

COVERED CALIFORNIA BOARD MINUTES
Thursday, January 16, 2020
Covered California Tahoe Auditorium
1601 Exposition Blvd.
Sacramento, CA 95815

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

Dr. Sandra Hernandez called the meeting to order at 10:00 a.m.

Board Members Present During Roll Call:

Dr. Sandra Hernandez
Art Torres
Jerry Fleming

Chairman Mark Ghaly did not attend due to unforeseen scheduling conflicts.

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).

Vice Chairman Paul Fearer called open session to order at 1:23 p.m.

Vice Chairman Fearer announced that the Senate reappointed Senator Art Torres to his seat on the Covered California Board.

Agenda Item III: Election of Board Chair and Vice Chair

Motion/Action: Dr. Hernandez moved to reappoint Dr. Mark Ghaly as Chairman and Paul Fearer as Vice Chairman. Mr. Fleming seconded the motion.

Public Comment: None

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

Agenda Item IV: Approval of Board Meeting Minutes

Presentation: November 21, 2019 Meeting Minutes

Discussion: None

Motion/Action: Mr. Torres moved to approve the November 21, 2019 Meeting Minutes. The motion was seconded by Dr. Hernandez.

Public Comment: None

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

Agenda Item V: Executive Director's Report

Peter V. Lee, Executive Director, congratulated Mr. Torres on his reappointment to the Board. Mr. Lee reviewed the agenda and explained there would be a shift in the presentation order.

Announcement of Closed Session Actions

Mr. Lee stated the Board discussed a range of contracting matters but there was nothing to report publicly. Health plan contracting issues were discussed in closed session but would also be heard in open session.

Executive Director's Update

Discussion: Press and Media / Reports and Research

Mr. Lee stated that there were ten press releases within the previous two months. Mr. Lee explained that Covered California is an evidence-based organization. Covered California examines and shares reports generated about California and the nation in order to inform the work. Reports from varying points of view are examined and shared.

Mr. Lee called attention to a Kaiser Family Foundation report titled *How Many of the Uninsured Can Purchase a Marketplace Plan for Free in 2020?* Nationally, about five million uninsured Americans are eligible for free coverage in the form of a Bronze plan. In California, 16% of the uninsured (about 180,000 people) are eligible for a free Bronze plan.

Mr. Lee referenced a study conducted by the Internal Revenue Service showing that Americans responded to IRS notices regarding a penalty. The National Bureau of Economic Research published a working paper discussing this study titled *Health Insurance and Mortality: Experimental Evidence from Taxpayer Outreach*. The findings suggest that knowing about the penalty encourages more individuals to sign-up for health insurance. Mr. Lee noted that the notice is more effective when sent by the IRS. The paper suggests that not only did more people sign up for insurance, but more of these individuals were likely to be alive after obtaining the insurance.

Mr. Lee called attention to a Kaiser Family Foundation article titled *6 Charts About Public Opinion on the Affordable Care Act*. 63% of Americans reported not liking the penalty. California decided the penalty is the right policy. The penalty led to lower rates

in 2020 because health plans believed more people would enroll. Mr. Lee emphasized that the correct policy decisions are not always popular.

Discussion: Status Update on Open Enrollment 2020

Mr. Lee presented a video titled *Real Stories – Hector and Yuriana Jaramillo*. In the video, the Jaramillos explain the positive ways having insurance affects their family. Mr. Lee stressed the importance of listening to the voices of the people Covered California serves.

Mr. Lee stated that open enrollment was extended by twenty-seven days in 2020. As of the last reporting period to the federal government, January 4, 2020, there were about 270,000 newly enrolled in new plan selections. That is 18% above the number from the same period the previous year. The federally-facilitated marketplace grew about 3% after having previously dropped 45%. California did see a drop last year with the loss of the penalty. There is currently a rebound in enrollments providing evidence of effectiveness of the penalty.

Almost 560,000 Californians are receiving the new state subsidy. Most receive the state subsidy on top of the federal subsidy. Over 30,000 middle-class Californians have signed up to receive subsidies that are not available in other states. Approximately 18,000 households are receiving \$470 every month to help lower the cost of their health insurance.

