

COVERED CALIFORNIA BOARD MINUTES
Thursday, September 16, 2021
Covered California
1601 Exposition Blvd.
Sacramento, CA 95815

Please Note: Covered California hosted its September 16th 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 9:30 am.

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 1:03 p.m.

Agenda Item III: Board Meeting Action Items

August 19, 2021 Meeting Minutes

Discussion: None.

Motion/Action: Chairman Ghaly called for a motion and a second to approve the August 19, 2021 meeting minutes. Mr. Fleming moved to approve the meeting minutes. The motion was seconded by Mr. Barrios.

Public Comment: None.

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

Agenda Item IV: Executive Director's Report

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Peter V. Lee, Executive Director, informed the board and the public that he will be leaving Covered California at the end of February after serving as the Executive Director for the past ten years. Mr. Lee expressed gratitude for the opportunity to serve the state of California and to help make an impact for Californians. He also thanked the board, the staff at Covered California, and Governor Newsom for their dedication to building on the Affordable Care Act. Next, Mr. Lee gave an overview of the history of Covered California and the actions that were taken in order to carry out its mission. Lastly, Mr. Lee stated that he plans to take a break once he leaves in February, and he will use the time to decide what is next for him.

Following Mr. Lee's update, the board members, the partners of Covered California, and the public took some time to thank Mr. Lee for his tremendous work at Covered California and wished him the best in his future endeavors. Chairman Ghaly noted that the board will be using these next few months to search for Covered California's next leader and will be providing updates on how the search is going.

Public Comment:

Bill Wehrle with Kaiser Permanente echoed comments made by other stakeholders and wished Mr. Lee the best in his future endeavors.

Cary Sanders with the California Pan-Ethnic Health Network (CPEHN) highlighted that Mr. Lee has been instrumental in expanding access to affordable health care, reducing health disparities, and ensuring Covered California was the national standard-bearer of the Affordable Care Act during the last administration.

Doreena Wong with Asian Resources Inc. echoed Ms. Sanders' comments and thanked him for his contributions on behalf of the navigator community, specifically his commitment to reaching hard-to-reach vulnerable communities.

Jen Flory with the Western Center on Law and Poverty aligned her comments with those of Ms. Sanders and Ms. Wong. She expressed appreciation for the constant culture of openness that Mr. Lee has set at Covered California.

Faith Borges with the California Association of Health Underwriters echoed comments made by past speakers and thanked Mr. Lee for his recognition of the role of agents, particularly in recent years.

Alicia Emanuel with the National Health Law Program and the Health Consumer Alliance echoed comments made by other speakers and thanked Mr. Lee for his vision, dedication, and for building a team that prioritizes transparency and engagement from diverse places.

Executive Director's Update

Mr. Lee noted that there is one policy item up for action and two policy items up for discussion in today's meeting. He also gave a brief overview of the California Digital Government Summit 2021, which took place on September 14, 2021. At this ceremony, Covered California received two awards. The first award was for the best workforce and workplace initiative, and the other was for excellence in project management.

2021 and 2022 Board Meeting Dates: Mr. Lee presented the Covered California Board meeting dates for the remainder of 2021, with the October and December meetings being closed session only. He then presented Board meeting dates for 2022.

Covered California Digital Government Summit 2021: Mr. Lee noted that Covered California won two awards at the California Virtual Digital Government Summit for 2021 Best of California Awards Ceremony; one for the implementation of Covered California's Human Capital Management Project, second, for implementation of the CalHEERS Cloud Migration Project.

Open Enrollment 2022 Marketing Update: There is media planning underway for a campaign that will take place from November through January 2022. The target for this marketing campaign will be adults in California between the ages 25-64 with a household income of at least \$25,000. It will target multicultural, Hispanic, African American, Asian, and LGBTQ+ segments through several different channels and languages.

State and Federal Policy/Legislative Update

Mr. Lee highlighted an update on the federal front. On September 10, the Centers for Medicare & Medicaid Services (CMS) awarded \$20 million to 21 state-based marketplaces under the Exchange Modernization Grant Program. Mr. Lee noted that Covered California was awarded the maximum amount of \$1,107,392.87 to develop and produce a robust outreach campaign aimed at ensuring Californians are aware of the new financial assistance made available under the American Rescue Plan. Covered California is currently working with CMS on final grant award negotiations and implementation activities.

Public Comments: Cary Sanders with the California Pan-Ethnic Health Network (CPEHN) congratulated Covered California on the award from CMS and looks forward to seeing what Covered California does with these funds.

Agenda Item V: Covered California Policy and Action Items

Action Item: Proposal to Automatically Move Certain Enrollees from Bronze to Silver Plans Emergency Regulations

Katie Ravel, Director of Policy, Eligibility, and Research gave a brief overview of the proposed policy item up for action. As presented in June and August, Covered California proposes to automatically move Bronze enrollees into Silver during the upcoming renewal if their income is at or below 150% of the Federal Poverty Level (FPL), and if they are eligible for a \$0 per member per month Silver plan with the same carrier in the same product. This policy will allow eligible members to receive platinum-level coverage with no monthly premium.

