

**CALIFORNIA HEALTH BENEFIT EXCHANGE BOARD**  
**March 21, 2013**  
**East End Complex Auditorium**  
**1500 Capitol Ave.**  
**Sacramento, CA 95814**

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

Chairwoman Dooley called the meeting to order at 9:00 a.m.

Board members present during roll call:

Diana S. Dooley, chair

Susan Kennedy

Kimberly Belshé

Paul Fearer

Robert Ross, MD

Board members absent:

None

**Agenda Item II: Closed Session**

A. Consideration of Contract-Related Matters per Government Code Section 100500(j)

B. Consideration of Personnel Issues per Government Code Sections 11126(a) and 100500(j)

The meeting was reconvened in open session at 12:45 p.m. Chairwoman Dooley announced that Board members were asked to declare any conflicts of interest relative to agenda items after the meeting was called to order and that none were disclosed.

**Agenda Item III: Approval of Prior Meeting Minutes**

Chairwoman Dooley asked for a motion to approve the minutes from the meeting held February 26, 2013.

**Presentation:** [February 26, 2013, Minutes](#)

**Motion/Action:** Board Member Ross moved to approve the February 26, 2013 minutes. Board Member Fearer seconded the motion.

**Discussion:** None.

**Public Comments:** None.

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

#### **Agenda Item IV: Executive Director's Report**

##### **Agenda revisions:**

Mr. Lee announced agenda item V.(D), SHOP Contracting and Scheduling, will be taken up in the Executive Director's Report. Agenda item V.(E), Actuarial Report on 2014 Rate Changes, will not be taken up. The Milliman report will be released March 28.

**Presentation:** [Executive Director's Report](#)

##### **A. Announcement of Closed Session Actions**

Mr. Lee noted a contract with Pinnacle Claims Management to provide initial management and sales services for the Small Employer Health Options Program (SHOP) is close to completion and is expected to be finalized next week.

On personnel matters, Mr. Lee announced the Board's appointment of Kathleen Keeshen to serve as general counsel starting in April. Mr. Lee added that Covered California has made more than a dozen new hires.

##### **B. Covered California Planning Overview**

**Presentation:** [Board and Advisory Group Calendar](#)

Mr. Lee noted there may not be a Board meeting in July. The first town hall meeting will be held April 25 in the Inland Empire. Mr. Lee introduced David Heitstuman, on loan from the Office of Assembly Speaker Perez, who will organize the town halls. He expressed appreciation for the Board members, who have agreed to attend the town halls in pairs to avoid quorum issues.

Mr. Lee noted Covered California is excited to be working with the administration, especially the Department of Health Care Services (DHCS) and the California Public Employees' Retirement System (CalPERS), under a Center for Consumer Information and Insurance Oversight (CCIIO) Innovation Grant. The grant will fund planning of coordination across payers to reform payment practices to achieve the triple aim of better care, better value and improved health outcomes. The process has just begun and will lead to a report this coming fall.

**Presentation:** [Executive Director's Report](#), cont'd

Mr. Lee also noted that while the Affordable Care Act requires quality rating of Qualified Health Plans in 2016, Covered California will have this in place in 2014. In the future, he said, exchange-specific results will also be gathered and produced using a federal exchange consumer assessment of health plans survey (CAHPS). Mr. Lee introduced Ted von Glahn, from the Pacific Business Group on Health (PBGH), who discussed the Covered California Plan Quality Rating System.

**Discussion:**

Board Member Ross asked if there is movement toward creating something to compete with Consumer Reports, the current gold standard in consumer information, in the arena of health plan decision-making.

Mr. von Glahn noted that Consumer Reports has partnered with the National Committee for Quality Assurance (NCQA), using the same data to produce information for consumers choosing health plans. PBGH has evaluated the current version of the Consumer Reports-NCQA reports; he mentioned alignment with other accountability programs, and that is one of them.

