

**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  
July 10, 2007**

**Directors participating:** Sandi Kelly (Horizon BCBSNJ); Ulysses Lee (Guardian); Salvatore Lena (Oxford); Gale Simon (DOBI); Christine Stearns; 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 present.

**II. Minutes**

*June 12, 2007*

**C. Stearns made a motion to accept the Open Session minutes of June 12, 2007, with amendments. G. Simon seconded the motion, and the motion was approved by a unanimous vote of the Board.**

**III. Report of Staff**

*Expense Report*

R. Lenox provided a summary of the July 2007 Expense report, which included expenses totaling \$17,675.91, the majority of which involved a transfer of funds to the SEH Board in reimbursement of staff salary expenses.

**U. Lee offered a motion to approve the payment of the expenses on the July 2007 expense report, and S. Lena seconded the motion. The Board voted unanimously in favor of the motion.**

*Annual B&E Marketing Reports*

E. DeRosa reminded Board members that as of the June meeting, all carriers required to submit a B&E marketing report for 2006 had done so, but that some of the submissions were missing required information, or the information submitted raised some questions

for which she sought clarification. She reported that all of the required information or clarifications had been submitted, and then distributed a compilation of what the carriers had done to comply with the requirements of N.J.A.C. 11:20-22.6(c) regarding marketing of B&E plans in good faith. S. Kelly asked whether it was acceptable that United did not list its B&E plans as a plan choice in marketing material, and E. DeRosa responded that not listing the B&E plans is acceptable only so long as the carrier does not list other plan choices in the marketing material. In the case of United, it was not actively marketing any IHC plans because it was in the process of withdrawing from the IHC market.

*M. Taylor recused herself from the vote with respect to whether Aetna Life Insurance Company's marketing of its B&E plan met the good faith marketing standards of N.J.A.C. 11:20-22.6, because of the interest her employer has in the outcome of that aspect of the vote.*

*S. Kelly recused herself from the vote with respect to whether Horizon Blue Cross Blue Shield New Jersey's marketing of its B&E plan met the good faith marketing standards of N.J.A.C. 11:20-22.6, because of the interest her employer has in the outcome of that aspect of the vote.*

*S. Lena recused himself from the vote with respect to whether Oxford Health Insurance Company's marketing of its B&E plan met the good faith marketing standards of N.J.A.C. 11:20-22.6, because of the interest his employer has in that aspect of the vote.*

*U. Lee recused himself from the vote with respect to whether HealthNet, Inc.'s marketing of its B&E plan met the good faith marketing standards of N.J.A.C. 11:20-22.6, because of the possible interest his employer has in that aspect of the vote due to a joint venture between his employer and HealthNet.*

**M. Taylor made a motion to find that Aetna Life Insurance Company, AmeriHealth HMO, Celtic Life Insurance Company, CIGNA, HealthNet, Inc., Horizon Blue Cross Blue Shield of New Jersey, Oxford Health Insurance Company and UnitedHealthCare of New Jersey, demonstrated a good faith effort to market the B&E plans as required by N.J.A.C. 11:20-22.6. S. Kelly seconded the motion, and the Board voted unanimously to approve the motion.**

*Proposed amendments for civil unions*

E. DeRosa reported on the progress of the proposed amendments addressing the civil union law. She noted that Attorney General's office had given approval, and the proposal had been forwarded to the Governor's Counsel and the Smart Growth Council. The Smart Growth Council had issued a letter saying that the proposal does not appear to be inconsistent with the State's smart growth policies. However, until Governor's Counsel signs-off on the proposal, it can't be forwarded to the Office of Administrative Law for publication.

*Target enrollment*

E. DeRosa reported that the target enrollment information for 2003/2004 and 2005/2006 was sent out by certified mail. A number of carriers not actively participating in the market have called because they do not understand what they are supposed to do (in most instances, they need not do anything), and a few carriers actively participating in the IHC market have filed their information. Most carriers have until July 18th or 19th to file a request for an exemption, and until mid-August to file a certification of the lives enrolled.

*Nominations for Directors*

E. DeRosa reported that notice had been distributed on or about July 2, 2007 regarding the intent to hold an election on September 11, 2007 for two seats on the IHC Board, and requesting nominations for candidates.

*Enrollment reports*

E. DeRosa reported that there has been another increase in enrollment between the first quarter of 2007 (1Q07) and the last quarter of 2006 (2Q06) of nearly 2500 lives. There is growth in both the standard plans (about 179 lives) and the B&E plans (about 2300 lives), for a total of about 85,100 lives.

**IV. Report of the Technical Advisory Committee**

*M. Taylor recused herself from the vote on the Aetna Life rate filing because of her employer's interest in the outcome of the vote.*

S. Kelly reported that Aetna Life filed for an extension of its rates for one month, through August 1, and new rates effective August 1, for both its B&E plans and plans A/50-D. She reported that TAC recommended finding the filing to be complete.

