

CALIFORNIA HEALTH BENEFIT EXCHANGE BOARD MINUTES

Thursday, May 18, 2017  
Covered California Tahoe Auditorium  
1601 Exposition Blvd.  
Sacramento, CA 95815

**Agenda Item I: Call to Order, Roll Call, and Welcome (Discussion)**

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  
Paul Fearer

**Members Absent:**

Art Torres

**Agenda Item II: Closed Session**

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 12:08 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 the March 14, 2017 meeting minutes.

**Presentation:** March 14, 2017 Meeting Minutes

**Discussion:** Member Fearer noted that a correction needed to be made on the Summary of 2017 Open Enrollment section, on page two, to reflect that Covered California answered nearly 1 million calls from consumers. Peter V. Lee, Executive Director confirmed the change would be made.

**Motion/Action:** Board Member Fearer moved to approve the March 14, 2017, minutes. Board Member Morgenstern 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)**

Peter V. Lee, Executive Director, reported personnel updates and contracting matters discussed in closed session. Contracting matters the Board took up included approval for staff to work with navigators to extend existing agreements for another year, approval for amendments to contracts with Robert Half, Public Consulting Group, Cambria Consulting, University of California, and the UC Berkeley Center for Labor and Research. The Board also approved for staff to engage in discussions with the Legal Aid Society of San Diego to potentially extend an existing contract with the Health Consumer Alliance (HCA). Lastly, the Board approved the issuance of an RFP for data management, as well as a contract between the Office of Systems Integration and the County Welfare Director's Association related to managing CalHEERS. Mr. Lee noted that all contracts were subject to budget approval.

Mr. Lee announced that Mr. Kirk Whelan, Director of the Outreach and Sales would be leaving Covered California. Mr. Lee underscored some of Mr. Whelan's accomplishments and thanked him for all of his work. He added that Mr. Robert Manzer and Mr. Drew Kyler would oversee the Outreach and Sales Division in the interim.

Mr. Whelan stated what he does is very personal as he has experienced a lot of health care because of his daughter. He added that he is proud to have built a good sales organization that supports agents and navigators across the state. He thanked leadership, agents and navigators for their support over the years. Mr. Whelan shared that he will be returning to Kaiser to lead the national small business program as Vice President.

## **Executive Director's Update (Discussion)**

Mr. Lee disclosed that health plans were required to submit 2018 rates on May 1 and they are being reviewed by Covered California.

## **Updated Board Meeting Calendar**

Mr. Lee presented an updated 2017 Board meeting schedule and mentioned that the July meeting was tentatively scheduled, given some of the national uncertainties.

## **PRWeek "Best in Public Sector" Award**

Mr. Lee announced that Covered California and Ogilvy were awarded the "Best in Public Sector" award by PRWeek.

## **Real Stories of Californians**

Mr. Lee played a video of Charly, a little girl covered by Covered California, to highlight that behind the numbers, there are people who have been touched by coverage expansion. He encouraged meeting attendees to visit the website and view the stories of other individuals.

## **Key Ingredients to Covered California's Success**

Mr. Lee announced that Covered California would be releasing a document titled “Key Ingredients to Creating a Viable Individual Market that Works for Consumers, Lessons from California.” He noted that the document summarizes some key lessons to inform the national debate.

### **Federal Update**

Mr. Lee shared that Covered California has published about nine contributions since the last board meeting in an effort to inform to the national policy discussion and encouraged meeting attendees to click on the links in the slides to view the full reports. He specifically highlighted Covered California’s most recent study, which found that in California, the risk mix of the population was actually healthier last year than the year before. Covered California will be sharing this information with health plans as part of the negotiation process. Additionally, Mr. Lee noted that this information offsets some of what is being disseminated in the media.

Next, Mr. Lee provided an update on proposed Market Stabilization Regulations by the Department of Health and Human Services (HHS). Two big issues for California are the changes made to the special enrollment process and the shortened open enrollment period. In response to the proposed changes to special enrollment, Mr. Lee reported that Covered California, in partnership with stakeholder advocates and health plans, are on track in 2018 to have SEP pre-enrollment verification. In response to the shortened open enrollment period, Mr. Lee shared that California’s open enrollment period for 2018 would remain the same, from November 1, 2017 through January 31, 2018. Covered California looks forward to engaging policy makers in California, stakeholders and health plans on how to make adjustments for plan year 2019.