Board Member Belshé observed that this is important work, which will arm consumers with meaningful information. She appreciated the focus on the bridge plan, which represents an important tool for maintaining affordability and continuity while simultaneously giving consumers the ability to make choices. She asked what the principal concerns and considerations are in ensuring bridge-eligible consumers have the information needed to inform their choices.

Mr. von Glahn underscored that one challenge is that, market-wide, those plans' performance is lower using these measurement sets. If they are presenting choices in the context of commercial qualified health plans, they are figuring out the best way to bring that information to the consumer.

Mr. Lee acknowledged the good work of PBGH.

**C. Service Center Update**

**Presentation:** [Executive Director's Report](#), cont'd

Mr. Lee announced that Covered California has entered into a contract with Contra Costa County to operate a Covered California Service Center site.

Juli Baker, Chief Information Officer, presented a service center update. She was joined by Cathy Senderling-McDonald, Deputy Executive Director at County Welfare Directors Association of California.

Ms. Baker noted the Contra Costa County Service Center site will be located in Concord. It will be staffed with a total of 200 staff thorough January 31, 2015 and will be occupied in August 2013. She added staff is also evaluating a potential Sacramento area Service Center site in Rancho Cordova.

Ms. Senderling-McDonald discussed the Memorandum of Understanding (MOU) between Covered California, DHCS, and the county consortia relative to the “quick sort transfer” protocols for Medi-Cal eligibles who seek coverage though the Service Center. (See Slide 22 of Executive Director’s Report.)

**Discussion:**

Board Member Belshé said she would like to hear about specific performance standards for the MOU and how they will be measured. She noted it is important to consider performance metrics and how to ensure a uniform first-class customer experience, and looking at aggregate caller data may not lead to real-time, consumer-focused experience and action.

Ms. Senderling-McDonald underscored that the counties share the same goal of providing first-class customer service for all callers, regardless of which pathway they come in through. The discussions with regard to the actual agreements are taking various turns. One thing they’ve discussed is making sure there is some way to track the outcome of individual calls.

Board Member Belshé agreed the two entities should have the same goal, and is eager to hear concrete details about how performance standards will be measured. She also raised the question of how uniform the practice of monitoring individual calls is across the counties.

Board Member Ross expressed that, in addition to the concerns of valuing customer service and coming up with protocols, there’s a question of the available resources from a county perspective. He asked if the counties have a dollar amount in mind for what it would take to achieve these goals, and what her level of confidence is that the counties will be able to get that.

Ms. Senderling-McDonald replied that they have a good idea of what they’re trying to achieve. One aspect of the required resources is technology. Some counties need to be brought up to speed; some smaller counties will be associated with larger-county hubs. They have an estimate for technology costs. The other aspect is staffing; they are using an industry standard to determine staffing needs.

Mr. Lee noted staff will provide more concrete details to the Board.

Board Member Belshé requested state and county timelines for staff hiring and training and IT development for Board review at the April meeting.

#### **D. CalHEERS Update**

**Presentation:** [Executive Director's Report](#), cont'd

Mr. Lee stated the IT integrator, Accenture, is on track with CALHEERS. Mr. Lee noted the CALHEERS project assumes California will expand Medicaid eligibility under the Affordable Care Act. He added the next major milestone is testing customer engagement, which will be done in April.

Juli Baker, Chief Information Officer, Keith Ketcher of Accenture provided an overview of CALHEERS status.

#### **E. Federal Proposed Rules**

**Presentation:** [Executive Director's Report](#), cont'd

Katie Ravel, Director of Program Policy, noted that proposed rulemaking had comments due between the last Board meeting and this one. Staff submitted comments on exemptions from the individual mandate.

#### **F. Legislative Update**

**Presentation:** [Executive Director's Report](#), cont'd

David Panush, Director of External Affairs, noted the Legislature is currently on spring break. He noted there have been some disagreements about the Medi-Cal expansion bills (ABX1-1, SBX1-1) which have cleared their houses of origin.

