FINAL
MINUTES OF THE MEETING OF THE
NEW JERSEY INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD
AT THE OFFICES OF THE
NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE
TRENTON, NEW JERSEY
June 13, 2017

Directors participating: Mary Beaumont; Don Henson (DOBI); Sandi Kelly (Horizon); Ulysses Lee (United/Oxford); Ryan Petrizzi (AmeriHealth); Colleen Picklo; Tom Pownall (Aetna).

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

I. Call to Order

E. DeRosa called the meeting of the IHC Board to order at 10:00 A.M. She announced that notice of the meeting had been posted at the Department of Banking and Insurance ("DOBI"), on the DOBI website, at the Office of the Secretary of State, submitted to the State House Press Corps, and published in three newspapers of general circulation in accordance with the Open Public Meetings Act. A quorum was present. She stated that voting would be by roll call because some directors were participating by phone.

II. Review of Minutes – *May 9, 2017*

T. Pownall made a motion, seconded by S. Kelly, to approve the minutes of the meeting of May 9, 2017, as amended. By roll call vote, the motion carried.

III. Report of Staff – *Expense Report; Good Faith Marketing*

Expense Report

R. Lenox presented the expense report for June, totaling $8,888.02, primarily related to expenses for salaries and services of the Division of Law. R. Lenox explained that the Board would need to transfer $8,900 from its Money Market account to pay the operating expenses if approved.

M. Beaumont made a motion, seconded by C. Picklo, to approve payment of the expenses reported, and the transfer of $8,900 from the Board's Wells Fargo Money Market account to its Wells Fargo checking account to pay the operating expenses. By roll call vote, the motion carried.

Good Faith Marketing

C. McDevitt discussed the good faith marketing report presented to board members. She noted that the good faith marketing requirement only applies to carriers offering small employer plans and not to carriers only offering individual health benefits plans. She explained that this means that even though Oscar Health Insurance offered individual plans in 2016, it was not required to submit a good faith marketing report. E. DeRosa noted that, although Freelancers was operational in 2016, and offered both individual and small employer plans, because it is in

liquidation, staff did not pursue it for a good faith marketing report. C. McDevitt stated that virtually all of the other carriers submitted their reports timely (AmeriHealth was one day overdue on its report), and all provided adequate information to determine that all had met the minimum regulatory requirements for good faith marketing. She recommended finding all of the reporting carriers to be in compliance with the regulations at N.J.A.C. 11:20-24.6, and N.J.S.A. 17B:27A-4.

S. Kelly made a motion, seconded by U. Lee, to find Cigna Healthcare of New Jersey to have met the minimum requirements of N.J.A.C. 11:20-24.6 for good faith marketing of individual health benefits plans in CY2016. By roll call vote, the motion carried.

T. Pownall recused himself from discussion and any action taken by the Board with respect to Aetna Life Insurance Company, because of the potential for conflict of interest and/or the appearance of impropriety due to his employer's interest in the action.

S. Kelly made a motion, seconded by M. Beaumont, to find Aetna to have met the minimum requirements of N.J.A.C. 11:20-24.6 for good faith marketing of individual health benefits plans in CY2016. By roll call vote, the motion carried.

R. Petrizzi recused himself from discussion and any action taken by the Board with respect to AmeriHealth Health Insurance Company and AmeriHealth HMO, because of the potential for conflict of interest and/or the appearance of impropriety due to his employer's interest in the action.

S. Kelly made a motion, seconded by C. Picklo, to find AmeriHealth to have met the minimum requirements of N.J.A.C. 11:20-24.6 for good faith marketing of individual health benefits plans in CY2016. By roll call vote, the motion carried.

S. Kelly recused herself from discussion and any action taken by the Board with respect to Horizon Healthcare Services, Inc., and Horizon Healthcare of New Jersey, Inc. because of the potential for conflict of interest and/or the appearance of impropriety due to her employer's interest in the action.

C. Picklo made a motion, seconded by U. Lee, to find Horizon to have met the minimum requirements of N.J.A.C. 11:20-24.6 for good faith marketing of individual health benefits plans in CY2016. By roll call vote, the motion carried.

U. Lee recused himself from discussion and any action taken by the Board with respect to Oxford Health Insurance because of the potential for conflict of interest and/or the appearance of impropriety due to his employer's interest in the action.

S. Kelly made a motion, seconded by M. Beaumont, to find Oxford to have met the minimum requirements of N.J.A.C. 11:20-24.6 for good faith marketing of individual health benefits plans in CY2016. By roll call vote, the motion carried.

