

COVERED CALIFORNIA BOARD MINUTES
Thursday, September 19, 2019
Covered California Tahoe Auditorium
1601 Exposition Blvd.
Sacramento, CA 95815

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

Vice Chairman Paul Fearer called the meeting to order at 10:03 a.m.

Board Members Present During Roll Call:

Jerry Fleming
Paul Fearer
Dr. Sandra Hernandez

Vice Chairman Fearer stated Chairman Mark Ghaly would be present for open session. Art Torres would be absent for the entirety of the meeting.

Agenda Item II: Closed Session

A conflict disclosure was performed and there were no conflicts from the board members that needed to be disclosed. The board adjourned into closed session to discuss personnel, contracting and litigation matters pursuant to Government Code Sections 100500(j), 11126(a), 11126(e)(1), and 11126.3(d).

Chairman Ghaly called open session to order at 1:05 p.m. Chairman Ghaly stated that he was present for the entirety of the closed session.

Agenda Item III: Approval of Board Meeting Minutes

Presentation: August 15, 2019 Meeting Minutes

Discussion: None

Motion/Action: Mr. Fearer moved to approve the August 15, 2019 Meeting Minutes. The motion was seconded by Mr. Fleming.

Public Comment: None

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

Agenda Item IV: Executive Director's Report

Peter V. Lee, Executive Director reviewed the agenda and stated that the presentation on the experience report on Attachment 7 would be deferred to the November meeting.

Announcement of Closed Session Actions

Mr. Lee announced that the Board discussed personnel and contracting matters in closed session. On contract matters, Mr. Lee stated that for the past seven years, the CalHEERS system has been under the leadership and operations of Accenture. This year, Covered California and the Department of Health Care Services, with the assistance of the Office of Systems Administration, conducted a competitive bid process to select a new or continued vendor for the CalHEERS project. Deloitte was selected. The Centers for Medicare and Medicaid Services approved this final decision. Deloitte will begin in plan year 2021. Accenture will handle the 2020 open enrollment period. Mr. Lee thanked Accenture for their good work.

Executive Director's Update

Discussion: Press and Media / Reports and Research

Mr. Lee noted there was a lot of press coverage on premiums. He reminded the group that there was a preliminary rate increase of point eight percent as a product of the state's policies. This is a product of the return of the penalty.

Mr. Lee called out the report titled *The Role of Behavioral Frictions in Health Insurance Marketplace Enrollment and Risk: Evidence from a Field Experiment* by The National Bureau of Economic Research. This report was co-authored by Isaac Menashe, Deputy Director of the Policy, Eligibility and Research Unit, Richard Domurat, and Wes Yin, a frequent collaborator. He encouraged everyone to read this report.

Mr. Lee called out the report titled *Who Are the Remaining Uninsured, and Why Do They Lack Coverage* by The Commonwealth Fund. Nationally, almost half of the uninsured are eligible for marketplace or Medicaid subsidies. The number is slightly lower in California due to the higher number of undocumented individuals. Two thirds of those eligible have not gone to a marketplace to research their coverage options. The report also states that people don't get coverage because they do not think they can afford it. This national research validates and affirms research done by Covered California.

Discussion: Status Update on Open Enrollment 7 Efforts

Mr. Lee stated open enrollment begins October 15, 2019 with a big kick-off on November 1st. Open enrollment is scheduled to go through January 15, 2020. There is legislation pending that may extend open enrollment through the end of January. Mr. Lee called out to the two sponsors of the legislations, Health Access and California Pan-Ethnic Health Network and to health plans that worked with them.

Mr. Lee spoke on the importance of communicating the affordability of health insurance to the public. Health insurance can be confusing for consumers. Mr. Lee stressed that Covered California is focused on informing consumers and helping them understand. The core advertising target is the state-subsidy eligible, both the insured and the uninsured. Covered California estimates that ninety percent of those who make

between 400 and 600% of the federal poverty level (FPL) are insured and will now benefit from a subsidy. They will be able to afford and keep their coverage. The target top is people making up to \$150,000, or 600% of the FPL. Estimates indicate that between 2016 and 2018, 170,000 unsubsidized Californians dropped their coverage. The state subsidy will keep people insured.

