

CALIFORNIA HEALTH BENEFIT EXCHANGE BOARD MINUTES

Thursday, August 17, 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 11:00 am.

Board members present during roll call:

Diana S. Dooley, Chair
Genoveva Islas
Marty Morgenstern
Paul Fearer
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 12:35 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 June 15, 2017 meeting minutes.

Presentation: June 15, 2017 Meeting Minutes

Discussion: Peter V. Lee, Executive Director, Covered California noted that a couple grammatical errors on the meeting minutes would be corrected.

Motion/Action: Board Member Morgenstern moved to approve the June 15, 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)

Chairwoman Dooley reported that the Board discussed Mr. Lee's performance goals for 2017-2018 in closed session. Furthermore, the Board unanimously agreed that Mr. Lee has served Covered California well.

Executive Director's Update (Discussion)

Board Meeting Calendar

Mr. Lee noted there would be no September Board meeting. He also presented the 2018 proposed Board meeting schedule.

Meeting Overview

Mr. Lee noted this will be the most challenging open enrollment since year one due to federal uncertainty. There is a lot of federal uncertainty in regards to whether cost sharing reduction (CSR) subsidies will be funded or not. Covered California has worked out a potential solution if the CSRs are not directly funded in 2018, to have a cost-sharing reduction surcharge.

Mr. Lee reported on some of Covered California's ongoing activities and accomplishments, noting the Marketing team is preparing new advertisements in Los Angeles; 34,000 lives are covered through Covered California for Small Business (CCSB); there are 18,000 certified enrollment assisters throughout the state; improvements have been made to the website; the biggest update to the streamlined application was made, improving the experience for consumers; and, this OE, consumers will be able to enroll through a mobile device.

Discussion: Press Coverage and Reports & Research

Mr. Lee called attention to some of the reports in the Reports and Research materials, including a Commonwealth Fund report that looked at CCSB in California, Colorado, national efforts for SHOP; a Congressional Budget Office (CBO) report on not funding CSRs, which found that premiums would need to be increased by 20% for Silver plans; a Kaiser Family Foundation report that looked at early rates nationally from 22 states, including California; a Kaiser Family Foundation report on the first quarter of 2017, which found that insurers are making profits; and, an Urban Institute report on benefit design to promote access to health

Real Stories of Californians

Mr. Lee shared that the story of Adam has been added to Real Stories of Californians webpage. He encouraged meeting attendees to visit the website and view the stories of other individuals.

Review of 2018 Rates and Offerings

Mr. Lee reviewed Covered California 2018 rates and offerings. He noted that the average weighted rate change was 12.5 percent. He also noted that consumers could limit the rate change to 3.3 percent if they switch to the lowest-cost plan in the same metal tier. Next, Mr. Lee shared that carriers submitted separate rates for a potential CSR surcharge, averaging 12.4 percent, that would be added to Silver-tier premiums in an effort to address continued uncertainty regarding the funding of CSRs. Lastly, Mr. Lee noted that all eleven health insurance companies returned to Covered California for 2018 and 82 percent of consumers will be able to choose from three or more carriers. However, Anthem will be leaving some markets. Other service changes include Health Net adding a PPO to counties and removing its HMO from four regions in northern and

central California. Blue Shield will be expanding its HMO to Solano, Contra Costa, Alameda and Ventura and Oscar will expand to Northeast Los Angeles.

Mr. Lee noted Covered California will promote shopping for consumers that do not have Anthem as an option. If a consumer does not make a choice, Covered California will auto enroll them in the lowest-cost plan in their region. Consumers will have the opportunity to change their plan up until January 31.

For the CSR surcharge, Mr. Lee noted that if Covered California is proposing to require health plans to offer off exchange, mirrored products so that enrollees who do not receive subsidies do not have to pay a CSR surcharge.

Mr. Lee noted that subsidized consumers may be confused as they may expect a large rate increase without realizing that their premium tax assistance from the federal government will cover most of that increase.

2018 Product Offering Highlights

Mr. Lee noted that for this year, Covered California changed benefit designs to lower out of pocket maximums for consumers in some Silver, Gold and Platinum products. Covered California also implemented a program to make sure every consumer that is enrolled knows they have a primary care clinician to turn to. 99% of enrollees now have a primary care physician or clinician they are matched with. Covered California is the first organization to do this in the public or private sector. Covered California will analyze data to understand what difference it is making for consumers getting access to timely care.

Federal Update

Mr. Lee shared that all repeal efforts to date have failed in the senate. Congress will reconvene from recess on September 4. There are talks of bipartisan discussions to stabilize the market and to fund CSRs. September 30 is the deadline as the current budget resolution is set to expire. Covered California will load a CSR surcharge but will wait until September 30 to make a decision.

