

**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  
APRIL 8, 2008**

**Directors participating:** Darrel Farkus (United); Ulysses Lee (Guardian); Gale Simon (DOBI); Christine Stearns (*arrived at 10:15*); 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 10:00 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 – March 11, 2008**

**D. Farkus made a motion to accept the Open Session minutes of March 11, 2008, with amendments. G. Simon seconded the motion, and the motion carried, with U. Lee abstaining.**

**III. Report of Staff**

*Expense Report – April*

R. Lenox provided a summary of the April 2008 Expense report, which included expenses totaling \$12,444.22.

**M. Taylor made a motion to approve the payment of the expenses on the April 2008 expense report. U. Lee seconded the motion, and the Board voted unanimously to approve it.**

*Nominations for Board Seat*

E. DeRosa reminded Board members that staff had requested nominations for the HMO-designated seat on the Board, currently held by Aetna Health Inc., and that staff has, as of April 7, 2008, mailed absentee ballots to carrier members with notice of the Board’s intent to hold an election during the regularly-scheduled May 13, 2008 Board meeting. She noted that absentee ballots must be submitted by close of business on May 12th. She stated that only Aetna Health Inc. has been nominated for the HMO-designated seat, but, as always, members may vote for write-in candidates.

#### **IV. Report of the Technical Advisory Committee (TAC)**

Because TAC minutes did not include the following information, E. DeRosa noted for the record that S. Kelly was present at the TAC meeting with respect to the review of clarifications submitted by two carriers (regarding prior rate filings), which TAC found acceptable, and then S. Kelly left the meeting in recusal from consideration of the Horizon rate filing, which was the only new rate filing considered by TAC. TAC recommended finding the Horizon rate filing for its HMO, to be effective 5/1/08, to be complete, subject to clarification.

Upon questioning by the Board, E. DeRosa explained that TAC has never encountered a situation in which a carrier refused to clarify its rate filing or certifications, but should that happen, TAC would bring the issue back to the Board for action to reverse any prior finding of completeness. She also explained that TAC keeps track of the clarification requests, and follows-up with carriers if necessary, but most carriers respond within a week after a request is made.

**G. Simon made a motion to find the Horizon HMO rate filing complete subject to clarification. U. Lee seconded the motion, and the Board voted unanimously in favor of it.**

#### **V. Report of the Legal Committee**

E. DeRosa reported both the Legal Committee and the Operations & Audit Committee (OAC) had reviewed the RFPs for audit services, and deferred discussion of the RFPs until the OAC report.

E. DeRosa reported the Legal Committee also considered the draft notice of adoption of the proposal incorporating civil union language in the IHC Program. She stated there were no comments received regarding the proposal, either during the comment period or at the public hearing, and accordingly, the Legal Committee recommended adopting the proposal at the earliest date.

**M. Taylor made a motion to approve the notice of adoption of the proposed civil union language for the IHC Program. C. Stearns seconded the motion, and the Board voted unanimously to approve it.**

E. DeRosa noted she would forward the notice to Governor's Counsel for consideration, but because there were no comments or changes to the proposal, she believed the action would be pro forma.

#### **VI. Report of the Operations & Audit Committee (OAC)**

E. DeRosa reported the OAC reviewed the RFPs for audit services and recommended some changes prior to the Legal Committee's review. The OAC suggested revisions, and recommended approval of the RFPs with the revisions, subject to the Legal Committee's review. She stated the Legal Committee subsequently reviewed the RFP with the OAC-recommended

revisions, and recommended approval of the RFPs with the OAC revisions and a few additional revisions suggested by the Legal Committee. Following discussion, the Board had no further comments regarding the RFP for audit of the administrative aspects of the IHC Program, but a few additional revisions with respect to the RFP for audits of reported losses.

**G. Simon made a motion to approve both RFPs for audit services, with the RFP for audit services regarding reported losses revised as recommended by the Board. M. Taylor seconded the motion, and the Board voted unanimously to approve it.**

## **VII. Executive Session**

E. DeRosa said the Board would need to go into Executive Session to consider draft Executive Session minutes, and obtain advice from counsel. She said the Board may take further action upon its return to Open Session.