Both of the market reform bills (ABX1-2, SBX1-2) pending in the special session on health care have been amended to include the 19 rating regions in existing law for the small group market. The stop-loss insurance coverage measure pending in regular session (SB 161) is important because it affects small employers' incentives to self-insure.

Mr. Panush noted the background check policy presented to the Board at the March meeting will require legislation; staff is working on that.

Mr. Panush noted the Board adopted the concept of the bridge plan last month. Authorizing legislation, SBX1-3, was passed unanimously yesterday by the Senate

Health Committee. It authorizes a bridge covering those with incomes up to 200 percent of the federal poverty level.

**Discussion:**

Mr. Lee noted Covered California staff and the Department of Managed Health Care (DMHC) have been working to define the scope and definition of a “limited network,” and they have a proposal before the federal government. They will return to the Board with the federal government’s input.

**Public comments:**

Betsy Imholz, Director of Special Projects, Consumers Union, underscored the need to rapidly pass the Medi-Cal expansion and market reform bills. She asserted the quality ratings data area is not competitive because it’s a developing field, and urged the Board to be involved in service-level agreements, noting that small details will greatly affect the service center’s first-class user experience.

John Arensmeyer, Founder and CEO, Small Business Majority, said he was pleased with Covered California’s decision not to delay employee choice and premium aggregation in the SHOP as will be the case in the federal and partnership exchanges in 2014. Mr. Arensmeyer added there should be limitations on small employers’ ability to self-insure, calling it a “huge loophole” that can undermine the viability of the SHOP and create adverse selection. His organization hopes the Legislature will put some reasonable limits on self-insurance by small employers.

Cary Sanders, Director of Policy Analysis, California Pan-Ethnic Health Network, agreed with Ms. Imholz. She expressed hope the Exchange will consider using translated California Association of Health Plan surveys as well as information from provider directories about languages spoken by doctors and office staff.

Beth Capell, Health Access California, noted that she looks forward to adding items to the quality reporting data in the future. She seconded Mr. Arensmeyer’s thoughts on employee choice and premium aggregation in the SHOP.

James Mullen, Senior Legislative Analyst, Delta Dental, noted that the California Association of Dental Plans is seeking a technical amendment to AB18, which required QHPs to meet all ten essential health benefits.

Julianne Broyles, California Association of Health Underwriters, voiced support for the SHOP and the individual exchange. She expressed interest in providing technical assistance for bills like SB161, the self-insurance bill.

Sandra Wall, eligibility worker, Contra Costa County, expressed excitement about further collaborating with the call center.

Rosemary Profit Akins, eligibility worker, Contra Costa County, expressed readiness for the challenge of the service center.

Elizabeth Landsberg, Director of Legislative Advocacy, Western Center on Law and Poverty, suggested there be an actual CalHEERS update each month, though they appreciated participating in a stakeholder meeting. She further expressed that the delay on the CalHEERS-SAWS interface means a lot of workaround and requires discussion.

On phone: Doreena Wong, Project Director of the Health Access Project, Asian Pacific American Legal Center, agreed with Ms. Sanders, Ms. Imholz, Ms. Landsberg, and Ms. Capell. She noted that the gathering of language services information was a landmark of the Office of the Patient Advocate HMO report card, and believes the survey would be especially useful for the limited English proficient population. She also noted the importance of having specific performance measures included in the interagency agreement.

On phone: Edie Ernst, Private Essential Access Community Hospitals, remains concerned about the bridge's effect on safety net providers. She expressed interest in seeing language maximizing the number of Medi-Cal managed care organizations designated as bridge plans, and was concerned about the lack of guidance ensuring sufficient provider rates.

## **Agenda Item V: Qualified Health Plan Contracting and Regulations**

Andrea Rosen provided a high-level overview of the revised model contract.

