

State Health Benefits Commission
Meeting Minutes
March 26, 2018; 10:00 AM

Adequate notice of this meeting was 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 annual meeting notice was mailed to the Secretary of State, Star Ledger and the Trenton Times on December 20, 2017.

The meeting of the State Health Benefits Commission of New Jersey was called to order on Monday, March 26, 2018 at 10:00 AM. The meeting was held at the Division of Pensions and Benefits, 50 West State Street in Trenton.

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 Palladino took Roll Call and established that a quorum was present.

Roll Call

Commissioners:

Susanne Culliton, Chairperson, representing Acting State Treasurer Elizabeth Maher Muoio
Holly Gaenzle, Representing the Department of Banking and Insurance Acting Commissioner Marlene Caride
Dudley Burdge, Representative for Local Government Employees
Deirdre Webster-Cobb, Acting Chairman/CEO, Civil Service Commission
Debra Davis, Representative for State Government

Also Present:

Danielle Schimmel, Deputy Attorney General
Mark Cipriano, New Jersey Division of Pensions and Benefits
Joseph Palladino, New Jersey Division of Pensions and Benefits
Donna Ruotola, Horizon

Meeting Minutes

Chairperson Culliton made a motion to approve the minutes from the September 13, 2017 and September 28, 2017 meetings. Commissioner Burdge seconded the motion. The motion passed 4:0:1. (Commissioner Webster Cobb abstained).

Ongoing Litigation

Commissioner Davis made a motion to go into Executive Session to discuss ongoing litigation, Commissioner Burdge seconded the motion and all voted in favor.

RFP Contracting Issues

Upon returning to Open Session, Chairperson Culliton made a motion to go into Executive Session to discuss contracting issues. Commissioner Webster-Cobb seconded the motion and all voted in favor.

Englishtown Declaratory Ruling (counsel present)

Englishtown's counsel was present and renewed the request for a declaratory ruling, which had been tabled at the Commission's previous meeting. Counsel requested that the Commission provide guidance on how Chapter 3 is applied to the SHBP.

Chairperson Culliton made a motion stating that Chapter 3 requires that law enforcement officers or firefighters injured in the performance of their duties who are declared incapacitated by their employer's physician and apply for accidental disability from either SPRS, PFRS, or PERS and have sick leave or Workers' Compensation time available will have their employer maintain their health benefits while their retirement application is pending up until their retirement is settled at which point the coverage would cease. During this timeframe, these members are responsible for paying their applicable premium share pursuant to Chapter 78 based on their salary on their chosen retirement date, or an amount agreed upon in a collective bargaining agreement. Notification by the employer that the member no longer qualifies for coverage should be issued through a certification filed by the certifying officer, setting forth the reason the member does not or no longer qualifies for coverage, copies the member, and notifies the member of any appeal rights if he or she disputes the determination. Coverage will terminate on the date that the member no longer qualifies for coverage and at that point the member will be offered COBRA pursuant to the statutes and regulations governing the State Health Benefits Program. Any disputes between member and employer regarding the continued eligibility for coverage must be resolved between the employer and member pursuant to their applicable procedures. If the eligibility for coverage is disputed by the employee, coverage would be retroactively reinstated and the COBRA premiums reimbursed upon either a court order, certification from the employer that the member qualifies with the reason for continued qualification, or a settlement agreement setting forth a reason for the continued qualification and retroactive premiums that are due. Commissioner Burdge seconded the motion and all voted in favor.

Member Appeals

Case #03261801 (NJDPA Appeal) (member representative present) – The member appealed the NJDPB's determination that the member did not qualify for employer paid post-retirement medical benefits with SHBP. Upon retirement the member had 25 years and five months of service credit in the member's pension account. However 11 months of that service credit was out-of-state service credit which was purchased into the member's pension account after the enactment of Chapter 89, P.L. 2008, which states, in part, that purchases of out of state service credit into a member's pension cannot be used for the purpose of qualifying for post-retirement medical benefits. The member was informed multiple times during the process of purchasing service credit that out-of-state purchases of service credit could not be used to qualify for post-retirement medical benefits. Counsel asserted in part that Chapter 89 is unconstitutional.

