

COVERED CALIFORNIA BOARD MINUTES
Thursday, May 20, 2021
Covered California
1601 Exposition Blvd.
Sacramento, CA 95815

Please Note: Covered California hosted its May 20th 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

Chairman Mark Ghaly called the meeting to order at 10:02 a.m.

Board Members Present During Roll Call:

Jarrett Barrios
Jerry Fleming
Dr. Sandra Hernandez
Art Torres
Dr. Mark Ghaly

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 for closed session to discuss contracting, personnel, and litigation matters pursuant to Government Code Section 100500(j).

Chairman Ghaly called open session to order at 12:03 p.m.

Agenda Item III: Approval of Board Meeting Minutes

Presentation: April 8, 2021, Meeting Minutes

Discussion: None.

Motion: Chairman Ghaly called for a motion and a second to approve the April 8, 2021 meeting minutes. Mr. Torres moved to approve the meeting minutes. The motion was seconded by Vice Chair Hernandez.

Public Comment: None.

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

Agenda Item IV: Executive Director's Report

Announcement of Closed Session

Peter V. Lee, Executive Director stated that the board met in closed session to discuss contracting, personnel, and litigation matters. There were no matters to report.

Executive Director's Update

Mr. Lee highlighted items in the reports and research. There were about a dozen reports from the current administration regarding the American Rescue Plan (ARP), illustrating the current their commitment to building on the Affordable Care Act (ACA).

Next, Mr. Lee highlighted two reports that are products of Covered California. The first report is a recently published article in *Health Affairs* titled "Use of E-Mail and Letters to Reduce Choice Errors." The second report can be found in the *American Economics Review* and is titled "Friction in Health Insurance Marketplace Enrollment and Risk Evidence from a Field Experiment." Mr. Lee highlighted these two reports because they reflect the evidence-based policymaking that Covered California conducts. He also thanked staff for their great work.

In terms of press and media, Mr. Lee highlighted recent press releases. Notably, Covered California has done a few press events within the last month that have targeted different Asian-American communities.

2021 Board Meeting Dates: Mr. Lee presented the Covered California Board meeting dates for 2021, with three of the meetings scheduled as only a possibility.

Implementation of the American Rescue Plan: Mr. Lee gave a high-level review of Covered California's marketing efforts under the ARP. Covered California will spend an estimated \$22 million from April through June. The campaign will continue to focus on targeting lower-income individuals and multicultural communities, with a mix of advertisements on television, online, e-mail, and print advertising.

Additionally, Mr. Lee noted that during this special enrollment period, the Employment Development Department (EDD) will mail an insert with every unemployment check. Covered California is teaming up with EDD to also develop direct outreach to individuals that have received unemployment insurance, as these individuals are eligible to receive the richest Covered California benefits at only a dollar a month.

Furthermore, Mr. Lee stated that Covered California is working closely with the Franchise Tax Board to gather information on the individuals that paid penalties for 2020. He noted that there will be additional outreach efforts to those individuals to educate them on their other options.

2021 Special Enrollment Period (SEP) Update: Next, Mr. Lee gave an overview of the first month of this SEP. Over 76,000 people signed up within this first month, which is 46,000 more people that signed up due to recent marketing efforts and additional navigator funding. Mr. Lee expressed excitement to see that the Federal Marketplace enrolled about a million people in its first special enrollment period and committed to increasing marketing spending.

Board Comments: Chairman Ghaly emphasized the significance of Covered California's partnership with EDD and was thankful for all the hard work being done.

Covered California Data and Research

Mr. Lee turned it over to Katie Ravel, Director of Policy, Eligibility, and Research to give an implementation update and to discuss data collection regarding the ARP.

Ms. Ravel noted that between April 12 and April 30, Covered California redetermined the eligibility for all subsidized enrollees to automatically provide them with the ARP's subsidies that became effective May 1.

