

FINAL
MINUTES OF THE OPEN SESSION 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
August 16, 2017

Members participating: Herbert Ames; Mary Beaumont; Gary Cupo; Margaret Koller; Ulysses Lee (Oxford); Brendan Peppard (DOBI); Nicholas Peterson (Horizon); Tom Pownall (Aetna).

Others participating: Ellen DeRosa, Executive Director; Chanell McDevitt, Deputy Executive Director; Rosaria Lenox, Managing Financial Officer; Jeff Posta, Deputy Attorney General.

I. Call to Order

E. DeRosa called the meeting to order at 10:05 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 the July 19, 2017 Meeting

M. Beaumont made a motion, seconded by B. Peppard, to approve the minutes of the open session of the July 19, 2017 meeting. By roll call vote, the motion carried, with M. Koller abstaining.

B. Peppard made a motion, seconded by T. Pownall, to approve the minutes of the executive session of the July 19, 2017 meeting. By roll call vote, the motion carried, with M. Koller abstaining.

IV. Proposed amendments

Proposed amendments implementing P.L. 2017, c. 117; P.L. 2017, c. 176; federal revisions to ACA regulations; and certain variable text

E. DeRosa discussed the draft proposal distributed to the Board members, which amends N.J.A.C. 11:21-7.7A, as well as the SEH forms, primarily to bring the rules and forms into compliance with changes in state and federal laws. She highlighted the following:

- Amendments are proposed to the list and standards for triggering events that result in special enrollment periods in order to comply with changes in the federal rules related to the ACA, notably: a permanent move would create a special enrollment period only if an

employee and/or dependent had minimum essential coverage at least one day during the 60 days preceding the move; and, victims of domestic violence or spousal abandonment would become eligible for a special enrollment period if it is necessary for them to obtain coverage separately from the perpetrator. It was acknowledged that neither federal nor state law specifies the documentation to prove domestic abuse, and that it would be up to the carriers to determine the documentation they would need to initiate a special enrollment period.

- Amendments are proposed throughout the forms to comply with P.L. 2017, c. 117, which establishes standards for performing and providing coverage of telemedicine and telehealth services. E. DeRosa noted that the SEH forms already included language for carriers to use when covering telemedicine services, but used terminology and definitions that differed from the new legislation; thus, “e-visit” and “virtual visit” would be replaced by terms from the legislation. She explained that, because the concept of telemedicine and telehealth addressed by the legislation is broader than what was originally specified in the plans, the proposal includes a new provision for telemedicine and telehealth, rather than limiting reference within the Practitioner Charges paragraph.
- Amendments are proposed to remove gender-specific references in relationship to covered services throughout the plans to assure compliance with P.L. 2017, c. 176 (in this case, the effected services are obstetrical and gynecological). E. DeRosa explained that the new legislation prohibits discrimination in the provision of benefits based on gender identity, but did not require a change in the use of gender terms within the contract; however, it seemed prudent to substitute gender neutral terms to avoid the inference that benefits for some services are limited by gender.

E. DeRosa stated that P.L. 2017, c. 117 (the telemedicine legislation) was effective immediately. It was noted that, although P.L. 2017, c. 176 (the gender identity nondiscrimination legislation) applies to in-force business upon renewal and new business issued on or after November 1, because the ACA already addresses such discrimination issues, carriers should be administering the contracts in a nondiscriminatory manner already. E. DeRosa stated that any other changes in the policy forms (i.e., the triggering events) will be effective for the 2018 plan year.

N. Peterson made a motion, seconded by M. Koller, to file the proposal as presented, subject to nonsubstantive changes necessitated during further review, using the SEH Board’s expedited rulemaking process. Upon roll call vote, the motion carried.

Proposed Amendment to the Employer Application Form

E. DeRosa said she received a request to modify the employer application form to permit carriers to include ancillary benefits they offer (e.g., pediatric dental, adult vision), and thereby reduce the administrative burden for the employer and carrier. She reminded the Board that any change would be accomplished via advisory bulletin, because the employer application form is not set forth in regulation, but rather, its general purpose and contents are described in the rules, and this change to the form is consistent with the existing description.

Several Board members preferred to obtain additional feedback from various constituencies before voting, noting a decision at the September meeting should allow for implementation prior to Open Enrollment, but if not, open enrollment would proceed as usual. An audience member

(Joan Fusco) suggested Open Enrollment should not drive the action because small employers can purchase at any time.¹ She also recommended allowing for more input, because she believes further changes to the form should be considered. It was agreed that feedback regarding changes to the employer application form should be provided to E. DeRosa prior to the September 20th Board meeting.

V. Evidence of Special Enrollment Period Eligibility

E. DeRosa reported that a broker requested her assistance with a group that, upon recertification, is no longer a small employer, with a termination date scheduled prior to the upcoming annual open enrollment period. She stated the group's members are eligible for a special enrollment period, but cannot establish a triggering event because the terminating carrier has not issued a letter specifying the date or reason for the termination. N. Peterson indicated familiarity with the matter, and agreed to ensure the group members are given the necessary evidence of termination.

VI. Public Comment

There was no formal public comment.

VII. Close of Meeting

M. Koller made a motion, seconded by B. Peppard, to adjourn the meeting. By roll call vote, the motion carried.

[The meeting adjourned at 11:05 A.M.]

¹ The open enrollment period may be important for small employers because the participation and contribution requirements are waived for applications submitted then.