Chairperson Culliton made a motion to go into Executive Session to seek advice from the Deputy Attorney General. Commissioner Davis seconded the motion and all voted in favor.

Chairperson Culliton made a motion to deny the member's appeal noting that on November 17, 2017 the petitioner canceled all coverage from the State Health Benefits Program by checking off a box saying "I am currently enrolled and wish to cancel all coverage. I understand that I will not be permitted to enroll with the State Health Benefits Program at a later date". She explained that the terms of Chapter 89 were set forth in the letter from the NJDPB. Additionally, the terms of Chapter 89 were set forth in the purchase offering form from the NJDPB, the quote letter on March 19, 2014 and the forms attached to it, a letter of January 14, 2014 acknowledging the purchase request, and a confirmation of purchases on April 21, 2014 that went both to the employer and member, putting the employer on notice that the purchase would not count towards eligibility for State Health Benefits, in addition to a letter of February 27, 2014. She noted that statute which counsel referenced was actually in effect before Chapter 89 and the amendments after Chapter 89's enactment are not relevant to the matter herein. Lastly, Chairperson Culliton stated that the SHBC does not have jurisdiction to consider whether a law is unconstitutional. Commissioner Burdge seconded this motion and all voted in favor.

Case #03261802 (NJDPA Appeal) – The member appealed a denial of the opportunity to enroll in the Aetna Dental Expense Plan (DEP) during open enrollment for plan year 2017. The application the NJDPB received was past the open enrollment deadline and not signed by the employer's certifying officer. The member submitted a letter from the employer in which the employer explained their error regarding submission of the application.

Commissioner Davis made a motion to make the member whole from plan year 2017 in accordance with the provisions of the plan. Commissioner Burdge seconded the motion and all voted in favor.

Case #03261803 (NJDPA Appeal) – The member appealed the NJDPB's denial of the request to change dental plans from the Horizon DPO plan to the Aetna DEP plan. The retiree requested to change plans prior to being enrolled in one plan for 12 months. Commissioner Webster-Cobb made a motion to deny the appeal because the member can change plans at the next open enrollment period. Commissioner Davis seconded the motion. The motion passed 4:0:1 (Commissioner Burdge abstained).

Chairperson Culliton made a motion to go into Closed Session to hear member appeals. Commissioner Davis seconded the motion and all voted in favor.

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

Case #03261804 (Horizon Appeal) (member representative present) OAL Initial Decision – The Commission considered the Initial Decision of the Administrative Law Judge which recommended the reversal of the Commission's determination to deny coverage of the member's claims for mental health and addiction treatment at a residential treatment level. The Commission also considered the exceptions filed by the member along with the member's personal statements and the exceptions filed by Deputy Attorney General and his statements.

Chairperson Culliton made a motion to go into Executive Session to seek advice from the Deputy Attorney General. Commissioner Burdge seconded and all voted in favor.

Commissioner Webster-Cobb made a motion to adopt the ALJ's initial decision to approve the dependent's claims for residential treatment. Commissioner Burdge seconded the motion. The motion passed 4:0:1 (Chairperson Culliton abstained)

Case #03261805 (Horizon Appeal) – The member appealed the required \$75 copay for an emergency room visit. The member went to the emergency room, underwent surgery and stayed at the facility overnight. However, the visit was coded and billed by the hospital as observation, which is considered an outpatient service, not a hospital admission. Ms. Ruotola of Horizon explained that the emergency room copay is only waived if the member is admitted into the hospital and observation is not considered an admission.

Commissioner Burdge made a motion to grant the member's appeal on the finding that it was an admission and that handbook language does not limit the waiver of the emergency room copay to inpatient admissions. Commissioner Davis seconded the motion. The motion failed 2:3 (Commissioners Culliton, Webster-Cobb, and Gaenzer, nay).

