

CALIFORNIA HEALTH BENEFIT EXCHANGE BOARD MINUTES

Thursday, June 15, 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 11:55 am.

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 May 18, 2017 meeting minutes.

Presentation: May 18, 2017 Meeting Minutes

Discussion: None

Motion/Action: Board Member Morgenstern moved to approve the May 18, 2017, minutes. Board Member Fearer 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 on contracting matters the Board took up including approval of an amendment to the interagency agreement with the California Department of

Social Services; approval for issuance of an RFP for doing marketplace and consumer research; review of the periodic public report on all contracts that Covered California was engaged in the first quarter of 2017. The Board also discussed health plan contracting and personnel matters.

Executive Director's Update (Discussion)

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.

Issuer Rates for 2018

Mr. Lee reported that 2018 rates will be announced on July 18.

Recognizing Team Covered California: 5+ Year Anniversary

Mr. Lee recognized fourteen Covered California staff members and six CalHEERS team members who have been with Covered California for five or more years as of June 15.

Mr. Lee also recognized Chair Dooley and Member Fearer for their over six years of service on the Covered California Board.

Chair Dooley thanked Mr. Lee for his five and a half years of service with Covered California.

Above and Beyond Staff Recognition Program

Mr. Lee announced that Covered California recently launched the Above and Beyond Program, a staff recognition program where peers acknowledge peers.

Planning for the Future

Mr. Lee reported that the legislature asked Covered California to provide technical assistance on finding a solution for the 2019 open enrollment period. Covered California will be engaging with health plans, advocates and the legislature as it looks at balancing the benefits of an earlier start than November, and the benefits and downsides of going longer than December 15.

Health Affairs Blog — Moving the Needle on Primary Care: Covered California's Strategy to Lower Costs and Improve Quality

Mr. Lee cited a recently published Health Affairs Blog regarding what Covered California is doing in primary care. It specifically highlighted benefit design, primary care physicians for every enrollee, payment reform and patient centered medical home recognition. He further noted that this is relevant to the budget being adopted and health plan contracts.

Annual Enrollment Patterns: New CMS Data

Mr. Lee pointed to new data that was released by the Centers for Medicare & Medicaid (CMS) regarding enrollment and effectuated enrollment, and who is leaving the exchanges. He noted that the data shows what has been known for years and provided an overview on how it relates to Covered California. He added that it is a reminder that churn is a very significant phenomenon of individual coverage that must be managed by Marketplaces. Additionally, it is important to understand where people go when they leave. For Covered California, the average tenure is approximately 24 months, with a nearly 40 percent turnover each year. According to Covered California survey data, 85% leave to other coverage, such as employer-based coverage, Medi-Cal or Medicare. He noted that new CMS Exit Survey data shows 49% of enrollees in the Federal Marketplace leave to other coverage. This survey data finding about retention differences merit further research. For example, many of the federal marketplace states do not have Medicaid for people to move into. Another reason for this difference is marketing to get people to sign up and to stay. When people sign up they do not stay. Enrollment goes down throughout the year. In 2017, Covered California ended up with the same number of consumers at the peak point a year prior. However, 600,000 were new enrollees. Covered California looked at how Covered California compared to other states, and how state-based marketplaces (SBMs) compare to the federally facilitated exchange (FFE) and found that SBMs showed strong special enrollment and retention performance. The reasons for this could be marketing efforts, special enrollment, standard benefit design and/or individual market stability.

Federal Update

Mr. Lee shared that Covered California has two efforts in progress. The first is a report on the value of the American Health Care Act (AHCA) proposed subsidy levels, which puts a spotlight on the facts of what coverage is worth. The second report is on Covered California's marketing efforts and how they are crucial in maintaining and promoting a stable market.

Regional Premium Variation

Mr. Lee shared a report from National Academy of Health Policy on regional premium variation, which put Covered California in context of other states.

Member Fearer expressed concern that consumers may not know what federal information applies to California versus nationally. He recommended Covered California push information into the public domain confirming that California is stable, and not in a death spiral.

Mr. Lee responded that staff is looking at ways to get data out and to share it. He added that policy makers and reports need to have the ability to focus on the texture underneath the data.

Chair Dooley added that the San Francisco Chronicle featured a piece she worked on with Senators Feinstein and Harris.

Public Comment:

Beth Capell, Health Access California, commended Mr. Lee for recognizing collaborative effort in California's success. She shared that the slides presented by Mr. Lee made her reflect on the impact of delinking subsidies from cost of coverage and the damage that would be caused to Californians. She noted that Health Access has sat in town halls and oversight committee meetings and witnessed individuals express the importance of the coverage provided to them.