Mr. Lee reported on the marketing and media events Covered California engages in to spread the word to all Californians regarding the necessity and benefits of having health insurance. Covered California's Integrated Voice Response System received approximately 300,000 more calls in December 2019 vs. December 2018. There is an abandonment rate of about 20% on these calls. Mr. Lee explained that not only were there more calls but calls were typically longer than they had been in previous years due to questions regarding the penalty and the state subsidy. On average, calls were four minutes longer. Mr. Lee commended Covered California's service center on their work.

Discussion: New Advertising and Marketing Agency Awarded

Colleen Stevens, Director of Marketing at Covered California reported on the request for proposal (RFP) for new marketing services. The current contract with Campbell Ewald will end in May 2020. Mr. Lee and Ms. Stevens both thanked Campbell Ewald for their service and commended their work. This RFP was approved by the Board in March 2019. The RFP was released in August of 2019 and many good agencies applied. Duncan Channon was selected and the contract will be signed shortly.

Board Comment: Mr. Torres asked, "what is the diversity element of Duncan Channon?"

Ms. Stevens replied that Duncan Channon has a diverse team. Additionally, they bring on subcontractors that specialize in markets. One such subcontractor is Baru. Baru specialized in the Latino market and has a very robust Spanish language campaign.

Mr. Torres asked if Duncan Channon had people of color in management positions. Ms. Stevens replied that they do and they supplement that diversity with subcontractors. Mr. Torres asked if this was true of other applicants. Ms. Stevens responded that not all agencies utilized subcontractors.

Mr. Torres asked, “what was the defining element that didn’t allow our current incumbent to move forward?” Ms. Stevens responded that the final decision between the two finalists was difficult. The incumbent was not as strong in what they brought to the table in the RFP process. Mr. Lee stated that of the seven bidding firms, many did not reflect the diversity that was observed in Duncan Channon. This was one of many factors considered.

Mr. Torres asked where Duncan Channon is headquartered. Ms. Stevens replied that they are an independent firm with flexibility headquartered in San Francisco. Ms. Stevens stated Covered California was impressed by the creative and strategic insights presented by Duncan Channon. Mr. Lee commented that the Department of Public Health assisted in the RFP evaluations.

Discussion: Californians’ Understanding of the Mandate to Have Health Coverage and the Awareness of Financial Help – December 2019 Survey

Mr. Lee reported that Covered California released a survey. Of the uninsured Californians surveyed, a majority said they don’t plan to get insurance. As of December 2019, 56% of these individuals were not aware there is a penalty. Follow-up surveys will determine if marketing efforts succeed in informing individuals of the penalty. Survey results showed that insured individuals (regardless of the source of their insurance) are almost 50% more likely to be aware of the penalty. When uninsured Californians were informed of the penalty, 64% said they were more likely to enroll.

Of the insured, 91% say they will keep their coverage and 46% said the penalty is motivation to keep their insurance. Over 60% of the uninsured surveyed were unaware financial help is available. 73% of the uninsured did not know about the new state subsidy. One third of the uninsured did check to see if they qualified. These numbers stress the importance of marketing. Of those surveyed under 400% of poverty, two-thirds said they would be more likely to get insured knowing they were eligible for financial help.

State and Federal Policy / Legislative Update

Mr. Lee provided an update on state and federal policies. On December 20, 2019 the Centers for Medicare and Medicaid Services (CMS) issued an exchange program integrity rule. This final rule revises specific standards relating to the oversight of exchanges. It requires exchanges to conduct period data matching twice per year to

identify enrollees who have become eligible for, or enrolled in, Medicare. This rule also requires issuers to send a separate bill to enrollees for the portion of the premium that is attributed to non-Hyde abortion services.

On December 18, 2019, Governor Newsom announced the launch of the Healthy California for All Commission. The Commission is charged with developing a plan that includes options for advancing progress toward achieving a health care delivery system that provides coverage and access through a unified financing system including, but not limited to, a single-payer financing system, for all Californians. Commission members are appointed by the Governor, Senate, and Assembly. There are also five ex officio, non-voting members, including Peter V. Lee, Executive Director of Covered California. The first public meeting will take place January 27, 2020 in Sacramento. Mr. Lee noted that Board Chairman Mark Ghaly also chairs the Health California for All Commission.