Advertising will target by language and demographics due to California's phenomenal diversity. The open enrollment advertising will truly begin in November and be heaviest during the month of January, assuming the legislation extending open enrollment goes through. There will be some advertising done in advance of November 1st. There will not be a bus tour. Covered California is testing new opportunities. Mr. Lee mentioned the involvement of sports figures, phone banks, and regional outreach.

While the penalty will not be highlighted in the advertising, Mr. Lee said it is important consumers to be aware of the penalty. Covered California has had a productive partnership with the Franchise Tax Board. It is the Franchise Tax Board's job to administer the penalty in California. They are educating their tax preparers and together, the Franchise Tax Board and Covered California are working on avenues for broadcasting this change. There have been nine sessions throughout California to educate agents, Navigator representatives, county representatives, and carriers regarding the state subsidy and the penalty. There have also been webinars, one of which had over 1,000 participants.

Discussion: Dental Rates

There have been changes to the preliminary rates. They were sent to the Department of Managed Health Care for review. The Chinese Community Health Plan rates were slightly reduced in region four and region eight. The reduction did not affect the statewide average with is still less than one percent. As a clarification from the previous meeting, Mr. Lee stated that the statewide weighted average change in dental was down one-point-nine percent.

Discussion: State Subsidy Program

Covered California is doing support for subsidy-eligible, off-exchange individuals. It is estimated that eighty to ninety percent of those who will utilize the subsidy and earn more than 400% of the federal poverty level, already have health coverage but do not yet receive a subsidy. Most of these individuals purchased off-exchange, directly from the insurers. All of Covered California's health plans are encouraging off-exchange members that are potentially subsidy-eligible to consider switching to Covered California plans. Mr. Lee praised the plans for providing incentives, or removing disincentives, for agents to encourage this change.

Board Comment:

Mr. Fleming commented on the multiple communication issues Covered California faces regarding the subsidy, the penalty, and the need for insured subsidy-eligible individuals

to move to Covered California plans. He asked if there was a plan to test the effectiveness of the communication, especially with the penalty.

Mr. Lee stated that pulse-checks are related to information gathered from the services channels and, in particular, the customer service phone lines. Incoming questions will be tracked. Mid-open enrollment, there is a plan to conduct focus groups or a net news survey. Regarding public relations, Mr. Lee said the information gathered will lead to decisions on how Covered California can generate earned media. Mr. Lee said he and others will work with Governor Newsom's team to determine the Governor's level of involvement.

Discussion: Health Plan Quality Rating System (QRS) Results

Lance Lang, Covered California's Chief Medical Officer noted that each year, Covered California has publicly reported on quality and that the federal marketplace will soon begin reporting on this as well. Next, he explained how scores are rated, noting that clinical scores are based on the Healthcare Effectiveness Data and Information Set (HEDIS). Members experiences are based on the Consumer Assessment of Healthcare Providers and Systems (CAHPS). Plan services for members are scored using a combination of HEDIS and CAHPS. Mr. Lang stated that the discussion would focus on the global score. They found the Centers for Medicare and Medicaid Services' method of scoring didn't satisfy Covered California's needs. Covered California devised a different approach to scoring. This approach uses national raw scores to apply regional benchmarks. The results show the plans were not performing quite as well as previous years but the majority of the plans were between the twenty-fifth and seventy-fifth percentile. Two plans scored over the seventy-fifth percentile while one plan scored over the ninetieth percentile. Mr. Lang displayed a chart of the star ratings comparing years 2017, 2018, and 2019. Covered California will continue to work with plans below three stars to continue to improve.