**G. Simon made a motion to find the Aetna Life filings to be complete. C. Stearns seconded the motion, and the Board voted unanimously to approve the motion.**

**V. Report of the Operations and Audit Committee (OAC)**

E. DeRosa reminded the Board that Deloitte & Touche (D&T) had indicated after reviewing information from AEGON and UICI that the costs associated with the audits for these entities in certain years could exceed the reimbursements the companies are seeking, so D&T had contacted AEGON and UICI to determine whether they want to proceed with the audits. The indications at this time are that AEGON and UICI both prefer to proceed, and so, D&T is in the process of scheduling fieldwork with the companies.

E. DeRosa reported that D&T advised the Agreed Upon Procedure (AUP) reports for MetLife (1999/2000) and Protective (1997/1998) should be ready for issue in a few weeks.

E. DeRosa reported that the audit remains incomplete for Time/Fortis, but that further discussion of the situation would take place in Executive Session.

E. DeRosa reported that the Operations and Audit Committee (OAC) had requested Rosaria prepare a straw budget, which Rosaria did. The OAC was satisfied with the budget in general, but all agreed that some information could not be put in as yet, and thus, it was premature to present anything regarding the budget to the Board.

#### *Late Penalty*

E. DeRosa reported that the OAC had reviewed a request by Prudential Insurance to waive the late penalty assessed against the company as a result of Prudential's failure to make timely payments of the assessments set forth in the December 2006 notices of reconciliations and assessments. Prudential had argued two things: its records regarding the years at issue were archived, and thus, Prudential was not able to verify timely the amounts set forth in the Board's December 2006 notices, and the Board's notices failed to indicate that carriers were subject to sanction if payments were not made timely. The OAC was not persuaded, noting that Prudential could have made timely payment, with verification occurring subsequently, and could have requested that its payments be placed into a segregated interest-bearing account if necessary. In addition, the OAC noted that the regulations state that companies shall be subject to late penalties if they do not remit payments timely. Prudential had notice of the penalty by virtue of the rules at N.J.A.C. 11:29-21.7(f). Accordingly, the OAC recommended against granting the requested waiver.

Board members asked when Prudential's payment was actually due, and when they paid – Prudential's payment would have been due on or about January 18, 2007, but Prudential did not make any payment until February 7, 2007. R. Lenox noted that Prudential initially made offsets when they paid, and subsequently corrected their payment by separate check on February 13th. The penalty was based on the total amount owed, since the total amount was late, and was calculated from 12/18/06 – the date of the notice – through 2/7/07, when Prudential made its initial payment. The question also arose as to whether many carriers were assessed a late penalty, and R. Lenox clarified that relatively few carriers were penalized – only about 20.

**S. Kelly made a motion to deny the request for a waiver of the late penalty made by Prudential Insurance, and U. Lee seconded the motion. The Board voted unanimously in favor of the motion.**

#### **VI. Other – Old Business**

##### *Prevailing Healthcare Charges System (PHCS) and Medicare Resource Based Relative Value Scale (RBRVS) Discussion*

M. Taylor advised the Board of the SEH Board's June 13, 2007 discussion of whether to join the IHC Board in hiring a consultant to obtain some expertise regarding the Medicare RBRVS, and/or participate in a joint meeting for purposes of a presentation on the subject by a consultant hired by Horizon. M. Taylor noted that the SEH Board meeting had been by phone, and the discussion was somewhat briefer, but touched upon most of

the same issues that had been discussed by the IHC Board in its June 12, 2007 meeting. She reported that the SEH Board had come to the general conclusion that now is not the time to pursue revisions to the reimbursement methodology, and that public discussions about it should be held in abeyance at least until the SEH Board has an opportunity to review the comments from the DOBI's proposed amendments to N.J.A.C. 11:22-5, specifying 150% of the Medicare RBRVS as the floor for out-of-network payments. Further, the SEH Board concluded that it is not amenable at this time to joining the IHC Board in hiring a consultant to educate Board members on the Medicare RBRVS. Rather, the SEH Board asked E. DeRosa to contact Horizon about possibly distributing to Board members the materials Horizon's consultant developed for his presentation to DOBI. E. DeRosa noted she had contacted Horizon, and S. Kelly advised that she has not received a response on the request yet.

M. Taylor asked the IHC Board members what they wanted to do at this point, suggesting that it may be best to review the comments to the DOBI proposal, and then decide whether additional courses of action may be appropriate. Board members clarified they are only looking for the comments, not DOBI's responses.

G. Simon stated that DOBI is still considering what to do about the proposal. If DOBI decides to adopt or repropose it, DOBI will have to summarize (and respond to) the comments, but if DOBI decides to let the proposal die, then it may not summarize all of the comments received. She noted that she does not know yet how DOBI may proceed, but that the comments are public documents, and can be obtained through an Open Public Records Act (OPRA) request by the Board in any event.

## **VII. Executive Session**

E. DeRosa said the Board would need to go into Executive Session to consider draft Executive Session minutes, and discuss current or pending litigation. She said the Board may conduct additional business following Executive Session.

**M. Taylor made a motion to move the meeting into Executive Session. S. Kelly seconded the motion, and the Board voted unanimously to approve it.**

*[Executive Session: 10:15 A.M. to 10:45 A.M.]*

## **VII. Close of Meeting**

**S. Kelly offered a motion to close the meeting. G. Simon seconded the motion. The Board voted unanimously in favor of the motion.**

*The meeting adjourned at 10:47 A.M.*