Ms. Ravel then gave a preview of some of the data received from the 917,000 households that underwent the eligibility redetermination process. Covered California found that the average household-level net premiums decreased by fifty percent, which is over \$100 per month. Also, consumers with income over 400 percent of the Federal Poverty Level (FPL) saw the largest decrease in their net premiums; over \$250. Ms. Ravel stated that more than half of the households enrolled in subsidized coverage have a one dollar per member per month premium.

Mr. Lee clarified that net premium is the price the consumer pays.

Next, Ms. Ravel discussed the different plans that consumers have enrolled in. Among households in Bronze plans, sixty-five percent are paying one dollar per member per month. Among households in Silver plans, over sixty percent are now paying one dollar per member per month. Ms. Ravel noted that this is over 275,000 households in which ninety-six percent are also enrolled in cost-sharing reduction plans.

Ms. Ravel closed by thanking the Covered California team for their hard work.

Mr. Lee highlighted the three big beneficiaries of the ARP; the nearly 800,000 uninsured Californians who are now eligible for more money, the people that have off-exchange coverage that are now eligible for financial help, and those who are already with Covered California who underwent the renewal process.

M. Lee also thanked the team at Covered California, CalHEERS, OSI, and health plans for their hard work and commitment.

State and Federal Policy/Legislative Update

Mr. Lee gave a high-level overview of federal and state policy updates. First, Mr. Lee highlighted President Biden's announcement of including a \$200 billion investment to make the ARP subsidies permanent with potential additions and other advances in health care affordability, as part of his American Families Plan. Currently, the ARP's benefits go through the year 2022. Mr. Lee noted this proposal is subject to discussions and negotiations with Congress and there should be more details on it by summer.

Second, Mr. Lee highlighted two reform bills that are moving through Congress. The first bill is H.R.3, which seeks to lower drug costs. The second bill is S.499, which seeks to increase cost-sharing reductions and subsidy levels. He noted that when Congress looks at the expansion and continuation of the ARP, it is likely to include cost-sharing reduction benefits and make the lowest Gold plan the new benchmark plan.

On the regulatory front, the Internal Revenue Service (IRS) suspended the requirement to repay excess advance payments of the 2020 Premium Tax Credit (PTC). Also, the U.S. Department of Health and Human Services (HHS) announced that it will reverse

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Trump's previous interpretations of sex-based discrimination protections under the ACA. Furthermore, HHS announced that the Centers for Medicare and Medicaid Services (CMS) will make \$80 million in grants available to navigators in the federal marketplaces for plan year 2022 for outreach and education efforts. Mr. Lee noted that Covered California has been funding its navigators as a state-based marketplace, but the federal government is now providing support to the navigators in addition to their \$100 million marketing allocation. Finally, he referred participants to the slides for more details on the newly-released payment parameters from HHS.

Board Comments: Vice Chair Hernandez asked Mr. Lee how the navigator grants work.

Mr. Lee clarified that those are grants to entities in the 36 federal marketplace states. Therefore, it is not relevant to the states that currently have state marketplaces.

Mr. Lee then turned to state legislative updates. First, he noted that Governor Newsom released his May Budget Revise. He highlighted the funding and revenue changes from the January budget as a result of the ARP subsidies taking the place of what was the state subsidies as well as the reduction in individual mandate penalties. The revision seeks to establish zero-dollar premium plans and to establish a \$33 million Healthcare Affordability Reserve Plan that would potentially be used by Covered California to increase affordability plans in 2023. Other proposals in the May Revise include providing expanded Medi-Cal coverage, including In-Home Supportive Services, for older undocumented individuals, and a potential rollback to the Personal Leave Program that cut state workers' pay by nine percent.

Board Comments: Vice Chair Hernandez asked how the amount from the Health Care Affordability Reserve Fund was calculated from the May Revise.

Mr. Lee stated that the dollar amount was tied to the penalty money available. The legislature and administrations have been looking into what the right number is for that funding that is being set aside. Mr. Lee told Vice Chair Hernandez that he will follow up on that question to make sure he has the correct information.

Mr. Barrios mentioned that there was also a part of the May Revise that allocated money to help close the digital divide and use telehealth to help people make appointments to receive their vaccinations. He then asked for Mr. Lee and Chairman Ghaly's thoughts on telehealth and closing that digital divide.

