

**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  
January 17, 2001**

**Members participating:** Gary Cupo; Tom Daniels (CIGNA); Darrel Farkus (Oxford); Larry Glover; Sandy Herman (Guardian); Mary McClure (NYLCare); Jane Majcher (DOBI); Bryan Markowitz (arrived at 11:10 a.m.); Vaughn Reale; Tony Taliaferro (AmeriHealth); Mike Torrese (Horizon BCBSNJ); Dutch Vanderhoof (arrived at 9:45 a.m.); Bonnie Wiseman (DOHSS).

**Others present:** Ellen DeRosa, Deputy Executive Director; DAG Prince Kessie (DOL); Pearl Lechner, Program Accountant; Wardell Sanders, Executive Director.

**I. Call to Order**

W. Sanders called the meeting to order at 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 member of the audience wished to offer comments concerning the items stated on the agenda. No comments were offered.

L. Glover spoke about the tremendous contributions Linda Ilkowitz from The Guardian had made during her years of service on the SEH Board and various Committees of the Board. He noted that she would be greatly missed and asked that the Board pause for a moment of silence in her memory.

**III. Minutes**

*Open Session November 15, 2000*

**J. Majcher offered a motion to approve the minutes of the Open Session of the November 15, 2000 Board meeting. M. Torrese seconded the motion. The Board voted in favor of the motion with L. Glover and S. Herman abstaining.**

**IV. Staff Report**

*Expense Report (see attached)*

**M. McClure offered a motion to approve the payment of the expenses specified on the January 17, 2001 expense report. T. Taliaferro seconded the motion. The Board voted unanimously in favor of approving the motion.**

*2001 Premium Comparison Survey*

W. Sanders noted that a copy of the 2001 premium comparison survey was included in the Board materials. He said that Joanne Petto worked on the survey and that she contacted a couple of carriers and asked them to verify data that seemed to be inconsistent with data provided by other carriers. The survey will be posted on the web site ([www.njdoji.org](http://www.njdoji.org)) and will be mailed to employers and others who request it.

*Legislative Update*

S. 13 This bill, sponsored by Senators Matheussen and Sinagra, requires carriers in the individual market to offer a bare bones type plan and permits carriers in the small employer market to offer coverage using an exclusive provider organization structure. The bill was voted out of committee on December 4, 2000. The bill was heard by the Senate on December 18, 2000 and passed with a vote of 26-9. The Assembly version of the bill, A. 2791, has not yet been discussed by the Assembly Health Committee.

S. 207 This bill, which would amend the SEH Act to provide participation credit for persons covered under Medicare or under a plan sponsored by another employer, was scheduled to be heard by the Senate Health Committee on January 27, 2001.

S. 1124 This bill, which would amend the continuation rights section of the SEH Act to expand the opportunities for continuation to include dependents in the event of death of the employee, divorce or separation, allowing coverage to continue for up to 36 months, was scheduled to be heard by the Senate Health Committee on January 27, 2001.

A. 1862 This bill, which would only apply to large group plans, would require carriers to cover in vitro fertilization. The bill was reported out of the Assembly Health Committee. D. Vanderhoof asked whether any recommendation had been made as a result of a public hearing that was held several months ago on the issue of coverage for infertility. W. Sanders said he did not believe a recommendation had been released as yet.

*Health Care Financing Administration (HCFA) Bulletins*

00-05 W. Sanders said this HCFA Bulletin states that participation rules may not act to preclude a group from being issued coverage. For example, a participation rule that requires that at least 10 people be covered would not be permitted since it would preclude groups of fewer than 10 employees from being covered. He noted that the Bulletin addresses a few areas in which the SEH Act may be in conflict with federal law. He said the Legal Committee would discuss the Bulletin in detail and provide an analysis to the Board. S. Herman asked whether the 10% minimum contribution requirement that exists under the SEH Act might present a problem in terms of federal law. As an example of one area in which the SEH Act maybe in conflict with federal law, W. Sanders noted the fact that under the SEH Act, employees covered under a collective bargaining arrangement plan are not counted as eligible employees whereas, it appears such employees would be counted under HIPAA.

00-06 W. Sanders said this Bulletin clarifies what may be considered an individual policy. He said he did not believe the Bulletin presented any issues for New Jersey.

