

CALIFORNIA HEALTH BENEFIT EXCHANGE BOARD MINUTES

Thursday, December 7, 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 11:30 am.

**Board members present during roll call:**

Diana S. Dooley, Chair  
Genoveva Islas (present during open session only)  
Paul Fearer  
Art Torres

**Members Absent:**

Marty Morgenstern

**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 1:00 pm.

Next, Chairwoman Dooley shared that Member Morgenstern resigned from the Covered California Board of Directors. She thanked him for his service.

Member Torres, also thanked Member Morgenstern for his service and for his counsel over the years.

**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 October 5, 2017 meeting minutes.

**Presentation:** October 5, 2017 Meeting Minutes

**Discussion:** None

**Motion/Action:** Board Member Islas moved to approve the October 5, 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, which included approval of amendments to contracts with the California Department of Social Services, Faneuil, and NWN Corporation. The Board also approved the issuance of RFPs for translation and for accounting services.

Next, Mr. Lee shared that Covered California continues to recruit for the position of Director of Outreach and Sales Division. Additionally, he noted that Covered California also continues to recruit for the Health Equity Officer position in the Plan Management Division and thanked advocates for their comments on the job description.

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

#### **Covered California Holiday Giving**

Mr. Lee recognized the various giving activities the Covered California has engaged in. More than 3,800 pounds of food, including over a ton of turkey was collected to support people on thanksgiving. The Financial Management Division also supported a spaghetti lunch, with all proceeds going to the Sacramento Food Bank. Human Resources also coordinated a giving tree to provide gifts to children in the Sacramento Children's Home. The Fresno service center coordinated a giving tree for the Marjaree Mason Center. Both the Rancho Cordova and Fresno Service centers collected gently used coats for the Sacramento Food Bank and Marjaree Mason Center. Lastly, both service centers collected almost 1,000 pairs of shoes that went to Soles for Soles Red Cross for victims of Napa and Sonoma fires.

#### **Board Meeting Calendar**

Mr. Lee noted there would be a Board meeting in January and that there would likely be no February Board meeting.

Chair Dooley asked Mr. Lee to confirm whether enabling statute has a requirement of a certain number of meetings a year. Mr. Lee responded that staff would report back at the next Board meeting.

#### **Review of Board Material**

In reviewing the board materials, Mr. Lee noted that Covered California for Small Business (CCSB) regulations listed for action on the agenda would actually be a discussion item.

Next, Mr. Lee shared that Covered California submitted comments to U.S. Health and Human Services (HHS) on the 2019 Benefit and Payment Parameters. Covered California also submitted comments on the Centers for Medicare & Medicaid Services' (CMS's) innovation center new direction RFI. Covered California also submitted a letter to the Assistant Secretary of Planning and Evaluation (ASPE) regarding recently issued reports that were concerning.

Lastly, Mr. Lee called attention to some of the reports in the board materials, including the various press releases from Covered California and a report from the National Center for Health Statistics, which found that the uninsured rate dropped to 6.8%. Mr. Lee added that independent review was conducted and about half of those individuals are not subsidy eligible, which means that the uninsured rate in California is about 3.4%. The report also highlighted that state-based marketplaces saw a decrease in uninsured, while the federally facilitated marketplaces saw an increase in the uninsured.

### **Open Enrollment Update**

Mr. Lee reported that as of November 30, Covered California has enrolled 102,000, a 28% increase over the same period last year. He also reported that 1.2 million Californians renewed their coverage, a third of which actively renewed and two thirds of which passively renewed. He noted that the subsidized population would pay 10% less in 2018. Unsubsidized individuals; which is about 15% of enrollees; are buying off exchange-mirrored products that excludes the cost-sharing reduction (CSR) surcharge that applies on exchange.

