

State Health Benefits Commission

Meeting Minutes

January 9, 2019

Adequate notice of this meeting has been provided through the annual notice of the schedule of regular meetings of the Commission filed with and prominently posted in the offices of the Secretary of State. The 2019 annual meeting schedule was mailed to the Secretary of State, Star Ledger, and the Trenton Times on December 20, 2018.

The meeting of the State Health Benefits Commission of New Jersey was called to order on Wednesday, January 9, 2019 at 10:00 AM. The meeting was held at the Division of Pensions and Benefits, 50 West State Street in Trenton, NJ.

The text of Resolution A (Closed Session) and Resolution B (Executive Session) were read in their entirety in the event that the Commission desires, at any point in the meeting, to approve a motion to go into closed or executive session.

Acting Secretary Nicole Ludwig took Roll Call and established that a quorum was present.

Roll Call

Commissioners:

Susanne Culliton, Chairperson, representing State Treasurer Elizabeth Maher Muoio
Holly Gaenzle, representing Commissioner of the Department of Banking and Insurance
Dudley Burdge, Representative for Local Government Employees
Deirdre Webster Cobb, CEO, Civil Service Commission
Debra Davis, Representative for State Government Employees

Also Present:

Mark Cipriano, New Jersey Division of Pensions and Benefits
Nicole Ludwig, New Jersey Division of Pensions and Benefits
Danielle Schimmel, Deputy Attorney General

MEETING MINUTES:

Acting Secretary Nicole Ludwig explained that an audit revealed that meeting minutes from several past meetings were not approved, and were now being presented for approval:

- January 10, 2018
- March 26, 2018
- May 9, 2018
- September 12, 2018
- September 26, 2018
- November 8, 2018

Chairperson Culliton made a motion to approve all meeting minutes. Commissioner Davis seconded the motion; all voted in favor. Commissioner Webster Cobb abstained on the vote for the January 10, 2018 minutes only as she was absent from that meeting.

Chairperson Culliton made a motion to go into Closed Session. Commissioner Davis seconded the motion; all voted in favor.

The following cases, due to HIPAA regulations, were heard in Closed Session:

Case #01091901: This case was tabled from the November 8, 2018 Commission meeting. This appeal was for the coverage of a growth hormone, NUTROPIN AQ NUSPIN 10. The member and spouse explained that they were able to secure the adoption documentation for their child, however the documentation did not list the birth parents' height.

OptumRx presented on the case and advised that the child is undergoing precocious puberty treatment which could stunt the child's growth. The drug NUTROPIN AQ NUSPIN 10 is prescribed to counter the effects of the treatment.

Commissioner Webster Cobb asked how long the child was expected to continue precocious puberty treatment. The member advised that the treatment was expected to continue for six months.

OptumRx stated there was a small window in which the growth hormone could be administered; up to the time when growth plates are considered closed. Once the growth plates are closed, the hormone would no longer work.

Chairperson Culliton made a motion to go into Executive Session to seek advice from the Deputy Attorney General. Commissioner Davis seconded the motion; all voted in favor.

Upon return from Executive Session, Chairperson Culliton made a motion to approve the medication NUTROPIN AQ NUSPIN 10 retroactively through 2018, and will extend the coverage for an additional six months. Commissioner Davis seconded the motion; all voted in favor.

Case #01091902: The member is appealing the denial of ONDANSTERON which is being used to treat a benign brain tumor. The use of the medication to treat a benign tumor is not supported by the FDA. OptumRx presented on the case, stating the Centers for Medicare/Medicaid (CMS) do not allow the use of the medication for off-label use. Therefore, it is excluded from the plan as regulated by CMS.

OptumRx advised that the medication can be purchased at a reduced rate using discount cards and manufacturer coupons.

Chairperson Culliton made a motion to deny the appeal, based on CMS regulations, but suggested that OptumRx reach out to the member to discuss any discounts that are available. Commissioner Davis seconded the motion; the motion was approved 4:1 (Commissioner Burdge abstained).

Case # 01091903: The member presented the appeal for Fertility Preservation. The appeal is for IVF treatment in relation to chemotherapy. The member has paid for the first part of IVF (egg retrieval with cryopreservation) out-of-pocket and is seeking reimbursement, as well as coverage for the second half of the IVF.

Prior to the member presenting, Chairperson Culliton made a motion to go into Executive Session to seek counsel from the Deputy Attorney General. Commissioner Burdge seconded the motion; all voted in favor.

Upon return from Executive Session, the member presented, stating that when diagnosed with breast cancer they were in the second trimester of pregnancy. The member's physician advised that the pregnancy must be terminated to proceed with the cancer treatments. The physician advised that the chemotherapy treatments would likely result in infertility. The member stated that the first half of the fertility preservation was complete. Eggs have been retrieved, and currently are being stored via cryopreservation. The member confirmed that the appeal does not request payment for the storage of the eggs.

Aetna representative Dr. Pritzker presented on the case. He advised that their self-insured plan does not cover Fertility Preservation. However, the fully-insured private plans offered through Aetna do cover preservation when related to chemotherapy. Commissioner Burdge asked if this was industry standard. Dr. Pritzker advised it was standard for fully insured plans.

The member stated that New York and Connecticut have changed their laws regarding Fertility Preservation to include coverage for patients deemed infertile due to a medical condition or medically-necessary scheduled treatment. The member also cited a bill in New Jersey that is currently in legislative review.

Chairperson Culliton made a motion to go into Executive Session to seek counsel from the Deputy Attorney General. Commissioner Davis seconded the motion; all voted in favor.