On January 1, 2020, Governor Newsom submitted his 2020-21 Fiscal Year (FY) State Budget proposal to the Legislature. The budget aims to continue the momentum on affordability and coverage in California. The budget seeks to strengthen California's public option by leveraging Covered California and Medi-Cal to build on an even more robust public option in California. The budget includes a Medi-Cal expansion to all persons aged 65 years and older, regardless of immigration status. The budget established the Office of Health Care Affordability, which will be charged with increasing price and quality transparency, developing specific strategies and cost targets for the health care sector, creating strategies to address hospital cost trends by region, and establishing standards to advance evidence-based and value-based payments to providers. The budget will reduce prescription drug costs by expanding the Department of Health Care Services' (DHCS) authority to consider the best prices offered by manufacturers internationally when conducting negotiations for state supplemental rebates; leveraging the purchasing power of DHCS to negotiate supplemental rebates on behalf of targeted populations outside of the Medi-Cal Program; and increasing the State's purchasing power.

On December 18, 2019, the Fifth Circuit Court of Appeals issued its decision in *Texas v. United States*. The Court held that the individual mandate is unconstitutional but remanded the case back to the district court for further analysis on whether the rest of the Affordable Care Act continues to be valid. On January 3, 2020, California-led state petitioners and the U.S. House of Representatives asked the Supreme Court to grant expedited review of the case. On January 10, 2020, the Department of Justice, Texas-led state respondents, and individual plaintiffs filed responses asking the Supreme Court to deny the request for review and expedited consideration. Mr. Lee stated that regardless of what happens at the federal level on this topic, it will have zero effect on the State instituting a mandate in California law.

In the past month, there was a settlement on a lawsuit challenging alleged anticompetitive practices by Sutter Health. The settlement is subject to Superior Court

approval in February 2020. Covered California is examining if this settlement will have any effects on Covered California and its plans.

Board Comment: None

Public Comment:

Alicia Emanuel with the National Health Law Program thanked Covered California for their work building upon the Affordable Care Act. She expressed appreciation for the individual mandate penalty fact sheet posted to Covered California's website. She said they and their partners found this a useful tool. She also expressed appreciation for the Tax Penalty Estimator released by the Franchise Tax Board.

Doreena Wong, Asian-Americans Advancing Justice Los Angeles reiterated Ms. Emanuel's comments on the value of these materials. She congratulated Mr. Torres on his reappointment to the Covered California Board. She reported that while they have seen an increase in enrollment and renewals it has not been as much as they had hoped. She thanked Covered California and Mr. Lee for their efforts in communicating information regarding subsidies, the penalty, and deadlines. People have been confused by the deadlines as they are different in California than nationally. She thanked Covered California for the \$20 million spent on marketing and expressed interest in having Covered California participate with them in a press event.

Beth Capell, Health Access California said that, in addition to the comments made by colleagues who are advocates, they appreciate knowing enrollment is up 18% and believe it will be up even more when enrollment closes. She called this a collective accomplishment of the Governor, the Legislature, and Covered California. Ms. Capell voiced appreciation to the Franchise Tax Board for their work on reaching out to people regarding penalties. Ms. Capell said they are delighted with the portion of the Governor's budget that expands Medi-Cal to undocumented seniors and the Governor's commitment to continue to expand coverage. They are also supportive of the Office of Healthcare Affordability and using the bargaining power of the Medi-Cal program to get lower prescription drug prices. Ms. Capell thanked Dr. Hernandez for taking on another commission for the State of California.

Mr. Lee noted that Dr. Hernandez was indeed joining the Healthy California for All Commission. Mr. Lee also commended the Franchise Tax Board saying they had been a very good partner. He expressed his belief that individuals are more likely to open mail from the Franchise Tax Board.

Covered California Data and Research

Discussion: Covered California's First Five Years: Improving Access, Affordability and Accountability

Mr. Lee stated that Covered California wants to ensure individuals served through Covered California get care that is individualized, equitable, and specific to their

circumstance. Covered California uses the construct STEEEP to ensure this result. STEEP stands for Safe, Timely, Effective, Efficient, Equitable, and Patient-centered.

Covered California has lowered the rate of uninsured more than any state in the nation. Covered California has a very competitive robust market and 55% of consumers have five or more insurers to choose from.

While premium rates have increased in California by 45%, the national increase is 79%. The average unsubsidized consumer spends \$1,500 a year less in California than they would in another state with a worse risk mix. This means California saved the federal government billions of dollars. The federal government would have saved fifty billion dollars if they had promoted a better risk mix as was done in California.

