CALIFORNIA HEALTH BENEFIT EXCHANGE BOARD MINUTES
Tuesday, March 14, 2017
Covered California Tahoe Auditorium
1601 Exposition Blvd.
Sacramento, CA 95815

Agenda Item I: Call to Order, Roll Call, and Welcome

Chairwoman Dooley called the meeting to order at 10:00 am.

Board members present during roll call:
Diana S. Dooley, Chair
Genoveva Islas
Marty Morgenstern
Art Torres
Paul Fearer

Agenda Item II: Closed Session

Discussion: Announcement of Closed Session Actions
The Board convened to discuss personnel and contracting matters. A conflict disclosure was performed and there were no conflicts from the board members that needed to be disclosed.

Chairwoman Dooley called Open Session to order at 12:00 pm.

Agenda Item III: Approval of Board Meeting Minutes (Action)

After asking if there were any changes to be made, Chairwoman Dooley asked for a motion to approve January 26, 2017 meeting minutes.

Presentation: January 26, 2017 Meeting Minutes

Discussion: None.

Motion/Action: Board Member Torres moved to approve the January 27, 2017, minutes. Board Member Islas seconded the motion.

Public Comment: None

Vote: Roll was called and the motion was approved by a unanimous vote.

Agenda Item IV: Executive Director's Report

Announcement of Closed Session Actions (Discussion)

Mr. Lee reported personnel updates and contracting matters discussed in closed session. Personnel updates included the appointment of James DeBenedetti as Director of the Plan

Management Division. Contracting matters the board took up included approval of an update to the Covered California Contracting Manual, acceptance of the Quarterly Contract Report for the last quarter of 2016, approval of an amendment with Public Consulting Group, approval of an amendment with "Get Insured," and approval to renew the Oracle Customer Relationship Management software license.

Executive Director's Update (Discussion)

Updated Board Meeting Calendar

Mr. Lee presented an updated 2017 Board meeting schedule and announced that there would be no April 2017 meeting.

Summary of 2017 Open Enrollment

Mr. Lee reported 412,000 new enrollments to date and nearly 1.3 million renewals. Some of Covered California's open enrollment accomplishments included producing advertisements that generated nearly 2 billion impressions; answering nearly 1 billion calls from consumers at the service center; engaging in more than 200 interviews; holding more than 2,700 open enrollment events; responding to more than 30,000 social media posts; creating a new Help On-Demand referral program; growing the storefront program to more than 800 storefronts; and, updating patient-centered benefit designs. Mr. Lee referred the Board to a three-page summary on the Covered California website that highlights additional accomplishments.

Marketing and Member Communication Update

Mr. Lee provided an update on the special enrollment advertising campaign. He shared digital banner advertisements and encouraged all to listen to the radio advertisements included in in the Board presentation. Additionally, he noted that Covered California is engaged in continuous outreach with consumers about 1095's, payment reminders and special enrollment prospecting.

Federal Update

Mr. Lee provided an update on proposed Market Stabilization Regulations by the Department of Health and Human Services (HHS). He noted that Covered California submitted comments on the regulations and he thanked stakeholders for their engagement and input. He reported that the regulations proposed shortening the open enrollment period to 45 days starting in plan year 2018, changing the special enrollment process, and changing the actuarial value for the metal tiers. In response to the shortened open enrollment period, Mr. Lee noted that Covered California requested state flexibility or at least let California keep an extended open enrollment period for plan year 2018. In response to the proposed changes to special enrollment, Mr. Lee reported that Covered California notified HHS of existing SEP pre-enrollment verification efforts on leveraging electronic processes. In response to changes to the actuarial value ranges for metal tiers, Mr. Lee noted that in California this is not relevant due to its patient-centered designs. However, Covered California responded on the dangers of having broad actuarial value ranges and included information on what a Bronze product would look like.