### **A. Plan Contracting Update and Overview of Contracting Elements**

#### **Presentation: [Qualified Health Plan Model Contract Issues and Responses](#)**

Mr. Lee prefaced this item by stating it was intended to provide the Board with a high level overview of what is ahead with the Covered California Plan contracting process.

Andrea Rosen, Interim Health Plan Management Director, noted premium bids from plans are now due April 2 in order to comply with Office of Administrative Law deadlines governing the plan contracting regulations promulgated by Covered California. She added regulators are currently reviewing the provider networks of bidding plans, noting primary care will be central to all plan designs since primary care is central to integrated care delivery. In April and May, staff anticipates negotiating with plans with tentative plan certification expected May 15, at which point plans can file their rates with regulators.

Ms. Rosen noted recently finalized federal rules require exchange participating fees assessed on plans sold through the exchanges must be spread across the plan issuers' entire book of business.

## **B. Qualified Health Plan Regulations Update**

Ms. Rosen asked the Board to approve three sets of regulations, two of which are emergency rules as well as a permanent regulation governing Covered California Plan solicitation and related requirements. The current Covered California Plan solicitation and its requirements are based on emergency regulations, which disappear after 180 days unless they are made permanent.

The proposed permanent regulation pursuant to Resolution 2013-15 is identical to the emergency regulations slated to expire June 17, 2013.

Regarding the emergency regulation governing standard benefit designs, Ms. Rosen proposed an amendment to Resolution 2013-16. She proposed amending the resolution to indicate that all cost sharing is subject to federal rules issued pursuant to the Affordable Care Act and to applicable state statutes and regulations.

Mr. Lee noted that the proposed resolution would include that amendment. Resolution 2013-15 makes permanent the temporary regulations, 2013-16 addresses standard benefit design, and 2013-17 addresses the pediatric dental solicitation.

**Motion/Action:** Board Member Fearer moved to adopt Resolution 2013-15. Board Member Kennedy seconded the motion.

**Motion/Action:** Board Member Fearer moved to adopt Resolution 2013-16 as amended. Board Member Kennedy seconded the motion.

**Motion/Action:** Board Member Fearer moved to adopt Resolution 2013-17. Board Member Kennedy seconded the motion.

### **Discussion:**

Mr. Lee pointed out that the requirements are not new, and that the Board approved and discussed them in the August 2012 set of recommendations for advancing delivery reform.

Board Member Belshé noted that this would be the first time the Board and the stakeholder community would be seeing actual language addressing some of the new requirements. It will reflect how staff has interpreted the policy decisions made in August. The concepts are not new, but the language is.



Board Member Belshé also noted that at the February meeting, there was discussion of clarifying what is federally required as opposed to what California has added on top of that to increase value.

Ms. Rosen replied that staff is considering how to do that. Staff is also working on contractual requirements to get plans to inform current enrollees that they may be eligible for subsidies and revisiting branding and plan partnering requirements. Plan partnership with Covered California on marketing will be pretty general in the model contract.

**Public Comments:**

Beth Capell, Health Access California, asked the Board to consider deferring action on the standard benefit design regulation, asserting that substantive amendments need time for discussion. She further elaborated that when the contracts are final, the rates are final; the existing laws require a sixty-day public comment period between when the rates are filed and when they are final.

Cindy Ehnes, President and Chief Executive Officer, California Children's Hospital Association, voiced concern about timely access to specialty and subspecialty pediatric services, the definitions of network adequacy and the review process, and out of network benefits. She also expressed concern that commercial plans want to use the Exchange to accomplish some of their own financial goals.

Jim Mullen, Manager of Public and Government Affairs, Delta Dental, could not recall a report or a model contract addressing standards for pediatric dental plans prior to the release of emergency regulations—and when they submitted comments, the regulations did not change. He expressed concern about patients performing self-assessments.

