Goldman seconded. The commission voted in favor of the motion, and Thomas Gallagher was named Interim Chair for the meeting.

Commissioner Kelleher made a motion to go into Closed Session to hear the Closed Session appeals that contain protected health information. Commissioner Goldman seconded. All voted in favor.

The following cases, due to HIPAA regulations, were heard in Closed Session:

Case #2021012501: This appeal was originally tabled from the September 2020 commission meeting so that Horizon could provide additional information as to how out-of-network out-of-country claims are processed. It was then tabled again at the November 2020 commission meeting to allow the family of the deceased member time to provide a detailed receipt for services that were rendered overseas.

Horizon advised that members can use their health benefits when traveling abroad, and if they use out-of-network professionals or facilities the cost may be higher. Members have access to a program that will assist them in obtaining in-network providers. The member used an out-of-network provider and filed a claim; horizon paid based upon the out-of-network benefits and the documentation submitted with the claim.

An attorney for the family and Estate of the member advised that the member took all steps possible to make sure they were following the guidelines that were established. They also provided a detailed itemization of the services and cost from the foreign hospital.

At this time Commissioner Kelleher made a motion to move to Executive Session. Commissioner Gallagher seconded. All voted in favor.

Upon return from Executive Session Horizon advised that expenses for ineligible services and charges in excess of reasonable and customary allowances do not count towards the member’s out-of-network maximums and are the member’s financial responsibility. The attorney for the family advised that there is an itemization available for the cost of the out-of-country services and advised they would present it to the Commission by submitting to Horizon and Acting Secretary Ludwig.

Commissioner Goldman made a motion to table the appeal pending receipt of the requested detailed hospitalization bills from claimant. Commissioner Giordano Plotkin seconded. The motion passed.

Case #2021012502: A dependent child of the member had orthodontic services for a cleft lip and palate which were denied by Horizon. The member provided a letter showing services were covered under an old provider, but have been repeatedly denied by Horizon.

Horizon advised that the letter for the previous carrier would not change Horizon’s determination of eligibility of orthodontic services because the plan does not cover it.
Commissioner Goldman made a motion to move to Executive Session. Commissioner Jahn seconded the motion. All voted in favor.

Upon return from Executive Session, Commissioner Goldman made a motion to deny the appeal based on applicable laws, regulations and policy. Commissioner Kelleher seconded. Commissioners Rivera-Perez, Gallagher, Kelleher, Goldman, and Jahn voted in favor. Commissioner Giordano Plotkin voted against. Commissioner Mallairo abstained. The motion passed 5-1 with one abstention.

**Case #2021012503:** This appeal was regarding an Optum RX excluded medication that is over the counter. Optum advised that there are numerous types of the medication on the market, available as over-the-counter and prescription. Clinical evidence suggests no major difference in efficacy among the different medications, and Optum covers two options on the formulary. Due to the therapeutically equivalent products available over-the-counter, the excluded agents in this class are considered a benefit exclusion and not eligible for a medical necessity review under Optum RX.

The member advised that both formularies covered by Optum RX had been tried and failed.

Commissioner Kelleher made a motion to deny the appeal. Commissioner Gallagher seconded. All voted in favor, the appeal was denied.

**Case #2021012504:** The member had been denied at the September 2020 meeting regarding out-of-network services that were provided by a doctor who had opted out of medicare. The member was able to continue their appeal through Medicare, and medicare upheld their denial. The member was now requesting a referral to the OAL.

Commissioner Goldman made a motion to deny the referral to the OAL and the decision be confirmed as a final agency determination. Commissioner Giordano Plotkin seconded. All voted in favor. A Final Administrative Determination would be composed and presented to the Commission to be approved and then issued to the member.

**Case #2021012505:** DAG Chung recused from this case and was moved out of the Closed Session. The member had refused to submit to a diagnostic test prior to receiving services of treatment, and the services were denied. The member had been before the commission in 2016 and was denied by the Commission and was afterwards moved over to the Office of Administrative Law. In 2018 there was a settlement proposal provided to the Commission, which was denied and sent back to OAL. The commission was recently provided the initial decision by the ALJ which includes a decision that goes against the commission determination.

Commissioner Gallagher made a motion to move to Executive Session. Commissioner Giordano Plotkin seconded. All voted in favor.

Upon return from Executive Session, DAG Edwards presented the argument for the exceptions. The member’s lawyer then spoke, and then the member spoke.

Commissioner Goldman made a motion to move to Executive Session. Commissioner Gallagher seconded. All voted in favor.
Upon return from Executive Session, Commissioner Giordano Plotkin made a motion to reject the ALJ’s decision and accept DAG Austin J Edwards’ exception. Commissioner Rivera Perez seconded. All voted in favor.

Commissioner Giordano Plotkin made a second motion that the Commission refer to the Plan Design Committee how Lyme disease is handled. Commissioner Goldman seconded. All voted in favor. The issue will be on the agenda for the next PDC meeting.

**Case #2021012506:** The appeal was regarding a DEVA Audit, and the appeal was heard and tabled at the SEHBP Commission meeting in November 2020. The member’s spouse was removed from coverage during an audit, and the coverage level was reduced but the employer continued to take the same contribution.

Commissioner Kelleher made a motion to retroactively enroll the member’s spouse on the policy and bill the employer for the difference in cost. Commissioner Giordano Plotkin seconded. All voted in favor.

At this time Commissioner Rivera Perez had to leave the call.

Commissioner Gallagher made a motion to move to Open Session. Commissioner Giordano Plotkin seconded. All voted in favor. The Commission moved to Open Session.

**Case #2021012507:** The Final Administrative Determination was provided to all Commissioners. Commissioner Gallagher made a motion to accept the Final Administrative Determination. Commissioner Goldman seconded. All voted in favor.

Chairperson Goldman made a motion to adjourn. Commissioner Giordano Plotkin seconded. All voted in favor and the meeting was adjourned at 2:03 pm.

Respectfully submitted,

Nicole Ludwig
Acting Secretary
State Health Benefits Commission