California's unsubsidized individual market enrollment dropped 17% from 2016 to 2018. The federally facilitated marketplace dropped 47%. If the unsubsidized enrollment in the federally facilitated marketplace had followed the trends in California since 2016, there would have been 1.2 million more Americans with insurance in 2018.

James DeBenedetti, Director of Plan Management said that in 2019, 95% of Covered California enrollees were in plans that ranked above the 50th percentile nationally for enrollee experience related to their health plan (CAHPS "Rating of Health Plan" measure). The 7% of enrollees who are at the 90th percentile and above are the enrollees in Blue Shield's Trio product. This is a product that contracts only with Accountable Care Organizations (ACOs).

Mr. DeBenedetti reviewed priority metrics. Nine of these metrics are based on the Healthcare Effectiveness Data and Information Set (HEDIS) scores. He called attention to a few. First, the breast cancer screening rate could be improved. Mr. DeBenedetti said that 56% of enrollees are in plans that are below the 50th percentile. Two of Covered California's public plans outperformed other plans. Mr. DeBenedetti feels this is an important distinction due to the false perception that Medi-Cal focused plans are not high-quality plans. Mr. DeBenedetti provided a second example regarding the antidepressant medication management metric. There is room for improvement in every plan. It is heartening to see that 80% of enrollees are at the 50th percentile or above in terms of diabetes management.

Mr. DeBenedetti did not feel that any plans could be called out as being particularly "bad" or "good." He noted that Molina often scored low but had showed improvement over the years. The most recent measurement showed Molina had scores drop significantly. Covered California spoke with Molina and discovered the drops happened in the year they lost over 60% of their enrollment. They didn't price well that year. People in the plan made transitions. This brings to light the problems plans face by disruptions that occur when people make transitions between Medi-Cal, Covered California, and employer-sponsored coverage. A special effort was made to share data across carriers.

As part of Covered California's requirement of insurers to provide consumers with tools to understand costs of care, all enrollees (99%) have cost transparency tools of some sort available to them. Usage of cost transparency tools varies among insurers, but among three of the insurers with large enrollments, the rate of use of these tools ranges from 3% to 7.5% of those covered. Covered California is in the process of exploring what is the "right" level of use of these tools and how these tools are supporting better informed consumers choice.

Covered California's ACO enrollment is more than two times the national average and far higher than the average reported for California. Covered California is working with Integrated Health Association (IHA) to measure the performance of different ACOs because there are many different models.

Covered California has contractual requirements of all insurers to measure the extent of health disparities in their insured populations and seek to improve care where gaps are found. There are more differences in disparities in care across carriers than within a carrier. Gaps in care are not consistently one race or ethnicity versus another, even for the same condition. Other areas of disparity to address are income, sexual orientation, and language differences.

Covered California is working with others to promote dramatic improvements in reducing hospital-associated infections. Covered California is working with others to promote better childbirths and fewer avoidable c-sections.

Board Comment:

Mr. Lee said that Chairman Ghaly asked him to relay some comments. He thanked the staff for the work done over the past six years that made this possible. He thanked the Board members that came before him, noting that it would not be possible if the founding Board hadn't said Covered California should be an activist purchaser on behalf of consumers. That authority and direction from the original Board framed all of these activities. He underscored the importance of Covered California working in alignment with other purchasers, in particular, Medi-Cal. He spoke about their efforts to reduce disparities. He supported the linkages this alignment would create between Covered California, Medi-Cal, and others. These linkages have the potential of improving not just quality but addressing cost for all Californians. It is critical to align around measurements, payments, and priorities. He noted his appreciation of the good performance of Kaiser and Sharp but felt concerned about inconsistency of quality amongst other plans. He asked what Covered California would do to address this. He called out his concern for low scores on mental health and substance abuse disorders. All of this work reaffirmed his interest in Covered California focusing on issues of health equity and better understanding and addressing health disparities.

Dr. Sandra Hernandez voiced her appreciation for the report and for the partnerships with health plans. She called out the alignment regarding c-sections. The new

commission has been given the opportunity to gain alignment on what matters, what will be measured, definitions of quality, and what to do about behavioral health issues. Dr. Hernandez said that areas of outperformance in quality measures should be examined to determine how it was accomplished.

