

COVERED CALIFORNIA BOARD MINUTES
Thursday, November 19, 2020
Covered California
1601 Exposition Blvd.
Sacramento, CA 95815

Please Note: Covered California hosted its November 19th board meeting remotely. Per Executive Order N-25-20 and N-35-20, certain provisions of the Government Code pertaining to open meeting requirements were temporarily waived to mitigate the effects of the COVID-19 pandemic. As such, Covered California board members participated remotely by way of teleconference.

Additionally, consistent with the Governor's Executive Order N-33-20 regarding the statewide stay-at-home directive to preserve the public health and safety throughout the entire State of California, public participation was limited to remote participation only.

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

The meeting began at 10:00 a.m. with Vice Chairman Paul Fearer standing in for Chairman Mark Ghaly. Vice Chairman Fearer then called the meeting to order at 10:06 a.m.

Board Members Present During Roll Call:

Jerry Fleming
Dr. Sandra Hernandez
Paul Fearer

Board Member Absent During Roll Call:

Chairman Mark Ghaly

Vice Chairman Fearer noted that Art Torres would arrive shortly.

Executive Director Peter V. Lee was present during the afternoon open session.

Agenda Item II: Closed Session

Vice Chairman Fearer conducted a conflict disclosure. There were no conflicts from the board members that needed to be disclosed. The board adjourned for closed session to discuss contracting, personnel, and litigation matters pursuant to Government Code Section 100500(j).

Vice Chairman Fearer called open session to order at 12:13 p.m.

Mr. Torres was present.

Agenda Item III: Approval of Board Meeting Minutes

Presentation: September 17, 2020 Meeting Minutes

Discussion: There were no suggested changes by the board members for the meeting minutes.

Motion/Action: Vice Chairman Fearer called for motion, and a second to approve the September 17, 2020 meeting minutes. Mr. Torres moved to approve the meeting minutes. The motion was seconded by Dr. Hernandez.

Public Comment: None.

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

Agenda Item IV: Executive Director's Report

Peter V. Lee, Executive Director, outlined the agenda and noted that Covered California is taking safety measures in response to COVID-19. All staff are being advised to work from home unless it is truly essential for them to be in the office. He noted there were no matters for action during this board meeting.

Announcement of Closed Session Actions

Mr. Lee shared two announcements from the closed session. First, he welcomed Jacquelyn Griffin as Covered California's new Chief of the Equal Employment Opportunity Office. Second, he welcomed Dr. Alice Chen as Chief Medical Officer and a new member of the Executive Leadership Team, which will now be a five-member executive team. Dr. Chen briefly gave a description of her background and experience, and she also expressed both her appreciation and excitement for this position.

Executive Director's Update

Mr. Lee called to attention six reports. The first report was on churn data during the COVID-19 special enrollment period (SEP), which had previously been discussed at the September board meeting. This report emphasized the significant amount of people coming to Covered California from employer-based coverage, and the increase in the amount of people leaving Covered California to be uninsured.

The second report was from the U.S. Government Accountability Office on "Market Concentration and the Individual Market." Mr. Lee referenced this report in correlation to California's high-level of competition amongst health plans. California is seeing a far greater level of competition than in much of the nation, forcing health plans to be mindful of both quality and cost. As a result, consumers are benefiting from this competition.

The next report Mr. Lee highlighted was a report issued by the Kaiser Family Foundation called "The Undeclared Survey on Race and Health." This survey studied the experiences of African Americans in the health care system. It highlighted their perceptions and experiences of either feeling ignored or untrusted in the health care system. Mr. Lee encouraged everyone to read this survey to gain a better perspective of the health care system through the eyes of African Americans.

The fourth report was a national survey of employer health benefits conducted by the Kaiser Family Foundation. This report revealed the thin amount of coverage that is provided for employees who receive benefits through their employers. Mr. Lee stated that this is important to understand in both California and the nation.

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The fifth report was from the Kaiser Family Foundation on affordability and marketplaces under proposals like President-elect Joe Biden's plans. The President-elect and Vice President-elect had a plan that detailed substantial improvements to make to the Affordable Care Act. This report is a good review of how those changes might influence the affordability of health care today.

