

# State Health Benefits Commission

## Open Session Minutes

January 13, 2021

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 2020 annual meeting schedule was mailed to the Secretary of State, Star Ledger and the Trenton Times on December 29, 2020. Updates regarding the Telephonic meeting were sent to the Secretary of State and posted to the Divisions Website on December 29, 2020.

The meeting of the State Health Benefits Commission of New Jersey was called to order on Wednesday, January 13, 2020 at 10 am. Due to COVID-19 this meeting was held telephonically.

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:**

**Susanne Culliton**, representing State Treasurer Elizabeth Maher Muoio

**Gail Simon**, representing Commissioner of the Department of Banking and Insurance Marlene Caride

**Dudley Burdge**, Representative for Local Government Employees

**Deirdre Webster Cobb**, CEO, Civil Service Commission (appearing telephonically)

**Debra Davis**, Representative for State Government Employees

### **Also Present:**

**Amy Chung**, Deputy Attorney General

**Alison Keating**, Deputy Attorney General

**Christin Deacon**, Division of Pensions and Benefits

**Andrew Lawson**, Division of Pensions and Benefits

**Nicole Ludwig**, Division of Pensions and Benefits

Chairperson Culliton made a motion to enter into Closed Session to hear the appeals.

Commissioner Davis seconded; all voted in favor. At this time the meeting entered into Closed Session.

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

**OLD BUSINESS- CLOSED SESSION APPEALS:**

**Case # 0113202101:** Acting Secretary Nicole Ludwig provided the timeline of the case. Stating the appeal had been tabled several times, most recently at the November SHBC meeting. The appeal was tabled to allow an independent inspection of the ventilator as well as the residence. The member's attorneys presented the.

Commissioner Davis made a motion go into executive session to seek advice from the Deputy Attorney General. Chairperson Culliton seconded the motion; all voted in favor.

Upon return from Executive Session, Commission Simon made a motion to approve the appeal for 24 hour private duty nursing based on the independent report by the doctors. Commissioner Burge seconded the motion; all voted in favor.

**New Business: Closed Session Appeals**

**Case #0113202102:** Acting Secretary Nicole Ludwig presented the appeal for Over Aged Handicapped (OAH) coverage. The appeal is for coverage the dependent who aged off of the coverage as of January 1, 2020. The Continuance for Dependent with Disabilities form would have needed to be submitted by January 31, 2020. The request for continuance was received on April 7, 2020.

Chairperson Culliton made a motion go into executive session to seek advice from the Deputy Attorney General. Commissioner Davis seconded the motion; all voted in favor.

Upon return from executive session Chairperson Culliton made a motion to deny the appeal based on the rules and regulations that govern the State Health Benefits Program. Specifically N.J.A.C 17:9-3.4. Gail Simon seconded the motion; the motion passed 3:2 (Commissioners Burge and Davis voted nay.) Commissioner Burge stated that the Division needs to review the OAH process.

**Case #0113202103:** Paul Eberle and Kate Miller of OptumRx presented the case. The appeal is for coverage of an excluded medication. Mr. Eberle explained the medication was excluded on January 1, 2020 as an over the counter medication (OTC). Commissioner Simon asked if there was a medical necessity review. Mr. Eberle explained the medication does not qualify for a medical necessity review, as it is an administrative exclusion. He explained these exclusion are found on page 16 of the guidebook and have been excluded as part of the contract implementation.

Chairperson Culliton made a motion to deny the appeal, as the medication is excluded, as outlined in the guidebook. Commissioner Simon seconded the motion: the motion passed 3:2 (Commissioners Burge and Davis voted nay.)

**Case #0113202105:** The member's attorney, Paul Kleinbaum, presented the case, requesting a hearing in the Office of Administrative law. Mr. Kleinbaum stated the spouse was providing coverage prior to the member passing. Chairperson Culliton made a motion to deny the request for a hearing at the Office of Administrative Law. She directed the Secretary, in conjunction with the Attorney General's Office, to draft a detailed Finding of Facts and Conclusions of Law. Commissioner Simon seconded the motion; all voted in favor.

**Case #0113202106:** The member along with DAG Strickler presented the settlement proposal, stating this was an attempt to settle the Private Duty Nursing case. The Family stated they are asking for a settlement which would meet the Commission half way. Chairperson Culliton asked if any additional medical documentation was provided. DAG Strickler confirmed no additional documentation has been provided. Chairperson Culliton made a motion to instruct DAG Strickler to continue the case in the office of administrative law. Commissioner Davis seconded the motion; all voted in favor.

Chairperson Culliton made a motion to enter Open Session. Commissioner Davis seconded the motion; all voted in favor.

#### **The following cases were heard in Open Session**

**Case #0113202104:** Chairperson Culliton made a motion to approve the Final Agency Determination. Commissioner Webster Cobb seconded the motion; all voted in favor.

**Case #0113202107:** Chairperson Culliton made a motion to authorize Equian to settle the matter as presented. Commissioner Burge seconded the motion; all voted in favor.

Chairperson Culliton made a motion to adjourn. Commissioner Simon seconded. All voted in favor and the meeting was adjourned at 12:44 pm.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Nicole Ludwig". The signature is fluid and cursive, with the first name "Nicole" and last name "Ludwig" clearly distinguishable.

Nicole Ludwig  
Acting Secretary  
State Health Benefits Commission