

**FINAL**  
**MINUTES OF THE MEETING OF THE**  
**NEW JERSEY SMALL EMPLOYER HEALTH BENEFITS PROGRAM BOARD**  
**HELD TELEPHONICALLY PURSUANT TO EXECUTIVE ORDER 103 (MURPHY)**  
**October 21, 2020**

**Members participating:** Herb Ames; Robert Benkert (United); Natalie Bernardi (Cigna); Gary Cupo; Philip Gennace (DOBI); Laura Gunn; Margaret Koller; Taylor Kopelan (Horizon); Rich Loconte (Oscar); 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, as subsequently extended,<sup>1</sup> 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 September 16, 2020**

**R. Loconte made a motion, seconded by L. Gunn, to approve the minutes of the meeting of September 16, 2020, without amendment. By roll call vote, the motion carried.**

**IV. DOBI Bulletin 20-35 –Pregnancy Triggering Event/Special Enrollment Period**

E. DeRosa explained that the DOBI issued Bulletin 20-35 on October 9, 2020, setting forth a new triggering event that would allow a special enrollment period (SEP) for plans offered on individual State-based Exchange, as well Small Business Health Options Program (SHOP) offerings for small employers. She further explained that the Bulletin specifies that a confirmed pregnancy is a triggering event that establishes a special enrollment period of 60 days, with an effective date (at

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<sup>1</sup> Executive Order 103 (Murphy) has been continuously extended multiple times since originally issued, the most recent extension occurring on September 25, 2020 pursuant to Executive Order 186 (Murphy).

the option of the enrollee/employee) of either the first of the month in which the confirmation occurred, or the first of the month immediately following selection of a plan. She noted that the triggering event provides the opportunity to enroll dependents too.

E. DeRosa stated that the proposed amendments to the SEH policy forms previously approved by the Board had not yet been released to the Office of Administrative Law for publication, so the Board could take action on the outstanding proposal to further amend the policy forms, and add language addressing the triggering event set forth in Bulletin 20-35. She explained that, because dependent children have no independent right of election under employer plans (and have no dependents who are eligible to make an election), the SEP would only be triggered by a confirmed pregnancy of an employee or the employee's spouse, not by a pregnancy of a dependent child of an employee. She also noted that, when an SEP arises due to a pregnancy of an employee or the employee's spouse, the employee will have the opportunity to add dependent children if not already covered under the employer plan, but that, if a dependent child is confirmed pregnant, the pregnancy creates a SEP for that child in the individual Exchange, and also may make the dependent eligible under the NJ FamilyCare program for pregnant women.

In referencing the draft amendment of the relevant policy form language distributed to the Board prior to the meeting, E. DeRosa pointed out that, although Bulletin 20-35 refers to confirmation of the pregnancy by a health care provider, the draft amendment establishes that the pregnancy confirmation must be by a practitioner, because the SEH standard plans define and use the term practitioner, rather than health care provider. She also noted that the draft language is variable text, with instructions that the variable text must be used for plans offered in the SHOP, but that the Board could consider whether it wanted to include the triggering event and SEP for all SEH standard plans, in which event, the variable text brackets and instructions would be revised/removed if the Board applies the triggering event market-wide.

In the discussion that followed, E. DeRosa explained that, as of today, when an employee or the employee's spouse has waived coverage under an employer plan, and then becomes pregnant, the pregnant person may apply to NJ FamilyCare, which specifically covers pregnant women, subject to upper income limits,<sup>2</sup> or the person may obtain pre-natal and post-natal services through Federally-qualified Health Centers, which have no income limits (but charge for services on a sliding income scale).

P. Gennace stated that the DOBI is primarily focused on having the triggering event and SEP for SHOP, and that the DOBI is suggesting action be taken to amend the policy forms for purposes of the SHOP now. He acknowledged that carriers may prefer to have discussions within their companies whether to extend the triggering event and SEP to the SEH market-wide before taking a vote on the broader issue.

**G. Cupo made a motion, seconded by T. Taliaferro, to adopt amendments to the SEH standard plans to include language setting forth a triggering event and SEP for pregnancy**

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<sup>2</sup> NB: For pregnant women, coverage may be available through NJFamilyCare (up to 205% of the FPL); the Medically Needy program for those with somewhat higher income who meet spend-down options; and the Emergency Payment Program for Aliens, which is limited to labor-and-delivery services for aliens not otherwise eligible for NJ FamilyCare.

**that is consistent with the DOBI Bulletin 20-35, limited to SHOP-offered plans. By roll call vote, the motion carried unanimously.**

#### **V. Amendments to the Employer Enrollment Form**

T. Kopelan explained that Horizon would like to propose an amendment to the existing employer group application<sup>3</sup> to allow an option for employers to choose electronic billing. E. DeRosa explained that the current form includes an option for employers to choose electronic contact for notices and similar information, but not electronic billing. After some discussion, T. Kopelan clarified that his company was primarily interested in an option to invoice electronically, rather than setting up automatic debits.

E. DeRosa reminded Board members that, as far as the process for changes to this form, the change will be released by bulletin, because the application form is no longer set forth in the appendix to the rules, but rather, is described in the rules, then specified online. It was noted that this change would be in variable text, and carriers could choose whether to offer electronic invoicing as an option.

The Board agreed that carriers should be allowed to begin using the new option as soon as a company is able to do so.

#### **VI. 2021 Meeting Schedule**

E. DeRosa reminded Board members that she previously suggested meetings for the Board for calendar year 2021, and had not heard anything negative about any dates from anyone yet. She stated that staff intends to provide public notice of the 2021 regularly scheduled meetings shortly.

#### **VII. Public Comments**

There was no public comment.

#### **VIII. Close of Meeting**

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

*[The meeting adjourned at 10:40 A.M.]*

Public known to be in attendance:

- Suzanne Fitzgerald, Savoy Associates
- Joan Fusco

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<sup>3</sup> NB: The Small Employer Group Application form is described at N.J.A.C. 11:21-6.1(c), and is available on the SEH webpage at [https://www.state.nj.us/dobi/division\\_insurance/ihcseh/bulletins/seh17\\_03\\_GroupApp2018.pdf](https://www.state.nj.us/dobi/division_insurance/ihcseh/bulletins/seh17_03_GroupApp2018.pdf).