

**FINAL
MINUTES OF THE MEETING OF THE
NEW JERSEY INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD
AT THE OFFICES OF THE
NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE
TRENTON, NEW JERSEY
FEBRUARY 13, 2007**

Directors participating: Darrel Farkus (Oxford); Sandi Kelly (Horizon BCBSNJ); Gale Simon (DOBI); Christine Stearns (arrived at 9:40 A.M.); Mary Taylor (Aetna Health Inc.)

Others present: Ellen DeRosa, Executive Director; DAG Vicki Mangiaracina (DLPS); Rosaria Lenox, Program Accountant; Chanell McDevitt, Deputy Executive Director.

I. Call to Order

E. DeRosa called the meeting to order at 9:35 A.M. She announced that notice of the meeting had been published in two newspapers and posted at the Department of Banking and Insurance (“DOBI”), the DOBI website, and the Office of the Secretary of State in accordance with the Open Public Meetings Act. A quorum was not present.

II. Report of Staff

Interim Reconciliations Collections Update

R. Lenox reported that collections on the loss assessments are as follows: for the 1997/1998 interim reconciliation loss assessment, 92.8% of the amounts due have been received; for the 1999/2000 interim reconciliation loss assessment, 85.4% of the amounts due have been received; and, for the 2001/2002 loss assessment, 83.6% of the assessed amounts have been received. Oxford’s checks continue to be outstanding (approximately \$2.5 million). It appears that Oxford sent the check, but it was returned to them as undeliverable. Oxford is attempting again to make payment. With respect to the 2001/2002 assessments, 9 other carriers’ accounts remain outstanding.

[At 9:40 A.M., a quorum was present.]

Memo to Donald Bryan regarding the IHC loss assessment/enrollment target formula

E. DeRosa discussed the draft memo to Donald Bryan, Director of the Insurance Division, detailing the deficiencies in the existing statutory scheme for determining enrollment targets for IHC Program members, particularly the counting of Medicare and Medicaid lives in total for purposes of determining market share and target enrollment lives, but only a portion of Medicare and Medicaid lives for purposes of determining that targets have been met. Board members suggested clarifying the last two paragraphs to state that a legislative change would be required, not a rules change. There was discussion as to whether the IHC Board should include some suggestions in the memo for a formula or mechanism to replace the existing one. There was agreement that the memo

should suggest eliminating Medicare and Medicaid lives from the count altogether, and include a statement that the targets should require some additional enrollment each year (a stretch target), with some rational basis. The Board did not agree on what the index for the target should be or the appropriate percentage increase from year to year. There was a question whether a lower stretch target would shift the costs more to carriers not actively participating in the IHC market, as active participants would be more likely to meet their targets. Board members suggested that IHC staff try several possible index models and run some numbers to see how the outcomes may look with various percentage targets.

Expense Report

R. Lenox provided a summary of the February 2007 Expense report.

M. Taylor offered a motion to approve the payment of the expenses on the February 2007 expense report, and S. Kelly seconded the motion. The Board voted unanimously in favor of the motion.

III. Minutes

S. Kelly offered a motion to accept the Open Session minutes of the January 11, 2006 Board meeting, with amendments; C. Stearns seconded the motion. The Board voted unanimously in favor of the motion.

IV. Report of the Technical Advisory Committee

Rate Filings

(M. Taylor recused herself from consideration of the rate filings submitted by her employer, Aetna Health Inc.)

S. Kelly reported that the TAC recommended finding Aetna's HMO \$50 rate filing complete subject to some clarifications, for an effective date of 3/1/07. She noted that Aetna had withdrawn its B&E filing, which the Board had found incomplete at the January 2007 meeting.

D. Farkus offered a motion to find the Aetna's HMO rate filing complete, subject to clarification. G. Simon seconded the motion. The Board voted unanimously in favor of the motion.

S. Kelly reported that TAC recommended finding the AmeriHealth HMO Plan and B&E plan rate filings to be complete, subject to some clarifications.

S. Kelly reported that TAC recommended finding the CIGNA HMO \$10 and \$20 rate filings complete. She noted that CIGNA was extending the existing rates from 1/1/07 through 3/31/07 consistent with their agreement with the Board to continue these plans in effect for current lives (who had not received appropriate 90-day notice of the Board's elimination of the options), but not offering the plan options for new business.

S. Kelly reported that TAC recommended finding the HealthNet HMO and B&E rate filings complete subject to some clarifications, effective 4/1/07.

C. Stearns offered a motion to find the AmeriHealth HMO Plan and B&E plan rate filings, the CIGNA HMO \$10 and \$20 plan rate filings, and HealthNet HMO and B&E rate filings complete, subject to clarification as recommended by TAC. D. Farkus seconded the motion. The Board voted unanimously in favor of the motion.

V. Report of the Operations and Audit Committee

Minimum Enrollment Shares for 2003/2004 and 2005/2006

E. DeRosa reported that revised enrollment targets were not yet available. In cross-checking data, additional issues were uncovered. She noted, for instance, that the quarterly enrollment data HMO carriers report to DOBI considers both group and nongroup Medicare, and needs to be parsed.

Status of Audits – Fortis, Protective and AEGON/UICI

E. DeRosa reported that she and R. Lenox had a discussion with E. Hardy and K. DeCroix regarding pending loss audits.

With respect to Fortis' 97/98 and 99/00 loss audits, Fortis has as yet failed to provide the additional data to Deloitte & Touche (D&T) that had been requested and which Fortis had agreed in July 2006 to provide. At this point, the audit cannot proceed. Staff will reach out to Fortis and counsel will contact Fortis' counsel to determine whether information will be forthcoming.