Doreena Wong, Asian Americans Advancing Justice Los Angeles, thanked Mr. Lee for the reports and analysis. California has an important message to send about its success in ensuring affordability and availability of choice. Investment in marketing is key to reaching hard-to-reach populations. She noted there is a lot of confusion and consumers do not understand what is happening nationally. However, advocates have been sharing at town hall meetings that the Affordable Care Act (ACA) is working and is successful.

Carrie Sanders, California Pan-Ethnic Health Network (CP-EHN), thanked staff for the high level of data being provided. CP-EHN relies on that information to disseminate to its members. Covered California's success is a major talking point in and of itself on how the ACA can work. She noted that the slides presented by Mr. Lee tell the story in the CBO analysis for the AHCA.

Betzabel Estudillo, California Immigrant Policy Center, thanked Mr. Lee for the data he presented. She noted there is a piece of federal legislation; HR 2581 (Verify First Act) which will impact Covered California consumers. The bill would require an immigration determination status of immigrant and U.S. citizens naturalized and born abroad prior to receiving tax credits and subsidies. She would like to see how this bill affects immigrant communities that have benefited from the marketplace.

Betsy Imholz, Consumers Union, stated that Consumers Union continues to put out the success story of California and has subsequently received hundreds of stories from consumers on how it has saved their lives and their family finances. However, she noted it is also important to be alert to the dangers. She applauded the fact that Covered California is evidence based.

Anthony Lawson, Greenlining Institute, echoed previous speakers' comments regarding leadership of the Board. In response to marketing, he stated that the Board has taken tremendous steps with the \$105 million towards additional efforts. He encouraged the Board to highlight the stories of the most vulnerable to ensure the message reaches those that need it the most.

Jen Flory, Western Center on Law and Poverty and Health Consumer Alliance (HCA), thanked staff for making the health care debate a fact-based debate. HCA helps many consumers who move back and forth between Medi-Cal and Covered California. HCA is concerned that low-income consumers who pay nothing for health care could potentially pay thousands of dollars in premiums if the subsidy structure is changed.

Agenda Item V: Covered California Policy and Action Items

2017/18 Proposed Budget and QHP Assessment Fee (Action)

Jim Lombard, Chief Financial Planning Officer, Financial Management Division, presented the 2017/18 proposed budget and QHP assessment fee. He noted Covered California's proposed FY 2017-18 budget of \$313.9 million and 1,368 positions was submitted for Board consideration at the May Board meeting. Subsequent to the issuance of the proposed FY 2017-18 budget there were minor program changes, totaling approximately \$382,000, for a total revised FY 2017-18 Budget of \$314.3 million and 1,373 positions. He also noted that for the first time, the 17-18 budget revenue will exceed expenditures. He highlighted that Covered California maintains a nearly eleven-month reserve that is sufficient for times of uncertainty.

Mr. Lombard noted there were no changes to the enrollment forecast presented in May.

Next, he expanded on the proposed 2017-18 budget, noting that it includes over \$106 million for marketing and outreach, to promote enrollment and retention of consumers, a critical ingredient to assuring a good risk mix which helps keep premiums low for all consumers.

The budget proposes \$3.3 million to continue the Health Care Evidence Initiative that provides data analytics and modelling to inform public and private policy makers about issues related to disparities of care, value based benefit design and care delivery. The budget also continues investment in IT infrastructure to drive efficiencies throughout the organization and provide better customer service.

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.

Member Fearer agreed that the budget is very solid considering the circumstances. He noted the robust reserves are important should Covered California need to draw from them in the face of uncertainty in the future. He agreed that marketing efforts are critical considering Covered California's churn, as well as the uncertainty and misinformation out there.

Motion/Action: Board Member Islas moved to pass resolution 2017-32 regarding the fiscal year 2017-2018 budget and plan year 2018 qualified health plan rates. Board Member Fearer seconded the motion.

Public Comment:

Carrie Sanders, California Pan-Ethnic Health Network (CP-EHN), expressed her support for additional marketing funding and for the extra Spanish-language position. She also expressed appreciation for the decision to move the Health Equity position from Marketing to Plan Management.

Doreena Wong, Asian Americans Advancing Justice Los Angeles, expressed support for the decision to move the Health Equity position from Marketing to Plan Management. She also

supports the additional staff for the Spanish language effort. They would like to see additional efforts in the Marketing Division to address the full cultural and linguistic diversity of California.

Jen Flory, Western Center on Law and Poverty and Health Consumer Alliance (HCA), expressed support for the decision to move the Health Equity officer to Plan Management. HCA is also pleased that Covered California will continue to partner with the HCA as Covered California increases the capacity of the ombudsman office. She is hopeful that the percent of premium fee will go down over time.

Betsy Imholz, Consumers Union, echoed comments made by previous speakers. This year more than any other it will be necessary to have staffing for consumer education in terms of outreach, as well and the ombudsman services as consumers will be confused.