Tom Alexander, Member Advocate, San Jose Plumbers and Steamfitters, noted his group is working with a California healthcare coalition aimed at aligning the rise of health care costs with the general consumer price index (CPI). Their letter was focused on controlling waste, fraud, and abuse, as well as making doctors and facilities responsible for their mistakes, resulting in cost savings.

Justin Garrett, State Director of Public Affairs, March of Dimes, was pleased there would be no cost-sharing for prenatal care and preconception visits, but requested the opportunity to thoroughly review any additional language being added about cost-sharing.

Athena Chapman, Director of Regulatory Affairs, California Association of Health Plans, expressed her desire to continue discussing recent changes to the standardized benefit design and the way pediatric dental has been proposed to work in an embedded or non-embedded plan.

Nicette Short, Government Affairs Policy Analyst, California Dental Association, suggested no specific language changes, but did have implementation suggestions. She also noted it will be important to accept both PPO and dental health maintenance organization (DHMO) plans for sale in the exchange so families can choose.

Betsy Imholz, Director of Special Projects, Consumers Union, noted the suggested delay might be good because of the amendment and the number of provisions in the model contract, though they are happy with many of them. She requested the opportunity to provide input.

Brianna Pittman, Legislative Advocate and Policy Associate, Planned Parenthood, agreed with March of Dimes and Health Access regarding the emergency regulations on standardized benefit design. They were pleased to see that there will be no cost-sharing for prenatal care and preconception visits.

Wayd La Pearle, trustee, Local Union 393, expressed hope that Covered California will reconsider its exclusion of multi-employer plans from purchasing insurance through the Exchange.

On phone: Jean Price, Carpenters Health and Welfare Fund of Northern California and the California Health Care Coalition, asked the Board to help eliminate waste, fraud, and abuse to control costs. They would also like Covered California to hold providers accountable for errors they cause and include medical directive counseling.

Ms. Rosen pointed out that any requirements Covered California imposes upon bidders must be codified in regulation. She also clarified that each missed deadline pushes back the entire timeline, jeopardizing the bidding process. She explained the suggested addendum is due to the fact that the Affordable Care Act defines the stated services as not subject to cost-sharing, and noted the regulators will interpret and apply the regulation. The addition would make it clear to the public. Ms. Rosen further noted the proposed pediatric dental regulation is the same as the current solicitation, and added the dental bidders have been familiar with these regulations for many weeks. The Board is allowed to create requirements above and beyond the Affordable Care Act. Health assessments can be requested of enrollees, not administered by plans. She added there is also no change to the pediatric dental benefit regulation.

**Vote:** Roll was called, and Resolution 2013-15 was approved by a unanimous vote.

**Vote:** Roll was called, and Resolution 2013-16, as amended to comply with federal and state law, was approved by a unanimous vote.

**Vote:** Roll was called, and Resolution 2013-17 was approved by a unanimous vote.

## **Agenda Item VI: Enrollment Assistance Policies**

### **A. Assisters Program Update**

Mr. Lee noted this item is being tabled due to Board member travel plans and loss of a quorum at 4:30 p.m. He also announced Agenda Item VIII (Eligibility and Enrollment) is also being tabled and will be presented in a webinar format.

### **B. Covered California Background Check Policy**

#### **Presentation:** [Covered California Background Check Policy](#)

Katie Ravel, Director, Program Policy, asked the Board to adopt the staff recommendation as presented in the Board Recommendation Brief in the Board materials. She noted that the applicable legal standard that will be applied to information obtained through the criminal background checks of those having access to an applicants' sensitive, personally identifying information will be crimes of moral turpitude with mitigating factors considered. Staff is working with the Legislature and it is expected that draft implementing regulations will be brought to the Board in May for review. The Department of Insurance will continue to conduct the background checks for insurance agents.

Ms. Ravel noted staff proposes Covered California defray the cost background checks for assisters through 2014 at a one-time cost of about \$1.3 million. The goal is to avoid creating cost barriers to community-based organizations sponsoring assisters. An appeals process for those assisters who are rejected based on the background checks is being developed.