With respect to Protective's 97/98 loss audits, Protective signed the modified management representation letter that it had worked on with D&T after stating that the original management letter was objectionable. Nevertheless, after signing the modified management letter, Protective attached numerous pages of correspondence to the letter. D&T received the signed letter and attachment in early January, and are reviewing the attachments to determine whether the letter is acceptable as it now stands. E. DeRosa reminded Board members that one of the issues with Protective was that it had not provided D&T with 13 months of records, but had offered its own audit instead, to which the Board had said no.

With respect to AEGON/UICI's (UICI) 97/98 and 99/00 loss audits, the company is cooperating with D&T, providing both claims and premium files. D&T expects to provide UICI with selections for the audit in February. D&T reports that UICI will attempt to restore certain data, but it remains to be seen whether their data will work for the audit selection. Notably, the representative at UICI is new and is not certain whether they will be able to pull all requested records in hardcopy. D&T will determine if available accounting records are reliable, and if so, will proceed with an audit. If D&T can not verify the reliability of the records, D&T has stated that an audit will not be possible.

Status of Contract with D&T for other audits

E. DeRosa briefly described some of the outstanding issues that have delayed finalization of a contract for the 01/02 audits and program audits. Among other things, some changes have occurred in accounting standards that the IHC RFP does not reflect, but E. DeRosa believes these issues can be resolved favorably. E. DeRosa noted that certain “indemnification” language requested by D&T continues to be an issue (the State does not indemnify), but that E. Heck had reported a positive conversation with D&T and thinks the indemnification problem also can be resolved. The Board requested that E. Heck have a detailed report of the issues for the March Board meeting, and suggested she might want to work with the Legal Committee on some issues. Several Board members stated that if the contract issues can not be resolved soon, the Board should consider issuing a new RFP for the job.

Financial Statements of Program

R. Lenox presented the 2QFY07 IHC financial statements, including the balance sheet, the income statement, statement of cash flow, and comparison of budgeted to actual expenditures.

VI. Executive Session

E. DeRosa said the Board would need to go into Executive Session to consider draft Executive Session minutes, receive legal advice from counsel following recommendations of the Legal Committee, and discuss current or pending litigation. She said the Board may conduct additional business following Executive Session.

S. Kelly offered a motion to begin Executive Session for the stated reasons. M. Taylor seconded the motion. The Board voted unanimously in favor of the motion.

[Executive Session: 10:35 A.M. – 11:35 A.M.]

VII. Final Business and Close of Meeting

Report of the Legal Committee -- Challenges to the Interim Reconciliations and Initial Loss Assessment issued December 18, 2006

Guardian Challenge

G. Simon reported that Guardian Life Insurance Company had filed a challenge to the December 18, 2006 interim reconciliation of loss assessment for 1997/98 and 1999/00 as well as the initial loss assessment for 2001/02, essentially because the Board has not applied the same loss assessment methodology for the 1993 through 1996 periods. Guardian requested a hearing on the matter and that their payments – which they had also submitted – be escrowed. G. Simon stated that the Legal Committee noted the challenge addressed an issue that was not the subject of the December 18, 2006 Board activity.

G. Simon made a motion to deny Guardian's challenge, request for a hearing and request to put monies it submitted into escrow, to be set forth in an administrative order prepared by staff in consultation with E. Heck and issued to Guardian. S. Kelly seconded the motion. The Board unanimously approved the motion.

Time Challenge

G. Simon reported that Time Insurance Company had filed a challenge to the December 18, 2006 interim reconciliation of loss assessment for 1997/98 and 1999/00 as well as the initial loss assessment for 2001/02, essentially because the Board has elected to use revised calculations of losses for Time (submitted by Time in accordance with the Board's interpretation of investment income, contrary to Time's interpretation of the investment income factor). Time requested a hearing. G. Simon stated that the Legal Committee had noted that Time does not challenge the assessment methodology, *per se*, and that the Board has given notice that the losses are unaudited at this time and a challenge can be made once the audits are complete.

G. Simon made a motion to deny Time's challenge and request for a hearing, to be set forth in an administrative order prepared by staff in consultation with E. Heck and issued to Time. M. Taylor seconded the motion. The Board unanimously approved the motion.

Celtic Challenge

G. Simon reported that Celtic Insurance Company had filed a challenge to the December 18, 2006 interim reconciliation of loss assessments for 1997/1998 because Celtic believes the Board has applied the statutory mechanism in an inappropriate manner (that is, retroactively) for the first half of 1997, thereby under-reporting Celtic's losses. Celtic requested a hearing. G. Simon stated that the Legal Committee noted that Celtic should have pursued challenge of the law in 1999 (when the loss assessments for 1997/1998 initially occurred), but at this point, it is an untimely challenge.

G. Simon made a motion to deny Celtic's challenge and request for a hearing, to be set forth in administrative order prepared by staff in consultation with E. Heck and issued to Celtic. D. Farkus seconded the motion. The Board unanimously approved the motion.

D. Farkus offered a motion to close the meeting. C. Stearns seconded the motion. The Board voted unanimously in favor of the motion.

The meeting adjourned at 11:40 A.M.