Alicia Kauk, National Health Law Program and the Health Consumer Alliance (HCA), is pleased with the continued funding for the HCA. She also supports the expansion of the Office of the Ombudsman.

Beth Capell, Health Access California, echoed comments made by previous speakers as well as comments made by Member Fearer. Uncertainty will make marketing and nimbleness more important.

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

Update to the 2018 Patient-Centered Benefit Plan Designs (Action)

James DeBenedetti, Director, Plan Management Division, noted that the IRS released the 2018 High Deductible Health Plan minimum deductible limits on May 4th. The minimum deductible for a family increased by \$100. Dental, diagnostic and preventative services within the procedure category were updated to reflect the same cost share as other services within the diagnostic and preventive services procedure category. Secondly, the actuarial value was also updated for Children's and Adult coinsurance and copay plans. Lastly, Endnote 14 was updated to match the 2018 Copayment Schedule approved at the March Board meeting.

Motion/Action: Board Member Islas moved to pass resolution 2017-33 regarding the update to the 2018 Patient-Centered Benefit Plan Designs. Board Member Fearer seconded the motion.

Public Comment:

Beth Capell, Health Access California, remarked that the changes presented are minor to what is fundamentally a very good design. It is a testament to the public involvement.

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

Approval of Revisions to QHP Issuer Contract, Including Cost-Sharing Reduction (CSR) Provisions (Action)

James DeBenedetti, Director, Plan Management Division, presented a proposal from staff to address continued national uncertainty about continued federal funding and cost sharing reduction subsidy (CSR) program. Currently, the Administration has only committed to funding CSRs through the month of May 2017 with no guarantee it will continue. Because Covered California is currently negotiating premium rates for the entire 2018 plan year, and premiums cannot change mid-year, a solution that takes into account the potential for non-payment of CSRs is needed to mitigate uncertainty. Covered California asked that issuers submit two rates: (1) a base rate assuming current CSR payments; and (2) a second set of rates they would charge if the CSR program is not funded. The rate increase attributable to the CSR program would be loaded on the standard Silver Qualified Health Plan (QHP), including the mirrored Silver Qualified Health Plan sold off-exchange. Both rates, when finalized, would be submitted to the regulators in mid-July. In addition, as a condition of participation in Covered California, staff is seeking Board approval to amend its contracts with issuers to require them to offer an additional, separately rated, non-mirrored Silver plan outside of Covered California that is virtually identical to the Covered California Patient-Centered Benefit Design if the CSR program is not funded. This product would not include any load for the CSR program. In absence of clear and reliable federal guidance, Covered California will have plans move forward with rates for 2018 on the assumption that CSR's will not be directly funded through 2018 and the costs for the program will be built into rates. The deadline for the decision is under review and will likely happen in mid-August.

Next, Mr. DeBenedetti presented the rationale and strategy for the proposal. This policy most clearly represents the stated intent of the Affordable Care Act (ACA) and reflects federal regulations related to the fact that cost sharing designs and actuarial values are factors applicable to plan-specific pricing. Loading CSR costs onto Silver plans has a very different effect for the APTC recipients than for the non-APTC recipients. By providing for an off-exchange almost identical product without the CSR load, Covered California is mitigating the impact on unsubsidized individuals.

Next, Mr. DeBenedetti reviewed implementation issues, which include the need for an additional, separately rated, non-mirrored Silver plan; the need for clear consumer communications; a target date for deciding which set of premiums to use (needs "last possible" in concert with state regulators); and, auto enrollment considerations of potential auto-enrollment of non-APTC Covered California Silver consumers in near identical off-exchange product with same carrier.

In terms of auto enrollment, Mr. DeBenedetti noted that moving enrollees to an issuer's off-exchange plan requires approval from California state regulators and from the U.S. Department of Health and Human Services.

Lastly, he presented the proposed contract language.

Chair Dooley thanked everyone who worked on putting together this proposal. This proposal would allow Covered California to continue to work within the law for the benefit of consumers.

Mr. Lee noted that a lot of consideration was given to the issue about how unsubsidized individuals would be affected. Some of the rationale related to mitigating the impact on the risk pool. He added that Covered California has worked very closely with the Department of Managed Healthcare, and the California Department of Insurance, health plans and advocates, and will continue to do so to work out the implementation of the proposal. Lastly, he noted that this is a business decision needed to give plans the comfort to make and keep their rates as low as possible.

Member Morgenstern commended staff for developing this innovative approach.

Member Fearer remarked that the strongest evidence for the strength of the proposal is the broad support that the proposal is getting from stakeholders. He asked what will happen if the federal government does not make a decision by August or if Congress adopts something favorably in October or in 2018? He also noted that communication will be important and challenging. It will be necessary to look at different segments of enrollees to determine where the most critical communication needs to go.

