

**FINAL**  
**MINUTES OF THE MEETING OF THE**  
**NEW JERSEY SMALL EMPLOYER HEALTH BENEFITS PROGRAM BOARD**  
**HELD TELEPHONICALLY PURSUANT TO EXECUTIVE ORDER 103 (MURPHY)**  
**August 19, 2020**

**Members participating:** Herb Ames; Natalie Bernardi (Cigna); Chrissy Buteus; Gary Cupo; Philip Gennace (DOBI); Laura Gunn; Margaret Koller; Taylor Kopelan (Horizon); Rich Loconte (Oscar); Robert Morrow (Oxford); Thomas Pownall (Aetna); 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 (subsequently extended by Executive Orders 119, 138, 151, 162, and 171, the last being issued on August 1, 2020) 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 July 15, 2020**

**M. Koller made a motion, seconded by H. Ames, to approve the minutes of the meeting of July 15, 2020, without amendment. By roll call vote, the motion carried.**

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

R. Lenox presented the August expense report, totaling \$1,800.00 for actual FY20Q4 costs from the Division of Law. She recommended a transfer of \$1,800.00 from the Board’s Money Market account to its Checking account to pay the expense.

**T. Pownall made a motion, seconded by M. Koller, to pay the expense on the August expense report, and to transfer \$1,800 from the SEH Board’s Wells Fargo Money Market account to**

**the Board's Wells Fargo Checking account to cover the current operating expenses. By roll call vote, the motion carried.**

## **V. Alternative Small Employer Coverage Options**

T. Taliaferro stated that Board members had received an email on August 11, 2020, from E. DeRosa setting forth the data she had received from her efforts to obtain enrollment information from carriers regarding coverage of small group lives in other-than SEH Act plans (that is, alternative coverage options). He noted that the total numbers provided thus far equal about 155,000 lives covered under self-funded MEWAs, level-funded plans, and through Professional Employer Organizations (PEOs), but indicated he considered the total to be somewhat dubious. Other Board members agreed that the number, at about 50% of the most current SEH enrollment, seemed low, particularly given the decrease in enrollment in the SEH market.

E. DeRosa explained that she believed the self-funded MEWA numbers are relatively accurate based on the universe of known entities, but noted that the data regarding level-funded coverage and PEO-based coverage is limited to reporting by carriers on the SEH Board, and that she believed there are some additional carriers offering such forms of coverage from whom she did not have data. G. Cupo offered to identify some other entities that offer level funded plans and PEOs.

There was discussion as to whether the SEH Board should establish an ad hoc committee to look at how the market has been shifting, as well as why it is doing so. T. Taliaferro noted that, while there is value in choice, it is possible the current choices available to small employers threaten the viability of the regulated small employer insurance market.

G. Cupo pointed out that the trends New Jersey is seeing are not limited to New Jersey, but appear to be nationwide. He shared some perspectives from a recent National Association of Health Underwriter's (NAHU) conference regarding access and affordability. M. Koller indicated her belief that additional data and study are appropriate, and N. Bernardi suggested additional enrollment information should be pursued. However, the Board did not form an ad hoc committee at this meeting.

## **VI. Other Business – DOBI Bulletin 20-12**

T. Kopelan asked about the application of DOBI Bulletin 20-12<sup>1</sup> with respect to small employers seeking to switch to new coverage while having furloughed employees under the current plan as a result of the public health emergency. P. Gennace indicated that the DOBI has received a substantially similar question from elsewhere, and is working on a response.

E. DeRosa noted that she had received a question regarding employee counts and determination of the applicability of various federal requirements, such as COBRA and Medicare Secondary Payor provisions, in light of the furloughed and laid-off status of some employees, and asked if any Board members had received a similar inquiry. There was no indication that any Board members were aware of the question being asked at their companies.

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<sup>1</sup> NB: [https://www.state.nj.us/dobi/bulletins/blt20\\_12.pdf](https://www.state.nj.us/dobi/bulletins/blt20_12.pdf). Bulletin 20-12 was issued April 10, 2020, and provides guidance on how carriers should handle small employer business during the public health emergency regarding several different issues, including renewals, waiting periods, determination of actively-at-work and full-time requirements, and application of extended grace periods.

## **VII. Public Comments**

Joan Fusco stated that, with respect to the Medicare Secondary Payor issue, it was not likely that the status of many employers that existed prior to the pandemic (as primary or secondary payors to Medicare) would have changed because the employee count is based on a 20-week period (from the prior calendar year when possible), and furloughed employees were still included in the count.

## **VIII. Close of Meeting**

**H. Ames made a motion, seconded by M. Koller, to close the meeting. By roll call vote, the motion carried.**

*[The meeting adjourned at 10:45 A.M.]*

Public known to be in attendance:

- Joan Fusco
- Suzanne Fitzgerald, Savoy Associates