NEW JERSEY

INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD

20 West State Street, 10th floor
CN 325
Trenton, NJ 08625

January 19, 1995

Directors Present: C. Wowkanech, D. Benbow, (Prudential), M. L. B. Kaplan, (Blue Cross/Blue Shield), L. Moskowitz (DOI), R. Rondum, E. Shrem, R. Smart (Mutual of Omaha)

I. Public Meeting-C. Wowkanech

C. Wowkanech called the meeting to order at 9:30 am. Roll call was taken. The assistant director announced that the Meeting had been properly noticed in three newspapers in accordance with the Open Public Meetings Act. A quorum was present.

III. Chairman's Report

C. Wowkanech reported that he and the executive director had met in December with Assemblyman Pascrell to discuss concerns about the IHC Program. He reported that the executive director had met with representatives to the NJ Medical Society, and that a meeting had been scheduled with Chairman of Senate Health Committee, Jack Sinagra. He also stated that he was working to set up a meeting in Washington with Rep. Marge Roukema, Dean of the NJ delegation, to give a presentation about the IHC Program.

C. Wowkanech said he had a meeting at 10am with the Assembly Speaker and Majority Leader to discuss and amendment to A-1997 which was scheduled to be considered in the Insurance Committee, so he would have to leave early. C. Wowkanech requested that the carriers present at the meeting attend the hearing to testify. A.1997, sponsored by Neil Cohen, would require carriers to offer coverage for bone marrow transplant. The amendment would permit the sale of disease specific policies in New Jersey. C. Wowkanech said he had prepared an amendment that the majority of the committee members would support that would allow the sale of these policies, subject to the rules of the IHC Program. C. Wowkanech also requested that K. O'Leary testify at the hearing.

C. Wowkanech reported that he had spoken with Assemblymen Felice and Neil Cohen to ask them to convene a special committee hearing with both boards to determine the progress of health insurance reform.

C. Wowkanech turned the meeting over to D. Benbow and left.

II. Approval of Minutes

The Board members reviewed the General Session Minutes of Dec. 13th & 16th, 1994.

M. L. B. Kaplan made a motion to approve the Dec. 13th minutes, and the motion was seconded by R. Smart. The Board unanimously adopted the minutes.

M. L. B. Kaplan made a motion to approve the Dec. 16th minutes, with changes, and the motion was seconded by L. Moskowitz. The Board unanimously adopted the minutes.

The Board did not review the minutes of the executive session.

III. Executive Director's Report-K. O'Leary

K. O'Leary presented the final 1993 assessment reconciliation. He explained that the spread sheet recalculated the assessment, omitting nonmembers, and adjusting net earned premium figures on the basis of revised Exhibit K numbers submitted on appeal.

K. O'Leary recommended that TAC review the spreadsheet with K. O'Leary and J. Donnellan to ensure that the calculations and process were correct. D. Benbow agreed, and stated that the finance committee of the SEH Board had been asked to review the SEH assessment reconciliation.

Pending the review of TAC, K. O'Leary recommended that $ 3, 981, 745 be transferred to BC/BS for reimbursable losses due from the Program.

M. L. B. Kaplan suggested giving K O'Leary authority to revise the assessments and send out bills providing information to carriers. K. O'Leary suggested not sending out bills to the carriers because there were sufficient funds on hand to carry the program through the next assessment, but instead provide information on the reconciliation for their records. K. O'Leary recommended including additional 1993 assessments in the bill for the 1994 assessment. K. O'Leary recommended that the Board return any amounts due to carriers for 1993. R. Rondum recommended that we send a notice to the carriers.

M.L. B. Kaplan made a motion that the assessment spreadsheet be reviewed by K. O'Leary and TAC and that, subsequent to this review, notice of the reconciliation figures be provided to the carriers, but that no billing made to the carriers in view of the report by Blue Cross and Blue Shield that it had inadvertently overstated its 1993 losses by approximately $2 million. R. Rondum seconded the motion. The Board voted unanimously to approve the motion.

R. Smart made a motion that the Board provide refunds to nonmembers. This was seconded to by M.L.B. Kaplan. The Board voted unanimously to approve this motion.

L Moskowitz made a motion that the Board transfer $3.5 million to BC/BS and E. Shrem seconded the motion. Voting in favor: M. L. B. Kaplan, E. Shrem, L. Moskowitz. Opposed: G. Young, , D. Benbow, R. smart. R.Rondum abstained. The motion did not carry.

D. Benbow stated that the audit of Blue Cross and the Program needed to be done as soon as possible. He stated that he would work with K. O'Leary and L. Moskowitz to finalize the RFP.

K. O'Leary reported that he had worked to include an amendment to the legislation to implement OBRA '93 that would allow Medicaid coverage to be included as prior coverage for preexisting conditions, and to include in the IHC Act language memorializing the 30 day lapse in coverage for purposes of preexisting conditions. M. Smyth recommended that the legislation also address prior Medicare coverage, for people with kidney transplants who recover and seek individual coverage.

K. O'Leary reviewed the draft bulletin #95-01 from the two Boards addressing the one life group situations under both Programs. Examples were provided in an attached chart to the Bulletin. E. Shrem recommended that the sole proprietor wording be changed to self-employed, since this is a specific business category. K. O'Leary agreed to incorporate this change.

K. O'Leary stated that after both Boards and DAG's had reviewed this bulletin, it would be distributed to the carriers.

D. Benbow made a motion to authorize K. O'Leary to consult with the DAGs for both Boards and to distribute the bulletin with the changes discussed. G. Young seconded the motion. The Board unanimously approved this motion.

K. O'Leary presented a draft agreement among the Boards and DOI which set forth the responsibilities of the Boards and DOI with respect to consumer complaints arising under the health reform programs. Once the division of responsibilities was agreed to, DOI would begin to take consumer complaints on March 1, 1995.

D. Benbow suggested a quick break. He reconvened the meeting as of 11:15 am.

P. DeAngelo reported that DOI would begin the functions outlined in the agreement as of March 1, 1995. He stated that this working relationship needed to be very close in order to succeed. P. DeAngelo recommended that the carriers be informed by bulletin or rule that DOI would now have the authority to handle this responsibility so that DOI's role would be clear to the industry.

R. Rondum requested that a press release go out to the general public to inform the public when there was a pattern to calls about carriers. D. Benbow stated that this was an excellent idea and that this would be handled by the IHC public relations firm.

D. Benbow recommended that P. DeAngelo be on the agenda at every board meeting to report on complaints and problems arising under the Programs. D. Benbow recommended that the consumer complaint committee be created in the near future.