Chair Dooley shared that the reason why Covered California is working is because California wants to make it work. Covered California's proposal to deal with federal uncertainty is complex. However, she noted she looks forward to working with advocates and partners to ensure communication with consumers is clear.

Member Torres thanked Mr. Lee for his leadership statewide and nationally. He expressed concern regarding consumers' access to care in the future. However, he noted that Covered California will continue to do everything possible to continue to operate.

Public Comment:

Beth Capell, Health Access California, thanked the Board for their work and staff in anticipating the impacts of federal uncertainty. She noted that it is important to remember that APTC

eligibility is scaled to income so as premiums climb, so will the tax credit. She also commended plans for their efforts.

Jen Flory, Western Center on Law and Poverty and Health Consumer Alliance (HCA), echoed Ms. Capell's comments. She noted that stakeholders have all been working very hard behind the scenes. There will be people who fall through the cracks and HCA is ready and willing to help. In response to the single streamlined application update, she noted that advocates have been working with DHCS and Covered California and are looking forward to it.

Carrie Sanders, California Pan-Ethnic Health Network (CP-EHN), appreciates the ways in which staff has brought consumers and health plans together to think about the best way to communicate with consumers.

Dena Mendelsohn, Consumers Union, is pleased with Covered California's effort to cushion consumers and with the level of collaboration with stakeholders.

Deborah Madden thanked the board for their efforts to protect the self-employed to ensure access to health insurance. She pointed out that for the number of people do not receive subsidies, a 12% increase is a lot. She noted that a Gold policy for her family would cost \$32,700 next year. She also urged the board to consider doing something for families with older parents.

Doreena Wong, Asian Americans Advancing Justice Los Angeles, echoed prior speakers' comments. She supports the idea of waiting as much as possible to give congress time to act, as well as the auto enrollment plan.

Amanda Wallner, California LGBT Health & Human Services Network, echoed prior speakers' comments. She also shared that she is excited for the single streamlined application changes, which will include sexual orientation and gender identity questions. She encouraged the board to include training for navigators and enrollers to ensure accuracy in collecting data.

Anthony Galace, Greenlining Institute, appreciates new consumer stories being uploaded to the Covered California website. In response to patients being connected to a primary care physician, he would like to know how many of those patients sought care within the first six to twelve months of being connected. This information will help identify gaps for those that are not seeking care.

Alicia Kauk, National Health Law Program and the Health Consumer Alliance (HCA), supports the CSR contingency plan. She noted that even if consumers are not paying more out of pocket due to APTC, it will take a lot of resources to explain to consumers. She encouraged Covered California to list the HCA on notices and any targeted messaging to ensure advocates can support and guide consumers through this confusing process.

Mr. Lee reiterated that delayed action is causing dislocation, double work and will cause consumer confusion. He added that this is all in hope that Covered California does not have to do a CSR surcharge (if Congress takes action). If a CSR surcharge is loaded, Covered California will stay nimble, engage stakeholders and do things in a way that puts consumers first. In

response to Deborah Madden's comment, Mr. Lee responded that Covered California always thinks about the implications to unsubsidized enrollees. He added that premiums are far less in California than in other places around the country.

Agenda Item V: Covered California Policy and Action Items

2017-2019 Qualified Health Plan Issuer Contract Amendment for 2018 (Action)

James DeBenedetti, Director, Plan Management Division, presented a proposal to change QHP issuer contract provisions regarding 2018 plan participation and consumer price moderation. He noted that carriers could have increased rates significantly or exited the Exchange in light of continued uncertainty at the federal level and the potential for losses in 2018. To mitigate this risk, Covered California has proposed new contract language that would allow issuers that incur losses in 2018 due to enrollment changes and certain federal laws and policies to increase its profit margin to recoup such losses over the course of three years (plan years 2019, 2020, 2021). Issuers incurring losses in 2018 due to changes in federal policy or enrollment levels may increase profit margins in 2019-2021. Issuers receiving profits due to uncertainty should factor such profits into a reduction of its premium rates over the next one to three plan years. Covered California will utilize the annual negotiation process to consider the duration and amount to supplement issuer profit margins for building or maintaining adequate reserves or to deduct the unanticipated 2018 profits from the issuer's future profit margins. If this process is invoked, Covered California would convey to the regulator its perspective on the reasonableness of profit margins given the exceptional circumstances as they conduct their own independent review

Mr. Lee noted that while the Board typically takes action on items that have been discussed at prior meetings, this agenda item is scheduled for action because this issue came up during plan negotiations. Draft language was shared at the plan management advisory committee.

