

**MINUTES OF THE 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
September 16, 1998**

Members present: Karen Dickinson (HIP of New Jersey); Charlotte Furman (Anthem Health & Life); Joan Fusco (Horizon BCBSNJ); Larry Glover, Chair; Linda Ilkowitz (Guardian); Jim Leonard (arrived at 9:45); Bryan Markowitz; Catherine St. John (The Prudential); Eric Wilmer (Celtic); Dutch Vanderhoof; Bob Vehec (DOBI).

Others present: Ellen DeRosa, Deputy Executive Director; DAG Josh Lichtblau (DOL); Joanne Petto, Assistant Director; Wardell Sanders, Executive Director.

I. Call to Order

L. Glover called the meeting to order at approximately 9:40 a.m. W. Sanders announced that notice of the meeting had been published in three newspapers and posted at the Department of Banking and Insurance (“DOBI”) and the Office of the Secretary of State in accordance with the Open Public Meetings Act. A quorum was present.

II. Public Comments

L. Glover asked if any person attending the meeting wished to offer any comments. No comments were offered.

III. Minutes

July 22, 1998

C. Furman offered a motion to approve the open session minutes of the July 22, 1998 Board meeting, as amended. K. Dickenson seconded the motion. The Board voted in favor of the motion, with one abstention (D. Vanderhoof).

IV. Report of Staff

Expense Report (see attached)

L. Ilkowitz offered a motion to approve the payment of the expenses specified on the September 16, 1998 expense report. C. St. John seconded the motion. The Board voted unanimously in favor of approving the motion.

Legislative Activity

W. Sanders noted that there had been no significant changes in state legislative activity since the Legislature had only just returned to session. W. Sanders reported that he had been approached by a lobbyist for advocates of mental health parity who asked to make a presentation to the Board. W. Sanders stated that he requested that the lobbyist prepare a written report, there being no need for an oral presentation to the Board. The lobbyist asked to make a presentation to the Individual Health Coverage (“IHC”) Board, or to the Technical Advisory Committee, regarding the rate impact of parity on plans in the market. W. Sanders recommended a similar presentation to the SEH Operations Committee. The Board discussed the need for a presentation, and agreed that a written report could be distributed for review by the Operations Committee.

B. Markowitz made reference to a Coopers & Lybrand study on the cost impact of mental health parity that stated that there would likely be a three to four percent increase in premiums. He stated that this estimate may be low and that other studies estimated a ten percent increase in premiums.

Operations Committee

W. Sanders reported that the committee did not meet due to scheduling difficulties. He said he sent a memo to the Committee recommending that the Board approve a request for bids for bookkeeping services. The program accountant will need assistance to produce the required reports and to prepare the books for auditing. W. Sanders reported that he expected that the cost of this one-time service would not exceed \$10,000. P. Lechner stated that the bookkeeping services would be needed for fiscal years 1996, 1997, and 1998. W. Sanders stated that the IHC Board had recently approved a similar request for bids for its own bookkeeping needs. The SEH Board approved this request.

Enrollment Reports (second quarter 1998)

J. Petto said that the enrollment reports for 1Q98 had been revised to include previously unreported lives by two SEH carriers. She also stated that data received from the carriers showed an increase in SEH enrollment in 2Q98 as compared to 1Q98 enrollment by approximately three percent. J. Petto noted that enrollment in the IHC market for the same period had decreased by approximately three percent.

L. Glover suggested that staff prepare a press release to publicize the steady increase in SEH enrollment. W. Sanders responded that his letter to the editor about increased enrollment had just been published by three newspapers. He stated that this editorial was written in response to a study published by the Heritage Foundation and written by the Galen Institute. W. Sanders stated that both reports expressed negative comments about health reform in New Jersey and indicated that there had been an increase in uninsured lives. Further, the report indicated that enrollment in the small employer market had decreased, when in fact it had increased by almost 200,000 persons in three years.

J. Petto stated that some of the information for the reports was taken from the Department of Health and Senior Services (“DOHSS”) web site. J. Petto reported that she would distribute quarterly enrollment reports to DOHSS and that she would follow-up on the DOHSS web site statistics.