M.L.B. Kaplan stated that he wanted to have the Board review the scope of responsibilities within this memorandum. D. Benbow requested that the Board review this memorandum and provide any comments to K. O'Leary.

A complaint committee was formed, pursuant to the plan of operations: M. L. B. Kaplan, R. Smart, E. Shrem and P. DeAngelo, representing the DOI, volunteered to serve. M. Smyth recommended that she be included in the meetings.

K. O'Leary announced that DOI had approved the two unclassified positions for Board staffing needs.

K. O'Leary requested that the expense report be approved. He referenced the monthly spreadsheet of the expense report and a resolution providing for the Board's purchase of a computer for Diane Rustay to use at home.

L. Moskowitz made a motion to approve the expense report and the resolution providing for reimbursement of D. Rustay for the cost of the computer and to allow D. Rustay to purchase the computer on a depreciated schedule upon her leaving employment of the Board. G. Young seconded the motion. The Board unanimously approved the motion, subject to any state conditions on the purchase or sale of equipment.

K. O'Leary reported that the SEH Buyer's Guide had been printed and that an 800 number had been established. There was a request that the IHC Board receive copies of the SEH buyer's guide.

K. O'Leary discussed a December 14 legislative briefing for key staff from the Senate and Assembly. He deferred his overhead presentation explaining the program due to time constraints.

R. Rondum reported that the Medical Society meeting went well and that K. O'Leary's representation of the Board was extraordinary.

K. O'Leary stated that, at the last meeting, C. Wowkanech had recommended and the Board approved his attending the Chamber of Commerce trip to Washington. He reported that he had sought the SEH Board's approval and the SEH Board declined to fund a portion of the trip. K. O'Leary asked whether the IHC Board wanted him to attend. The Board discussed the various demands on his time in New Jersey and thought he should not attend. However, the Board recommended that, if a meeting with the congressional delegation had been scheduled, the final decision about the trip would be delegated to the Chairman.

E. Shrem reported that the annual State Legislature Chamber of Commerce Luncheon Meeting would be held January 20th. She suggested that K. O'Leary attend.

K. O'Leary reported that Health Care Reform Week, a national newsletter on health reform, had requested him to speak to the annual conference in Washington on the subject "Insurance Market Reform: Can it Work?" Health Care Reform Week would pay expenses.

K. O'Leary reported that the Harvard School of Public Health had asked that a representative of NJ speak on state health insurance reform in May, with Harvard paying expenses. L. Moskowitz suggested that K. O'Leary seemed to be the most appropriate spokesman, but that others might also attend.

IV. Forms Committee-R. Smart

R. Smart reported that she had received two completed certifications of compliance from Principal Life Insurance Company and Washington National. Washington National is a new carrier. R. Smart anticipated that SEH would receive more soon.

R. Smart said that Washington National submitted alternative language for the application which permitted a policyholder to choose an effective date. She referred to the alternate language that was distributed. The Board's response was positive.

R. Smart made a motion to approve this language and E. Shrem seconded the motion. All members voted in favor with the exception of M. L. B. Kaplan, who voted no.

R. Smart reported that she met with M. Lopes about the joint policy forms review. R. Smart presented a general time line: the SEH and IHC representatives of the Board and Policy Forms Committee would hold a public hearing in June and have the policy forms finalized by September of 1995 and implemented as of January of 1996. The SEH Board requested that we have a preproposal hearing prior to the regular public hearing in March.

D. Benbow requested that R. Smart work with the SEH Board.

K. O'Leary announced that IHC Board members could request the new IHC and SEH regulations on computer disk.

V. Report of the TAC Committee-D. Benbow

D. Benbow distributed the TAC Report on rate filings. D. Benbow stated that TAC recommended that the Board deem complete the filings, two HMOs and three indemnity.

D. Benbow made a motion that the TAC report be approved. M.L. B Kaplan seconded the motion. The Board voted unanimously to approve the report.

D. Benbow distributed the TAC's written review of the HIP Dispute.

K. O'Leary reported that there were now 25 carriers in the IHC Market. S. Schwartz of Oxford Health Plans stated that Oxford Health Insurance Inc. is the indemnity carrier and Oxford Health Plans is the HMO.

D. Benbow distributed the Loss/Ratio Report to the Board. K. O'Leary reported that the Board packets contained an audit report from the APEX Management Group, the auditing firm contracted by the Board to review the carriers' loss ratio reports. D. Benbow stated that on page 3, the actuary rendered an opinion with respect to those four carriers that used residual reserves in excess of the safeharbour reserve and did not meet the loss/ratio requirement. The actuary found the residual reserve of two carriers was reasonable and with the Board's regulations, but two carriers had not calculated the residual reserve correctly. The actuary recommended a more accurate calculation of the residual reserve.

D. Benbow recommended that Board accept the loss ratio reports of the carriers that used the safeharbor reserve, provided that the prorata assessment calculation

was correct. After verification that the prorata assessment in the reports is correct, then a refund should be provided to the policyholders.

D. Benbow made a second recommendation that the Board accept the loss ratio reports of carriers using residual reserves that the actuary felt were supportable, provided that the prorata assessment calculation was verified, and that a refund should be provided to the policyholders.

D. Benbow recommended that the board accept the independent actuary's recommendation for the reserve calculation.

M. L. B. Kaplan moved that the Board accept D. Benbow's three part recommendations. G. Young seconded. The Board voted unanimously to approve.

D. Benbow made a motion that a bulletin be sent to the carriers outlining the IHC straw model for the acceptable 1993 refund plan to be initiated by March 31, 1995. G. Young seconded the motion. The Board voted unanimously to approve.

VI. Marketing Report-C. Nicholas

C. Nicholas presented the Marketing Committee Report**.** The written report was included in the Board information packet.

E. Shrem made a motion that the Board go into Executive Session for the purpose of receiving legal advice subject to the attorney client privilege. The motion was seconded by R. Smart. The Board unanimously approved the motion.

The Board resumed the general session after the executive session.

M.L. B. Kaplan made a motion to deny the petition for rulemaking by the N.J. Acupuncture Association. L. Moskowitz seconded this motion. R. Rondum dissented, stating that 100 different languages are spoken in N.J. and that acupuncture should be covered, reflecting the diversity of the State. D. Benbow stated that the basis for denying the petition was that the Board formulated the contracts in 1993, using as a basis what was available was in the market. He stated that the Board would reconsider its decision when it reviews the benefits in the coming year.
Voting in favor:, L. Moskowitz, M.L. B Kaplan, G. Young, D. Benbow, R Smart. Voting against: R. Rondum. E. Shrem abstained

M.L.B. Kaplan made a motion that the petition for rulemaking by Oxford Health Plans be denied. He noted that Oxford's advertising of its POS product was deceptive. L. Moskowitz seconded the motion and stated that he was voting against specifically what was presented in the petition for rulemaking. S. Schwartz of Oxford stated that he thought that he had discussed the advertising issue and said that he had stopped advertising. S. Schwartz wanted to know why this was being denied. M. L. B. Kaplan stated that the basis for the motion was that HMOs without some sort of indemnity relationship could not issue Point of Service Plans. D. Benbow stated the IHC board did not have statutory authority to approve such a rider. M.L.

