

**State Health Benefits Commission**  
**Meeting Minutes**  
**January 10, 2018; 10:00 AM**

Adequate notice of this meeting was 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 annual meeting notice was mailed to the Secretary of State, Star Ledger and the Trenton Times on December 20, 2017.

The meeting of the State Health Benefits Commission of New Jersey was called to order on Wednesday, January 10, 2018 at 10:00 AM. The meeting was held at the Division of Pensions and Benefits, 50 West State Street in Trenton.

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.

Joseph Palladino took Roll Call and established that a quorum was present.

**Roll Call**

**Commissioners:**

**Christin Deacon**, Chairperson, representing State Treasurer Ford M. Scudder

**Holly Gaenzle**, Representing the Department of Banking and Insurance Commissioner Richard Badolato

**Dudley Burdge**, Representative for Local Government Employees

**Robert M. Czech**, Chairman/CEO, Civil Service Commission (*appeared telephonically*)

**Absent:**

**Debra Davis**, Representative for State Government Employees

**Also Present:**

**Kierney Corliss**, New Jersey Division of Pensions and Benefits

**Andrew Lawson**, New Jersey Division of Pensions and Benefits

**Mark Cipriano**, New Jersey Division of Pensions and Benefits  
**Joseph Palladino**, New Jersey Division of Pensions and Benefits  
**Danielle Schimmel**, Deputy Attorney General  
**Jennifer Moyer**, Aetna  
**Ian Carucci**, Aetna  
**Kim Ward**, Aetna

### **PBM Implementation**

Acting Secretary Corliss informed the Commission that the contract with Express Scripts ended at the end of 2017 and starting December 23, 2017 all State bi-weekly employees switched to the new PBM, OptumRX, with all other employees switching on January 1, 2018. She stated that there had been no notable problems to date. Ms. Corliss noted that the PBM plan uses a different closed formulary than that used by Express Scripts meaning that some drugs are excluded, however, members who have a drug denied can appeal and have a decision within 24 hours.

Commissioner Burdge questioned the status of the legal challenge from Express Scripts. DAG Schimmel stated that the challenge is pending in the Appellate Division and there was a motion filed with the Supreme Court challenging the Appellate Division's overturning a stay of implementation.

### **Member Appeals**

**Case #01101801 (NJDPB Appeal) member and representative present** – This appeal was for the member's denial of Medicare Part-B reimbursement. The member's attorney argued that the member should receive full Medicare Part-B reimbursement or at least receive the partial reimbursement capped at \$46.10 a month since the member had 25 years of service credit upon retirement. The member was denied reimbursement by the NJDPB because according to the records before the Commission, the member briefly left employment in October, 2002 and then started working at a new location as of November, 2002. Since the employment was not continuous and there was a small gap, the new job was considered a new hire and therefore reset the member's hire date for retirement calculation purposes to 2002. Since State

employees hired after July 1, 1991, are not eligible to receive any reimbursement for Medicare Part-B after retirement; the member was denied any reimbursement by the NJDPB.

Commissioner Deacon made a motion to go into Executive Session, Commissioner Burdge seconded and all voted in favor.

Upon returning to Open Session, Commissioner Deacon made a motion to table the appeal so that member can produce paystubs showing no break in service from October 19, 2002 through November 21, 2002. Commissioner Burdge seconded and all voted in favor.

**Case #01101802 (NJDPB Appeal) member present** – The member appealed the determination of the NJDPB that the member must pay a percentage of the premium for health benefits in retirement pursuant to Chapter 78, P.L 2011. The member initially received free retired health benefits, but an NJDPB audit in 2017 determined that this was an error because the member did not have 20 years of service credited in the member's pension account on June 28, 2011, the effective date of Chapter 78, P.L 2011. The NJDPB did not request retroactive premiums.. The member purchased 74 months of military service credit in 2013. The member claims that when the purchase was made the member was told that the purchase would qualify for eligibility for free health benefits in retirement.

Commissioner Burdge made a motion to go into Executive Session, Commissioner Deacon seconded and all voted in favor.

Upon return from Executive Session, Commissioner Deacon noted that the ability to purchase military service credit did not come in effect until 2013 which is after the Chapter 78 reform which occurred in 2011. She also noted that while the member's military purchase didn't count towards health benefits premium calculations it did count towards the pension side and the member received a special retirement with 65% of the member's final salary versus 50%. She further explained that the NJDPB's position is always that a purchase of service credit does not change a member's hire date in any circumstance.

Commissioner Deacon made a motion to deny the appeal and to transmit the case directly to the OAL for factual findings on the issue of equitable estoppel and what the member was promised and told when purchasing the service credit and whether or not the member

detrimentally relied upon advice that was given by the NJDPB that harmed the member or changed the member's conduct. Commissioner Burdge seconded and all voted in favor.