Mr. Lee then presented key elements of the proposed American Health Care Act (AHCA) that the House of Representatives is considering. He provided a timeline on the bill and noted it is targeted to go to the Senate in April. Mr. Lee noted that the elements proposed to be repealed include means-tested APTC, cost sharing reduction subsidies, individual and employer penalty, Actuarial Value and metal tier standards, and taxes/pay-for provisions. Mr. Lee added that the AHCA does not address preexisting condition protections, guaranteed availability, coverage of adult children up to age 26, out of pocket expenditure caps, prohibition of health status underwriting and the prohibition on lifetime and annual limits. Mr. Lee emphasized that the AHCA is the first of three steps to reshape the health care landscape.

Additional items that would affect Californians and rates include the replacement of the individual and employer penalty, the new tax credit system and other elements such as the expansion of HSA's, the new federal fund acting as a vehicle for high risk pools and significant changes to Medicaid. Consumers would not be penalized under this bill, but a premium surcharge of up to 30% would be applied for not maintaining continuous coverage. In terms of the new tax credit system, tax credits will be fixed, age based and capped per family (they will not vary on income or geography). Tax credits are advanceable and refundable, similar to APTC and they will phase out after $75,000.

Mr. Lee highlighted that the Congressional Budget Office (CBO) issued its findings indicating that the uninsured would increase in the first year by 14 million nationally and 24 million by 2026. Covered California will be conducting an additional analysis to see what that means for California. The CBO also found that subsidies would be reduced substantially, by nearly 60%. It will also reduce the federal deficit by $337 billion over the next 10 years and premiums would increase significantly up to 25% in the first two years. Over the next 8 years, premium increases would be moderated.

Mr. Lee pointed to the Kaiser Family Foundation's interactive tool that looks at the impacts of tax credits and the replacement proposals with an interactive map. He also noted that Covered California released its own reports to inform board, policy makers and the national debate. He shared that the first report highlights what has been done to bring health care within reach to Californians by showing the impacts of Advanced Premium Tax Credits (APTC) and Cost Sharing Reductions (CSRs) by geography and demographics. He added that the full report is available on the website at www.hbex.coveredca.com/data-research. Mr. Lee noted that the average tax credit is $3,500 per individual and $5,300 per household, totaling $4.2 billion to Californians in 2016. Additionally, for consumers, the average value of the cost sharing reduction subsidy is about $1,090 per individual, $1,500 per household and $700 million to California. Mr. Lee added that averages do not tell the complete story. For example, data of enrollees revealed that over a third receive more than $4,000 in tax credits.

Mr. Lee shared that that Covered California conducted a preliminary analysis comparing the proposed financial support that would be available under the AHCA with assistance currently available under the Affordable Care Act (ACA). The preliminary analysis suggests that the proposed tax credits would provide lower average assistance, which would have a dramatic impact on certain individuals depending on their income, where they live, and their circumstance. Covered California will be conducting a more in-depth analysis on issues of take

up and risk mix. Mr. Lee presented illustrative examples of individuals that are at different income levels, different ages, and different locations in California. The major conclusion is that tax subsidies decrease dramatically for older individuals and will vary depending where they live. Mr. Lee added that not adjusting for income and geography, such as in the AHCA, means that as people make more, they will get the same or bigger subsidy, and people who live in areas that are more expensive will not have the financial help to bring health care within reach.

Member Torres thanked staff for their work and commented that Covered California is responding responsibly to this issue.

Member Fearer asked how many of the 1.3 million renewals and 412,000 new customers were paid enrollees. He also asked how different age bands would impact premiums. Mr. Lee responded that it will be another month before Covered California has a solid number on paid enrollees. However, the estimate is that this number will be about 1.5 million effectuated enrollments, which is over projections. In response to age-bands, Mr. Lee responded that California has a 3:1 age-band ratio. The AHCA proposes to allow states to adjust that ratio to 5:1. The modeling done in Covered California's preliminary analysis assumes a 3:1 ratio. If California changed it to 3:1, it would moderately lower premiums for young people and substantially change rates for older consumers. Mr. Lee said there needs to be a discussion about tradeoffs in terms of equity and fostering the right risk mix.