Chair Dooley responded that Covered California will work through the service center and through the network of people to determine the best way to tell the story to consumers.

Mr. Lee responded that the default plan in the absence of clear federal guidance is to load CSRs into the premium. In response to how to adapt to subsequent favorable changes at the federal level, Covered California will be working with regulators, plans and the federal government.

Motion/Action: Board Member Morgenstern moved to pass resolution 2017-34 regarding supplemental guidance on rate filing instructions related to the cost-sharing reduction program. Board Member Islas seconded the motion.

Mr. Lee highlighted that Covered California received letters of support for the staff recommendation from Blue Shield, Kaiser, the California Association of Health Plans, and a joint sign-on letter from eleven consumer organizations.

Public Comment:

Betsy Imholz, Consumers Union, noted her organization continues to press congress and the Administration about the critical importance of getting CSR payments made. She added that Consumers Union supports the contingency proposal that was presented. Requiring nearly identical off-exchange products preserves the principles of standard benefit design and provides premium relief for those who are not subsidy eligible. The rate filing instructions create uniformity so that there is a level playing field amongst the plans. She noted there will be operational challenges, which will be even more complicated for non-English speakers.

Bill Wehrle, Kaiser Permanente, thanked Chair Dooley and Member Fearer for their six years of service. Next, he expressed support for the staff recommendation and noted it will make a big

difference in preserving a stable market. He underscored the importance of the auto-enrollment for the 45,000 people; 12,000 which are Kaiser Permanente members. If nothing is done, these individuals will see an additional 15% premium increase.

Faith Lane, California Association of Health Underwriters (CAHU), thanked the Board and staff for their work in putting this proposal together. CAHU remains committed to working with Covered California to work on market stabilization efforts.

Jen Flory, Western Center on Law and Poverty and Health Consumer Alliance (HCA), thanked staff for developing a proposal that will help stabilize the market and keep coverage affordable, and for working with stakeholders to solicit feedback. She expressed concern with communication challenges ahead and recommended consumers be advised on the costs and benefits of being on exchange versus off exchange so they understand. For example, with the auto enrollment, there may be consumers in a Silver 70 that would get more value from a Gold plan. Similarly, there may be unsubsidized consumers on Covered California that do not take tax credits until the end of the year. She urged the Board to approve the proposed recommendation.

Carrie Sanders, California Pan-Ethnic Health Network (CP-EHN), echoed Ms. Flory's comments. She is hopeful there will be outreach and multilingual education so consumers understand what is happening. She urged the Board to approve the proposed recommendation.

Doreena Wong, Asian Americans Advancing Justice Los Angeles, echoed comments made by prior speakers. She expressed support for the proposed recommendation. However, she noted there may be implications that the navigators and agents will have to explain. The Shop and Compare Tool will be very important so that consumers can see which plan is more suitable for them. She hopes Covered California will develop materials for consumers in the threshold languages and develop training to ensure the navigators, agents and assisters fully understand what is happening.

Alicia Kauk, National Health Law Program and the Health Consumer Alliance (HCA), thanked Covered California for staying nimble and developing a creative contingency plan for CSRs that benefits consumers and keeps the risk pool strong. HCA looks forward to working with Covered California on the renewal notices and marketing to ensure the transition for consumers is as seamless as possible

Janice Rocco, California Department of Insurance, shared how they are working together with Covered California. She noted that the Federal government has not made any commitments about CSRs for 2017 or 2018. She thanked Covered California for the work that has been done to develop a contingency plan. She noted that the contingency plan presented assumes that the rest of the Affordable Care Act is implemented and followed appropriately. Depending on what the federal government and the administration decide to do, the need may arise to develop alternate contingency plans. While California has flexibility behind the August 15 deadline in terms of setting rates, state regulators will need to work closely with Covered California, insurers and consumer groups to figure out what needs to be done

Beth Capell, Health Access California, noted her organization signed on to the letter of support for the recommendation. One important thing to keep in mind in terms of the communication challenge are the several hundred thousand Californians who are eligible for tax credits who have not taken advantage of them. If their premiums go up, they may look for an alternative to dropping coverage and they should be informed of the tax credits available to them.

Mr. Lee shared that Covered California initially planned to load non-CSR rates for 2018. However, about six weeks prior, health plans raised their degree of uncertainty. Covered California developed this approach out of concern that health plans might not participate at all in 2018. This is a consumer-centric policy that was developed in collaboration with the Department of Managed Health Care, the California Department of Insurance, the health plans, and advocates.

Member Islas thanked Mr. Lee and staff for their ingenuity and expressed support for the proposed recommendation.

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

Covered California Regulations

Individual Eligibility and Enrollment Regulations Emergency Readoption (Discussion)

This agenda item was postponed.

Agenda Item VI: Adjournment

The meeting was adjourned at 1:55 pm