B. Kaplan stated that the broader issue of HMO authority would be addressed at the next meeting.

Voting in favor of the motion: L. Moskowitz, M.L. B Kaplan, D. Benbow, R Smart. E. Shrem, G. Young and R. Rondum abstained The motion was approved.

D. Benbow reported that the Board seek to stay the appeal of the Board's denial of the Optometric Association's first petition for rulemaking.

D. Benbow recommended that the Board extend a formal invitation to HIP to make a formal presentation to the Board with regard to its appeal of the 1993 assessment. The motion was seconded by R. Smart. The Board voted unanimously to approve the recommendation.

The Board adjourned at approximately 2:00 p.m

February 7, 1995

Directors Present: C. Wowkanech, (Chair), D. Benbow (Prudential), M.L.B. Kaplan (Blue Cross / Blue Shield of New Jersey), S. Bazer (Mutual of Omaha), E. Shrem, L. Moskowitz (Department of Insurance)

I. Call to Order

C. Wowkanech called the meeting to order at 9:40. Roll call was taken, and a quorum was present. It was announced that the Meeting had been properly noticed in three New Jersey newspapers in accordance with the Open Public Meetings Act.

II. Review of Minutes of the January 19, 1995 Board Meeting (Public Session)

As regards the motion that the Board deny the petition for rule making by Oxford Health Plans, it was noted that the issue of advertising was also discussed during the Board's consideration. The Petitioner's ads made references to "Freedom of Choice", yet the plan would have required the use of a gatekeeper. After further discussion, the Board concluded that while advertising was an issue, it was not the basis for the denial. The legal basis for denial was, in fact, the fact that an HMO acting alone did not have the legal authority to offer a POS plan. No modification to the minutes, as drafted, was necessary.

L. Moskowitz moved to adopt the minutes. M.L.B. Kaplan seconded. The Board voted unanimously to adopt the minutes.

III. Report of the Chairman

C. Wowkanech noted that Ellen DeRosa was now serving as Assistant Director of the IHC Program Board.

For the purpose of the current meeting, S. Bazer was designated, by letter from P. Carmody, to represent Mutual Of Omaha.

C. Wowkanech expressed his thanks to Board members who attended the Legislative hearing on January 19, 1995. A 1997 (a bill dealing with bone marrow transplants) was released from committee without amendment..

C. Wowkanech stated that he had sent a letter to Senator DiFrancesco and Speaker Haytaian either 1/20 or 1/21 requesting that a subcommittee to review the IHC program be convened. To date, no response had been received.

C. Wowkanech attended a Chamber of Commerce trip, acting in his AFL-CIO capacity. K. O'Leary also attended. They met with Congresswoman Roukema, S. Wilson, D. Greene, and Mr. Allan Marcus and gave a presentation addressing activity in New Jersey. Congresswoman Roukema expressed interest with ERISA cases. D. Benbow noted that ERISA pre-emption was a sensitive issue. Congress should fix only those things which are not correct. He asked for the opportunity to review any information that may be prepared on the Board's behalf such that Prudential may have the opportunity to assent or dissent. M.L.B. Kaplan sought the same opportunity, and noted that the ERISA pre-emption issue is critical to Carriers operating on a national basis. L. Moskowitz commented that Department of Health Commissioner Fishman had provided congressional testimony to the effect that the ERISA pre-emption, in current form, is vague and confusing. The goal should be to allow states to do their own thing. L. Moskowitz asked what the IHC Board was doing to communicate with the Senate, which is where Congresswoman Roukema said action was likely to take place.. C. Wowkanech said he would continue to promote the state program.

IV. Report of the Executive Director

K. O'Leary reported that that Petition for Rulemaking presented by the acupuncturists had been denied.

K. O'Leary addressed Joint Advisory Bulletin 95-01, included in the materials provided to the Board, on one life groups. K. O'Leary noted that he had incorporated comments received from Board members and counsel during the review process, and that the Bulletin contains nothing which is not found in statute or regulation. L. Moskowitz asked if the Deputy Attorney General had reviewed and approved the text. M. Smyth advised that she had reviewed the draft. E. Shrem suggested that it would be helpful to have the Bulletin included in the *Insurance Reporter*.

M. L. B Kaplan said that education on the content of the Bulletin was needed. K. O'Leary reported that he had committed to a number of speaking engagements, and that he had prepared slides and would distribute the Bulletin.

As regards the assessments, TAC was asked to review the calculations and methodology. K. O'Leary met with J. Donnellan and D. Benbow who concluded that the assessment data appeared to be sound. D. Benbow recommended that it would be necessary to close existing accounts using GAAP before the next budget could be prepared.

K. O'Leary reported that refunds were due to a number of Carriers as a consequence of submissions of revised Exhibit K and non-member status certifications. K. O'Leary asked whether the refunds should be paid now, as it seemed inappropriate to retain funds that should not have been received. D. Benbow asked about the status of billing of Carriers that owe approximately $3 million. Since the bills had not been

sent, D. Benbow suggested that bills should first be sent, moneys collected, then refunds be made.

K. O'Leary noted the extensive work associated with billing, and noted that Blue Cross / Blue Shield of New Jersey (BCBSNJ) had advised K. O'Leary that an incorrect loss number had been provided. As a result, the amount sought in the reconciliation billing would be lower.

D. Benbow inquired as to the status of securing an independent auditor for the Board. K. O'Leary reported that he had prepared a RFP but that Ed Troy's staff person had advised him that the text was not adequate, and provided a host of material to assist with revisions. D. Benbow suggested that it would be helpful to set up a meeting at which the Operations Committee and K. O'Leary would meet with Ed Troy to facilitate the RFP process and eventual hiring of an auditor. E. Shrem noted that the state had protocols to follow. C. Wowkanech wondered how long it would take to actually get an auditor if a successful meeting could be arranged with Ed Troy.

B. Benbow recommended correcting the $54 million initially reported by BCBSNJ to reflect true losses. The worksheet could then be corrected, appropriate assessments made, and refunds could be made to Carriers due such refunds.

M.L.B. Kaplan said that he had seen a letter from the Life and Health Association questioning why moneys should be paid to BCBSNJ until the audit had been accomplished. K. 'O'Leary advised the Association that an audit was in process and that no additional assessment will be made until the audit is completed.