Mr. Lee provided an update on the service center, noting that a number of systems have been implemented to improve service. The vacancy rate is down, the surge vendor is fully staffed with about 600 people, and bilingual staff have increased by about one third. The service center also enhanced technology solutions by updating the interactive voice response (IVR) system messaging for open enrollment. This has resulted in a 20% to the IVR. Calls to service center representatives have increased 7%. However, the abandonment rate increased substantially. Similarly, the average handle time is about 50% longer due to confusion with cost-sharing reductions, and Anthem leaving in some areas. Mr. Lee noted he expects better service levels in the coming weeks.

Next, Mr. Lee reported that Covered California's marketing campaign is in effect via billboards, print and digital advertisements. Covered California is also doing targeted marketing to the Latino, Asian, African-American, and LGBTQ communities. Mr. Lee added that Covered California "Covered in Art" tour will continue from December 12-15, and will pick up again in January.

### **Protecting Consumers and Providing Competitive Options in the Face of Continued Federal Uncertainty**

Mr. Lee provided a foreshadowing of some of the uncertainties that may arise in 2019 and how Covered California is preparing.

First, he provided an overview of federal actions causing uncertainty and instability for plan years 2018, consequences, and mitigations in California. He also provided examples of federal and state options to provide stability and mitigate uncertainty

In addition, Mr. Lee provided an overview of the Affordable Care Act (ACA) penalties, providing the basics of how it works, and what it does. He explained that the penalty counteracts natural biases and assurance of a good risk mix, and nudges everyone to get coverage. Mr. Lee

also provided an overview on who pays the penalty and gets the exemption, and highlighted that in California about 4.4% of taxpayers pay the penalty in 2015.

Next, Mr. Lee provided an overview on the Tax Cuts and Job Act. While it does not repeal the Affordable Care Act, it proposes to “zero out” the penalty payment for individuals who fail to maintain minimum essential coverage beginning after December 31, 2019. He also provided estimated ranges of the impact of the penalty elimination or repeal.

Lastly, Mr. Lee presented policy options for offsetting the impact of the penalty removal, which included federal or state reinsurance, marketing and outreach to effectively promote availability of subsidies, state or federal requirements for continuous coverage and/or auto enrollment, and state-level individual mandate.

### **New Covered California Special Enrollment Period (SEP) Options**

Mr. Lee reported that as a result of Covered California’s Cost-Sharing Reduction (CSR) policy to protect consumers, Covered California is looking at options for having SEP provisions for consumers who go off exchange, to have access to subsidies if their income changes. Existing rules do not allow these consumers to enroll in an on-exchange plan if they had a change in income.

#### **Public Comment:**

Beth Capell, Health Access California, applauded the increase in enrollment and Covered California’s engagement in marketing. She acknowledged what this administration has done on Medi-Cal, specifically on extending Medi-Cal to undocumented children. She is hopeful that in the future, all parts of the uninsured will be addressed. She is pleased with the steps that have been taken at the state level to mitigate the efforts to undermine the market. She is hopeful that the penalty remains in place along with the exception and other protections that the law envisions.

Carrie Sanders, California Pan-Ethnic Health Network (CP-EHN), also applauded Covered California’s increase in enrollment. She is pleased with the steps that have been taken at the state level to mitigate the efforts to undermine the market. She reported that CP-EHNs partners who are enrollers and navigators have been talking about a lot of the earned media that they are engaging at the local level, particularly with their ethnic media partners, to educate the community about the enrollment period. She would like to work together to figure out a way to share some of the earned media that CP-EHN’s partners are engaged in and to make sure that they are aware of the various types of earned media events that Covered California is planning as well. Lastly, she thanked Mr. Lee for the update on the Health Equity Officer position.

Jen Flory, Western Center on Law and Poverty and Health Consumer Alliance (HCA), congratulated Covered California on the increased enrollment. She noted HCA is still hearing from people who are confused about APTC and rates. She is encouraged to see more people who previously were in Silver enrolling in a Gold, because for many people, Gold is a better value. She suggested that any analytics that can be done in January to get people in the best plan would

be great. She is also encouraged that staff is looking at changing the regulations around SEP for people who go off exchange, had an income change, and wish to return to Covered California.