Chairperson Culliton made a motion to deny the appeal and suggest an amendment to the handbook to include a definition of admitted as inpatient. Commissioner Gaenzer seconded the motion. The motion passed 3:2. (Commissioners Davis and Burdge nay, with Commissioner Davis agreeing with the handbook amendment and Commissioner Burdge suggesting that amending the handbook is a plan design change). Chairperson Culliton added that amending the handbook was not a plan design change because the amendment is consistent with how the plan has always been administered

Chairperson Culliton made a motion to go back into Open Session.

The following Cases were heard in Open Session:

Case #03261806 (NJDPA Appeal) – The member appealed a denial of the request to enroll in the retired dental program. The member retired effective January 1, 2017 but the application for enrollment was not filed until August 2017, beyond the 60 day period after retirement to enroll in the program.

Commissioner Davis made a motion to deny the appeal. Chairperson Culliton seconded the motion and all voted in favor.

Case #03261807 (NJDPA Appeal) – The member appealed a denial of the request to enroll in the retired dental program. The member declined coverage at retirement and several years later filed an application for coverage. Since there was no valid waiver on file documenting proof of loss of other qualifying dental coverage within 60 days, the NJDPB denied the member's request.

Chairperson Culliton made a motion to deny the appeal. Commissioner Davis seconded the motion and all voted in favor.

Case #03261808 (NJDPA Appeal) – The member appealed a NJDPB denial of the application, filed during open enrollment to change active dental plans from the Horizon DPO to the Aetna DEP. The request was denied because the member did not meet the requirements of the plan to remain in a dental plan for at least 12 months since the member's coverage began during 2017. The member could not change plans until open enrollment for plan year 2019.

Chairperson Culliton made a motion to deny the appeal and Commissioner Gaenzle seconded the motion. The motion failed 2:3 (Nay: Commissioners Burdge, Davis, and Webster-Cobb).

Commissioner Burdge made a motion to waive the 12 month dental plan waiting period and to allow the member to enroll in the new dental plan effective 01/01/2018 because requiring the member to wait approximately one year and three quarters was an exceptional amount of time. Commissioner Davis seconded the motion. The motion passed 3:2 (Commissioners Culliton and Gaenzle nay)

Case #03261809 (NJDPA Appeal) – The member appealed a denial of the request to enroll in the retired dental program. The member retired effective January 1, 2012 and did not enroll in a SHBP dental plan or file a valid waiver due to other coverage. The member then filed an application to enroll in 2017, which the NJDPB denied because there was no valid waiver on file documenting proof of loss of qualifying dental coverage within 60 days.

Commissioner Burdge made a motion to deny the appeal. Commissioner Davis seconded the motion and all voted in favor.

Case #03261810 (NJDPA Appeal) – The member appealed a denial of the request to change active health benefits coverage as a new hire, outside of open enrollment, from the Horizon HD4000 to the NJDirect 15 plan. The member submitted the new enrollment application to switch to NJDirect15 after the 60-day

waiting period. The member asserted that they received misinformation from the employer and thought they were getting the PPO.

Chairperson Culliton made a motion to deny the appeal. Commissioner Webster-Cobb seconded the motion. The motion passed 3:1:1 (Commissioner Davis nay; Commissioner Burdge abstained).

Settlement Proposals

Case #03261811 – Chairperson Culliton made a motion to authorize First Recovery Group to resolve the claim as requested in their memo. Commissioner Davis seconded the motion and all voted in favor.

Case #03261812 – Chairperson Culliton made a motion to authorize Equian to resolve the claim in the amount set forth in their memo. Commissioner Gaenzle seconded the motion and all voted in favor.

Case #03261813 – Chairperson Culliton made a motion to authorize Equian to resolve the claim in the amount requested in their memo. Commissioner Burdge seconded the motion and all voted in favor.

Case #03261814 – Chairperson Culliton made a motion to authorize Equian to resolve the claim in the amount requested in their memo. Commissioner Davis seconded the motion and all voted in favor.

Adjournment

Commissioner Davis made a motion to adjourn the meeting. Chairperson Culliton seconded the motion and all voted in favor.

Respectfully Submitted,



Nicole Ludwig

Acting Secretary, State Health Benefits Commission