Mr. Lee clarified that Healthcare Effectiveness Data and Information Set (HEDIS) scores between 2018 and 2019 remained basically constant. The Consumer Assessment of Healthcare Providers and Systems (CAHPS) scores went down slightly. The five plans identified as having a two-star rating (between the twenty-fifth and fiftieth percentile) are not worse in 2019 than in 2018. The change is due to the new scoring methodology, not a change in performance.

Mr. Lee stated that Covered California will continue to examine the scores and will share the information with the Plan Advisory Committee. The details on plan scores will be released as part of the go-live for Shop and Compare.

Board Comment:

Dr. Hernandez asked if there were any Healthcare Effectiveness Data and Information Set measures that were particularly challenging with Covered California plans.

Mr. Lang said that in November, there would be a detailed experience report that would show how the underlying scores encourage trends. There will be an effort to call out the twelve, out of forty, measures in the Quality Rating System that Covered California believes are the most important.

State and Federal Policy Update

Discussion: Federal Update

Mr. Lee stated that Kelly Green, Director of External Affairs was in Washington as part of a delegation of twelve state-based marketplaces. They already met with key Republican leadership and health committee staff and will meet the Democratic leadership and health committee staff in the afternoon. Four states among the delegation are looking to become state-based marketplaces because California has demonstrated what states can do. The delegation has noted that state-based marketplaces are generally doing a better job than the federal marketplace in terms of enrollment, effects on premium trends, etc. Both party sides have asked a lot of interesting questions about what is being done in California. They've asked about the penalty and about what is being done for those who fall between 400 and 600% of the federal poverty level. Reinsurance programs are also a subject of conversation at these meetings.

Discussion: Public Charge

Covered California partnered with the California Health and Human Services and key stakeholders to develop fact sheets on the issue of public charge. They are currently available in English and Spanish. Covered California is also providing information on free legal services on this issue.

Discussion: State Legislation

Mr. Lee quickly ran through pending legislation that could have a significant effect. These bills have been passed by the California legislature and are awaiting the Governor's signature.

- AB 1309 was sponsored by Health Access. It would change the date of the annual open enrollment period to November 1st through January 31st beginning in 2020.
- AB 929 was sponsored by Health Access and CPHEN. This bill is about the sharing and posting of data.
- SB 260 was sponsored by Health Access and Western Center. This bill provides provisions around auto enrollment. It encourages carrier auto-enrollment from Medi-Cal into Covered California.
- AB 174 was sponsored by Health Access. It would require a regular report on how the new subsidy program is doing.
- AB 5 has been signed by the Governor. This bill defines certain classes of independent contractors as employees using a three-part test. There are a variety of exceptions identified in the bill and the bill goes into effect in 2020 for some classes of employees and has a later effective date for other classes.

Covered California is evaluating the bill and assessing its possible impact on enrollment.

Discussion: Appendices

Covered California for Small Business membership has grown sixteen percent in the last year. Mr. Lee commented on the team effort during open enrollment including the contributions of over 10,000 certified agents, 1,000 certified enrollment counselors in the 100 Navigator partners, 1,500 certified application partners, and 500 plan-based enrollers.

Board Comment:

Chairman Mark Ghaly said they would watch the additional pieces of legislation not on the list that also could impact Covered California and the rest of healthcare.

Public Comment:

Beth Capell, Health Access California said they appreciate working with Covered California and other partners on legislation. She said they were pleased to see the information regarding quality reporting as they feel this is very important. Regarding marketing, Ms. Capell stated that in addition to health insurance being confusing and difficult, it can also be scary for some consumers. Emotion and fear of what could go wrong plays a role. She said they are pleased to see Covered California taking full advantage of the new state subsidies to reach out to people and educate them on what is available. Ms. Capell stated they believe a third of those in the 400 to 600 percent of the federal poverty level range are uninsured. They believe half of these individuals are self-employed.