**Case #01101803 (NJDPB Appeal) member representative present** – The member appealed the determination of the NJDPB that the member must pay a percentage of the premium for health benefits in retirement pursuant to Chapter 78, P.L 2011. The member initially received free retired health benefits, but an NJDPB audit in 2017 determined that this was an error because the member did not have 20 years of service credited in the member's pension account on June 28, 2011, the effective date of Chapter 78, P.L 2011.. The NJDPB did not request retroactive premiums. The member made a purchase of 40 months of service credit after the passage of Chapter 78; however, the purchase does not change a member's date of enrollment in the pension system. The Commission noted the argument that the member relied upon incorrect information from the NJDPB in member's decision to retire. However, there is nothing in the record to support the assertion that the member was promised free health benefits prior his retirement.

Commissioner Deacon made a motion to go into Executive Session, Commissioner Burdge seconded and all voted in favor.

Commissioner Deacon made a motion to deny the appeal and to transmit the case directly to the OAL on grounds of equitable estoppel regarding the purchase of service credit. Commissioner Burdge seconded and all voted in favor.

**Case #01101804 (NJDPB Appeal)** – – The member appealed the determination of the NJDPB that the member must pay a percentage of the premium for health benefits in retirement pursuant to Chapter 78, P.L 2011. The member initially received free retired health benefits, but an NJDPB audit in 2017 determined that this was an error because the member did not have 20 years of service credited in the member's pension account on June 28, 2011, the effective date of Chapter 78, P.L 2011. The NJDPB did not request retroactive premiums The member purchased military service credit in February 2014.

Commissioner Deacon made a motion to deny the member's appeal for free retired health benefits and to direct the Acting Secretary to draft a Final Administrative Determination. Commissioner Burdge seconded the motion and all voted in favor.

**Case #01101805 (NJDPB Appeal)** The member appealed the determination of the NJDPB that the member must pay a percentage of the premium for health benefits in retirement pursuant to Chapter

78, P.L. 2011. The member initially received free retired health benefits, but an NJDPB audit in 2017 determined that this was an error because the member did not have 20 years of service credited in the member's pension account on June 28, 2011, the effective date of Chapter 78, P.L. 2011. The NJDPB did not request retroactive premiums. The member purchased military service credit in 2013. Commissioner Deacon made a motion to deny the appeal, Commissioner Burdge seconded the motion and all voted in favor.

Commissioner Deacon made a motion to go into Closed Session, Commissioner Burdge seconded the motion and all voted in favor.

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

**Case #01101806 (Aetna Dental Appeal)** – The member appealed the denial of payment for expenses due to a bone tissue graft in guided tissue regeneration (implants). Mr. Carucci of Aetna explained that the claim was denied because the records revealed that the bone graft was solely in preparation for dental implants. Under the policy, implants and treatment to prepare for dental implants are excluded. Preparation of implant treatment and since implants are not covered under the plan than either was the preparatory procedure rendered.

Commissioner Burdge made a motion to deny the appeal, Chairperson Deacon seconded the motion and all voted in favor.

Chairperson r Deacon made a motion to return to Open Session. Commissioner Burdge seconded the motion and all voted in favor.

**Englishtown Declaratory Ruling**

Englishtown requested a declaratory ruling on the application of P.L. 2017, c. 3, as related to an employer's requirement to maintain health insurance pending retirement in certain circumstances. An employee of Englishtown claimed he was eligible for coverage under this law, yet he was offered COBRA through the State Health Benefits Program. Englishtown requested a declaratory ruling on how to manage their dual obligations under Chapter 3 and the SHBP.

Prior to the presentation by the Englishtown's counsel, Chairperson Deacon made a motion to go into Executive Session to discuss procedural issues related to pending litigation.

Englishtown's attorney, Mr. Cohen, made a presentation and presented evidence related to the member's sick leave and workers' compensation time. Mr. Cohen requested that the SHBC issue a declaratory ruling on whether or not the employer could offer the member active health benefits coverage under Chapter 3 even though the member didn't have any available sick time or workers compensation leave.

Chairperson Deacon made a motion to go into Executive Session to seek advice from counsel. Commissioner Burdge seconded the motion and all voted in favor.

Upon return from Executive Session Commissioner Deacon made a motion to table the matter because new facts had been presented and neither the member nor the member's counsel were present. Commissioner Burdge seconded the motion and all voted in favor.

### **Adjournment**

Commissioner Burdge made a motion to adjourn at 1:51 p.m. Chairperson Deacon seconded the motion and all voted in favor.

Respectfully Submitted,

A handwritten signature in black ink that reads "Nicole Ludwig". The signature is written in a cursive, flowing style.

Nicole Ludwig  
Acting Secretary, State Health Benefits Commission