Mr. Lee responded by stating that there has been a dramatic increase in the use of telehealth by health plans, but he agreed that a digital divide does exist. He took note of this question and will follow up in the next board meeting with an update on this issue.

Chairman Ghaly noted that the digital divide was raised and is an important feature in Governor Newsom's proposal. He also expressed excitement for the huge investments in staff training, program development, the raising of equity concerns, and for the Children's Behavioral Health Program proposal. This program is an all-kids approach and is not just a Medicaid focus. Therefore, this will have a direct impact on Covered California and should be monitored closely.

Public Comments: Beth Capell with Health Access California expressed appreciation for the work that Covered California has done to ensure people are taking advantage of

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the federal subsidies under the ARP. Ms. Capell noted that the subsidies are only in effect for two years, and she hopes that they will be made permanent for future years. She was disappointed that the May Budget Revision proposes to sweep the current General Fund help for affordability. Ms. Capell stated that for most of the enrollees last June, they had deductibles of \$3,700, \$4,000, or \$6,300. These enrollees only earn about \$25,000 to \$50,000 a year. Therefore, they are not able to afford these deductibles at their income level. Ms. Capell noted that California has a chance again to help people who are paying these very high amounts. Lastly, Ms. Capell appreciated the data on the zero-premiums and looks forward to helping reduce these premiums.

Mr. Lee gave a brief reminder that for the seventy percent of enrollees that are not in the Bronze plan, the deductible only applies to those who are admitted into a hospital. As a result, this becomes merged with their out-of-pocket maximum.

Jen Flory with Western Center on Law and Poverty commended the staff at Covered California for their quick action behind the ARP and their communication with stakeholders to ensure that they have the tools that they need to help people. Ms. Flory aligned her comments with the comments of Ms. Capell. She was disappointed to see the money swept from the General Fund as well. Ms. Flory also noted that while they are appreciative of the zeroing out of the one-dollar premiums, they would like to see those deductibles diminished to make Covered California truly affordable.

Skyler Rosellini with the National Health Law Program echoed the appreciation and enthusiasm for Covered California's quick and aggressive approach to help Californians get coverage during these stressful times. Mr. Rosellini thanked Covered California for addressing stakeholder's concerns and making sure that there is clear language and easier access to Covered California's plans. Lastly, Mr. Rosellini asked that Covered California work to bridge the gap for people who are on Bronze plans with high deductibles.

Faith Borges with the California Association of Health Underwriters thanked Mr. Lee for his acknowledgment of agent partners in the ongoing special enrollment period efforts and the implementation of the ARP. Ms. Borges noted that 2020 was a heartbreaking year for agents who were meeting individuals, families, and employers that were facing overwhelming challenges. Agents were able to work around the clock to quickly intervene and ensure that everyone had coverage options. Ms. Borges stated that agents are still working now with the good news of additional subsidy dollars and Consolidated Omnibus Budget Reconciliation Act (COBRA) help. She closed by thanking the board and carrier partners for recognizing the agent efforts and for providing the resources to help support those agents.

Mr. Lee noted that several health plans have leaned in to provide bonuses to agents to help during the implementation of the ARP. He thanked the health plans for their additional help and stated that the insurance agents play a vital role in the enrollment process.

Cary Sanders with the California Pan-Ethnic Health Network (CPEHN) commended the Covered California team for their efforts during the ARP. Ms. Sanders was disappointed that they were unable to do more in terms of affordability this year for individuals in the

marketplace. She stated that she looks forward to working with Covered California on making health care more affordable for marketplace individuals.

Doreena Wong with Asian Resources, Inc. echoed the previous comments and expressed appreciation for the Covered California staff. Ms. Wong also voiced support for the targeted outreach that Covered California has been doing. Additionally, Ms. Wong suggested supplementing the outreach and enrollment efforts by increasing the navigator funding to reach those hardest-hit communities.