Jen Flory, Western Center on Law and Poverty, stated that regarding the transition of CalHEERS from Accenture to Deloitte, advocate testing is important. She said some of her colleagues were able to test some of the state-based subsidies. They said it works. She said she was excited to see the Shop and Compare tool. Regarding marketing, Ms. Flory said she can attest that nobody knows about the individual mandate or the new state subsidy. Regarding quality, they are disappointed to see plans below the fifty percent mark. They want to ensure that all of the plans taking state money and enrolling people into them are above the fifty percent mark. Regarding legislation, she thanked Covered California for the technical assistance provided for SB 260.

Cary Sanders, California Pan-Ethnic Health Network said they support the legislation that extends open enrollment through January 31st. They worked closely with Health Access on AB 929, the data bill. Regarding the Quality Rating System, they look forward to seeing the plan-by-plan data and how that overlays with the disparities reduction initiatives that are part of Attachment 7. She said they appreciate the attention given to marketing and multi-lingual marketing. Regarding public charge, she said it is important to address the concerns and potential fears that could chill enrollment this year.

Doreena Wong, Asian-Americans Advancing Justice, L.A. supported the comment of her colleagues regarding the multicultural campaign. As Navigators, they are also trying to communicate through earned and unearned media. They appreciate Covered California's multi-language communications and the opportunity to participate in spreading the word regarding public charge. They are holding workshops and trainings for advocates, community members, and Town Halls. They think the fact sheets are great but would like to see them in additional languages. She said they appreciate the many bills supported by Covered California.

Alicia Kauk on behalf of the National Health Law Program stated she was one of the lucky few that tested the system at CalHEERS. She enjoyed seeing the consumer experience to getting healthcare. She said she tried to find a glitch and could not. Ms. Kauk said people are pleased when they see there is financial assistance available in the form of the subsidy. The main barrier is still getting people in the door.

Board Comment:

Dr. Hernandez stated that due to the complexity of marketing in the environment of subsidies, the penalty, and public charge, she wondered if there should be a focus group to determine the Franchise Tax Board's channel for talking about the penalty. Taxes and health insurance are different. These health insurance topics need to be presented in a culturally-competent way.

Mr. Lee said that Covered California is looking closely at who the Franchise Tax Board reaches out to and how. The Franchise Tax Board is working to embed the information in technology such as Turbo Tax. Covered California understands that many individuals will not see this information during open enrollment. Mr. Lee said they would be returning to the Board to look at these issues in relation to special enrollment. As many individuals will not look at tax information until taxes are due, Covered California is looking at whether it makes sense to do focus groups or other types of outreach to make the message as effective as possible.

Agenda Item V: Covered California Policy and Action Items

Health Plan Contract Update: Delivery Reform Planning

Action: Qualified Health Plan (QHP) Contract Extension

James DeBenedetti, Director, Plan Management Division, reported that Covered California is currently in year three of a four-year contract period (2017-2020). The contract term was extended from three to four years last November. Next, he reviewed the reasons that a Qualified Health Plan contract extension was requested for one additional year. He noted that this additional time would improve the development of contract requirements for the next cycle (2022-2024) and result in a draft contract being presented to the board in November 2020 for discussion and public comment, with final approval in January 2021.

A comprehensive review of Covered California's experience to-date with the current contract is expected to be released in time for stakeholders to do a decent review prior to the November 2019 Board meeting. This extension will not block potential new entrants from signing up with Covered California. New carriers can still apply for the program with the understanding that there will be significant changes for 2022 plan year.

Board Comment:

Chairman Ghaly reiterated the idea of alignment. He said it demonstrates that what Covered California does can impact the Department of Health Care Services and others. Timing is often the thing that gets in the way. Altering the timeline to line things up creates opportunities that we would not have otherwise.

Mr. Fleming noted that in looking at the timeline, the schedule is largely back-loaded with information coming to the Board fairly late. He asked that the Board be given updates along the way. He also stressed the need to prevent another extension.