Betsy Imholz, Consumers Union, commended Covered California on the outreach. In response to short-term plans, she noted that even under the current stricter federal rules, there is an increase in the marketing of those plans, particularly by online brokers. Federal regulators will likely loosen these regulations even more. These plans do not have all the consumer protections of the ACA, including essential health benefits. They are also full of loopholes and potentially contain unwelcome surprises in both coverage and out-of-pocket costs for consumers. There are big risks for consumers and for the state's risk pool. She looks forward to taking steps to help ensure that California tightens regulations further.

Doreena Wong, Asian Americans Advancing Justice Los Angeles, Commended Covered California for its commitment to marketing and outreach. She corroborated the service center's finding that it is taking longer to explain things to consumers and noted that navigators and enrollment counselors are seeing the same thing on the ground. She noted that targeted outreach is key and Covered California's commitment makes a difference. Lastly, she expressed appreciation for staff trying to address some of the health equity and health disparity issues.

Alicia Kauk, National Health Law Program and the Health Consumer Alliance (HCA), applauded the increase in enrollment. She noted that advocates at a recent national conference were impressed by the work that Covered California has done to mitigate damage from the loss of CSR funding. Secondly, she thanked staff for ensuring there were enough service center representatives to speak to consumers. Lastly, she thanked staff for considering the SEP for individuals who have gone off exchange.

Beth Capell, Health Access California, acknowledged member Morgenstern's service over the years. She also remarked on Covered California print advertisement placement in the boardroom.

Member Fearer noted that Mr. Lee's presentation covered a lot in a short period of time and is a reflection of the amount of work that's been done by Covered California to reduce uncertainty. Additionally, Covered California has produced various publications about the California experience and it is immensely valuable.

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

### **Covered California Regulations**

#### **Covered California for Small Business (CCSB) Eligibility and Enrollment Emergency Regulations Readoption and Permanent Rulemaking Authorization (Discussion)**

Bobbie Moore, Covered California for Small Business, provided a quick overview on how CCSB is doing. She noted that CCSB is in a double-digit increase year over year for the third year in a row in membership. CCSB is also doing a lot of system implementations and improvement, as well as moving forward final regulations.

Next, Ms. Moore presented a high-level summary of changes to the CCSB regulations. She noted that the changes proposed were done in consultation with stakeholders. For the employer and employee application requirements, changes include: adding additional data fields to help in the administration of programs, such as adding the standard industry classification code or the SAC code; adding the election by the employer to offer infertility benefits; asking employers if they intend to claim the small business tax credit; and, adding the election by the employee for COBRA and Cal-COBRA

Eligibility and enrollment changes include adding language to increase the flexibility of the program requirements during high-volume times; adding additional coverage options as valid waivers, and adding requirements for the employers who wish to offer infertility benefits.

Clarifying language was added related to the election of coverage at initial and annual enrollment periods. Language was also added for special enrollment periods related to qualified dental plans, and clarification was provided on binder payment submission guidelines. Language was also added for clarify around the termination and disenrollment rules.

**Public Comment:**

Carrie Sanders, California Pan-Ethnic Health Network (CP-EHN), asked if staff could explain forthcoming federal changes and how they will be addressed at the state level.

Mark Herbert, Small Business Majority, thanked staff for continuing to improve and refine the CCSB regulations. He noted that small business owners and agents in the community say CCSB provides unique options for them and their employees. He also thanked Covered California for its commitment to CCSB.

Beth Capell, Health Access California, noted that along with Small Business Majority, Health Access was the co-sponsor of the Small Business Underwriting Rules law that governed the market. In response to impending federal rules, she noted that California has very strong law with respect to association health plans and other arrangements that undercut the rules with respect to small employer coverage.

**Agenda Item VI: Adjournment**

The meeting was adjourned at 2:30 pm