Public Comment:

Beth Capell for Health Access California said that since Covered California's creation, one of the most important features of Covered California was the authority to do active purchasing. They are pleased the reports show Covered California used this authority to lower cost, improve quality, and reduce disparities. They are troubled when they see that most plans are not doing very well. They think the report provides an important set of findings for discussion whether it's in the discussion around the Office of Healthcare Affordability or the Commission on a Healthier California where part of the discussion will be whether using health plans is the right way to deliver care or not. Ms. Capell voiced appreciation in Covered California considering income, sexual orientation, gender identity, as well as race, in looking at disparities.

Jen Flory on behalf Western Center on Law and Poverty and Health Consumer Alliance concurred with Ms. Capell's comments. She appreciated Mr. DeBenedetti's attention to a plan's sudden drop in quality. Consumers are price sensitive and will seek the cheapest plan they can afford but that will lead to disruptions. She questioned how it can be determined that consumers need enhanced care management. She believes the help is needed right at the beginning of a transition. She said they concur with the utilization tools. Regarding disparities, they recognize the other causes of disparities but want to ensure race and ethnicity continue to be focused upon.

Board Comment:

Mr. Fleming said there would be merit in hearing from health plans and providers regarding this issue. Mr. Lee agreed and stated he would investigate this for future Board meetings.

Agenda Item VI: Covered California Policy and Action Items

Action: Covered California State Subsidy Program Design Document Correction

Mr. Lee stated there was a small error in the numbers in the State Subsidy Program Design Document. The numbers have been corrected and the document will be resubmitted to the Department of Finance. A Board action is necessary to make the change.

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

Board Comment: None

Public Comment: Beth Capell for Health Access California supported the correction and noted that this was a purely clerical error. No real consumer was given the wrong subsidy in error.

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

Covered California Regulations

Action: Proposed Permanent Medi-Cal Managed Care Plan Enrollment Assistance Regulations

Angela Gilliam, from the Outreach and Sales Division, stated that staff was requesting the Board's approval to complete the permanent rulemaking process for the Medi-Cal Managed Care Plan (MMCP) Enrollment Assistance regulations. The MMCP Enrollment Assistance regulations establish the process for MMCPs to become certified MMCP enrollers and provide enrollment assistance to consumers. These regulations were initially adopted as emergency regulations on September 21, 2017. The permanent rulemaking process began September 6, 2019 with a 45-day public comment period that ran until October 21, 2019. No comments were received. Changes were primarily grammatical and updates to citations. The Board discussed the regulation package during the Board meeting on November 21, 2019. She asked the Board to formally adopt the regulation package so it can be filed with the Office of Administrative Law

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

Board Comment: None

Public Comment: None

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

Action: Update to Conflict of Interest Code

Brandon Ross, Assistant General Counsel, Office of Legal Affairs said this item was discussed at the November 21, 2019 Board meeting. Covered California is updating its Conflict of Interest code. The Conflict of Interest code identifies designated positions and requires those employees who make or participate in making governmental decisions to disclose certain financial interests to help avoid conflicts of interest. Disclosures are made on the Form 700: Statement of Economic Interests. A 45-day public comment period ran from November 29, 2019 to January 13, 2020. Covered California received no comments. No substantive changes have been made since the last discussion. Upon Board approval, the revised Conflict of Interest code will be submitted to the Fair Political Practices Commission for final approval and filed with the Office of Administrative Law.

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

Board Comment: None

Public Comment: None

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

Discussion: Emergency Regulations Readoption For Hardship and Religious Conscience Exemptions

Bahara Hosseini from the Office of Legal Affairs said that pursuant to Government Code Section 100715(c), Covered California has established an eligibility process for hardship and religious conscience exemptions. Covered California was granted emergency rulemaking authority by the Legislature through January 1, 2022 for hardship and religious conscience exemptions. Ms. Hosseini outlined several clarifying changes made to these emergency regulations. These changes include:

- An applicant who does not have a social security number, but does have an Individual Tax Identification Number, must provide it on the exemption application.
- Adding the required data elements to the affordability hardship exemption application to properly determine eligibility for APTC for purposes of determining eligibility for this exemption.
- Adding a general hardship exemption for individuals who are eligible for services through an Indian health care provider or through the Indian Health Service (IHS). These individuals will be deemed eligible for a hardship exemption on a continuing basis without submitting an exemption application and obtaining a certificate of exemption through the Exchange.
- Clarifying that an employer-sponsored plan is considered in the affordability determination only if the plan meets the minimum value standards. Meaning that they cover at least, 60% of the cost of the covered benefit under the plan.
- Clarifying how the affordability is determined when an eligible employer-sponsored plan offers wellness program incentives.
- Clarifying that the affordability percentage, which is currently at 8.24% of their annual income, will be adjusted annually by the United States Secretary of Health and Human Services.
- Covered California must accept a copy of an approved and signed IRS Form 4029, which is an application for exemption for social security and Medicare taxes as sufficient proof of eligible religious conscious without any further verification.
- Clarifying that any applicant that requests an exemption based on a general hardship, except for hardship for homelessness and domestic violence and exemption for individuals eligible for services through Indian healthcare providers or Indian Healthcare Services and Covered California is required to verify whether these individuals or applicants have actually experienced a hardship to which they attest.

Government Code Section 100725(c) requires the Board to discuss proposed regulations at a properly noticed meeting before adopting them. Staff will request the Board to formally re-adopt these exemption regulations at the next scheduled board meeting so it can be filed with the Office of Administrative Law. Any additional proposed changes to the emergency regulations for hardship and religious conscience exemptions will be communicated to stakeholders for review and commenting prior to Board's Action.

Board Comment:

Dr. Hernandez asked how homelessness would be documented or defined for the purposes of the hardship provision. Ms. Hosseini replied that the Covered California would not be verifying or requesting documentation. The applicant would attest to their homelessness.

Public Comment:

Jen Flory, Western Center on Law and Poverty, thanked Covered California staff for the timeliness of the issue. She voiced their concern for how wellness programs are being treated. Work needs to be done in determining the best methods of caring for individuals with ongoing hardships and how to identify these individuals through the application. She voiced her agreement with the vast majority of the regulations and commended the staff on their work.

Alicia Emanuel with the National Health Law Program echoed the comments made by Jen Flory. She said they appreciate Covered California's willingness to work with them on regulations. They would like to talk through the form and discuss what could be changed to ensure consumers are not confused and those who are entitled to a hardship exemption receive the exemption.

Discussion: 2021 Qualified Health Plan Benefit Design

James DeBenedetti, Director of the Plan Management Division first summarized the 2020 benefit design. The standard procedure for review was followed. Covered California met with the Benefit Design Workgroup three times in 2019 to discuss potential changes. The group discussed:

- Cost-share changes to meet actuarial value (AV) requirements
- Further development of the Covered California for Small Business (CCSB) standard plan designs to remain marketable in the long term, including creation of a CCSB-only Platinum plan
- Standardizing an annual wellness exam benefit under preventive services
- Updates to Current Dental Terminology (CDT) codes and cost sharing in the dental copay schedule

The Draft 2021 actuarial value calculator (AVC) was released on December 20th. The Proposed 2021 Notice of Benefit and Payment Parameters is not yet available. Covered California staff estimated the annual limitation on cost sharing to proceed with benefit modeling.

Mr. DeBenedetti reviewed the changes to the AVC that will have a significant impact on the standard plan design AVs in 2021.

- Refreshed claims data representing the standard population, from 2015 to 2017
- Adjustments to demographic and plan type weights to better represent expected enrollment in the individual and small group markets
 - Reduced the impact of high-cost enrollees
 - Updated the algorithm for deductible accumulation
 - Replaced cost and utilization assumptions for Bronze claims that were applied to previous AV Calculators with actual experience from Bronze enrollees (this is a critical update with significant impact).

Due to the changes to the Bronze cost and utilization data in the AVC, Bronze plans will have high AV increases in 2021. All other metal tiers have lower-than-expected increases or unexpected decreases. The standard Bronze and Bronze high deductible health plan (HDHP) will not meet the AV requirements in California state law (+/-2% de minimis range for standard Bronze and +4/-2% for HDHP). The federal AV de minimis range for Bronze plans is +5/-4%. Even if the standard Bronze is designed with the highest cost sharing possible while complying with California-specific limits on the maximum out-of-pocket and drug spending, the AV is 63.35%, which does not meet the California AV limit. The Bronze HDHP is expected to have an AV of 64.6%, pending confirmation of the IRS limits for the maximum-allowed MOOP (expected in May 2020).