Mr. DeBenedetti said those elements would be added to the timeline.

Motion/Action: Mr. Fleming moved for approval. Dr. Hernandez seconded.

Public Comment:

Cary Sanders, California Pan-Ethnic Health Network said they appreciate the value in slowing down, focusing, and really giving this issue the attention it deserves. They look forward to being a part of the conversations about improving quality, reducing disparities, and how primary care can help to improve the care and services for members. Alignment will be great where appropriate.

Beth Capell, Health Access California concurred with Ms. Sanders comments and members of the Board. They endorsed the delay, but only for one year.

Vote: Roll was called. The motion was approved by unanimous vote.

Covered California Regulations

Action: Proposed Emergency Regulations for Hardship and Religious Conscience Exemptions

Bahara Hosseini, Office of Legal Affairs stated that this item was brought to the Board for discussion at the previous Board meeting. The changes are the result of ongoing collaboration and consultation with stakeholders. The Legislature passed budget and trailer bills that established a California individual mandate and a penalty starting in 2020 requiring all California residents to enroll in and maintain minimum essential coverage, have an exemption, or pay a penalty. Covered California will grant exemptions year-round for hardship and religious conscience. Ms. Hosseini reviewed criteria for qualifying for an exemption. Covered California was granted emergency rule-making authority by the Legislature through January 1, 2022, for these exemptions.

Ms. Hosseini presented an overview of the proposed regulation package. She asked the Board to formally adopt these regulations so they could be filed with the Office of Administrative Law.

Board Comment: None

Motion/Action: Dr. Hernandez moved for approval. Mr. Fleming seconded.

Public Comment:

Jen Flory, Western Center on Law and Poverty, stated they appreciated the meetings. The changes appear small and technical but they are meaningful. They were able to take what was largely a federal law and personalize to make it look like a California law.

Alicia Kauk on behalf of the National Health Law Program said they were also appreciative for the meetings with Ms. Hosseini and her team. They were thankful they could expand upon the hardship exemptions. She said they feel the appeal rights language could be firmed up but overall, they are supportive and appreciative of the involvement in the process.

Beth Capell, Health Access California said they appreciate that they have modestly improved upon what the federal requirements are and hope that if, and when, the federal government reinstates the mandate, they will add similar improvements.

Vote: Roll was called. The motion was approved by unanimous vote.

Action: Changes to Eligibility and Enrollment Regulations for the Individual Market

Bahara Hosseini, Office of Legal Affairs stated that this item was brought to the Board for discussion at the previous Board Meeting. Covered California was granted emergency rule-making authority by the Legislature to January 1, 2022. The proposed regulations are the result of ongoing collaboration and consultations with consumer advocates, Department of Social Services, Department of Health Care Services, Department of Managed Health Care Services, Department of Insurance, Franchise Tax Board, our qualified health plan (QHP) issuers and other stakeholders. Ms. Hosseini asked the Board to formally adopt these regulations so they could be filed with the Office of Administrative Law.

Board Comment: None

Motion/Action: Art Torres moved for approval. Mr. Fleming seconded.

Public Comment: None

Vote: Roll was called. The motion was approved by unanimous vote.

Discussion: Potential Disclosure Requirements for Certified Agents Who Sell Non-Regulated Health Products

Mr. Lee explained that it is not currently known how many Americans are currently enrolled in Sharing Ministry plans. Based on the national estimates and the population of California, there could be more than one hundred thousand Californians with Sharing Ministry plans. There are multiple products available in California that fit into this category and can deny coverage to individuals for various reasons. Virtually all of these plans do not have minimum essential coverage. There is concern that these plans are confusing to consumers who do not fully understand what they are purchasing and how they could be denied coverage when they need it most. Mr. Lee stated that ten to fifteen percent of Covered California's certified agents will sell these products. There is concern that consumers purchasing these products from Covered California certified agents will believe they are purchasing a product comparable to a Covered California product.