K. O'Leary stated that Board members received a memo at the January 19, 1995 Board meeting outlining the jurisdiction of the Boards and the Department of Insurance as regards complaints / inquiries. K. O'Leary stated that he had received no comments or objections, and therefore activity would proceed as outlined in the memo. He did note, however, that the last paragraph discussing funding would be deleted since the funding issue had been set aside. Implementation was scheduled for March 1, 1995. K. O'Leary planned to train Department staff on February 9, 1995.

M.L.B. Kaplan commented that the rules of ambiguity no longer applied. In the past, Carriers drafted contracts, and any ambiguity was thus always resolved against the Carriers. With the IHC forms being contracts drafted by the Board, it was not as clear how to resolve any ambiguity. L. Moskowitz suggested that any ambiguities should be sent to the Board for clarification.

K. O'Leary asked for approval of the expense report for the month. Included on the report was a bill from the Department of Corrections for approximately 1600 calls, plus mailing costs.

C. Wowkanech made a motion to approve the and L. Moskowitz seconded. The Board voted unanimously to approve the report.

K. O'Leary said he would prepare an RFP for a Public Relations Firm.

K. O'Leary shared his outreach commitments as follows: 2/16 - SOGCA; 2/21 - NJ Health Underwriters Ocean County; 2/26 Advisory Board in Brick; 2/24 - Health Care

Reform Conference in Washington; 2/27 radio show; 3/19 Board of Directors for Medical Society; March (date not given) - Network of Business Professionals; May (date not given) - Harvard School of Public Health

BREAK

V. Report of Forms Committee

S. Bazer reported that Certifications of Compliance had been received from two new Carriers: Washington National and Oxford Health Insurance. The Committee recommended approval.

E. Shrem moved to approve. D. Benbow seconded. The Board voted unanimously to approve.

The Board discussed the workplan to review the policy forms.. L. Moskowitz suggested that bills in the Legislature should be monitored for possible impact on the plans. D. Benbow noted that the policy forms must always be amended to reflect legislative mandates. The Board agreed that the workplan was acceptable.

VI. Report of Technical Advisory Committee

D. Benbow reported that TAC recommends that the Board deem the Medigroup filing for forms 7088 and 7089 to be complete. D. Benbow moved to deem the filing complete, and L. Moskowitz seconded. The Board voted unanimously to approve. These POS forms were issued for a period before being voluntarily withdrawn by the Carrier. D. Benbow asked the Board to consider whether the Board believed the plans should be renewed.

TAC recommended that the Medigroup filing for form 4540 be deemed incomplete. At issue was whether more than one set of rates could be used with a single policy form. The filing contemplated use of one set of rates with respect to utilization of the IPN Network and another set of rates for the Health Center Network. D. Benbow noted that TAC had previously recommended completeness with respect to other such filings, but that such recommendation had been in error. He said that if 2 sets of forms were used, then there could be 2 sets of community rates.

As regards to the POS issue, M. L. B. Kaplan stated that the Oxford petition was denied since an HMO acting alone could not deliver a POS product. He further stated that POS should be allowed if an appropriate certification as to the existence of an indemnity carrier license were provided. He said BCBSNJ received a memo from Ed Unger indicating that the Board could approve a POS product offered by an HMO, if it pleased the Board.

M. L. B. Kaplan suggested that TAC was essentially recommending that people who received discounted rates due to use of the Network would have to have their rates increased. D. Benbow stated that the issue was whether the rates are community rated. M. L. B. Kaplan asked that the Board consider the statute, which did not include a definition of “contract.” Given the ambiguity, he argued that it was not clear that “contract” meant “policy form.” He further stated that TAC may have been recommending incompleteness because what BCBSNJ filed differs from common experience.

L. Moskowitz asked if 2 policy forms could be filed. Coincident with 2 forms would be different advertising, clarifying the difference between the staff and IPN models. He suggested that the existing single forms could be used until separate forms could be filed. D. Benbow agreed with that suggestion.

D. Benbow moved that the Medigroup filing be deemed complete, dependent on the filing of a second set of policy forms which would constitute a separate contract, within one month. L. Moskowitz seconded. M. L. B. Kaplan abstained from the Board vote. All other Board members voted to approve the motion. M. Smyth indicated that she had no problem with the recommendation based on the discussion presented at the meeting and her review at that time.

D. Benbow then discussed a draft rule to memorialize a decision made by the Board last fall regarding permissible differentials in a plan offered through a selective contracting arrangement. K. O'Leary stated that since rules are to be amended and not the policy forms, no public hearing would be required.

D. Benbow moved to adopt the proposal, as drafted. L. Moskowitz seconded. The Board voted unanimously to approve.

With regard to the model refund plan for 1993, Bulletin 95-01, item 3 was changed to specify 45 days. M. L. B. Kaplan suggested that the Board be sensitive to the need to get money back to persons entitled to it. E. Shrem indicated that her sense was that her clients were unaware of the refund.

M.L.B. Kaplan moved to approve the revised model. C. Wowkanech seconded. The Board voted unanimously to approve.

VI. Report of Marketing Committee

E. Shrem reported that a meeting was scheduled for later in the afternoon (2/7/95) Dan Ryan had been invited to join the committee in an advisory capacity. C. Wowkanech asked that Cindy Nicholas be advised of the 2 new carriers in the IHC market.

VII. New Business

None to report.

There being no further public session business at this time, the public session was closed at approximately 12:00. C. Wowkanech moved that the Board commence Executive Session. M. L. B. Kaplan seconded, and the Board voted unanimously to approve the motion.

VII. Close of Meeting

The public was re-invited to return to the meeting.

The executive session minutes were unanimously approved, following motion by M. L. B. Kaplan, and seconding by L. Moskowitz.

The optometric association rulemaking proposal was unanimously approved, following motion by D. Benbow, and seconding by M. L. B. Kaplan.

The meeting was adjourned at 1:40 PM

March 7, 1995

Directors Present: J. O'Connor (Prudential), M. L. B. Kaplan (Blue Cross / Blue Shield of New Jersey), R. Smart (Mutual of Omaha), G. Young (US Healthcare), R. Rondum, E. Shrem, L. Moskowitz (Department of Insurance)

I. Call to Order

J. O'Connor called the meeting to order at 9:45 AM. J. O'Connor noted that he was a substitute for D. Benbow. In the absence of the Chair, C. Wowkanech, he would serve as Chair.

K. O'Leary took roll call and determined that a quorum was present. He announced that the meeting had been properly noticed in three New Jersey newspapers in accordance with the Open Public Meetings Act.