Member Fearer emphasized that this plan keeps issuers in Covered California.

Chair Dooley reiterated that this contract change does not change the law. It is more of a memorandum of understanding for future negotiations.

Motion/Action: Board Member Islas moved to pass resolution 2017-36 regarding 2017-2019 Qualified Health Plan Issuer Contract Amendment for 2018. Board Member Fearer seconded the motion.

Public Comment:

Dena Mendelsohn, Consumers Union, supports the proposal and noted that Consumers Union worked with Covered California on language.

Jen Flory, Western Center on Law and Poverty and Health Consumer Alliance (HCA), reiterated Dena's comments and thanked Consumers Union for their work on this issue.

Carrie Sanders, California Pan-Ethnic Health Network (CP-EHN), echoed previous speakers' comments.

Doreena Wong, Asian Americans Advancing Justice Los Angeles, supports the proposal to address uncertainty. She believes this proposal as balanced.

Beth Capell, Health Access California, looks to colleagues on rate review to ensure rates are what they should be. She appreciates that California law gives Covered California authority to actively negotiate with carriers.

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

2017-2018 Budget (Final Report and Potential Adjustment) (Action)

Jim Lombard, Chief Financial Planning Officer, Financial Management Division, presented the 2017/18 budget final report and proposed adjustment. He noted that in June the Board formally set the Exchange's enrollment assessment rates for benefit year 2018, and approved the Budget, for \$314,257,627, for Fiscal Year (FY) 2017-18. Subsequent to the approval of the Budget there continues to be significant uncertainty at the federal level, in particular regarding the funding of the cost-sharing reduction subsidy program. Additionally, Anthem reducing its coverage areas in 2018 will lead to a large number of consumers both shopping for new plans and considering moving to plans that provide the best value. In order to mitigate the impact of these events Covered California is proposing an incremental increase of the budget of \$5.3 million for marketing activities during its upcoming open enrollment period. Including the additional marketing expenditures, the Proposed Amended Budget is \$319,557,627. While there is substantial uncertainty, Covered California remains in a sound position to respond to policy changes and will still close out FY 2017-18 with almost \$292 million in reserves, providing the ability to react to any changes in health care laws or policies. The multi-year forecast projects revenue will exceed expenditures in FY 2018-19, that healthy levels of reserves will be maintained throughout the forecast, and Covered California would still be able to reduce its plan assessment in coming years.

Mr. Lee presented the elements of the proposed incremental marketing spend. Increased paid media elements include TV and radio (– higher weight levels for the weeks of 11/1, 11/6, 1/22 and 1/29), targeted regional buys due to Anthem reducing its footprint, Asian in-language digital & print, and paid social spend direct Paid Social spend. Direct mail elements include targeting off-exchange consumers to assure they maintain coverage, targeting specific consumer groups affected by the CSR surcharge, expanded direct mail to key prospects, and additional outreach to “funnel” consumers for conversion around key deadlines.

The Proposed Amended Budget contains a proposed addition of \$5,300,000 to the June authorized Budget to fund additional marketing efforts in open enrollment that will help mitigate the impact of market and product changes caused by increased levels of uncertainty from the lack of clarity surrounding how the federal government will fund the cost sharing reduction subsidy program, and enforcement of the penalty and Anthem's reduced coverage in 2018, resulting in impacted consumers shopping for a new plan

Mr. Lombard reviewed the multi-year forecast and noted that assessment rates are expected to be reduced in the future.

Member Torres emphasized that Anthem is adjusting its presence in California, not leaving as the media portrays.

Public Comment:

Beth Capell, Health Access California, is pleased with the increase to the marketing budget. There will be a lot of consumer confusion and marketing efforts to reach people will be very important. She also noted that the marketing budget has responded to diversity of California.

Carrie Sanders, California Pan-Ethnic Health Network (CP-EHN), appreciates the extra funds for marketing education that will be needed for consumers. She appreciates the Asian language marketing. In response to the Anthem population, she urged the Board to make sure outreach is multilingual and reflective of demographics of individuals losing coverage. She would like to hear more about that population in the near future and information on how this transition will look for Navigators.

Doreena Wong, Asian Americans Advancing Justice Los Angeles, echoed previous speakers' comments. It is very important to have effective and key messaging. She also noted that Navigators will supplement the marketing outreach.

Jen Flory, Western Center on Law and Poverty and Health Consumer Alliance (HCA), concurred with previous speakers' comments. There is a lot of misinformation out there and increased marketing will help.

Dena Mendelsohn, Consumers Union, is pleased with marketing budget. Consumers will have a lot of misinformation so it will be important to put an emphasis on marketing.