1999 Meeting Schedule

W. Sanders stated that, since there were no comments from the Board, the 1999 meeting schedule would be finalized and distributed.

Outreach

W. Sanders reported that he spoke a conference in Washington, DC sponsored by the Alliance for Affordable Health Reform on the impact of the Health Insurance Portability and Accountability Act (“HIPAA”). He stated that the conference was attended by approximately 150 members of Congressional staff and the media. He noted that the conference was broadcast live and rebroadcast on C-Span. Since then, W. Sanders stated that he has received calls from three journalists requesting additional information on New Jersey’s health reform programs.

Web Site

J. Petto reported that the Boards had released a memorandum to all interested parties to advise them that they could establish a link to the DOBI web site. She said that about 15 to 20 entities had responded, indicating they would be interested in creating a link.

[B. Markowitz left at 10:35 a.m.]

V. Report of the Policy Forms Committee

E. DeRosa reported that the Committee met on September 1, 1998 and discussed the following optional benefit riders. She briefly discussed each of the riders and referred the Board to the Minutes of the Policy Forms Committee contained in the Board packets.

Optional Benefit Riders

AmeriHealth Insurance Company

L. Ilkowitz offered a motion that the Board find the two riders complete and in substantial compliance, subject to receipt of corrected language. E. Wilmer seconded the motion. The Board voted unanimously in favor of approving the motion.

CIGNA HealthCare of NJ, Inc.

D. Vanderhoof offered a motion that the Board find the five riders incomplete and not in substantial compliance. L. Ilkowitz seconded the motion. The Board voted unanimously in favor of approving the motion.

Medigroup of NJ, Inc.

L. Ilkowitz a motion that the Board find the rider incomplete and not in substantial compliance. K. Dickenson seconded the motion. The Board voted in favor of approving the motion with one abstention (J. Fusco).

United States Life Insurance Company/Garden State Hospitalization Plans, Inc.

E. DeRosa reminded the Board of the requirement that Garden State Hospitalization Plan and the wraparound carrier file forms for approval before using them in the small employer market. Hospital and wraparound plans have been approved. The Policy Forms Committee considered specific pages for the forms that would replace the previously approved pages. The revised pages were filed to satisfy the requirement that the hospital and wraparound plans produce a plan that is equivalent to the standard plans. Since the Board modified the coverage for the treatment of mental or nervous conditions under the standard plans, the coverage under the hospital and wraparound plans required similar modification.

D. Vanderhoof offered a motion that the Board approve the alternate insert pages. J. Leonard seconded the motion. The Board voted unanimously in favor of approving the motion.

United HealthCare

United States Life Insurance Company

E. DeRosa reported that, as permitted by a Board Resolution dated May 20, 1998, staff reviewed the optional benefit riders and found them to be complete and in substantial compliance. She referred the Board to a report contained in the Board packets that summarized the nature of the riders.

Prescription Drug Formularies

E. DeRosa reported the Committee considered the request from a couple of carriers that the standard plans be amended to allow carriers to apply prescription drug formularies. She said the Committee noted the fact that the recently amended Selective Contracting Arrangement regulations address the use of a formulary in plans subject to the regulation.

She stated that the Committee believed that all SEH plans, except a pure indemnity plan without a prescription drug card, should be modified to allow carriers to apply a formulary. E. DeRosa noted that the Committee suggested that any decision a carrier may make concerning the use of a formulary should apply to all plans, similar to the decision a carrier must make concerning the calculation of the family deductible

After a brief discussion with several Board members expressing concern with the consequences to the public of allowing the formularies, the Board agreed to table the discussion. The Board asked the Policy Forms Committee to further discuss the matter.

VI. Report of Legal Committee

W. Sanders reported that the Committee met on September 11, 1998 and discussed the following issues. He referred the Board to the Minutes of the Legal Committee contained in the Board packets.

Rulemaking

W. Sanders reported that several written comments were received on the proposed draft adoption. He stated that the comments had been reviewed by the Legal Committee and were included in the Board packets. W. Sanders highlighted the key issues discussed by the Committee.