Member Morgenstern requested clarification on the distribution of funding for the risk stabilization pool and asked how much of the available funding could go to California. Mr. Lee responded that staff needs more time to look at this because factors in the law are complex about what states get what share.

Public Comment:

Beth Capell, Health Access California, noted that Health Access met with federal representatives throughout California and spent a week in Washington, DC meeting with the California delegation. There is a bipartisan acknowledgement of the successes in California with the Affordable Care Act (ACA). In response to the modeling that Covered California did, she noted that affordability is worse in areas north of Sacramento. The reduction in the value of subsidies is very bleak. Additionally, Ms. Capell said the lack of cost sharing reduction (CSR) products is troubling for people under 250% of poverty, noting that Health Savings Accounts (HSAs) are more useful to healthy individuals with higher incomes, and are not replacements for existing subsidies. For example, someone with muscular dystrophy would max out an HSA every year. She also noted that the presentation did not mention that subsidies in the proposal would be available outside the exchange, which would change Covered California's role as an active purchaser that helps standardize benefit designs, which has been a key ingredient to California's success.

Jen Flory, Western Center on Law and Poverty and Health Consumer Alliance (HCA), noted that the uninsurance rate for those between 138%–250% of the poverty level dropped from 30% in 2012 to 18% in 2015. She added that the AHCA is giving tax credits to wealthier Americans on the backs of older and poorer Americans. CSRs are the reason why most people below 250% of poverty are able to use their health plans. The surcharge for lack of continuous coverage is not

indexed to income as the penalty was. The age-based credits are not helping older Americans. Covered California is being dismantled through this bill. She thanked Covered California for comments made on the Market Stabilization Regulations, specifically for the data provided on open enrollment. She also pleased that Covered California translated notices into all threshold languages.

Carrie Sanders, California Pan-Ethnic Health Network (CP-EHN), thanked staff for the impact analysis of the AHCA. She echoed the concerns previously expressed regarding the proposal and added that it will be devastating for Californians, including low income and communities of color that are currently the majority of Covered California enrollees. She requested that staff consider the additional factors mentioned by Ms. Capell. She is hopeful that information provided by Covered California will give the California congressional delegation reason to halt efforts to repeal the ACA.

Betsy Imholz, Consumers Union, stated she was pleased with the open enrollment statistics and with special enrollment efforts. She encouraged Covered California to keep monitoring websites and use search engine optimization to look for "look alike" sites that may confuse consumers. She expressed support for comments previously made by Health Access, Western Center and CP-EHN. She also noted that Consumers Union will be weighing in on the Market Stabilization Regulations and the AHCA.

Michael Lujan, California Association of Health Underwriters (CAHU), expressed his appreciation towards the decision to create more technology tools. In regards to special enrollment periods (SEP), he noted that agents currently serve a roll and support the verification of qualifying life events. He requested staff look into introducing details of EMTALA, as there may be some may be over confidence in what that system does and/or a lack of awareness of DSH funding.

Athena Chapman, California Association of Health Plans (CAHP), noted that CAHP submitted comments on the Market Stabilization regulations, specifically related to the special enrollment period (SEP) verification. She added that CAHP was pleased that Covered California continues to move forward with the RFP. She noted that CAHP has been working with staff and DHCS on the implementation of the Newly Qualified Immigrant program. They are concerned that putting focus on this at this time is not operationally feasible.

Michelle Lilienfeld, National Health Law Program (NHLP), commented on the Market Stabilization regulations and Covered California's comments. She noted that NHLP is supportive of maintaining the existing open enrollment period, but has concerns about the pre-enrollment verification process including 100% of applicants. She suggested that verification be narrowly targeted to instances of suspected fraud. It should also be electronic and simple. In response to the de minimus actuarial value (AV), she noted that changes to AV opens the doors for plans to have higher deductibles and CSRs that can lead to reduced enrollment due to increased cost. Additionally, Ms. Lilienfeld said that under AHCA, millions of Californians would lose coverage or have coverage that is unaffordable or inaccessible.