Lastly, Mr. Lee shared a report from the Kaiser Family Foundation on what drives health care spending in the U.S. compared to other countries. This report highlighted the need to bend the cost curve because one person's cost is another person's limit in income. It serves as a good reminder of the challenges in a very expensive health care system.

2021 Board Meeting Dates: Mr. Lee presented the Covered California board meeting dates for 2021, with five of the meetings scheduled as only a possibility. Unless there is an emergency, there will be not be a board meeting in December. The next board meeting will be on January 14, 2021.

Open Enrollment 2021 Marketing Update:

On Monday, November 9, Covered California kicked off open enrollment with masks in various languages. Covered California is sending masks to members who are renewing, and those who are signing up for the first time. The idea behind this was to ask enrollees to help spread the message that Covered California wants everyone in the state to have health insurance. Chairman Ghaly and Mayor Eric Garcetti were both in attendance for this event. It was a very successful day and Mr. Lee was invited to join Mayor Garcetti at his press briefing to talk about the launch of open enrollment.

Mr. Lee proudly announced the launch of the new "Get Covered 2021: Stay Healthy, Get Insured" national campaign, which Covered California joined with 15 other states, and 30 national organizations. Mr. Lee recognized the Covered California IT team and the contractors who helped to develop a website for this campaign. It can be found at [GetCovered2021.org](https://www.getcovered2021.org).

Coronavirus Disease 2019 (COVID-19) Update

Mr. Lee introduced Dr. Ash Amarnath, Medical Director, to report the Covered California COVID-19 response update. Dr. Amarnath reported that the daily growth of cases and hospitalizations have sharply increased this month. Over the past week, California has averaged over 9,900 new cases per day that have been confirmed COVID-19 positive. The daily deaths due to COVID-19 have remained relatively steady, however. The mortality rate for hospitalized cases have gone from 7% in April to now 1.5%. Testing capacity continues to increase, with now over 21.4 million tests completed, including data from commercial, private, and academic labs. Despite this huge number of tests, that is still not enough. The test positive rate is 4.9%, which meets the World Health Organization (WHO) minimum standards, but the most successful countries and cases have had a positive test rate of 3% or less. This percentage is what California should aim for. There is adequate hospital capacity right now with about 75% of ICU beds currently available to absorb any new wave. There are also disparities that exist. Latinos, African Americans, Native Hawaiians, and Pacific Islanders are dying at disproportionately higher levels.

California currently needs to scale up testing to increase the ability to conduct contact tracing, isolation, and quarantine. Additionally, the state needs to enhance the ability for businesses and schools to support physical distancing and mask wearing, which has been proven to help prevent the spread of the disease.

There were also some response highlights from Covered California's health plan actions. Multiple health plans have cost-sharing waivers in place, not only for testing, but for treatment of COVID-19 as well. They are actively supporting the community through outbound calls to vulnerable members, donation of PPE and funding, accelerated payments to providers, extending timelines for members to pay premiums, providing grants to build infrastructure for telehealth, and a continued focus for addressing differed care. Childhood immunization rates are another focus as well. The latest data from CDPH has showed up to a 25% decrease in measles and whooping cough vaccines in children. Flu vaccination rates are also down this year. In order to help address this, Covered California will be holding a clinical forum on December 9 with all the medical directors, Chief Medical Officers (CMOs) of the health care plans, and the California Department of Public Health (CDPH) to discuss best practices and gain an understanding of where some plans may have been successful and how others can emulate that.

Mr. Lee thanked Dr. Amarnath and noted that Covered California is going to look into the issues causing gaps in coverage or gaps in care as a result of COVID-19. The second note Mr. Lee made was that COVID-19 has put a spotlight on health disparities, the need for coverage, and the need to address health care issues before and after consumers have them. It has been estimated that out of the 16 million Americans who are uninsured but eligible for Medicaid or financial help, about 1.7 million may have diabetes and 80,000 may be living with cancer.

