

FINAL
MINUTES OF THE OPEN SESSION OF THE MEETING OF THE
NEW JERSEY INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD
HELD TELEPHONICALLY PURSUANT TO EXECUTIVE ORDER 103 (MURPHY)
April 29, 2021

Directors participating: Joseph Camargo; Philip Gennace (DOBI); Sandi Kelly (Horizon); Robert Morrow (United); Colleen Picklo; Thomas Pownall (Aetna), Tony Taliaferro (AmeriHealth).

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 11:00 A.M. E. DeRosa noted that, pursuant to P.L. 2020, c. 2, as a result of the public health state of emergency declared by Governor Murphy on March 9, 2020 through Executive Order 103, subsequently extended,¹ due to the COVID-19 pandemic, this meeting is being held telephonically, and not at the Board's offices in Trenton. She stated that, in accordance with P.L. 2020 c. 11, electronic notice of 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.

E. DeRosa determined a quorum was present. She stated that voting would be by roll call.

Members of the public were asked to identify themselves; public attendees, if any, are identified at the end of these minutes.

II. Adoption of Rule Proposal

S. Kelly noted that the meeting has been called solely to discuss whether to take action to adopt the proposal of amendments to the standard health benefits plans, the comment period for which closed on April 7, 2021. She asked E. DeRosa to recap the situation.

E. DeRosa reminded the Board that it had proposed to amend its policy forms to make a number of changes. She stated that the comment period for the proposal ended with two written comments received, and the Board had elected to continue to discuss the comment received regarding the contraceptive mandate set forth by P.L. 2019, c. 361. She explained that the same comment regarding contraceptives was presented to the Small Employer Health Benefits (SEH) Program as well.

E. DeRosa stated that the SEH Board had the benefit of more time than the IHC Board had with respect to review of the question (because the time period between the end of the comment period and its meeting was longer for the SEH Board than for the IHC Board), and was considering whether carriers could choose to always cover the requested contraceptives without substitution of a therapeutic, which would avoid the complication of covering some contraceptives under the Contraceptives Provision of the policies, while covering others under the Prescription Drug

¹ Executive Order 103 (Murphy) has been continuously extended multiple times since originally issued, the most recent extension occurring on April 15, 2021, pursuant to Executive Order 235 (Murphy).

Provision of the policies. She explained that she had drafted language showing variable text, so that carriers could elect how to cover the contraceptives, based on the suggestion from the SEH Board, but noted that the SEH Board did not state that allowing carriers the choice was the solution to the issues raised by the comment, and that the SEH Board, like the IHC Board, had elected to postpone taking action on the adoption during its regularly scheduled April meeting.

E. DeRosa further explained that if a carrier prefers to use the therapeutic equivalent substitution permitted by P.L. 2019, c. 361, the carrier would use the draft variable text. She noted that the draft of the Notice of Adoption had not yet been revised to explain this carrier option.

The question arose whether this change was one that could be made upon adoption, and E. Heck requested that the Board move into Executive Session.

T. Pownall made a motion, seconded by S. Kelly, to move the meeting into Executive Session for the purpose of obtaining legal advice from counsel, after which the Board would return to Open Session, during which it may take other action, including possibly approval of adoption of the proposal with changes as drafted. By roll call vote, the motion carried.

III. Executive Session

[The Board closed the Open Session to move into Executive Session at 11:18 A.M. R. Axelrod was told he could stay on the public line, but if he was disconnected, the Board would reach out to him when it returned to Open Session.]

[The Board returned to Open Session from Executive Session at 11:35 A.M. R. Axelrod also rejoined the Open Public Meeting.]

IV. Adoption of Rule Proposal, continued

S. Kelly stated that the Board discussed the rule adoption in Executive Session, and received advice from counsel. She noted that the consensus of the Board was not to take action on the draft adoption, but to wait until its next regularly scheduled meeting on May 11, subject to possible additional advice from E. Heck.

V. Close of Meeting

J. Camargo made a motion, seconded by R. Morrow, to adjourn the meeting. By roll call vote, the motion carried.

[The meeting ended at 11:40 A.M.]

Identified Public Attendees:

Robert Axelrod, Oscar Garden State Health Insurance²

² Oscar Garden State Health Insurance is a Director on the Small Employer Health Benefits (SEH) Program Board (Robert Axelrod is its designated representative), as are AmeriHealth, Aetna, Horizon, and United, directly, or via an affiliate. However, because there are currently 12 seats filled on the SEH Board, Mr. Axelrod's presence did not create a quorum of the SEH Board.