Betzabel Estudillo, California Migrant Policy Center, expressed concern with the AHCA. One specific provision of concern is the changing of eligibility for tax credits from lawfully present immigrants to qualified immigrants. She noted this will negatively affect survivors of crime or those who have left their home country to escape persecution or violence. Secondly, AHCA proposes to require Medi-Cal applicants who attest to being US citizens or lawfully present to provide documentation prior to receiving coverage. Ms. Estudillo noted that currently these applicants are provided a reasonable time to provide documentation and they receive coverage during that time.

Doreena Wong, Asian Americans Advancing Justice Los Angeles, stated she was pleased with the enrollment numbers. She encouraged Covered California to continue to support outreach and education efforts. She expressed appreciation for the data published by Covered California. She also echoed the comments of other advocates, specifically those in regards to the Market Stabilization Regulations. In response to shortening the open enrollment, Ms. Wong stated that Navigators need the extended open enrollment period as November and December are bad months for enrollment due to the holidays. In regards to verifying 100% of special enrollments, Ms. Wong stated there should be more flexibility.

Jana Castillo, California Primary Care Association, expressed concern with the AHCA and noted it is not a viable ACA replacement, as it will affect community health care centers and low-income communities by limiting coverage, increasing cost of care, and limit access to care. She added that HSAs are a plan for bankruptcy and that low-income families cannot afford to set thousands of dollars aside in an HAS to cover medical expenses.

Chairwoman Dooley shared that as complicated as it is for the exchange it is more complicated for Medicaid. She added that staff is taking their time to be clear on estimates of impacts to the Medi-Cal program. Secondly, staff is working hard in this period of uncertainty to not move too quickly and she noted the AHCA is still just a proposal. She stated there is a lot of work to do running the law that is already in place and is working for Californians. In response to Ms. Capell's comments about bipartisan recognition of California's efforts, Chairwoman Dooley responded that Senator Cassidy and Senator Collins' proposal allows the ACA to continue because it is working in California. However, this proposal has not received any attention. With regard to the proposals that would eliminate the requirement to buy products through Covered California for tax credit eligibility, there will be opportunities for Covered California to be the broker of choice.

Mr. Lee shared that Covered California will continue to conduct analysis and share with the Board and the public. He added that it will be important for either Covered California or others to do modeling that looks at the entire fabric of the health care system and its interrelated parts.

Mr. Lee also acknowledged the work on CalHEERS. He also noted that the service center service rate target for February was not met. Furthermore, he said that in May, staff will bring forward the initial budget proposal. In the interim, staff is looking at service levels and what it takes to maintain them.

To preface standard benefit designs, Mr. Lee noted that plans price for what they anticipate will happen and will price higher when there is uncertainty. Staff will work with the plans to give them as much time as possible to get as much certainty as possible.

Agenda Item V: Covered California Policy and Action Items

Discussion: Proposed Standard Benefit Design

James DeBenedetti, Director, Plan Management Division, presented key considerations for 2018 health plan benefit design and noted that there were no changes from what was presented at the January meeting. He went on to review a summary of benefit design changes from 2017 and noted that changes had to be made from what was presented in January. Specifically, in working with Covered California's consulting actuarial value firm, it was discovered that Covered California was off by .2 to .4 of a percent. The Plan Advisory Group got together with almost no warning and came up with an approach to fix the actuarial value discrepancy. Copays for specialist visits and x-rays were increased by $5 and the pharmacy deductible was changed from $100 to $130. For the Covered California for Small Business (CCSB) Silver plan, the maximum out of pocket (MOOP) was increased by a couple hundred dollars and the pharmacy deductible was increased from $100 to $125. He also noted that there was a correction in the gold plan and clarified that it has an urgent care copay of $25, not $30.