Ms. Ravel noted that Covered California staff presented drafted regulation language at the August board meeting to revise the passive renewal hierarchy to allow for auto-enrollment of certain Bronze Qualified Health Plan (QHP) enrollees into an enhanced Silver 94 QHP with \$0 premium at renewal. No changes have been made to the draft

regulation presented in August, and the staff requested that the board formally adopt the regulation.

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: Faith Borges with the California Association of Health Underwriters thanked the staff at Covered California for meeting to discuss the concerns regarding automatically moving members from Bronze to Silver. Ms. Borges noted that agents do have some concerns regarding unintended consequences for those who want to use or need health saving accounts. Lastly, she expressed appreciation for Covered California's willingness to help agents prepare for these movements.

Cori Racela with the Western Center on Law and Poverty expressed support for this proposal and hoped to use this pilot to develop a similar path for other people who might benefit from an enhanced Silver plan.

Diana Douglas with Health Access California also expressed support for the proposal and thanked Covered California for their engagement with Health Access and other advocates in the planning of this process.

Doreena Wong with Asian Resources, Inc. echoed previous comments and showed appreciation for Covered California for making this improvement and for their engagement on this issue.

Cary Sanders with the California Pan-Ethnic Health Network (CPEHN) aligned her comments with those of her colleagues. Ms. Sanders emphasized that consumers are price-sensitive, and affordability is a key factor for consumers enrolling in coverage.

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

Discussion Item: Proposition 22 – 2022 Average Statewide Bronze Premium Calculation

Ms. Ravel returned to give an overview of Covered California's requirements under Proposition 22. This proposition requires network companies to provide a health care stipend to qualifying app-based drivers on a quarterly basis, based on certain criteria. Proposition 22 requires Covered California to post the average statewide monthly premium for a Bronze plan annually for purposes of calculating the health care stipend. In March 2021, Covered California adopted regulations to codify the calculation for the average statewide monthly bronze premium as the average Bronze premium for a 21-year old published by Covered California for the individual mandate penalty, adjusted by the average age of Covered California enrollees. Ms. Ravel noted that by September 1 each year, Covered California must publish the average statewide monthly premium for an individual for the following calendar year for a Covered California Bronze health insurance plan. The average premium for the 2022 plan year is \$518.

Update on Legal Challenge to Proposition 22: On August 20, 2021, the Alameda County Superior Court held that provisions of Proposition 22 unconstitutionally limit the power of the legislature and violate the single-subject rule for initiative statutes. The

court held that Proposition 22 in its entirety is unenforceable, and network companies are expected to appeal the decision and request a stay to continue Proposition 22 in effect while the litigation is pending. Covered California posted the average statewide monthly bronze premium for 2022 and is continuing to offer proof of enrollment documents to support consumers that are app-based drivers pending changes to the legal disposition.

Mr. Lee noted that this will not be coming back to the board for action, and staff will continue to keep the board updated on Proposition 22.

Public Comment: None.

Discussion Item: Update on Health Care Affordability Reserve Fund Report

Ms. Ravel provided an update on Covered California's progress on producing the Health Care Affordability Reserve Fund Report, which will develop options for providing cost-sharing reduction subsidies. The 2021-2022 State Budget and Health Omnibus Trailer Bill redirected \$333.4 million from the General Fund to the Health Care Affordability Reserve Fund to be used for affordability programs operated by Covered California starting in plan year 2023 and directed Covered California to produce this report.

Ms. Ravel explained that Covered California must develop affordability options in consultation with stakeholders and the legislature. Also, Covered California must submit options to the legislature, governor, and the Healthy California for All Commission for consideration for the 2022-2023 budget process. Additionally, the report must include affordability options for all Covered California enrollees with income up to 400% FPL and provide zero deductibles for all enrollees with income under 400% FPL. Lastly, the report must upgrade those with income between 200-400% FPL to Gold-tier cost-sharing and address any operational issues that might impede implementation of enhanced cost-sharing reductions for the 2023 calendar year. Ms. Ravel noted that this report is due by January 1, 2022.

Covered California will convene a stakeholder workgroup to develop cost-sharing options with the first meeting being held on September 30, 2021. Participants from the Assembly Bill 1810 affordability working group have been invited as well.

Mr. Lee noted that Mr. Barrios and Mr. Fleming will be participating in the advisory group and will provide an update to the board at the November board meeting. Also, Mr. Lee stated that one of the challenges Covered California will face when producing this report is the uncertainty behind the American Rescue Plan's subsidies. The options provided in the report will have to take this into consideration.

Public Comments: Diana Douglas with Health Access California expressed excitement for the opportunity to work with Covered California and other stakeholders on this report. Ms. Douglas emphasized the importance of ensuring the affordability reserve fund is targeted to help with cost-sharing and to continue to build on the American Rescue Plan.

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Mr. Lee closed by thanking everyone for their thoughtful comments and remarks.

Chairman Ghaly adjourned the meeting at 2:47 p.m.