Mr. Lee provided an overview on the timing and process for the American Health Care Act (AHCA). The Congressional Budget Office (CBO) is expected to provide its score the week of May 22. California will continue to engage as a contributor to the discussion and share data.

### **Public Comment:**

Beth Capell, Health Access California, acknowledged the work Covered California is doing to inform the national debate. She also thanked staff for working with advocates on issues related to the Market Stabilization Regulations.

Jen Flory, Western Center on Law and Poverty and Health Consumer Alliance (HCA), concurred with Ms. Capell’s comments on informing the national debate and the engagement with stakeholders on the Market Stabilization Regulations. Western Center has concerns about pre-enrollment verification on special enrollment and is looking to ensure that staff is just looking at electronic resources and that the process does not hold up enrollment. She looks forward to continued discussions on the open enrollment period. There are many passive renewals that do not understand the process, so cutting the enrollment period means they would be unable to change their minds later on in the year. While she understands the plan’s perspective about keeping consumers in coverage longer, consumers are not always ready to make those decisions until January.

Doreena Wong, Asian Americans Advancing Justice Los Angeles, concurred with previous speakers’ comments. She thanked Kirk Whelan for his contributions and congratulated Covered

California on the Best in Public Sector Award. Lastly, she thanked staff and Board for keeping the open enrollment period the same for 2018. Navigators need to have as much time as possible to get the word out to consumers.

Betsy Imholz, Consumers Union, reiterated what previous speakers said. She noted that everyone is looking at California and the fact that many policy issues were confronted early as well as the transparency of the process.

Faith Lane, California Association of Health Underwriters (CAHU), thanked Mr. Whelan for his service. She also shared that CAHU commissioned a survey to find out how Californians felt about health care and found that over 80% were very satisfied with the health care that they are receiving. CAHU will be taking this message to the California legislature and the National Association of Health Underwriters at the federal level.

Alicia Kauk, National Health Law Program and the Health Consumer Alliance (HCA), thanked Covered California for informing the national debate and for serving as a lifeline to many Californians. She is pleased the open enrollment period will stay the same. However, she is concerned with the pre-enrollment verification process and potential delays in accessing critical care.

Amanda Wallner, California LGBT Health and Human Services Network, concurred with comments made by previous speakers. She expressed appreciation for the work that has been done to reduce disparities. She noted that since the last board meeting, the Center for American Progress found that the uninsurance among LGBT decreased by 50% since the Affordable Care Act was implemented. She also thanked staff for soliciting input from stakeholders and for incorporating sexual orientation and gender identity data in the single streamlined application.

Gil Ojeda, La Cooperative Campesina de California, is pleased with the three-month open enrollment period. He referenced a published article regarding a study that addresses the myth that public systems cannot provide quality coverage to people.

Carrie Sanders, California Pan-Ethnic Health Network (CP-EHN), thanked the Board and staff for making Covered California a national model, and for providing quality publications and briefs. Advocates use them to push back on misinformation. She also noted that it's because of Covered California that the uninsurance rates have dropped to just 7% in the state and by more than half for African American, Asian American and a large margin of Latino communities in the state.

Chairwoman Dooley clarified that the article Mr. Ojeda referenced was from the Kaiser Family Foundation and it compared satisfaction and access to care between Medicaid and employer-sponsored-care recipients. It was very favorable and in some cases, better under Medicaid. She also noted that the Attorney General of California and Attorney General of New York have joined together with 17 other states to file an action in federal court to defend the cost-sharing subsidies.

## **Agenda Item V: Covered California Policy and Action Items**

## 2017/18 Proposed Budget and QHP Assessment Fee (Discussion)

Mr. Lee shared that the proposed budget was posted for the public on Monday, May 15. He commended staff for orchestrating a process that engaged senior leadership effectively. Additionally, he noted that this is the second fiscal year where Covered California relies on zero federal funds. The proposed budget is anchored in Covered California's commitment to consumers, by investing in marketing and enrollment. This will result in a better risk mix and lower premiums.