Agenda Item V: Covered California Policy and Action Items

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

Bahara Hosseini from the Office of Legal Affairs presented proposed changes to the individual market eligibility and enrollment regulations.

Overview of the Main Proposed Changes: Ms. Hosseini gave a brief overview of the proposed changes. Definitions for COBRA and COBRA Continuation Coverage were added to the regulations to provide clarity and consistency with the federal regulation. The definition of “premium payment due date” was also revised to distinguish between the binder payment and the subsequent premium payments. Also, the APTC eligibility requirements were revised under the income verification process. The reference to the 400 percent FPL cliff was removed and replaced with a cross-reference to federal regulations to comply with the ARP. The verification process for the increase of income was revised as well to comply with the new federal final rule that came out last month. Additionally, the frequency of the periodic data matching was revised to at least twice during the benefit year and the path of the renewal hierarchy was revised for dental plans that are no longer available. Furthermore, the State of Emergency Special Enrollment Period triggering event was revised to clarify the date of events for that specific period, and an exception was added for a national public emergency to provide an ongoing event space throughout the state of emergency.

Covered California also clarified the regulations within this special enrollment period. The regulations were revised to allow individuals, enrollees, or dependents who didn’t receive timely notice of a triggering event to select a plan within sixty days of the date that they knew, or reasonably should have known, of the triggering event to comply with the regulation.

The special enrollment period regular coverage effective dates were replaced with the first of the month following plan selection effective date. In addition, the implementation effective date was revised for reported changes to replace the 15-day rule with the first of the month following plan selection to align with the revised special enrollment period coverage effective dates and to prevent consumer confusion.

Ms. Hosseini closed by requesting the board to formally adopt these emergency regulations so that they can be filed with the Office of Administrative Law.

Motion: Chairman Ghaly called for a motion and a second to approve this action item. Vice Chair Hernandez moved it, and Mr. Barrios seconded it.

Public Comments: Jen Flory with Western Center on Law and Poverty thanked the staff for their hard work on the regulations and agreed with the move away from the 15-day rule. Ms. Flory stated that the special enrollment period will allow more people to have coverage when they need it, instead of having an additional month gap in coverage. She also commended Covered California for their quickness in updating these regulations, the transparency with which the regulations are shared, and the citations that Covered California has for the rationale for changes in the regulations.

Skyler Rosellini with the National Health Law Program echoed Ms. Flory's comments and thanked Covered California for their work with the stakeholders to push the regulations through.

Diana Douglas with Health Access California echoed the previous comments and expressed support of the changes to the special enrollment regulations, especially the changes to the 15-day rule.

Cary Sanders with the California Pan-Ethnic Health Network (CPEHN) expressed support for the changes as well and thanked Covered California staff for moving quickly.

Mr. Lee also thanked the team, advocates, and health plans for all the hard work. He noted that the changes to the 15-day rule will be a big lift for health plans. However, Mr. Lee stated that it will be worth it and is a consumer-centric policy.

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

Action Item: 2022 Patient-Centered Standard Benefit Plan Designs

Mr. Lee presented updates to the 2022 Patient-Centered Standard Benefit Plan Designs. Mr. Lee reminded everyone that the proposed Standard Benefit Plan Designs were brought before the board in January, with minor revisions reported in March.

Benefit Design Changes Since March 2021: Mr. Lee noted that at this meeting, there have been changes because of the final Notice of Benefit and Payment Parameters final rule that came out on April 30. Notably, the maximum out-of-pocket for consumers has been lowered to align with the final rule. Lastly, there was a correction of a cost-share at one level from \$40 to \$35 in Silver.

Motion: Chairman Ghaly called for a motion and a second to approve this action item. Mr. Torres moved it, and Mr. Fleming seconded it.

