

**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
MARCH 10, 2009**

Directors participating in person: Darrel Farkus (United); Sandi Kelly (Horizon); Gale Simon (DOBI); Mary Taylor (Aetna Health Inc.); Lisa Yourman

Others present: Ellen DeRosa, Executive Director; Chanell McDevitt, Deputy Executive Director; Rosaria Lenox, Accountant; Vicki Mangiaracina, DAG

I. Call to Order

E. DeRosa called the meeting to order at 10:05 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 – February 10, 2009

G. Simon made a motion, seconded by D. Farkus, to adopt the minutes of the February 10, 2009 meeting, with amendments. The Board voted in favor of the motion, with L. Yourman abstaining.

III. Staff Report

Expense Report

E. DeRosa noted the Expense Report form has been revised based on comments from Withum, Smith + Brown (WSB) to show an internal approval process for the report.

R. Lenox presented the March Expense Report, totaling \$21,011.27, primarily for salary and fringe benefits for staff, and an invoice from WSB. She noted the invoice for WSB should be the final one for the administrative audits for fiscal years 2000 through 2008.

M. Taylor made a motion, seconded by L. Yourman, to approve the payment of the expenses on the March expense report. The Board voted unanimously in favor of the motion.

Elections

E. DeRosa distributed nomination forms to be used to nominate a carrier to fill the seat for an insurer authorized to write health insurance in New Jersey subject to Subtitle 3 of Title 17B of the New Jersey Statutes, which is currently occupied by Guardian Life Insurance Company. She stated the notice had been distributed to all IHC Program

members, with a due date of April 6, 2009, in anticipation of an election at the May 12, 2009 Board meeting.

Reimbursement – Ingenix

E. DeRosa reminded the Board it had agreed in February to revisit whether to consider a different (non-Ingenix) out-of-network reimbursement methodology after the Small Employer Health (SEH) Board had an opportunity to act on its readoption of its rules which had resulted in comments suggesting a move away from the use of Ingenix data. She reported the SEH Board voted to continue with Ingenix for the time being because nothing else (that would be noncontroversial) was immediately available, and the New York settlement had not required that any carrier give up use of Ingenix data pending development of a new database by an independent party. E. DeRosa suggested that, because the IHC and SEH rules are the same on this specific issue, the IHC can keep its rules as is, but that the Board should start evaluating what other options may be available. Upon discussion, it was suggested that the rates coming from the New York settlement's new database might be higher than those developed using Ingenix's methods, given the allegations that the data produced by the Ingenix profiles was considered too low. There was discussion about looking at the Medicare RBRVS again, looking at other existing methods (such as the repricing offered for hospital charges by Concentra). There was a suggestion to contract for actuarial services to study multiple options and provide a high level of analysis of the strengths and weaknesses of each. There was also a suggestion to have a presentation from an actuarial firm separately to discuss issues and help the Board better define what issues to study.

IV. Report of the Operations and Audit Committee (OAC)

Investment Policy

M. Taylor presented the draft investment policy that staff had drafted and the OAC had reviewed. She stated the OAC recommended adoption of the policy, which essentially requires that investments for the funds collected have the lowest possible level of risk of loss, provide liquidity for reimbursement and refunds or payment of operating expenses, and earn maximum interest consistent with low risk and liquidity. Upon discussion, it was agreed that certain language should be added to better align the provisions regarding funds related to loss assessments and funds related to administrative assessments.

M. Taylor made a motion, seconded by D. Farkus, to approve the investment policy, with amendments. The Board voted unanimously to approve the motion.

Upon additional discussion, it was agreed that the investment policy need not be set forth in regulation, but that generic text probably should be added to the rules when they are next amended explaining that the Board must have an investment policy.

Joint RFP for Administrative Audit Services

E. DeRosa stated that the administrative audits for the IHC Program are now complete through fiscal year 2008, and for additional administrative audits to occur, a new RFP would need to be issued and contract awarded. She explained that staff had suggested,

and the OAC and the SEH Board's Finance and Audit Committee had agreed, that it may be reasonable to issue a joint RFP for fiscal year 2009 and a period of subsequent fiscal years and contract for audit services for both programs now, noting that the SEH Program's administrative audits will be complete through fiscal year 2008 soon, and will also need to issue a new RFP for subsequent audit services. She further explained there had been a request for staff to set forth a written procedure for the constitution of the bid evaluation committee and the evaluation and award process. E. DeRosa stated the OAC had reviewed the procedure offered by staff, and considered it acceptable. Upon discussion, the IHC Board agreed to move forward with the joint process, including drafting of a joint RFP.

V. Report of the Technical Advisory Committee (TAC)

M. Taylor recused herself from discussions or actions regarding an Aetna rate filing because of the interests of her employer in the outcome of the matter.

S. Kelly reported that TAC had reviewed and recommended approval of an Aetna filing for its A/50 through D plans. She noted the review was by TAC rather than DOBI because the change – which involved a technical issue – was effective as of January 1, 2009.

L. Yourman made a motion, seconded by D. Farkus, to find the Aetna rate filing complete. The Board voted unanimously in favor of the motion.

E. DeRosa reported that TAC reviewed Basic & Essential (B&E) Quarterly enrollment reports (4th quarter for Horizon and Oxford, but the 3rd quarter for AmeriHealth). She stated that TAC had drawn no conclusions from the data, and recommended continued monitoring.

VI. Litigation

E. DeRosa reported that she had attended the hearings for the CHUBB II case (a.k.a. Seven-Carriers case), The Guardian matter, and the Celtic case. She briefly reminded the Board of the underlying issues of each case (CHUBB II argued that assessments from inception through 1996 should be recalculated using the adjusted net earned premium methodology; Guardian essentially argued that the same assessment methodology – regardless of which one – should apply to all years of the program, and Celtic argued against the increased loss ratio threshold of 115% applying retroactively to January 1997), and gave her opinions of the presentations by the parties at the hearing. She indicated a decision is expected no later than July.

VII. Report of the Legal Committee

E. DeRosa provided a brief update on the audit of Protective Life Insurance Company regarding its filed losses for 1997/1998, which is not progressing. She noted the Legal Committee discussed the matter, and had a recommendation.

S. Kelly made a motion, seconded by M. Taylor, to move the meeting into Executive Session for the purpose of receiving legal advice, with possible action to follow upon return of the Board to its open session meeting. The Board voted unanimously in favor of the motion.

The IHC Board met in Executive Session from 11:10 A.M. until 11:25 A.M.

VIII. Close of Meeting

M. Taylor offered a motion to close the meeting, seconded by S. Kelly. The Board voted unanimously in favor of the motion.

The meeting adjourned at 11:27 A.M.