Covered California will work with regulators and stakeholders to determine how to proceed with designing a Bronze and Bronze HDHP for 2021. All other metal tiers will have no changes or will have minor cost-share changes to meet AV requirements.

Terri Convey, Director of Outreach and Sales said the products over the years since inception, crept up to the top of the actuarial value scale. The products in the marketplace became more expensive. Covered California is looking into this and focusing on Platinum, Gold, and Silver plans. The strategy last year was to improve the competitiveness of the plans that have the most enrollment. Silver and Gold plans have about 71% of all of Covered California enrollment. Changes were made to be more competitive and to be in line with the Marketplace. The 2021 approach is a strategy built around the product portfolio and making moderate increments year-over-year to better align with the Marketplace.

Mr. Lee noted that this a discussion item on the agenda. The Bronze plans having to change standards is not ideal. Also, the delay in the AVC and not having final rules published did create a challenge in the absence of federal clarity.

Mr. DeBenedetti elaborated to say the delays prevented timely presentation of solid amounts and proposals to stakeholders. Significant changes are not expected to be needed for the individual market. The CCSB program is more likely to have significant changes.

There are two proposed changes to the standard dental plans. First, updated actuarial value for pediatric dental copay plans. Second, updates to CDT codes in the dental copay schedule (additions, deletions, edits, and cost share changes).

Covered California will submit comments on the changes to the 2021 AVC to CMS prior to the January 21st deadline to communicate the challenges with meeting AV requirements for Bronze plans. Covered California will meet with stakeholders and regulators to determine options for offering a Bronze plan in 2021 that will meet California requirements. The plan designs proposed today are preliminary, pending review and comments by stakeholders, release of the final 2021 AVC, and Milliman's AV certification. Plan Management will continue to accept comments after the January Board meeting and will make changes as necessary prior to presenting the plan designs for Board action in March.

Board Comment: Mr. Fleming asked if Bronze plans had a lot of people due to a favorable selection with plans. Mr. DeBenedetti said that is what they think happened.

Public Comment:

Beth Capell, Health Access California thanked Jerry Fleming and Paul Fearer for their work in the early years. She commended their ability to be consumer friendly as well as actuarially sound. The underlying cost of care continues to go up. The increase in premiums is not the only increase for consumers. In California, the standard benefit design allows for tracking back to 2014 and anticipating trends going forward. Ms. Capell believes this ability may be unique to California. She said they are ready to work with Covered California to bring Covered California into compliance at the federal level. They hope future federal administrations will take consumers affordability crisis seriously.

Jen Flory, Western Center on Law and Poverty, commented that, from their perspective, the splitting of Silver and Bronze and what the actuarial AV Calculator did for this was good. No changes were made to Silver due to the split. Looking back, she found 2020 Silver plans look a lot like the 2014 Bronze plans in relation to deductibles and maximum out-of-pocket cost. Ms. Flory expressed her gratitude to the design team for their transparency and work with stakeholders to ensure plan designs that are good for consumers.

Discussion: 2021 Qualified Health Plan Certification

Jan Falzarano, Deputy Director of Planned Management said she would provide some high-level details of the certification process and highlight the changes to the application. The applications are open to existing and new issuers for the individual and the small business plans. New issuers must be licensed at the time that the applications are due to Covered California. As this is an extension of the current contract, the applications will again be simplified. Letters of intent are due February 3, 2020 through

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February 17, 2020. On March 2, 2020 the Individual and Small Business Certifications applications will go live. On May 1, 2020 the Individual and Small Business applications are due.

Two changes were made that will impact applicants. In Section 12, the Healthcare Evidence Initiative section was updated to align with AB 929 – California Health Benefit Exchange Data Collection. The second change is that dental applications are due May 1st as opposed to June 1st in previous years.

The public comment period was December 6, 2019 through December 20, 2019. The Plan management Division received thirty-eight comments. The comments were technical in nature or for clarification. The public comments can be viewed at: <https://hbex.coveredca.com/stakeholders/plan-management/qhp-certification/>.

Adjournment

Vice Chairman Fearer adjourned the meeting at 3:17 p.m.