Motion/Action: Board Member Morgenstern moved to pass resolution 2017-37 regarding 2017-2018 Budget (Final Report and Adjustment). Board Member Islas seconded the motion.

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

Covered California Regulations

Individual Eligibility and Enrollment Regulations Emergency Readoption (Discussion)

James DeBenedetti, Director, Plan Management Division presented the proposed passive health plan replacement policy in response to Anthem reducing their footprint. Due to the number of enrollees affected by Anthem's service area reduction for 2018, a passive renewal policy is needed for enrollees who lose access to their health plan. This will ensure coverage is maintained for enrollees who do not actively select a replacement. Covered California will implement an active outreach program to promote shopping by individuals who no longer have the option of remaining with their current health plan. To maximize both affordability and continuity,

enrollees who do not actively select a replacement will be enrolled in one according to the following criteria / hierarchy. They will retain the ability to change this selection at any time during their renewal and open enrollment periods. The enrollee will be placed in the lowest premium health plan that is: 1. The same metal tier (if available) 2. From the same issuer (if available). Due to the wide variability in provider network sizes (e.g., some HMO networks are larger than some EPOs and PPOs in the same region), product types (HMO, EPO, PPO) will not be used as a criteria for passive enrollment into a replacement plan.

Bahara Hosseini, Legal, presented a high-level summary of changes to the eligibility and enrollment regulations. Changes to the regulations include clarifying the income inconsistency process specifying that a 25% income threshold will be used to clear income inconsistencies; adding proration of premium language, which specifies how premiums will be calculated for partial month coverage; revising the passive renewal regulations; adding an over age dependent age out process in the passive renewal regulation.; and, adding a large employer appeal decision implementation process into the regulation.

Member Morgenstern asked how consumers would be notified. Chair Dooley responded that consumers would get notices and have the opportunity to talk to navigators or contact all sources of information available through Covered California.

Member Fearer asked staff to consider messaging for consumers who are being moved from one plan type to another. He also requested that staff consider special scenarios: for example, Anthem Silver consumers that are subject to the CSR surcharge are renewed to another Silver plan, when a Gold plan could be more affordable. Mr. DeBenedetti responded that staff has a decision tree matrix on what communication is going to what population.

Member Torres asked for clarification on the role of EPOs in Covered California. Mr. DeBenedetti responded that Anthem implemented an EPO to control costs in 2017. Health net will market an EPO for plan year 2018.

Jen Flory, Western Center on Law and Poverty and Health Consumer Alliance (HCA), supports the general passive renewal policy, proration and the appeals process. The policy will cause consumer confusion, but ensuring continuous coverage is also important. She noted she has technical changes she will be working on with staff.

Deborah Madden, noted that with the withdrawal of Anthem, only Kaiser and Blue Shield are left in Ventura. Blue Shield does not have UCLA doctors, which is a huge shift. She requested that staff pay extra attention to what providers are going to be available in non-HMO plans.

Bill Wehrle, Kaiser Permanente, noted that the passive renewal process is very common in other parts of the country. It will be confusing to consumers so the simpler it is the better. In response to Member Fearer, Mr. Wehrle noted that Kaiser will be doing its own outreach in addition to regular outreach to those auto assigned to Kaiser. Kaiser also decided to augment call center staffing for this year and urged Covered California to look at their ability to meet service levels in its call center.

Alicia Kauk, National Health Law Program and the Health Consumer Alliance (HCA), generally supports proration of premiums and the auto renewals policy. However, as Member Fearer noted, there may be some consumers who can get a more comprehensive and more affordable plan. She asked that staff be strategic in how many notices are sent to consumers. She also noted she had technical changes she will be working on with staff.

Athena Chapman, California Association of Health Plans, supports the change in overage dependents and is looking forward to the implementation of the special enrollment period (SEP) verification process.

Dena Mendelsohn, Consumers Union, urged staff to send notices as soon as possible and include strong language that is easy to understand.

Beth Capell, Health Access California, supports the passive enrollment policy so that consumers can continue to have coverage. She agreed with Member Fearer that consumers who are facing an increase in premium and loss of carrier are going to be confused. She added that the Continuity of Care law should apply to this process. Lastly, she appreciates SEP verification being delayed to October.

Chair Dooley clarified that this item will come before the Board in October, after further refinement and input from stakeholders.

Mr. Lee noted that due to Covered California's goal to give Congress enough time to act, notices will not go out as quickly as possible. In response to Mr. Wehrle's comment about service levels, Mr. Lee warned that while staffing is up, the service center may not meet service levels.

Agenda Item VI: Adjournment

The meeting was adjourned at 1:55 pm