Public Comments: Anete Millers with the California Association of Health Plans (CAHP) briefly commented on behalf of the health plans that contract with Covered California. Ms. Millers stated that CAHP and its members share Covered California's goal of making health care accessible and affordable. She noted that effective marketing for enrollment plays a huge role in helping achieve that. Ms. Millers voiced that the Qualified Health Plans (QHPs) will continue to work hard on marketing enrollment, but there are still concerns with the proposal for QHPs to spend at least 0.6% of premiums on direct response marketing. Specifically, CAHP is concerned that locking in a percentage rate without looking at data and evidence to support the effectiveness of that rate might hinder the marketing efforts more than it will help. Ms. Millers suggested other standard marketing metrics like Acquisition Cost Per Member that would be a more effective use of the premium dollars. She closed by asking

Covered California to consider other approaches to improving marketing and stated that CAHP is hopeful to further discuss this with Covered California in the future.

Diana Douglas with Health Access California expressed support for the approval of the 2022 Benefit Design and thanked Covered California for their engagement with stakeholders and in the benefit design process. Ms. Douglas emphasized that the benefit design still represents the real cost that enrollees must pay to access care, and over the years, the deductibles have risen. She noted that the administration's affordability reserve, funded only by the individual mandate penalty revenue, is not sufficient to make meaningful improvements to the benefit designs for the future. Ms. Douglas closed by raising that the state investment in affordability must be maintained to see the benefit design improve over time.

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

Mr. Lee addressed Ms. Millers' comments. He noted that the issue of potentially having a required minimum for direct response marketing is not on the agenda for discussion in open session.

Discussion Item: Covered California's Proposed Fiscal Year 2021-2022 Budget

Mr. Lee began the 2021-2022 budget discussion by noting that in prior years, the budget and annual report were combined into one document. These documents are being separated this year. In addition, he welcomed public comments on Covered California's budget directly to staff through June.

Next, he provided context for the proposed budget, highlighting how Covered California has responded to challenges and seized opportunities in the past three tumultuous years, and how they have resulted in enrollment growth and improved affordability.

Mr. Lee noted that while enrollment has grown a lot over the last three years, the revenue has remained steady. This is due to several factors. The first factor is that premiums have not increased. Also, Covered California has lowered the health plan assessment for the past years by 0.25 percent.

Mr. Lee then introduced Jim Watkins, Director of the Financial Management Division, to present Covered California's proposed 2021-2022 budget.

Elements of Uncertainty: Mr. Watkins echoed Mr. Lee's comments and noted that Covered California had to build new models to adhere to major policy changes and to adjust to the recession. Mr. Watkins then highlighted elements of uncertainty in the future, such as COVID-19 resurgence, vaccine hesitancy, enrollment in-flows and out-flows from employer-sponsored insurance and Medi-Cal, and finally, the question of whether or not ARP subsidies will become permanent.

Basic Budget Planning and Principles for FY 2021-2022 Cycle: Mr. Watkins stated that Covered California is considering revisiting the budget in the fall to consider some budget augmentations as it receives a clearer picture of what enrollment and revenues will look like. In addition, Covered California will continue to monitor its working capital, relative to the rolling forecast and revenue. There are also evaluated policies that would meet potential revenue downturns in the context of planned working capital. Covered

California is developing a formal Capital Investment Replenishment Fund as well. Lastly, Covered California is no longer in the “start-up” phase and must implement planning and budgeting processes that continually evaluate the base budget and incremental budgeting.

Covered California Proposed Budget Highlights: Mr. Watkins reviewed some of the budget highlights, which included the elimination of \$30 million in one-time spending for marketing for pandemic outreach; the elimination of \$10 million in one-time Service Center spending for consumer support; the movement of \$16.3 million of CalHEERS amortizable expenses from the operating budget to the appropriate capital project’s budget; maintaining a 3.25% assessment fee; an unallocated allotment of \$10 million for budget augmentations that will be allocated after a resource evaluation; the assumption that the State Employee Personal Leave Program; and, the development of a comprehensive, multi-year capital plan to ensure effective management of capital investments and policies to meet potential revenue downturns.

Covered California Proposed FY 2021-22 Budget: Mr. Watkins stated that the total operating budget for this year is \$427.6 million. Within that, there’s an operating budget of \$403 million, a capital project’s budget of \$24.3 million. Mr. Watkins noted that there are 1,420 staff this year. Personnel costs will increase by \$3 million. Other operating expenses have dropped to \$247 million from \$287 million.

