

**MINUTES OF THE SPECIAL MEETING OF THE
NEW JERSEY INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD
HELD TELEPHONICALLY PURSUANT TO EXECUTIVE ORDER 103 (MURPHY)
December 29, 2022**

Directors participating: Sandi Kelly (Horizon); Robert Morrow (Oxford); Colleen Picklo; Thomas Pownall (Aetna); Gale Simon (DOBI); Adam Young (AmeriHealth).

Others participating: Ellen DeRosa, Executive Director; Chanell McDevitt, Deputy Executive Director; Eleanor Heck, Deputy Attorney General.

I. Call to Order

E. DeRosa called the special 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, and distributed to the Board’s interested parties list.

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, the IHC Board’s regularly scheduled meeting was 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 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.

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. Purpose of the Meeting

E. DeRosa clarified that the purpose of this meeting is for the Board to consider the comments received to its proposal, agency-initiated changes, and whether to take any action with respect to the proposal. She noted that the Board also has an expense report to consider.

III. Expense Report

E. DeRosa presented December expenses that were received after the December 13, 2022 Board meeting, totaling \$12,189.21, including charges for newspaper legal notices regarding the Board’s meeting schedule for CY2023, and staff salaries owed to the SEH Program. She indicated the Board could authorize an intra-agency transfer of funds from the IHC Board’s account with DOBI to the SEH Board’s account with DOBI to pay for shared staff salaries, but that the Board would need to authorize a transfer of \$164.00 from the Board’s Money Market Account to its Checking Account to pay the remaining expenses.

T. Pownall made a motion, seconded by S. Kelly, to approve: payment of the additional December expenses; the transfer of \$12,024.32 from the IHC Board’s DOBI funds to the

¹ Executive Order 103 (Murphy) has been continuously extended multiple times since originally issued, the most recent extension occurring on February 17, 2021, pursuant to Executive Order 222 (Murphy).

SEH Board's DOBI funds to pay for shared expenses; and, the transfer of \$164.00 from the IHC Board's Wells Fargo Money Market Account to the Board's Wells Fargo Checking Account to pay the remaining December expenses. By roll call vote, the motion unanimously carried.

IV. Policy Forms

E. DeRosa reported a public hearing was held via Microsoft Teams on December 15 at 10:00 A.M. regarding the Board's proposed amendments to the standard plan policy forms, and had one commenter in attendance. She stated that the commenter submitted written testimony as well, which had been incorporated into the written comments received. She noted the comment period closed at the end-of-business on December 23, 2022. E. DeRosa reported that the Board received written statements from hundreds of different commenters, noting that all of the comments were solely related to coverage of abortion. She stated the comments broke down into two basic categories – those in support of and those opposed to the Board's proposal to specify coverage of abortion services and remove the variable text under the Exclusion section that allowed carriers to exclude coverage of abortions except those for pregnancies resulting from rape or incest, or which pose a threat to the life of the mother.

She indicated the comments and responses could be summarized substantially as follows:

- Those opposing the amendment requiring the coverage of abortion stated varying arguments, with some indicating abortion is not healthcare, that abortion is murder and violates the conscience of many New Jersey residents, that individuals should have a choice whether to buy policies with the coverage, some suggesting it would raise premiums, and others concerned the action was being fast-tracked. The drafted responses are essentially that the Board's proposal was consistent with the legislation enacted in January of 2022 and the Department's recently issued report. With respect to cost, the Department's report includes a determination that there will be only a *de minimis* increase in premium related to coverage of abortion services.
- Those supporting the amendment requiring the coverage of abortion stated varying reasons, including that access to abortion services should be a right, that it improves transparency and health outcomes, and breaks down health care barriers, with most approving of the change being effective in PY2023, but with some expressing a desire to have coverage of such services without application of cost-sharing. The drafted responses acknowledged the commenters' support, and note that the legislation enacted in January 2022 did not indicate that there should be no cost-sharing with respect to abortion services.

E. DeRosa discussed proposed non-substantial agency-initiated changes, most of which she noted had been discussed at the December 13, 2022 meeting, including:

- Additional language changes to clarify Responsible Person and Children Coverage, and the definition of Responsible Person regarding *dependent* children, as well as a revision to Newborn Children to specify that premium may be required in some instances for a newborn under a Responsible Person and Children Coverage policy issue.
- The removal of rider references in the definition of Special Enrollment Period.
- The optional coverage for gene-based, cellular and other innovative therapies would be revised to expand the variability of certain existing options.

- Further clarifications of the effect of Medicare eligibility on individual coverage.

Additionally, E. DeRosa noted that the Board needed to make revisions upon adoption to bring the policy forms into compliance with P.L. 2021, c. 376, which essentially revises the coverage of contraceptives to provide for a 12-month prescription, rather than a 6-month prescription.

G. Simon made a motion, seconded by C. Picklo, to adopt the proposed amendments to the policy forms, as well as the drafted agency-initiated changes made upon adoption as discussed. By roll call vote, the motion unanimously carried.

E. DeRosa stated the Board needs to consider whether to include an operative date by which carriers must be issuing complying policy language. She noted, if the Board is amenable, that this could occur through issuance of new forms or Compliance & Variability riders to amend previously issued policy forms for 2023. After some discussion, the Board agreed that carriers must either send out complying forms or riders no later than April 1, 2023. E. DeRosa noted that carriers would need to administer the policies consistent with the adopted policy forms as of January 1, 2023.

V. Close of Meeting

S. Kelly made a motion, seconded by C. Picklo, to adjourn the meeting. By roll call vote, the motion unanimously carried.

[The meeting ended at 10:25 A.M.]

Identified Public Attendees:

- Robert Axelrod, Oscar Garden State Health Ins. Corp.²
- Marie Tasy, New Jersey Right to Life
- Kaitlyn Wojtowicz, Planned Parenthood Action Fund NJ
- Elijah Park, WellCare Insurance
- Hunter Smith, WellCare Insurance
- Asfar Shamsi, WellCare Insurance

² Oscar is a member of the Small Employer Health Benefits Program Board of Directors, as are several of the Directors on the IHC Board; however, there was not a quorum of the SEH Board present, and all discussions and actions at the meeting concerned the specific public business of the IHC Board.