II. Review of Public Session Minutes from the February 7, 1995 Board Meeting.

K. O'Leary noted that A 1997 was a bill dealing with bone marrow transplant, and had been released from committee.

M. Smyth stated that she had no problem with the recommendation concerning the Medigroup filing based on the information presented at the meeting, and her review at that time, and that L. Moskowitz had requested a further review.

J. O'Connor moved to adopt the minutes, as amended. L. Moskowitz seconded. R. Rondum abstained. All other Directors voted to adopt the minutes, as amended.

III. Report of the Chairman

J. O'Connor stated that there was nothing to report.

IV. Report of the Executive Director

K. O'Leary discussed the IHC Reimbursable Losses for Calendar Year 1994, as outlined in his March 6, 1995 Memorandum, included in the folder presented to Board members. Three carriers sought reimbursement for net paid losses. One, John Hancock, agreed to file a revised Exhibit K, and would be ineligible for reimbursement. Another, PFL Insurance Company, had been issuing illegal plans in addition to the standard plans. K. O'Leary asked TAC to recommend a process of reconciliation. Blue Cross / Blue Shield of New Jersey made the only valid request.

K. O'Leary reported that he had rewritten the RFP for an auditor, and said that Ed Troy had reviewed the text and indicated that it looked fine. Ed Troy would get the RFP to Treasury and hoped to move it along quickly. K. O'Leary asked whether the audits for 1993 and 1994 should be executed contemporaneously but noted that the

size of the firm winning the bid, and the resources that could be devoted, would determine whether an audit of two years could be completed at the same time. The Board agreed that an audit of 1993 was more urgent. K. O'Leary advised the Board that he had removed the request for MIS consulting services from the RFP since Ed Troy had offered resources from the Department of Insurance. As to a time period for the audit, K O'Leary stated that the RFP suggested a 75 day period, but that bidders could negotiate for other periods in the bidding process.

K. O'Leary shared 1994 enrollment data statistics from both the 4th quarter and year end reports. He noted some critical data such as the number of in force contracts, number of insured lives, and plan distribution.

E. Shrem commented on the gender distribution. She also noted that the rates for persons age 50+ are attractive.

L. Moskowitz inquired as to whether Blue Cross / Blue Shield of New Jersey (BCBSNJ) had identified a shift from pre-reform plans to the standard plans. J. O'Connor also expressed an interest in such information. M. L. B. Kaplan said that while he didn't have exact data, he believed the program was working, and was working well.

K. O'Leary commented that the losses experienced by BCBSNJ on it's pre-reform plans had been somewhat offset by the Medigroup reform plans.

K. O'Leary pointed out the fact that the numbers reported by Carriers in the non total categories was not perfectly consistent with the totals they reported. He assumed that the totals the Carriers reported were more accurate than the information offered in specific categories. In many cases, as with salary information, Carriers indicated it was unavailable.

L. Moskowitz observed that 43% of those insured under the standard plans were previously uninsured. S. Kelly commented on the shift from $250 and $500 deductible options to the $1000 option. E. Shrem suggested that Carriers had forced that shift by rating action.

K. O'Leary discussed a Summary statement from Brandeis University, included in the folder. He briefly explained that Robert Wood Johnson and Alpha Center were involved with a study of health reform. He had been contacted by Brandeis University, a bidder seeking to conduct the survey, and asked if he and staff would cooperate with the study. He stated that he intended to advise them that, while he would be willing to provide access to data, staff resources could not be made available. R. Rondum agreed with his decision to withhold staff resources. K. O'Leary asked if Carriers would be willing to cooperate in surveys of policyholders. After some discussion the Board decided that persons conducting the surveys should not have direct access to Carrier clients or data. P. Carmody suggested that Brokers or Agents may be able to provide some information that would be useful to the survey. J. O'Connor said that the entity performing the study may be able to pass information through the Carriers rather than going directly to the policyholders. L. Moskowitz suggested a blind survey. M. L. B. Kaplan suggested having survey questions provided to Carriers that would mail to policyholders, at the expense of the survey. L. Moskowitz noted the need to maintain confidentiality. J. O'Connor asked about the relationship among the various entities. L. Moskowitz stated that Brandies University is a contracting party, Robert Wood Johnson provides funding, and Alpha Center manages the operation. M. L. B. Kaplan noted that the survey would be a

good opportunity for the Board to secure data. L. Moskowitz observed that New Jersey is unique, that there is something to talk about, and that a precedent is being set in New Jersey. R. Rondum expressed a fear that the study would reach the persons who purchased coverage, but not reach those who do not even know about the program. The Board concluded that K. O'Leary should write to Brandeis University and indicate willingness to participate in the study, within the paramenters discussed..

L. Moskowitz reported that he received a request to participate in seminar to evaluate what is occurring at the state level.

K. O'Leary asked the Board to review and approve the Expense Report for the period ending March 7, 1995. G. Young noted the expense item for the mailing of Buyer's Guides and asked whether the Spanish guides were being sent out yet. C. Nicholas has been asked to establish a mechanism for distribution.

M. L. B. Kaplan moved to approve the expense report. L. Moskowitz seconded. The Board voted unanimously to approve the expense report.

K. O'Leary briefly discussed a press release concerning suits against United Service Association for Health Care and National Health Insurance Company. He reported having received a non-member certification from National Health and suggested it should be denied. The Carrier had filed forms and rates.

M. L. B. Kaplan moved to deny non-member status for National Health Insurance Company. G. Young seconded. The Board voted unanimously to approve the motion.

M. Smyth asked that K. O'Leary notify the Deputy Attorney General involved with the suit before mailing notice of denial of the non-member certification to National Health.

K. O'Leary stated that the press would be notified of the suit during the March 7, 1995 press conference. E. Shrem said it should be noted in an agent newsletter. K. O'Leary said he assumed it would be included in the next *Insurance Reporter*.

K. O'Leary reported that the mailing of the Joint Advisory Bulletin concerning one life groups had become part of a larger mailing. As a consequence, Trenton Printing would handle the mailing. Included were IHC and SEH Bulletins specifying critical filing dates, Notice of a Public comment Session, notice of the correct mailing address for the Board (Note, K. O'Leary discussed whether the address change would have to be accomplished through rulemaking with Mark Stanton, and was advised it would not have to be a subject of rulemaking.), and a mailing list verification form.

L. Moskowitz asked whether a chart could be created that would include critical dates for both the IHC and the SEH programs that would specify deadlines for community rating, and conversion to standard plans. K. O'Leary stated that such a chart would be prepared.