Jim Lombard, Director, Chief Financial Planning Officer, Financial Management Division, noted that the proposed budget focused on current law and presented Covered California's financial guiding principles. He highlighted that Covered California has maintained a reserve that is sufficient for times of uncertainty.

Next, Mr. Lombard presented an update for fiscal year 2016-2017, noting Covered California started with a reserve opening balance of \$325 million, which was more revenue than expected. He added that Covered California expects expenditures to be \$47 million lower than projections. Reserves at the end of the year are expected to be \$289 million, which will be eleven months of operating reserves. He expanded on projected expenditures, noting that some of the underspending related to budgeted money for employee contracts that didn't come in to the extent that was expected. Additionally, IT projects got off to a slower start. Overall, expenditures were lower across all administrative units.

He went on to review Covered California's proposed 2017–2018 budget and noted that the \$314 million dollar budget will be marginally lower than in 2016–2017. The budget anticipates maintaining a stable market with a good risk mix of about 1.4 million actively enrolled consumers. Maintaining this population requires significant investments in outreach and sales and customer service. As a result, Covered California is proposing to budget over \$100 million for marketing and outreach, and \$86 million for the service center.

The budget is informed by updated enrollment projections and in-depth scenario assessments. The base estimate for the budget is based on current-law assumptions. The low scenario assumes that the individual mandate is eliminated. The high scenario modeled the family glitch if health plans administered policies that would not exclude people.

Mr. Lombard noted that Covered California continues to operate on a business model that delivers value by lowering costs to consumers and the federal government. For the first time, revenue will exceed expenditures in 2017–2018. Staff is proposing to continue the 4% of premium assessment on health plans, which is about 2.5% when spread across the market. This premium cost reflects lower costs to health plans than previously spent to enroll individuals.

Furthermore, Mr. Lombard added that Covered California plans to continue efforts to address underlying health care costs and ensure consumers are getting the right care at the right time. For example, Covered California is building on lessons learned in consumers receiving patient-centered benefits; requiring that contracted health plans change their provider payments to promote value and make primary care more readily available; and, funding major health care

initiatives that provide data analytics to inform public and private policy makers about disparities of care, value-based benefit design and care delivery.

Next, Mr. Lombard presented the individual enrollment forecast of about 1.4 million. To perform the current forecast, the enrollment model incorporated modeling from prior years. Fewer enrollees are expected this year a result of stricter special enrollment policies.

Mr. Lombard then noted that the proposed 2017–2018 budget of \$314 million is less than in 2016–2017. However, expenditures will be about 15% higher in 2017–2018 than in 2016–2017. Funding for the service center, information technology and plan management & evaluation will decrease. However, funding will increase for outreach & sales and marketing as well as administration. The budget includes \$104.9 million for marketing, outreach and sales; \$44 million for administration; \$63.6 million for technology; \$85.9 million for service center and \$15.5 million for plan management & evaluation.

Lastly, Mr. Lombard reported that staff is proposing to continue the rate for the individual market and dental plans at 4% of premiums and 5.2% for Covered California for Small Business (CCSB). Covered California anticipates the assessment fee will be reduced in the coming years.

In conclusion, Mr. Lombard noted that the budget is balanced, revenues are expected to exceed expenditures, service center performance as well as outreach and marketing efforts are expected to be comparable to the current year. The forecast assumes 4% of premium for individual and dental plans and 5.2% for CCSB. At the June 15 meeting, staff will request approval for the assessment rates and for the \$314 million budget. He noted there might be technical changes

Mr. Lee noted that 1,368 staff in the proposed budget is a lot of people, but a growth in staff of 45 people. He noted that the service center has roughly 1,000 workers who are state employees. Second, he noted that the budget book provides a detailed breakdown of every area, as well as key activities and accomplishments. He welcomed comments during public comment and in the weeks leading up to the June 15 board meeting. Third, he noted that Covered California does not receive any direct federal funds or state general funds. By law, Covered California cannot receive state general funds and therefore operates on an assessment on the health plans. Prior to Covered California, health plans were spending about 7% of premium on attracting and retaining members of the individual market. The cost of bringing individuals into the individual market has decreased dramatically from what it was previously and the spending means a healthier risk mix. The risk mix is a result of the work done in sales, outreach and marketing. These efforts have also resulted in reduced premiums for all Californians, specifically those that do not get subsidies.