Next, Mr. DeBenedetti presented 2018 proposed dental benefit designs and noted that the main difference from what was presented in January is that some diagnostic and preventative procedure codes were clarified.

For employer-sponsored dental benefit design, Mr. DeBenedetti reviewed what was presented in January and noted that the biggest hold up for dental carriers was allowing employees to retain plan choice due to the absence of a risk adjustment program for dental plans. They were concerned that if employees could choose, those needing the most work will enroll in PPOs and those that do not need much work would enroll in HMOs, which would lead to destabilization of certain carriers. Mr. DeBenedetti said the new proposal would allow consumers to only choose from one dental carrier, but they could choose from multiple plans from that carrier.

Public Comment

Beth Capell, Health Access California, thanked staff for convening stakeholders quickly when the problem was identified. While not fond of higher copays, Health Access California supports the recommendation.

Betsy Imholz, Consumers Union, echoed Ms. Capell's comments and appreciated that the primary care copay was not increased and that the pharmacy deductible was minimized. She also thanked Allie and the rest of the team for doing on the spot actuarial modeling.

Jen Flory, Western Center on Law and Poverty and Health Consumer Alliance (HCA), echoed comments made by the previous speakers about the process.

Carrie Sanders, California Pan-Ethnic Health Network (CP-EHN), concurred with the comments made by previous speakers on the process.

Michelle Lilienfeld, National Health Law Program (NHLP), echoed comments made by previous speakers and thanked staff for their work.

Athena Chapman, California Association of Health Plans (CAHP), echoed comments made by previous speakers. She is appreciative that the costs for primary care were not increased. CAHP is in support of the proposed standard plan designs.

Motion/Action: Board Member Morgenstern moved to pass Resolution 2017-11. Board Member Islas seconded the motion.

Vote: Roll was called and the motion was approved by a unanimous vote.

Discussion: 2018 Qualified Health Plan Certification Policy

James DeBenedetti, Director, Plan Management Division, presented on the 2018 Qualified Health Plan Certification Policy. He reviewed the proposed certification milestones and noted changes were made to some of the dates because of changes happening in Washington. Certification changes for currently contracted applicants include updates to the 2017 application responses accepted for customer service and financial requirements; fraud, waste and abuse responses are limited to new questions; and a delayed QHP submission deadline of July 10, 2017 for Quality and Quality Improvement Strategy submissions.

On the Covered California for Small Business (CCSB) applications, Mr. DeBenedetti shared that carriers will be allowed to refer to their individual application responses. He added that CCSB also encourages the proposal of Alternate Benefit Designs (ABDs) by applicants. The goal is to make offerings more competitive than what is currently offered. Up to two benefit designs will be allowed per mental tier. Submissions will need to include information on the rationale and benefit to members, the population the ABDs are meant to benefit, the differences in coverage incorporated into the ABD vs. the standard plan, confirmation that pediatric dental is included, and indication of any additional or enhanced benefits relative to Essential Health Benefits (EHBs) with confirmation of no actuarial value impact. Mr. DeBenedetti reviewed the adjusted timeline for CCSB applications. QHP Certification applications are due on May 1. ABD proposals are due on June 30. On July 7, decisions will be communicated to applicants. Final rates will be submitted July 17.

Public Comment:

Beth Capell, Health Access California, noted that Plan Management only recently began looking at CCSB plan designs. She added that aligning them to the existing work on benefit designs will be helpful moving forward.

Motion/Action: Board Member Morgenstern moved to pass Resolution 2017-12. Board Member Islas seconded the motion.

Vote: Roll was called and the motion was approved by a unanimous vote.

Covered California Regulations

Discussion: CCSB (formerly SHOP) Eligibility and Enrollment Emergency Regulations Readoption

Gabriela Ventura, Legal, presented proposed amendments to the Covered California for Small Business (CCSB) eligibility and enrollment regulations. She noted the only new piece of information from what was presented in the January Board meeting is the dental eligibility enrollment rules codifying regulation to the employer sponsored dental group plan design, as presented by Mr. DeBenedetti.