K. O'Leary said that HIP would be present at the next meeting (April 11) to present an appeal of the 1993 assessment. L. Moskowitz asked if it was to be considered a hearing. M. Smyth said yes, but not to confuse it with a contested case hearing. M. L. B. Kaplan opposed allowing others to speak during the hearing. K. O'Leary asked

if it should be done during Executive Session. M. Smyth said no. R. Rondum observed that this situation would set a precedent for future such cases, and suggested that an informal setting might make it easier to learn. M. L. B. Kaplan said that it is necessary to learn only from HIP what the facts are, and therefore there should be a limit as to who may speak. M. Smyth suggested that the Board should designate someone to provide an introductory statement. M. L. B. Kaplan said that HIP can designate any person or persons they want to offer testimony. M. Smyth suggested asking before the hearing who will come and what role such person(s) would play.

K. O'Leary asked what the Board would want before the hearing. R. Rondum requested "ten simple declarative statements." L. Moskowitz would like HIP to state the consequences of an adverse determination by the Board to the appeal. J. O'Connor suggested imposing time limits. M. Smyth suggested about 1/2 hour for presentation and about 1/2 hour for discussion. The Board agreed that was reasonable.

BREAK (11:00 - 11:15)

K. O'Leary reported on various speaking engagements since the last Board meeting.

2/9 presentation to investigators in DOI
2/16 SOGCA in Princeton - he spoke of both the IHC and SEH programs
2/21 Ocean Monmouth Association of Health Underwriters
2/22 Local Advisory Board In Brick - disappointing since only 3 persons attended
2/24 Washington Health Reform Conference -about 60 persons participated. HIAA staff commented on NJ experiences, including assessments and an audit.
2/27 Radio show - Business Plan Show

K. O'Leary reported that as of March 1, 1995, the DOI had begun to handle consumer complaints. Tom Smith said that data collection was in place and they would be able to report on data such as valid / invalid complaints, indicate coverage type and provide disposition. Data can be obtained on a monthly basis. Tom Smith noted the problems in identifying the complaints as associated with IHC, SEH or other plans. After some discussion it was decided that there does not appear to be a way to use the policy number to identity coverage type.

K. O'Leary reported that letters had been sent to Carriers regarding the refund plan. No replies had been received thus far.

Tom Smith said that consent orders had been sent but that no replies had been received. Responses are required within 20 days, and then the plans must be rolled into the standard plans within 60 days.

K. O'Leary noted that regulations require the Board to provide a preliminary notice of assessment by 3/14. Bills are to be sent 90 days thereafter. The Board discussed the usefulness of the preliminary data and decided that to satisfy the regulation the notice could simply indicate that program losses = $_____, and the bill will be in proportion to the Carrier's net earned premium as related to total net earned premium. The citation for the assessments would be included in the notice as well.

M. Smyth discussed the staggered seats on the Board. Unless someone has information to the contrary, she believed Mutual of Omaha held the two year seat

now up for election. M. Smyth distributed a timeline to Board members along with rules for notice and ballots. She volunteered to create an official election file.

G. Young moved to hold the election on May 9, 1995. M. L. B. Kaplan Seconded. the Board voted unanimously to approve holding the election on May 9, 1995.

M. Smyth volunteered to create an absentee ballot.

V. Report of the Forms Committee

R. Smart reported that certifications had been received from two more carriers. The IHC Policy Forms Committee and the SEH Policy Forms Committee have begun a joint review process of the forms. The Public Comment Session has been scheduled for March 22, 1995. The committees will coordinate with investigators responding to complaints. K. O'Leary asked if the entities that submitted petitions for rulemaking should be notified of the session. The Board agreed they should. . The notice has been sent to three NJ newspapers for publication.

VI. Report of the TAC Committee

J. O'Connor reported that there was nothing to report.

VII. Report of the Marketing Committee

E. Shrem said the committee had had a productive meeting in February. Dan Ryan attended as a consultant. Brokers are compiling lists of questions. The committee planned to send the questions to Carriers to get a sense of how Carriers were interpreting the New Jersey plans and regulations. After some discussion the Board asked that the questions be sent to the Board first such that all questions for which there is no Carrier discretion may be answered, based on the plans statute and regulations.

E. Shrem said the committee hoped to begin a public awareness program and use ads and public service announcements. The committee also planned to produce a one sheet document to provide brief information, and was looking into the billboard program available to non-profits.

VIII. New Business

J. O'Connor reported that there was no new business.

IX. Report of the Legal Committee

M. L. B. Kaplan had no report to offer.

M. Smyth noted that the Board had not developed a Code of Ethics. She reported that he SEH Board had already formed a committee to draft such a Code and suggested that perhaps the Boards could work on the Code jointly.

R. Rondum recalled having been given a copy of the State Code of Ethics some time ago.

M. Smyth agreed to contact Maureen Lopes to determine whether the SEH Board would be willing to work with the IHC Board in this regard.

X. Miscellaneous

K. O'Leary distributed a summary sheet to Board members which showed, by carrier, the number of contracts and the number of people insured. L. Moskowitz observed that the relationship between contracts and people insured suggested that the report probably understated the number of dependentc covered.

XI. Close of Meeting

There being no further business to discuss during the public meeting, L. Moskowitz moved to adjourn the meeting. M. L. B. Kaplan seconded. The Board voted unanimously to adjoin. The meeting adjourned at 12:30 PM.

April 11, 1995 Board Meeting

Directors present: C. Wowkanech (Chair), D. Benbow (Prudential), M.L.B. Kaplan (Blue Cross and Blue Shield of New Jersey), R. Smart (Mutual of Omaha), G. Young (US Healthcare), R. Rondum, E. Shrem, L. Moskowitz (Department of Insurance)

I. Call to Order

C. Wowkanech called the meeting to order at 9:30. K. O'Leary took roll call and determined that a quorum was present. He announced that the meeting had been properly noticed in three New Jersey newspapers in accordance with the Open Public Meetings Act.

II. Health Insurance Plan of New Jersey (HIP) Presentation

Fred Title, Counsel for HIP, began with prepared testimony. HIP contends that group conversion contracts issued prior to August 1, 1993 should be counted when determining whether HIP met its minimum enrollment share for the 1993 calendar year. If such contracts were added to the Medicare, Medicaid, and standard IHC plans that HIP issued in 1993, HIP would have issued 99% of its quota for such year.

HIP is a group practice, not for profit HMO.

The group contracts from which conversion was exercised were issued without a health question requirement. Likewise, the conversion contracts required no health questions. The conversion contracts were community rated, the same as all other individual plans issued prior to 1993. HIP is active in the individual market and is participating in the health access program.