**D. Farkus made a motion to go into Executive Session. C. Stearns seconded the motion and the Board voted unanimously to approve it.**

*[Executive Session: 10:25 until 11:10]*

## **VIII. Report of the Operations & Audit Committee (OAC) continued**

M. Taylor reported the OAC considered what action to take with respect to disputed funds held in segregated interest bearing accounts (SIBAs) with Treasury in light of the Supreme Court's denial of certification of the CHUBB I\* case, which challenged the March 9, 2006 interim reconciliation of the 1996 loss assessment. She reported the OAC recommended releasing the funds from the SIBAs and transferring the money to the Board's account at Wachovia in furtherance of the actions initiated in March 2006.

**M. Taylor made a motion authorizing staff to have the funds disputed by the seven carriers involved in the CHUBB I challenge transferred from Treasury to the Board's Wachovia account. C. Stearns seconded the motion. The Board voted to approve the motion, with U. Lee abstaining.**

## **IX. Other Business**

*Time Insurance Company's request for a stay of IHC Administrative Order 08-IHC-01*

G. Simon reported that, following the Board's issuance of Administrative Order (AO) 08-IHC-01 concluding the audit could not be finalized and demanding repayment of funds advanced directly to Time or as credits against assessments for Time's affiliates, Time had contacted the Board seeking a hearing, an informal meeting, as well as a stay of the requirement to pay the monies demanded. G. Simon stated that a stay is not typically granted unless there is demonstrated irreparable harm, and likelihood of success on the merits of the challenge. She stated there would be no irreparable harm to Time if required to comply with the terms of AO 08-IHC-01

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\* The carriers include Chubb, Guardian, Jefferson Pilot, John Alden, Massachusetts Mutual Life, Time, and U.S. Life.

with respect to payment of monies, and further, the Board was not convinced Time would be likely to prevail in its challenge to AO 08-IHC-01. She suggested, however, that the payment of interest be stayed.

**G. Simon made a motion denying the request by Time for a stay of the payment provisions of AO 08-IHC-01 with respect to payment of the principle amount set forth in the order, which amount shall be placed in a separate interest-bearing account upon payment, but deferring the requirement for payment of interest as specified in the order until conclusion of a hearing or other resolution of the matter. C. Stearns seconded the motion, and the Board voted unanimously in favor of it.**

*New orthotics and prosthetics mandate*

E. DeRosa briefly discussed progress on drafting a proposal implementing the new mandated coverage for orthotics and prosthetics, noting there are a number of areas in which the legislation is unclear in its language. She also noted it was uncertain whether the mandate applies to Basic & Essential plans, and this would be explored more.

*Further discussion of Time issues by Julie Tattoni*

Upon request, the Board gave the floor to Julie Tattoni, representing the interests of Time Insurance Co. J. Tattoni stated appreciation for the Board's compromise on the deferment of the interest payments pursuant to AO 08-IHC-01, but noted that Time still disagrees regarding payment of the principle. She acknowledged Time had signed commitments to repay funds advanced to it as well credits provided, but only upon completion of the audits, which has not occurred. She acknowledged Time understands the Board's position that the audits remain incomplete because of Time's actions or inactions, but Time disagrees, and believes that at least part of the problem rests with Deloitte & Touche (D&T), which she characterized as inflexible, and further noted that Time and D&T have not communicated well, resulting in misunderstandings of intentions. J. Tattoni stated that source documentation modifications may be necessary for the audit to be completed. She noted there is a team at Time (new CEO, Counsel, Actuary) committed to moving forward and resolving the audit issue.

C. Stearns asked if Time is acknowledging it does not have many of the documents requested by D&T for the audit, and whether Time has told D&T that other documentation might be available. J. Tattoni acknowledged that some of the documents requested by D&T are not available, and while she more recently has attempted to communicate to D&T that other acceptable documentation might be available, other Time employees or representatives may not have done so. The Board acknowledged that an informal meeting would be held with both parties to discuss the issues, and suggested Time prepare an agenda of the issues in writing, including reference to the management representation letter.

**X. Close of Meeting**

**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 11:27 A.M.*