IV. Combined Report of the Operations and Audit Committee (OAC) and the Technical Advisory Committee (TAC) -- *Budget for FY2018 & 2019; Administrative Assessment*

Budget
R. Lenox discussed the budget and the administrative assessment that would need to be made for the two fiscal years to support the budget. She explained that the budget is based on actual expenses for FY2016 and both actual and forecasted expenses for FY2017, which is nearly complete. She noted that the budget includes an increase in audit expenses based on recent experience, but a decrease in legal expenses. She explained that while the administrative support position is currently vacant, the salary for an anticipated new hire is included in the budget. R. Lenox further explained that fringe is being budgeted conservatively at 60%. She stated that the budget total for the two fiscal years is $658,200.

Administrative Assessment
R. Lenox explained that the interim assessment is based on the net earned premium reported in the 2015/2016 Exhibits K. She noted that Freelancer's (Health Republic's) assessment share was re-allocated among other carriers due to Freelancer's liquidation. E. DeRosa stated that a claim for the amount will be filed, and that if payment was made by the company's estate, the amount would be allocated among carriers proportionate to the obligation they assumed on behalf of Freelancers. R. Lenox also noted that amounts owed by carriers of $5 or less were allocated among other carriers.

R. Lenox stated that carriers should be invoiced soon, given that July 1 starts the 2018 fiscal year.

C. Picklo made a motion, seconded by D. Henson, to approve the budget for fiscal years ending June 30, 2018 and 2019, to approve the assessment as presented for funding of the budgets, and to invoice carriers in accordance with the assessment presented. By roll call vote, the motion carried.

OAC Representation
E. DeRosa stated that Aetna's OAC representative has resigned from Aetna, and that Aetna indicated it would not name a replacement to serve on the committee. C. Picklo expressed an interest in serving on the OAC and noted that she has budget experience in her capacity at the New Jersey Hospital Association.

M. Beaumont made a motion, seconded by R. Petrizzi, to name C. Picklo to serve on the Operations and Audit Committee. By roll call vote, the motion carried.

V. Report of the Legal Committee -- *Federal Market Stabilization Rules*
E. DeRosa reminded Board members that the Legal Committee had been asked to consider whether certain of the federal market stabilization rules could be applied in the New Jersey individual market.

Guaranteed Availability and "Riding the Grace period"
E. DeRosa noted that the Federal Notice of Adoption states that CMS now interprets guaranteed availability to mean that carriers may refuse to issue a new policy to an applicant whose prior

policy lapsed due to non-payment of premium unless the applicant pays the past-due premium for the lapsed policy, subject to State law. She explained that the Legal Committee concluded that New Jersey's guaranteed issue requirements would not permit carriers to condition issuance of a policy upon satisfaction of a past debt. She explained that since premium collection is a carrier function both inside and outside the Marketplace, this rule could not be used as a basis to refuse to issue an individual policy in New Jersey.

Guaranteed Availability and Special Enrollment Periods for adding Dependents
E. DeRosa explained that another of the market stabilization rules would restrict plan selections using metal level standards during special enrollment periods She reported that the Legal Committee concluded that the New Jersey guaranteed issue law does not support any limitations on plan selection to otherwise eligible persons based on the timing or reason for enrollment in the individual market.

E. DeRosa noted that with Marketplace enrollment, carriers receive an electronic transmission from the Marketplace/CMS directing them to enroll a person, without necessarily having any knowledge whether or how the people were previously covered or whether they might have wanted a different plan but were not given the option to select another plan. While liming access to plans is more restrictive than permitted by New Jersey law, the Marketplace controls the enrollment process and it appears there is nothing New Jersey can do to remove that limitation within the Marketplace.

VI. Federal Market Stabilization Rules -- *Open Enrollment Period*
E. DeRosa stated that Board members were asked to consider whether the Board should use the same period of time for its open enrollment period off-Marketplace as specified for Marketplace enrollments (November 1 through December 15), or permit the off-Marketplace open enrollment period to run through December 31. All of the carrier Board members stated the preference to have the same open enrollment period off-Marketplace as that established by CMS on-Marketplace to avoid the potential for adverse selection.

The non-carrier Board members raised concerns regarding renewal notices and general consumer information regarding the shortened open enrollment period. E. DeRosa explained that CMS provides carriers with templates for most notices and in the past the notices have prominently stated dates for action. E. DeRosa said that, in the past, CMS has advertised the open enrollment period as have consumer advocacy groups, and assumed that would be true this year as well. There was brief discussion of other education/advertising options by independent entities.

VII. Close of meeting
C. Picklo made a motion, seconded by M. Beaumont, to adjourn the meeting. By roll call vote, the motion carried.

[The meeting ended at 10:55 A.M.]