Member Fearer noted that the PowerPoint presentation shows 1.1 million in the individual market that are not part of the exchange, but the budget (on page 9) shows 800,000 not in the individual market.

Mr. Lee clarified that the individual market has 1.1 million people in it; 300,000 are in grandfathered plans that are not ACA compliant, and 800,000 are in mirrored plans. Covered California will clarify this moving forward.

Member Fearer asked if adjustments would be made if surprises present themselves down the road.

Mr. Lee responded that staff would come back to the Board if spending adjustments were needed. However, the 4% assessment would not be changed, as reserves could cover any adjustments.

**Public Comment:**

Beth Capell, Health Access California, appreciates the desire to lower the percentage of premium in the years out, and the goal of being nimble in the face of uncertainty. While she did not suggest changes to what is being proposed, she recommended that staff consider increasing spending on the service center, the Health Consumer Alliance (HCA) and other consumer assistance services should Covered California face a situation in which consumers are confused and enrollment is deterred. In response to the family glitch and the high estimate, Health Access would like for the family glitch to be eliminated and is interested in hearing how that can be done at the state level. In addition, Health Access supports efforts regarding the triple aim of lowering costs, improving quality and reducing disparities.

Carrie Sanders, California Pan-Ethnic Health Network (CP-EHN), believes the proposed budget sends a clear message that Covered California is continuing to uphold its values. She appreciates the funding for the HCA, Navigators, and echoed Ms. Capell's comments about allocating more funding into marketing outreach and service center operations. CP-EHN is interested in hearing more about the family glitch and the solutions for it.

Betsy Imholz, Consumers Union, noted the proposed budget is very thoughtful in light of a lot of uncertainty and she appreciates staff acknowledging that the budget might require adjustment. Consumers also face uncertainty. Furthermore, Consumer Reports published a report in April, which showed that health care is a number one concern for consumers. Another finding was that 78% of Americans say they believe government has a role in ensuring access to quality health care. Covered California and Medi-Cal have proven effective at doing that. She commended the investment in marketing, outreach and sharing data.

Jen Flory, Western Center on Law and Poverty and Health Consumer Alliance (HCA), is pleased that Covered California will continue to partner with the HCA and that the percent of premium fee will go down over time. Lastly, while not all of Navigator funds were used last year, leadership should consider spending on targeting other hard-to-reach groups.

Alicia Kauk, National Health Law Program and the Health Consumer Alliance (HCA), is pleased with the continued funding for the Health Consumer Alliance. HCA looks forward to working with the Office of the Ombudsman and anticipates a lot of coordination for difficult cases.

Athena Chapman, California Association of Health Plans, appreciates that the QHP fee continues to go down in the out years. She thanked staff for including the special enrollment verification project in the budget.

Evelyn Gonzalez, Community Health Councils, thanked staff for the thoughtful budget, specifically for allocating funds to outreach and enrollment. As a result of robust outreach and enrollment mechanisms, consumers have been shepherded into the right place so they can access care appropriately. The Navigator program reaches the most hard-to-reach populations.

Doreena Wong, Asian Americans Advancing Justice Los Angeles, commended Covered California for recognizing the importance of outreach, education and enrollment and for maintaining the Navigator program. She is pleased that funding was maintained for the Health Consumer Alliance. She also noted that in the past, the budget included funding for a Health Equity and Diversity Officer and looks forward to seeing it come back in the future.

Anthony Galace, The Greenlining Institute, echoed comments made by previous speakers regarding the emphasis on marketing and outreach. He urged the Board to specifically target those efforts and contract with marketing agencies that target disadvantaged populations. He also agreed with the recommendation that Covered California hire a diversity officer should additional funding from the reserves be directed to marketing.

Mr. Lee responded to some concerns that were raised in the public comment. He clarified that the Navigator funding has been very slightly decreased from last year and he noted that the awards are performance based. Covered California will issue a new RFP next year and will utilize that opportunity to continue to target areas that warrant specific targeted outreach. He welcomed discussions about the family glitch. Lastly, he noted he looks forward to discussions with the Health Consumer Alliance (HCA).

## **Covered California Regulations**

Drew Kyler, Branch Chief, Outreach and Sales Division, noted he would present all four regulation packages as opposed to doing them individually.