F. Title discussed the turbulence in the market prior to reform. He stated that the purpose of reform was to increase the availability of coverage and encourage carriers to enter the market. HIP was already in the market. HIP believed that the purpose of the reform would be satisfied if the HIP conversion contracts were to be counted. He repeated that the plans were open enrolled, community rated, and added that the plans that were issued were Federally qualified plans. F. Title noted that the

individual statute allows a Federally qualified HMO to issue Federally qualified plans in lieu of the standard HMO plan.

The plans for which carriers may apply for reimbursement of losses include the same type of contracts which HIP contends may be used to satisfy minimum enrollment share.

The standard individual plans were not available for issue until August 1993. Therefore, for a period of 7 months carriers could only issue non-standard plans. Section 3 of the statute does not distinguish between open enrolled community rated plans issued prior to August 1993, and August 1993 and following.

If HIP did not cover the persons under conversion contracts, someone else would have had to cover them, or the persons would have been uninsured. The key was that the plans were open enrolled and community rated.

Conversion contracts issued after the effective date of the Act were required to comply with the Act. Federally qualified HMOs may issue federal plans in lieu of the standard HMO plans. So, HIP is unclear as to why HIP should not be permitted to count the conversion contracts when determining enrollment share.

F. Title then suggested that perhaps the Board believed the plans were not open enrolled. HIP counters that suspicion with the fact that everyone who qualified for conversion was given the opportunity to convert. HIP accepted everyone who applied. The fact that at the same time HIP issued other plans on a non-open enrollment basis should not lead to the conclusion that the conversion plans were also issued on a non-open enrollment basis.

In conclusion, F. Tile stated that HIP accepted business before it was required to do so. It would be inequitable, and inconsistent with the Act to disallow the inclusion of such business for the purpose of determining enrollment share.

R. Rondum inquired as to the characteristics of the groups. Given the fact that HIP did not health screen, was it possible that as a condition of employment the employer may have done some sort of health evaluation? The Board decided that the only relevant issue was whether HIP had used health screening.

L. Moskowitz noted that HIP had issued a sizable amount of business other than conversion plans prior to 1993. He asked if there was any difference between the conversion plan pool and the rest of the individual pool. F. Title said that the individual plans were health screened. But, HIP had used a federally qualified plan for conversion. Contracts that were issued the federally qualified plan were part of a common pool and were truly community rated.

K. O'Leary asked F. Title to have HIP identify how many of the conversion contracts were issued after November 30, 1992 but prior to August 1, 1993. F. Title agreed, but noted that the reimbursement pool included plans that were issued November 30 and earlier, so plans HIP issued during that period should likewise be eligible for the market share determination.

L. Moskowitz asked if the rating for group contracts issued by HIP included a conversion charge. F. Title said there was no conversion charge. L. Moskowitz next asked if all HIP plans included a conversion provision. F. Title said they did.

G. Young asked if there were any other comparisons between HIP and Blue Cross and Blue Shield of New Jersey (BCBSNJ). He noted that if BCBSNJ was entitled to and received reimbursement, then HIP should be able to take the number of conversion contracts in force as of August 1, 1993, and count.

L. Moskowitz asked if there was any distinction between persons under age 65 and those age 65 and over. F. Title said there were no Medicare lives in the conversion plans.

III. Review of Minutes from March 7, 1995 Board Meeting

L. Moskowitz moved to adopt the minutes. The Board voted unanimously to adopt the minutes.

IV. Report of the Chair

C. Wowkanech had nothing new to report. He did, however, express thanks for the support Board members have given to updates in the law.

V. Report of the Executive Director

Absentee ballots have been sent to member carriers. The election for two carrier seats will take place during the May 9, 1995 Board meeting.

As regards assessments, K. O'Leary reported that he had revised the data for 1993 based on the revised reimbursable losses reported by BCBSNJ. He reported that the determination of preliminary assessments and market share for 1994 had been delayed in spite of the fact that he had provided carriers with explanations and the necessary forms to either assert non-member status or submit net earned premium. He stated that staff had contacted carriers that provided incomplete or conflicting information. He sent an initial notice of assessment to all member carriers, but that such notice offered no specifics as to the anticipated amount of the assessment for any given carrier. The regulation required that the Board determine market share data and provide notice to carriers in order that carriers may make request to be exempt from assessments for reimbursable losses by May 1. D. Benbow said that carriers would be in jeopardy if they didn't know their market share. K. O'Leary said that he was not able to receive the A&H premium data from the Department of Insurance until late March, and it would be impossible to meet the deadlines stated in the regulations.

K. O'Leary said that the Board could release a Bulletin to adjust the deadline for this year. It would be a loosening of deadlines, so he suggested it would be acceptable. K. O'Leary commented that market share information cannot be revised after it has been published, so it would be critical to release it as accurately as possible. An additional 30 days should provide sufficient time to clear up most of the non-member and Exhibit K confusion. C. Williams asked if anyone would be aggrieved. K. O'Leary said no. Market share information was to be released in time for carriers to make an election by June 1. The regulation should be changed for subsequent years.

D. Benbow moved that the Board release a bulletin to carriers to delay election for exemption from assessments until June 1, 1995. R. Smart

seconded. The Board voted unanimously in favor of sending a bulletin to delay the election for exemption from assessments until June 1, 1995.

Next, K. O'Leary advised the Board that an RFP for an auditor had been released. He learned that it was not necessary to clear the RFP through Treasury since the Board had contracting authority. He placed a notice in the newspaper and received a strong response. As a result of the number of inquiries regarding the audit, he hosted a bidder's conference. D. Benbow assisted. Approximately 15 - 20 potential bidders attended. Additional questions were received during the following week. The due date for bids was April 13, 1995. The Operations Committee was to evaluate the bids, initiate negotiations with the finalists, and make recommendations to the Board. It was hoped that the Board would be in a position to select an auditor at the May 9, 1995 Board meeting. The contract with the auditor would provide for a 3 year contract, with the possibility of extensions for 3 one year periods. K. O'Leary mentioned that it may be worth considering some interface with the SEH audit.

K. O'Leary stated that bids for the Public Relations firm were also due on April 13, 1995. The contract would before 3 years, with an option to renew. K. O'Leary noted that the SEH Board was also seeking bids for a Public Relations firm.

