

**FINAL**  
**MINUTES OF THE OPEN SESSION MEETING OF THE**  
**NEW JERSEY SMALL EMPLOYER HEALTH BENEFITS PROGRAM BOARD**  
**AT THE OFFICES OF THE**  
**NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE**  
**TRENTON, NEW JERSEY**  
**June 18, 2014**

**Members participating:** Herbert Ames; Charles Cerniglia (Oxford); Gary Cupo; Margaret Koller; Nicholas Peterson (Horizon); Thomas Pownall (Aetna Health Inc.); Gale Simon (DOBI); Christine Stearns.

**Others participating:** Ellen DeRosa, Executive Director; Chanell McDevitt, Deputy Executive Director; DAG Eleanor Heck.

**I. Call to Order**

E. DeRosa called the meeting to order at 10:00 A.M. E. DeRosa announced that notice of the meeting was provided to three newspapers and the State House Press Corps, 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. Following a roll call, she determined there was a quorum present, and stated that all votes would be by roll call because many of the Board members were participating by phone.

**II. Public Comment**

There were no public comments.

**III. Minutes – May 21, 2014**

**G. Simon made a motion, seconded by T. Pownall, to approve the minutes of May 21, 2014. By roll call vote, the motion carried.**

**IV. Staff Report**

*Expense Report*

E. DeRosa presented the expense report for June, with expenses totaling \$109.40. She noted that the expense was for charges from the Division of Law, after an adjustment made for the 2<sup>nd</sup> quarter of FY14. She also noted that no transfer of funds was needed to pay the expense.

**G. Cupo made a motion, seconded by C. Stearns, to approve the payment of the expenses on the June expense report. By roll call vote, the motion carried.**

*Waiver of Participation Requirement (Bulletin 14-SEH-01)*

E. DeRosa explained that AmeriHealth Insurance Company of New Jersey and AmeriHealth HMO, Inc. filed a request to waive the existing 75% participation requirement set forth in the SEH rules, and to use an alternate participation rate of 50%, when the conditions of Bulletin 14-

SEH-01 are met (i.e., a small employer maintains contribution levels year-over-year, but one or more employees who were covered under the plan refuses coverage in the current year because individual coverage with a premium tax credit is elected instead, and as a result, the small employer cannot meet the 75% participation rate). It was noted that this alternative is essentially the same one used by Health Republic, while the Horizon and Oxford companies elected to set no participation threshold when all of the conditions of the bulletin are met.

**G. Cupo made a motion, seconded by T. Pownall, to approve AmeriHealth's alternative participation requirement request made in accordance with Bulletin 14-SEH-01. By roll call vote, the motion carried.**

*Request for Proposal (RFP) for Auditing Services*

C. McDevitt reminded the Board that its contract with WithumSmith+Brown ended with the 2013 fiscal year audits, and that it would need to issue a new RFP for audit services. She explained that a new RFP has been drafted, with the intent of having both the Individual Health Coverage Program (IHC) Board and the SEH Board again jointly contract with an auditor. She noted that the IHC Board's Operations & Audit Committee (OAC) reviewed the draft of the RFP in May, made some suggested changes, and that the SEH Board's Finance & Audit Committee (FAC) reviewed the revised version. She stated that the FAC suggested a few more changes, then both committees had the opportunity to review the third draft, after which there were no additional changes, and the RFP was forwarded to both Boards. She stated that the FAC (and OAC) recommend issuing the RFP, and that the IHC Board voted at its June meeting to release the RFP jointly. It was noted that E. Heck is still reviewing the RFP, but that she expected no substantive changes.

**G. Simon made a motion, seconded by M. Koller, to jointly issue with the Board of Directors of the Individual Health Coverage Program, the RFP as presented, subject to changes agreed to between E. Heck and Board staff. In voting by roll call, the motion carried.**

E. DeRosa stated that the Boards would need a joint evaluation committee, and that at least one person on the committee would need to be someone who was not on either of the two Boards' audit committees, would preferably sit on both Boards and be familiar with the needs of both, and suggested that C. Stearns fits the criteria. C. Stearns agreed to serve on the joint evaluation committee. E. DeRosa said the committee probably will meet in late August or September.

**V. Formation of Ad Hoc Committee – Treatment of C- and S-corporations (ERISA)**

E. DeRosa suggested that the Board form an ad hoc committee to review some issues previously raised regarding treatment of C- and S-corporations in determining small/large employer status, and the position being taken by some carriers pending actual guidance from the federal government (that is, some take the position that ERISA controls, while others believe it is necessary to look at the interaction of ERISA and the Public Health Services Act). Because of the issue involved, several people suggested that the group primarily (or solely) include attorneys, and preferably people familiar with labor law, since the question really goes to the issue of who is considered an employee. The following volunteered to participate:

- Horizon
- United
- DOBI
- Aetna

E. DeRosa stated that she would reach out to AmeriHealth and offer the company an opportunity to participate as well. She stated that she will try to have the committee meet by conference call in July.

#### **VI. Public Comment**

There were no public comments.

#### **VIII. Close of Meeting**

**G. Simon made a motion, seconded by M. Koller, to adjourn the meeting. By roll call vote, the motion carried.**

*[The meeting adjourned at 10:25 A.M.]*