Next, Mr. Watkins reviewed enrollment and revenue budget forecasting. Each year, Covered California develops high, mid, and low forecasts for the average monthly enrollment rate. This is based on the trends in the economy and the assumptions regarding the ARP. Right now, there is a lower take-up rate and a temporary, overheated economy. At the upper end of it, Covered California assumes a much slower economy and that the ARP subsidies will be made permanent. If it does become permanent, there will be a higher retention rate.

Mr. Lee noted that in absence of the ARP being made permanent, Covered California would migrate to where it was in prior years, if not a bit higher.

Summary of Mid Forecast versus High and Low: Mr. Watkins gave an overview of the multi-year modeling. Covered California assumes that the expenditure trend is going to be the same under every forecasted scenario and that there will be no changes in expenditures based on the outcomes. Furthermore, this assumes that Covered California conducts the same spending plan across each of the high, mid, and low forecasts. For example, in the high forecast, Covered California assumes that significant cash would be accumulated. On the low-end assumption, in 2021-2022, there would be a \$16 million loss. If this occurred, Covered California would have to look at the modifiable expenses, consider targeting adjustments to expenditures, and possibly adjusting the assessment fee. Mr. Watkins also pointed out that under the lowest scenario, Covered California’s reserve would drop to about seven months in 2023-2024, assuming that no action was taken.

Mr. Watkins noted that Covered California is assuming that the premium growth would be one percent for 2021-2022, five percent for 2022-2023, and five percent for 2023-2024. He also stated that most of the benefit to the ARP comes in the outyears, and

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since there's only been forecasting done for three years, there would be significant increases in revenue in future years.

Mr. Lee reminded everyone that Covered California, by law, can't receive state funds and operates like a business. Therefore, the high, medium, and low forecasts are very important because Covered California relies on those reserves. Mr. Lee also noted that Covered California still has substantial resources for marketing and to support the Service Center. It is a prudent budget, but it still gives Covered California the ability and capacity to deliver its mission. Lastly, Mr. Lee reminded the public that Covered California has a committee structure with a two-member Audit and Finance Committee. Those two members are Vice Chair Hernandez and Mr. Fleming.

Board Comments: Vice Chair Hernandez thanked Mr. Watkins for his presentation and emphasized the number of uncertainties that must be acknowledged while trying to develop the budget. She stated that the Covered California team did a great job and the board will make the necessary modifications as the environment continues to change.

Mr. Fleming stated that Covered California is in an interesting transition period because of the pandemic and was impressed with the analysis that was done to properly position Covered California during these times of uncertainty.

Mr. Barrios asked Mr. Lee about the reduction of the technology line from 61 to 46.

Mr. Lee responded that the reason for the reduction is to move a portion of the CalHEERS spending into the capital budget. Out of the \$24 million for the capital project's budget, \$16 million is for IT investments. Mr. Lee emphasized that the reduction is a matter of moving funds into the capital expense area.

Mr. Watkins confirmed that Mr. Lee's response was correct and that Covered California is also thinking about a replenishment fund, so as they try to update new technology, there will be funds in the future to support that.

Chairman Ghaly echoed previous comments and emphasized the direct correlation between Covered California's revenue and premiums. He stated that keeping premiums stable plays a vital role in the success of Covered California.

Mr. Lee highlighted that Covered California's personnel expenses have not increased by much. As Mr. Watkins noted, the proposed budget reflects the same number of staff as last year. Mr. Lee stated that there are more people now, but that doesn't necessarily mean that everyone is doing more work. He also noted that Covered California is very committed to its staff and doesn't want staff to face any constraints. Lastly, Mr. Lee reminded the public to submit comments to the board's comment email, and Covered California will be considering all the comments that are submitted.

Chairman Ghaly echoed all the previous comments and thanked the staff at Covered California for their tremendous work.

Chairman Ghaly adjourned the meeting at 1:54 p.m.