Public Comment: None

Motion/Action: Board Member Islas moved to pass Resolution 2017-13. Board Member Fearer seconded the motion.

Vote: Roll was called and the motion was approved by a unanimous vote.

Discussion: Plan Based Enrollment (PBE) Permanent Regulations Amendment

Drew Kyler, Branch Chief, Outreach and Sales Division, shared that staff currently working on replacing its system to track authentication and certification of certified programs. This has presented opportunities to streamline the application, collect better information and provide more access to counselors and entities that seek to make changes to their status.

Mr. Kyler presented changes proposed to the PBE regulations, which include streamlining the entity application for alignment with new program portal efficiencies; prohibiting PBE entities and affiliated PBEs from affiliating with some of the other certified counselors to avoid confusion for consumers; and, clarifying that a PBE can refer consumers to a Certified Enroller if the individual wishes to enroll in another affordable health insurance plan.

Discussion: Certified Application Counselor (CAC) Program Emergency Regulations Readoption

Drew Kyler, Branch Chief, Outreach and Sales Division, presented changes to the Certified Application Counselor (CAC) Program, specifically, to streamline the Entity Application for alignment with new Program Portal efficiencies, and to define the value of gifts provided to applicants and potential enrollees for purposes other than as an inducement for enrollment.

Discussion: Enrollment Assistance Permanent Regulations Amendment

Drew Kyler, Branch Chief, Outreach and Sales Division, presented a proposed change to the Enrollment Assistance Program, specifically, to streamline the Entity Application for alignment with new program portal efficiencies. Mr. Kyler added that this will result in one application for anyone applying to be a Navigator, CEC or PBE and make processing of these applications much easier.

Mr. Kyler also noted that previously Covered California would ask an entity what their language capabilities were and also ask the counselors, which would then be linked to the entity. Moving forward, staff will only ask the counselors to complete questions about language capabilities in order to ascertain the affiliated entity has those capabilities by way of a counselor

Discussion: Medi-Cal Managed Care Enrollment Assistance Program Emergency Regulations Readoption

Drew Kyler, Branch Chief, Outreach and Sales Division, presented a proposed change to the Medi-Cal Managed Care Enrollment Assistance Program, specifically, to streamline the entity application for alignment with new program portal efficiencies.

Chairwoman Dooley asked Mr. Kyler if stakeholders were engaged in this process. He responded that staff had a call with stakeholders regarding the regulations and answered questions prior to the Board meeting. He also confirmed the proposed regulation changes were discussion items and would be scheduled for action at the next Board meeting.

Public Comment:

Carrie Sanders, California Pan-Ethnic Health Network (CP-EHN), thanked Mr. Kyler for reaching out to stakeholders to discuss changes. She appreciated the rationale behind simplifying the application and added that it makes sense that the application ask counselors only about their language capabilities, rather than asking the entities. CP-EHN has no objections to the changes. She requested the opportunity to provide more input into determining which information needs to be on the entity application versus a CEC or Assister application.

Doreena Wong, Asian Americans Advancing Justice Los Angeles, thanked Mr. Kyler for working with stakeholders. She expressed concerns with the changes and would like more time to work with staff. She requested that there be a distinction between spoken and written skills. Also, if there are entities that can provide language assistance in terms of reviewing translation of documents, it would also very useful.

Michael Lujan, California Association of Health Underwriters (CAHU), noted that in response to his comments requesting clarification, language was added to the regulations. CAHU is proud of having enrolled nearly half of the on exchange enrollment and it serves California to have an open channel for plan-based enrollers to refer to.

Mr. Lee acknowledged the work done by the Plan Advisory Committee. He added that while the nation is discussing removing benefit standards, in California consumers are benefiting from Covered California's patient-centered designs.

Agenda Item VI: Adjournment

The meeting was adjourned at 2:00 p.m.