Covered California Data and Research

Mr. Lee opened with an announcement that next Tuesday, November 24, Covered California will be releasing a new data survey on the Californian's perspective of this COVID-19 pandemic and how it's affecting their access to health care. Next, Mr. Lee provided a few special enrollment period data highlights. Due to COVID-19, Covered California saw a huge increase in the number of people enrolled during the special enrollment period. More than 412,000 individuals signed up, which is 76% higher than last year. There were 165,000 gross plan selections since the announcement of the COVID-19 special enrollment period as well. In addition, the open enrollment renewal cases for 2021 are up by 17.5% from 2020, which is a record high. This is concerning because it means that there are more Californians who need financial help and don't have job-based coverage, which has been driven by both the recession and the pandemic. Currently, there are about 1.6 million people renewing next year and about 1.4 million people have already selected their plan. Mr. Lee noted that open enrollment has less than a month left with the closing deadline of December 15. Also, the January board meeting will include a recap of 2020 data and research in order to be even more transparent with policymakers, advocates, and for health plans.

State and Federal Policy/Legislative Update

Mr. Lee gave a brief summary of the state initiatives that directly affect California. The first initiative was Proposition 14 which was a re-up of state-bonds for the California Institute of Regenerative Medicine for stem cell research and other medical research, including training, research facility construction, and administrative costs. The other initiative was Proposition 22 which classified app-based drivers as independent contractors and not employees. This proposition requires network companies to provide qualifying app-based drivers with a quarterly health care subsidy, which is tied to Covered California's Bronze health insurance plan. It also allows a network company to require drivers to submit proof of current enrollment in a qualifying health plan prior to receiving the subsidy. Covered California is required to, on or before December 31, 2020, and annually thereafter by September 1, publish the average statewide monthly premium for an individual in a Bronze health insurance plan for the following calendar year. This initiative allows Covered California to adopt or amend regulations to permit app-based drivers receiving subsidies to enroll in health plans. Mr. Lee noted that Covered California will be working from now until December 31 to meet the requirements of this initiative.

Next, Mr. Lee briefly addressed the federal activity. First, he noted the Supreme Court heard oral arguments on the case of *California v. Texas*. This is a case in which the Affordable Care Act and its validity is being challenged. The argument included that the entire law should be thrown out because the mandate should be considered unconstitutional and all elements of the law should be considered invalid. The Supreme Court won't conclude its findings until possibly as early as February, or as late as May or June. Regardless of what the Supreme Court finds, Mr. Lee assured everyone not to worry about their personal coverage for 2021.

Mr. Lee also noted that he had the privilege to testify before Congress at the House of Representatives Energy and Commerce Subcommittee on Health. The testimony was centered around the Affordable Care Act and the COVID-19 pandemic. In addition, Mr. Lee testified at the Senate Committee on Health Oversight Hearing "Affordable Care Act in Jeopardy: What does it mean in California?"

Board Comments:

Dr. Hernandez asked Mr. Lee if he foresees any operational challenges in trying to implement Proposition 22.

Mr. Lee doesn't believe that there will be any operational issues, but there may be some mechanical issues in developing the right framework for the Bronze plan. This plan will determine the subsidy levels from the sponsoring entities. Mr. Lee also noted that many of the app-based drivers are already Covered California insured members and there are several agents and firms that already have working relationships with Lyft, Uber, and Door Dash. This makes it easier to help their contractors get coverage through Covered California.

Mr. Lee noted that the Board's response was unanimous and strong in celebration of Dr. Chen joining the organization as the Chief Medical Officer.

Public Comments:

Jen Flory of Western Center on Law and Poverty congratulated both Ms. Griffin and Dr. Chen. Ms. Flory also congratulated Covered California its efforts to expand access throughout the special enrollment period and throughout the successful renewal process that is currently taking place. She also noted how the efforts from the staff and marketing team are greatly appreciated, especially during this time when people are losing coverage and will continue to lose coverage. Regarding Proposition 22, Ms. Flory encouraged Covered California to keep track of how many app-based drivers are enrolling because it is viewed as some large employers getting out of their obligation to provide health insurance for their employees. They are giving them a small subsidy, but it's not the same as employer coverage.