#### **Discussion:**

Board Member Fearer noted that there needs to be adequate staff to evaluate the findings and determine what to do in the case of failed checks.

**Motion/Action:** Board Member Kennedy moved to adopt Resolution 2013-19. Board Member Fearer seconded the motion.

#### **Public Comments:**

Nettie Hoge, Chief Deputy, California Department of Insurance, commended the final recommendation and asserted there should be assister certification standards; no minimal requirements currently appear in the recommendation. She also noted that full consumer protection will also require ongoing monitoring, investigation, and enforcement.

Fatima Morales, Policy Analyst, Community Health Councils, expressed gratitude that Covered California will pay for the checks.

Carla Saporta, Health Policy Director, the Greenlining Institute, supported the fingerprinting policy and note the collaboration with staff, Greenlining, the National Employment Law Project and others should result in regulations which balance workers' rights and consumer protections.

Autumn Ogden, Policy Coordinator, California Coverage & Health Initiatives, supported the recommendation.

Hellan Roth-Dowden, SEIU Local 1000, noted that many state departments already require fingerprinting and that the language should mirror theirs.

Cary Sanders, Director of Policy Analysis, California Pan-Ethnic Health Network, agreed with Ms. Saporta.

Beth Capell, Health Access California, mentioned that the National Employment Law Project and the Greenlining Institute have defined appropriate crimes to filter, resolving concerns about disparate impact.

Betsy Imholz, Director of Special Projects, Consumers Union, commends the stakeholder efforts at creating a policy that aligns the background check with the job being done.

Steve Young, Senior Vice President and General Counsel, Independent Insurance Agents and Brokers of California and California Association of Health Underwriters, supported the recommendation, and hoped staff would add an ongoing requirement that employees notify the employer in the event of a criminal status change. There should be one standard for checks.

Chairwoman Dooley thanked the staff and noted the sensitivity of the issue and the partnerships we need with all the organizations. She was pleased to hear the recommendation reinforced from the other stakeholders.

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

## **Agenda Item VII: Addressing Health Disparities and Promoting Health Equality**

**Presentation:** [Covered California: Promoting Health Equity and Reducing Health Disparities](#)

### **Discussion: Covered California Overview**

A panel of stakeholders offering a diverse array of perspectives was convened to provide insight and advice into the role Covered California can play in reducing health disparities

in the state of California. Mr. Lee prefaced the panel discussion by emphasizing Covered California's commitment to reducing health disparities, and noted that being consumer-focused means recognizing the diverse cultural, economic, educational, language, and health status of those served by Covered California. He underscored that staff must look for disparity in all aspects of the organization.

The panel facilitator, Ellen Wu, gave a brief introduction of the five panelists- Gil Ojeda, Darcel Lee, Sandra Naylor Goodwin, Silvia Yee, and Poshi Mikalson. Each panelist then gave a brief presentation on their reactions to Covered California activities and recommendations related to health disparities from the following perspectives: health disparities in Latino communities; health disparities in African American communities; mental health issues; disabilities issues; and LGBTQ issues, respectively.

Following the panel, Mr. Lee expressed appreciation that every presenter had general and specific comments that allow a learning opportunity for Covered California, and asked the panelists to provide their comments in written form to be incorporated into the Board Background Brief and brought back to the Board at a future meeting. Mr. Lee noted that meeting will open with public comment on this topic.

Board Member Ross urged the speakers' organizations to help them separate urgent matters from longer-term matters, noting that many years of inequities won't be fixed quickly; he would like to hear consensus about what Covered California could do in its first years. He welcomed their reactions to the Texas Health Institute paper. California Endowment may be able to partner with Covered California to address long-term disparities and inequities.

Mr. Lee noted some of the suggestions made by the panel are in progress right now. Issues related to health equity are inherent in everything Covered California does.

### **Agenda Item IX: Adjournment**

The meeting was adjourned at 4:34 p.m.