Terri Convey, Individual and Small Business Outreach and Sales Director noted that this topic has been brought to the Board for discussion at previous meetings. Covered California said they would do more research and return to the Board with potential policy recommendations. Ms. Convey provided the background and explained the risk to consumers. She explained the reasons agents might sell these non-regulated products and some of the possible reasons consumers might choose these products. Ms. Convey presented the proposal of a draft full-disclosure form which would clearly detail the risks for consumers. Any agent certified with Covered California would need to walk the consumer through the two-page disclosure. The next step would be to obtain additional feedback on the proposal and bring that information to the Board in November.

Mr. Lee noted that when this was brought to the Board in March, three paths were identified: 1, do nothing, 2, disclose, or 3, prohibit certified agents from selling these at all. Covered California opted to go with the middle path. Covered California does function as a short-term plan. Consumers often sign up and stay for only a little while. The penalty was not in place when this was discussed in March. Enrolling in a Sharing Ministry would exempt individuals from the penalty. It is therefore important to communicate the risk of these products to consumers. Covered California engaged with the Department of Insurance on this subject. The Department of Insurance has no role in regulating these because they are not a regulated product. They do, however oversee licensed agents. As a courtesy, Covered California worked with the Department of Insurance to make sure they understand how Covered California is working with Covered California's certified agents. Mr. Lee encouraged the Board to ask questions or comment on whether they believed the proposal was fitting, if it went too far, or if it didn't go far enough.

Board Comment:

Dr. Hernandez stated the consumer protections are very important and this is a difficult issue to judge. It is difficult to know how many of these products are actually being sold.

Mr. Lee stated that the best way to determine how many of the products are being sold would be to pass the policy. We could then obtain the data from Covered California agents regarding how many they've actually sold. The current surveying estimates that twelve percent of agents are selling these products. These numbers come from the Trade Association of Sharing Ministries. This policy may not be an end-point but would provide better information so the Board could take further actions if they were appropriate in the future.

Dr. Hernandez said that if approved, it out be helpful to, at a year, learn more about the size of the practice and then reassess whether it goes far enough.

Public Comment:

Faith Borges, California Association of Health Underwriters said they appreciate the concerns raised by the Board regarding Sharing Ministry Plans. They feel the use of a disclosure is the best course of action. They would also support a statement from Covered California saying the use of the disclosure form is considered an industry best practice for certified agents. At previous meetings with Covered California staff, they voiced their concern that a disclosure would restrict the pool of agents that choose to participate in Covered California. They found that the vast majority of their members only participate in Sharing Ministry Plans as a last resort. She asked for clarification on the number of years agents would be required to keep the disclosure. She asked for rewording regarding what triggers an agent to share the disclosure with consumers. She asked for clarification regarding whether electronic retention satisfied the requirements. She also noted that the stated commissions were high with most commissions closer to two percent.

Jen Flory, Western Center on Law and Poverty, said they prefer the more extreme path. The state should not associate with agents selling these plans. Products which are discriminatory based on health, disability status, gender, gender identity, or religion should not be allowed. She fears the disclosure would not be read and encouraged stronger action.

Alicia Kauk on behalf of the National Health Law Program said they support prohibiting Covered California certified agents from selling Healthcare Sharing Ministry Plans. These products do not have to comply with consumer protections of the Affordable Care Act. There is no guarantee of solvency. There is no contractual obligation to reimburse healthcare costs. There is no government oversight. They are concerned consumers will be drawn to the lower premiums without understanding what the product means in terms of coverage and cost. She wondered if Covered California had considered if Healthcare Sharing Ministry Plans disproportionately impact communities of color and if the disclosure would be offered in multiple languages.

Cary Sanders, California Pan-Ethnic Health Network stated her support for the other advocates' comments. She wants to ensure the forms readability and translation. They

would also prefer prohibition on the sale of Healthcare Sharing Ministry Plans. She stressed that the disclosure form should be scary and communicate the risks. She asked if there was a procedure in place for when consumers call Covered California for assistance not understanding that these are not Covered California plans.