### **Plan Based Enrollment (PBE) Permanent Regulations Amendment (Action)**

Mr. Kyler shared that staff is currently working on replacing its system to track authentication and certification of certified programs (IPAS system). This has been the impetus for many of the proposed changes.

Mr. Kyler presented changes proposed to the PBE regulations, which included streamlining the entity application for alignment with new program portal efficiencies; requiring a two-year waiting period for reapplying for certification when individuals are disqualified pursuant to background clearances; clarifying that a PBE can refer consumers to a Certified Enroller if the individual wishes to enroll in another affordable health insurance plan; and, prohibiting PBE entities and affiliated PBES from affiliating with a certified Agent, Navigator Grantee, or Certified Application Entity or Counselor,

### **Certified Application Counselor (CAC) Program Emergency Regulations Readoption (Action)**

Drew Kyler, Branch Chief, Outreach and Sales Division, presented changes to the Certified Application Counselor (CAC) Program, which included streamlining the Entity Application for alignment with new Program Portal efficiencies, defining the value of gifts provided to applicants and potential enrollees for purposes other than as an inducement for enrollment; and, modifying the length of time for Counselors to maintain consumer authorization forms to ensure compliance with Federal and State auditing requirements.

### **Enrollment Assistance Permanent Regulations Amendment (Action)**

Drew Kyler, Branch Chief, Outreach and Sales Division, presented a proposed change to the Enrollment Assistance Program, which included streamlining the Entity Application for alignment with new program portal efficiencies, removing the requirement that Navigators be trained to sell Covered California for Small Business (CCSB) coverage, and modifying the length of time for Counselors to maintain consumer authorization forms to ensure compliance with Federal and State auditing requirements.

### **Medi-Cal Managed Care Enrollment Assistance Program Emergency Regulations Readoption (Action)**

Drew Kyler, Branch Chief, Outreach and Sales Division, presented proposed changes to the Medi-Cal Managed Care Enrollment Assistance Program, which included streamlining the entity application for alignment with new program portal efficiencies, and requiring a two-year waiting period for individuals disqualified from certification pursuant to background clearance matters.

#### **Public Comment (for all regulations):**

Doreena Wong, Asian Americans Advancing Justice Los Angeles, thanked Mr. Kyler for working with stakeholders and for allowing more time to work out the issues. Consumer assistance enrollers are pleased with the revised regulations.

Carrie Sanders, California Pan-Ethnic Health Network (CP-EHN), thanked Mr. Kyler for reaching out to stakeholders to discuss changes. She thanked staff for clarifying the role of the agreements between plan-based enrollers and CECs and being impartial arbiters of information for consumers.

Evelyn Gonzalez, Community Health Councils, echoed comments made by previous speakers and expressed support for the regulation packages.

Jen Flory, Western Center on Law and Poverty and Health Consumer Alliance (HCA), echoed comments made by previous speakers. She thanked staff for reaching out to advocates to answer questions.

Betsy Imholz, Consumers Union, thanked Mr. Kyler for his patience in working with stakeholders to ensure everybody understood the intent.

Chairwoman Dooley noted that working together, transparency, engagement, and serving the consumers of California are some of the things she is most proud of.

Beth Capell, Health Access California, echoed comments made by previous speakers. She thanked staff for clarification on the plan-based enrollers that distinguishes their role from those of navigators.

**Motion/Action:** Board Member Morgenstern moved to pass Resolution 2017-25, regarding the Plan Based Enrollment (PBE) Permanent Regulations Amendment. Board Member Fearer seconded the motion.

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

**Motion/Action:** Board Member Fearer moved to pass Resolution 2017-26 regarding the Certified Application Counselor (CAC) Program Emergency Regulations Readoption. Board Member Islas seconded the motion.

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

**Motion/Action:** Board Member Morgenstern moved to pass Resolution 2017-27 regarding the Enrollment Assistance Permanent Regulations Amendment. Board Member Islas seconded the motion.

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

**Motion/Action:** Board Member Islas moved to pass Resolution 2017-28 regarding the Medi-Cal Managed Care Enrollment Assistance Program Emergency Regulations Readoption. Board Member Fearer seconded the motion.

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

### **Agenda Item VI: Adjournment**

The meeting was adjourned at 1:45 p.m.