Diana Douglas from Health Access California welcomed both Ms. Griffin and Dr. Chen, and she expressed her excitement in working with both of them as well. Ms. Douglas emphasized that during these difficult times, it is pleasing to see renewals and enrollment numbers high. Also, she showed appreciation for everything Covered California has done to step up in such a big way during these past few months to keep people covered. Ms. Douglas encouraged Covered California to work towards getting as many people covered as possible in order to increase uptake for those working in this current economy. Lastly, she noted that they look forward to seeing how Covered California can increase coverage following Proposition 22.

Agenda Item V: Covered California Policy and Action Items

Discussion Item: Optional Special Enrollment Period (SEP) Coverage Effective Dates

Mr. Lee reported that staff is considering changing Covered California's existing SEP effective date policy. He noted that currently consumers that sign up using certain qualifying life events (QLEs) during special enrollment by the end of the month will have coverage effective the first of the following month. For other QLEs, consumers must sign up by the 15th of the month; otherwise they skip over a month of coverage (this is also known as the 15-day rule).

Katie Ravel, Director of the Policy, Eligibility and Research Division, presented the only discussion item for this board meeting, the optional SEP coverage effective dates. Ms. Ravel noted that this will come back before the board as proposed regulations in the spring. She then shared background information, noting that starting in plan year 2021 the federal government will allow state-based marketplaces to provide earlier effective dates for certain QLEs that currently follow the 15-day rule effective dates. Covered California wanted to ensure that the board and the public are aware of staff's intention to take this option prior to them embarking on system work, and then regulation. Ms. Ravel then provided a list of QLEs that follow the 15-day rule effective dates that, under the proposed policy, would have a first of the month effective date. With this implementation, consumers will no longer have to wait for that gap that can be up to 47 days. She noted that this will provide consistency and optimize the consumer experience as most individuals would get first of the month coverage. Also, it will

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eliminate any gaps in coverage which will reduce any consumer confusion. Covered California plans to implement these changes in CalHEERS by mid-2021 and to bring the proposed policy back in both the spring and summer.

Mr. Lee noted that the reason this policy is being considered is because Covered California doesn't want its consumers to have to wait a month without coverage. Covered California is working closely with their health plans to have payment for the premium upon or very fast payment shortly after enrollment. Operational issues can play a big role in the potential of consumers going a month without coverage.

Board Comments:

Dr. Hernandez commented that she looks forwards to the policy and its regulations. She believes that by simplifying and maintaining continuity of care, Covered California is doing good things.

Public Comments:

Jen Flory of Western Center on Law and Poverty stated that they fully support this policy. They have worked on considerable efforts with Covered California to avoid this gap in coverage that people often see. She also noted that some of their plans already have some practice with this new policy, and she hopes that it can be implemented as quickly as possible.

Diana Douglas from Health Access California fully supports the changes to the 15-day rule for QLEs. She emphasized the importance of this policy during this current pandemic and believes it will make a huge impact once implemented.

Alicia Emanuel from the National Health Law Program expressed excitement for Ms. Griffin and Dr. Chen and looks forward to working with them both. She expressed support for this policy and noted that this shows Covered California is putting the best interest of customers first.

Before adjourning the meeting, Mr. Torres shared a few words in memory of Dr. Phil Lee. Dr. Lee served two U.S. presidents and was both his teacher and mentor. It was through Dr. Lee's leadership and vision that helped to effectuate an effective Medi-Cal Reform Act. Mr. Torres asked to adjourn the meeting in his memory.

Dr. Hernandez seconded that and thanked Mr. Torres for raising that Dr. Lee was an incredible mentor to so many people, including her.

Mr. Lee encouraged people to google "Phil Lee" in the New York Times where there are very good profiles of his life and contributions. Dr. Lee was a mentor to him at a young age and he noted that out of everything that Phil did, Dr. Lee was most proud of implementing Medicare with President Lyndon B. Johnson. With that implementation, Dr. Lee appreciated most that he used the financial lever of Medicare payments to desegregate America's hospitals. Mr. Lee stated that Dr. Lee is a guide stone for what Covered California does.

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Mr. Lee closed out with a final note. With Thanksgiving approaching, he encouraged everyone to wear a mask, maintain social distancing, and connect with others virtually, if possible.

Vice Chairman Fearer adjourned the meeting in honor of Dr. Philip Lee at 1:17 p.m.