Shanee Tracey, Christian Care Ministry said they facilitate the Medi-Share program and they are a Healthcare Sharing Ministry. She said they take the topic of disclosure seriously and they do have their members sign a disclosure. They ensure their consumers understand that what they are signing up for is not insurance. They are a community of believers that share similar beliefs and come together to share in each other's medical bills. She said they changed the word "plan" to "program" as the product is not an insurance plan. Ms. Tracey said they support the use of the disclosure.

Doreena Wong, Asian-American's Advancing Justice, L.A. stated her support for the other advocate's concerns. She also believes Healthcare Sharing Ministry plans should be prohibited. As a Navigator, educating community members is already a challenge given the complexities of the healthcare system. These plans add another challenge. They have had consumers come to them to try to resolve problems on plans purchased through agents. It would be difficult to help those consumers as there is no regulation. If a disclosure form is used, it needs to be simplified and translated. It will be hard to explain all the limitations if they are not clearly detailed.

Beth Capell, Health Access California stated that it is unfortunate that the individual mandate requirement in California acknowledged the existence of Healthcare Sharing Ministries. The advocates were against this. Ms. Capell stated they are more concerned about the agents who do not contract with Covered California. Covered California certified agents are more supportive of the success of Covered California. She stressed the importance of conveying, in very clear language, what constitutes a Sharing Ministry and the reasons an individual could be denied coverage.

Board Comment:

Chairman Mark Ghaly noted that if more time was needed, the Board could delay the vote.

Mr. Lee agreed saying it is the Board's prerogative to take action, to not take action, or to delay action. There is a timing issue in that the contract with certified agents will be updated in February. This could be delayed. Mr. Lee noted that until the contract has been updated, certified agents will have no restrictions on this issue.

Discussion: 2020 State Premium Assistance Program Design Amendment – Proposed Reconciliation Repayment Limits

Katie Ravel, Director of Policy, Eligibility and Research stated that legislation was passed in the spring which charged Covered California with setting reconciliation repayment limits. Reconciliation adjusts a consumer's final tax credit at the end of the year compared to what they project when they apply with Covered California. Covered

California is proposing the addition of proposed reconciliation limits. A consumer would not be able to claim more on the subsidy side than the gross cost of their premium. Ms. Ravel provided details on the proposal noting where the proposal mirrored federal policy and where it differed. She provided slides with scenarios on how the change would affect consumers. These scenarios were aided by the feedback from the AB 1810 Advisory Group.

Board Comment:

Mr. Fleming said he listened to the AB 1810 call and is supportive of the choices made. He said he looks forward to looking at the examples in detail. He does think there is an opportunity for consumers to game the system by understating their income. He would like to make sure there is a method of monitoring the system once it is in place.

Mr. Lee said that most everything can be gamed on some levels. The monitoring and tracking will likely largely fall to the Franchise Tax Board but Covered California will work with them to find flags.

Public Comment:

Jen Flory, on behalf of the Health Consumer Alliance said that as a result of their contract with Covered California and the Department of Managed Healthcare, they help people at all income levels and have had to help people with problems related to the cliff. They appreciate the extension of the cliff beyond the 600 percent of FPL. They appreciate the simplicity of keeping levels below 400 percent of FPL the same as the federal limits. She said they have trouble understanding how having two different caps will work. They also appreciate the concern regarding gaming. It is worth tracking and making sure some people aren't receiving an unfair advantage.

Beth Capell, Health Access California said they are generally supportive of this but still trying to understand the examples and implications. Most people do not know what their modified adjusted gross income is. Consumers consistently underestimate their income in terms of their taxes. That is not gaming. They just get it wrong. She feels it is important to avoid a cliff where subsidies cut off.

Chairman Ghaly adjourned the meeting at 3:18 p.m.