Upon return from Executive Session, Chairperson Culliton made a motion to table the appeal in order to allow the State Health Benefits Program Plan Design Committee (SHBP PDC) to consider the issue of infertility under the special circumstances presented by the member. Chairperson Culliton stated that the SHBP PDC meets later in the month. The case would be presented to the PDC for review. If a resolution is passed modifying the plan design, the SHBC would consider the appeal according to the PDC's recommendation(s). Commissioner Burdge seconded the motion; all voted in favor.

Case # 01091904: The appeal is regarding enrollment eligibility for retiree health benefits coverage as a surviving spouse. The surviving spouse presented the appeal stating that the marriage occurred the same day that the member passed away. The surviving spouse confirmed that they were not on the coverage at the time of the passing.

Previous employer, Michael Amuaze from the NJ AWJC presented regarding the deceased member. Mr. Amuaze advised that the Bureau of Boiler Compliance stands behind the surviving spouse and supports the appeal.

Chairperson Culliton made a motion to go into Executive Session to seek counsel from the Deputy Attorney General. Commissioner Burdge seconded the motion; all voted in favor.

Upon return from Executive Session, Commissioner Burdge made a motion to deny the appeal. The denial was supported in accordance with the SHBP plan design, which states coverage can only be offered to a surviving spouse who was enrolled as a dependent at the time of the subscriber's death. The surviving spouse was not a dependent at the time of passing. Commissioner Davis seconded the motion; all voted in favor.

Case # 01091905: The appeal is for reimbursement of premiums paid from 2003 through 2017. The member presented on the case, stating that the employer advised that there would be a cost for retiree health benefits coverage. The member states that they were not made aware that the premium sharing only applied to the Traditional/NJ Direct 10 plan. The member was advised in 2017 that if NJDirect 15 was chosen there would be no premium charged. The member is appealing for reimbursement of all premiums paid since 2003.

Chairperson Culliton made a motion to go into Executive Session to seek counsel from the Deputy Attorney General. Commissioner Davis seconded the motion; all voted in favor.

Upon return from Executive Session, Commissioner Davis made a motion to deny the appeal. The reason for denial was the NJDPB received a signed application on March 27, 2003 on which

the Traditional Plan was elected. The member was enrolled in the selected plan as requested; therefore, no error was made on the part of the Division. Commissioner Burdge seconded the motion; all voted in favor.

Case # 01091906: Chairperson Culliton recused herself from this case, as she had contact with the attorney prior to the appeal.

The attorney for the member presented on the case telephonically. The appeal is regarding the enrollment as a retiree under Chapter 330. During the presentation it was stated the location did not adopt Chapter 330.

Commissioner Davis made a motion to go into Executive Session to seek counsel from the Deputy Attorney General. Commissioner Burdge seconded the motion; all voted in favor.

Upon return from Executive Session, Commissioner Burdge made a motion to deny the appeal, because the location had not passed a resolution to adopt Chapter 330. Therefore, there are no grounds for an appeal. Commissioner Davis seconded the motion; all voted in favor.

Final Administrative Determinations:

Case # 01091907: Chairperson Culliton made a motion to approve the Final Administrative Determination. Commissioner Davis seconded the motion; all voted in favor.

Case # 01091908: Chairperson Culliton made a motion to approve the Final Administrative Determination. Commissioner Davis seconded the motion; all voted in favor.

Case # 01091909: Chairperson Culliton made a motion to approve the Final Administrative Determination. Commissioner Webster Cobb seconded the motion; all voted in favor.

Case # 01091910: Chairperson Culliton made a motion to approve the Final Administrative Determination. Commissioner Burdge seconded the motion; all voted in favor.

Office of Administrative Law

Case # 01091911: This member appealed the denial of reimbursement for services performed on February 7, 2017. The appeal was denied because the procedure code that was used is considered to be an incidental procedure. Therefore it is not a covered benefit. This appeal was previously denied by the Commission at the September 12, 2018 SHBC meeting.

Chairperson Culliton made a motion to approve the member's request to transmit this case to the Office of Administrative Law (OAL) as a contested case. Commissioner Davis seconded; all voted in favor.

Case # 01091912: The member appealed the denial of the opportunity to enroll in the State Health Benefits Program (SHBP) as a retiree. The member was denied coverage because their active coverage ended on July 12, 2014. The member applied for a February 1, 2016 retirement date. The member did not maintain coverage up to the retirement date, therefore there was a lapse of coverage. This appeal was previously denied by the Commission at the September 12, 2018 SHBC meeting.

Chairperson Culliton made a motion to deny the member's request to transmit this case to the Office of Administrative Law (OAL) as there was no finding of fact. Commissioner Webster Cobb seconded; all voted in favor. Acting Secretary Ludwig will issue a Final Administrative Determination (FAD).

Settlement Proposals:

Case # 01091913: Chairperson Culliton made a motion to authorize Equian to settle the matter as presented. Commissioner Burdge seconded the motion; all voted in favor.

Case # 01091914: Chairperson Culliton made a motion to authorize Equian to settle the matter as presented. Commissioner Davis seconded the motion; all voted in favor.

Case # 01091915: Chairperson Culliton made a motion to authorize Equian to settle the matter as presented. Commissioner Davis seconded the motion; all voted in favor.

Adjournment:

Commissioner Davis made a motion to adjourn; Commissioner Burdge seconded the motion; all voted in favor. Meeting adjourned at 3:30 PM.

Respectfully Submitted,



Nicole Ludwig
Acting Secretary, State Health Benefits Commission