K. O'Leary began the next segment of his report by noting that the budget was complex He suggested that the auditing firm should be required to set up the books as they should be. He stated that he was sure there was no money missing, and he was close to being able to account for all money. There had been inappropriate payments made from the SEH account, which should have been paid from the IHC account, and such amounts should be returned. He discussed the outstanding money owed to the Prudential for service rendered as Interim Administrator. Assessment refunds totaling approximately $1 million were also due. Disputed amounts for HIP and USHealthcare should not be paid until the disputes have been settled. C. Wowkanech suggested that all amounts be paid, except amounts in dispute. D. Benbow expressed discomfort with that suggestion. Until the books for 1993 and 1994 have been put in order, D. Benbow did not want to release any amounts due. M. L. B. Kaplan said the amounts were due and owing. D. Benbow replied that nothing should be paid until all actions, both refund and collection, occurred. It was also noted that the Program owes about $10 million to BCBSNJ, but that such payment would be deferred until after the results of the audit were available. G. Young suggested that the $1.5 million being held in escrow for appeals of Exhibit K filings be refunded. The Board audit would be completed by August or September. The exact 1994 assessment could be sent out, the 1993 books could be reconciled, money would be received by September or October. Then, BCBSNJ could be paid the amount owed. K. O'Leary said that the $1.5 million was based on 1993 losses, as we know them, and Exhibit K, as BCBSNJ corrected. There still exists the possibility for additional adjustments.

D. Benbow stated that Prudential had already agreed to carry the $84,000 until financial statements were prepared and the audit completed.

R. Smart moved that the Board authorize K. O'Leary to use escrow funds to pay the $1.5 million due to carriers. E. Shrem seconded. A roll call vote was taken. 6 voted in favor (E. Shrem, R. Smart, L. Moskowitz, C. Wowkanech, G. Young, R. Rondum) 1 opposed (M. L. B. Kaplan), and 1 abstained (D. Benbow).

G. Young moved that the $8,000 owed the SEH Board be paid. L. Moskowitz seconded. The Board voted unanimously in favor of reimbursing the SEH account for moneys owed such account.

The Deputy Attorney General provided a legal services agreement for 1996. K. O'Leary commented that the amount budgeted was a ceiling, not a floor. He recommended approval.

L. Moskowitz moved to approve the budget for the Attorney General's services for 1996. C. Wowkanech seconded. The Board voted unanimously in favor of approving the budget for the Attorney General's services.

The expense report, as of April 11, 1995 was routine with the exception of one item, as identified by K. O'Leary. He was in receipt of an advertising campaign invoice from McQueeny, Davis, Kohm & Partners which the firm asserted had never been paid. R. Rondum asked that the firm be required to provide back-up material to support the invoice.

D. Benbow moved to approve the expense report with the exception of the McQueeny, Davis, Kohm & Partners item of expense until such time as back-up has been secured. G. Young seconded. R. Rondum abstained. The rest of the Board voted unanimously in favor of approving the expense report, modified as moved.

K. O'Leary reported that he had hired a part time employee to work 20 hours per week. If anyone desired any details, they would be deferred until Executive Session.

He next discussed his outreach activities. During his presentation to the medical society, the doctors had indicated a willingness to display a poster advertising the SEH and IHC programs. He asked whether the poster should discuss the Access program. L. Moskowitz said that the Access program had a special intermediary set-up, unique to the program, and he would be reluctant to include the Access program on the poster. K. O'Leary said he had asked the Access program to produce a 1 page insert for the Buyer's Guide.

K. O'Leary reported the following speaking engagements:
3/24 - American Society of Public Administration, NJ Chapter
3/28 - cable TV - "It's Your Business", a show on CTN
3/30 - Rotary club
4/5 - League of Women Voters
5/5 - Harvard School of Public Health

K. O'Leary said that the SEH numbers were released, and L. Moskowitz observed that if the numbers were real, the results were remarkable.

BREAK - 11:15- 11:35

T. Smith briefly reported on enforcement and consumer complaint activities. He said that during the month of March his unit had handled 16 written IHC complaints and 2 written SEH complaints. They were trying to coordinate efforts with DP in order to produce reports. They would like to identify inquiries as SEH, IHC or Access. He asked if it would be something that could be addressed in the form number. After

some discussion, the Board concluded that form numbers would not be an viable mechanism.

VI. Report of the Forms Committee

R. Smart reported that the Board has yet to receive a Certification of Compliance from 6 carriers known to be in the market.

She released a list of policy form issues to the Board and asked that members review and get back to her with comments. The Board very briefly discussed the first item on foot care, but came to no conclusion as to whether or how to modify the text..

VII. Report of the Technical Advisory Committee

D. Benbow reported that TAC had identified at least one carrier that failed to submit new rates to take effect when prior rates had expired. He suggested that such carrier(s) should be required to submit a plan to demonstrate that steps had been taken to prevent such failure from happening again. M.L.B Kaplan said that if a carrier didn't file rates, the carrier should not be allowed to sell.

D. Benbow stated that Medigroup had responded to the Board's request for separate policy forms to coincide with the separate rates Medigroup had submitted. TAC found the material acceptable.

C. Wowkanech asked if TAC could provide information relative to the upward or downward movement of rates. D. Benbow said that there were contingencies. It would not be possible to represent rates as up or down since they were ranges. A description of rates being up or down, would run the risk of misrepresenting actual rate changes. K. O'Leary said that the press was interested in increase / decrease action.

R. Rondum suggested that there should be statutory authority to require that rates be guaranteed.

D. Benbow said he had asked staff to produce a spreadsheet identifying carriers and the effective and termination dates of rate filings.

As regards refund plans, D. Benbow reported that 4 had been received. Two were considered to be acceptable, BCBSNJ and Time. The Oxford plan, to refund via the rate filing, was unacceptable. There would be dialog with Protective.

The existing regulation allowed carriers to refund either as a percent of premium or as a flat amount. L. Moskowitz was surprised that the regulation allowed for a flat amount option and suggested that the regulation be revised.

D. Benbow moved that the Board accept the recommendations made by TAC. M.L.B. Kaplan seconded. L. Moskowitz abstained. All other Board members voted to accept the TAC recommendation.

VIII. Report of the Legal Committee

M.L.B. Kaplan said his report would have to be delayed until Executive Session.

IX. Report of the Marketing Committee

E. Shrem reported that the major brokerage houses had responded to a request for questions / comments on the plans. The marketing committee would meet after the May Board meeting.

C. Nicholas spoke of having received national coverage from on line services. She also reported releases having been made to broker publications. She was attempting to set up appearances for K. O'Leary on WOR AM, Health Talk, and Financially Speaking. K. O'Leary will have a 3rd appearance on Business Plan. She has done a press release regarding the availability of the Spanish Buyer's Guide. She asked about a press release concerning the refunds. R. Rondum said that if a refund were solid it may be best to have a release when the plan has been approved. After some discussion, the Board decided that the release should be delayed until all plans have been approved. D. Benbow said they would try to have all refunds wrapped up and approvable by the next meeting. The next enrollment release would not be until mid May.

D. Benbow moved that the public meeting be adjourned and the Board conduct an Executive Session. M.L.B. Kaplan seconded. The public meeting was adjourned at 12:45 PM.