- *Comment 12:* W. Sanders reported that the commenter suggested a change to reflect that service corporations, not subject to DOBI selective contracting arrangement regulations, may offer some riders to amend the standard PPO or POS plans that result in plans that the commenter believes would no longer be termed PPO or POS. He stated that staff had developed draft language for Board review and approval.
- *Comment 15:* E. DeRosa reported that the commenter recommended the standard forms be amended to clearly express that only the carrier has the right to offer an alternate treatment plan. She noted that the response to the comment affirmed that the Board's intention with respect to the alternate treatment features provision was that the carrier had the sole right to initiate an alternate treatment plan.
- *Comment 21:* At the request of the commenter, this comment was withdrawn. W. Sanders noted that the Board had not received a response from HCFA on the guaranteed renewability of coverage to employers no longer meeting the definition of a small employer. J. Fusco requested that, until a reply is received from HCFA, the minutes reflect that the Board believes that carriers should continue the status quo of moving small groups that exceed 50 employees to large group plans.
- *Comment 24:* W. Sanders reported that the regulation regarding the payment of benefits would need to be revised since HIAA announced that the fee profile for hospital charges was discontinued. He stated that his comment also led to an agency initiated change made to conform the Board's regulation with a prior bulletin that provided that carrier's must pay actual charges if they were not subject to a negotiated fee and where there is no HIAA fee profile.

W. Sanders stated that the rules expire on October 15, 1998 and he requested a vote on the proposed draft readoption.

D. Vanderhoof offered a motion to approve the proposed draft adoption, as amended. C. Furman seconded the motion. The Board voted unanimously in favor of approving the motion.

Disabled Employees: If an eligible employee of an employer with two or more eligible employees becomes disabled, may the employer renew the plan?

W. Sanders reported that the Committee recommended that guaranteed renewability depended upon whether or not the employer met the definition of a small employer, employing at least two eligible employees. He stated that the Committee believed that the determination of whether or not an employee is still an “eligible employee” is a factual issue and must be reviewed on a case-by-case basis.

Late enrollees: If an employer has purchased a health benefits plan, and one eligible employee refuses coverage during the initial enrollment period thus becoming a late enrollee, and the employer later purchases a second health benefits plan, is that late enrollee/employee considered a late enrollee under the second health benefits plan during the initial enrollment period for that second plan?

W. Sanders reported that the Committee agreed that if the employee was not considered a late enrollee under the second health benefits plan there would be a great danger for adverse selection. He stated that, due to time constraints, the Committee would address this issue at a later meeting.

Retiree Coverage: Does N.J.A.C. 11:21-7.3(g) only require that the prior large group plan permit retiree coverage in order for that employer to offer coverage to retirees under a replacement small group plan? Or is the rule more restrictive, requiring at least one retiree to have been “covered” at the time of the transfer to a small employer plan?

W. Sanders reported that the Committee reviewed the regulations and found that the issue was not clearly addressed. He stated that several Committee members who were involved when the regulations were drafted believed that the Board might not have considered the issue at that time. He said that the Committee recommended that the Board should determine, as a matter of public policy, what the regulation requires. Following some discussion, the Board agreed that if the larger plan allowed retiree coverage the smaller plan must assume the carrier had elected to make grandfathered retiree coverage available.

VII. Executive Session

D. Vanderhoof offered a motion to move into Executive Session to discuss litigation issues relating to NAPP, to consider employee leasing company issues, and to evaluate a request to review and copy a document. J. Leonard seconded the motion. The Board voted unanimously in favor of moving into Executive Session. W. Sanders advised that the Board would not return to Open Session to discuss additional matters.

[Break: 11:30 a.m. - 11:45 a.m.]
[Executive Session: 11:45 a.m. - 12:30 p.m.]

VIII. Close of Meeting

D. Vanderhoof offered a motion to close the meeting. J. Leonard seconded the motion. The Board voted unanimously in favor of closing the meeting. The meeting adjourned at 12:30 p.m.

Attachments:

Exhibit 1 July 22, 1998 Expense Report