### *3Q2000 Enrollment Reports*

W. Sanders said that DRAFT copies of the 3Q2000 enrollment reports were included in the Board materials. He said there were problems with the reports from 3 carriers. He noted that the report from one carrier indicated that it had previously over-reported enrollment by about 40,000 lives. He said that staff was working to secure accurate data from the carriers.

### *Participation Credit for NJ FamilyCare*

E. DeRosa reported that two board members provided a written response to the question of whether the Board should recommend that participation credit be extended to include NJ FamilyCare. Additionally, several other Board members provided oral comments.

During the Board discussion on this issue, the following points were raised in favor of recommending that participation credit be given:

- Any mechanism that is designed to increase coverage should be supported;
- There is no selection issue when an employee waives coverage in favor of participating in a valid program;
- Eligibility for NJ FamilyCare is based on income, not on health care needs;
- For reasons of public policy, credit should be given;
- There is no valid reason not to give credit and it would be easy to identify persons who waive due to NJ FamilyCare since that coverage would be identified on the waiver form.

Various members of the Board raised the following reservations or questions with recommending participation credit for NJ FamilyCare:

- The Board does not have data on exactly how many groups might be affected;
- Providing participation credit would require a legislative change and is not something the Board could accomplish;
- Trying to anticipate employer behavior would be difficult; some employers might try to “game” the system.
- How does a carrier verify ongoing coverage under NJ FamilyCare?

W. Sanders said that factual data on NJ FamilyCare and some of the projections that were used to develop the program could be made available to any Board member who might find such information useful in order to reach a decision as to whether to recommend that credit be given. He invited Board members to send him an e-mail identifying the type of data that might be useful.

### *Commission Structure*

W. Sanders noted that carriers may not use commissions to avoid risk. He said that a number of brokers had contacted SEH staff regarding the new commission structure that was announced by one carrier. He said the brokers believed that the new commission structure was a means for the carrier to avoid groups with greater risk.

D. Vanderhoof explained that the new commission structure calls for paying a per employee commission regardless of the age of the employee or dependent status. D. Vanderhoof said the brokers believe that the commissions will encourage brokers to sell coverage to groups with a high percentage of young single employees. Groups with a high percentage of family units would be encouraged to purchase coverage from a carrier that used a different commission structure. He said the brokers believe that young single employees are better risks than family units where the employee age tends to be higher than for single employees, and thus the carrier's commission structure will result in the selection of better risks.

W. Sanders said that unless a clear link can be demonstrated between the commission structure and risk selection that there did not appear to be a violation of the SEH regulations. W. Sanders said that if anyone would want to provide information to demonstrate a link, the issue would be brought to the Legal Committee for review and a recommendation.

M. Torrese noted that the carrier in question is Horizon. He said the reason for the decision to modify commissions was to control costs.

#### *Other*

W. Sanders noted that a copy of the Advisory Bulletin log was included in Board materials. If any member would like a copy of a Bulletin, please contact W. Sanders.

W. Sanders said a copy of a press release from Wisconsin was included in the Board materials. He noted that Wisconsin has faced issues similar to those faced in New Jersey.

W. Sanders said he participated on a panel discussing health insurance at an event sponsored by the NJBIA on December 6, 2000.

W. Sanders said that nominations for 5 Board seats that are up for election in 2001 were mailed to member carriers.

#### *Meeting Schedule*

W. Sanders said it appears that some Board members find it difficult to arrive in Trenton for a 9:30 a.m. meeting. He suggested that the meeting time for all future Board meetings be moved to 10:00 a.m. He noted, however, that the meetings would begin promptly at 10:00 a.m. The Board agreed.

### **V. Policy Forms Committee**

E. DeRosa reported that the Committee met for another day-long work session. Before discussing the forms changes the Committee recommends, she stated that the Committee considered an optional benefit rider filing from United Health Care. She said the rider was designed to be used with the new \$30 copayment and would reduce the corresponding hospital copayment from \$300 to \$100. She said the Committee recommended that the filing be found complete and in substantial compliance, subject to

receipt of a copy of the rider to amend the group contract. She noted that the submission only provided the rider to amend the evidence of coverage.

**D. Vanderhoof offered a motion to find the United Healthcare rider filing complete and in substantial compliance subject to receipt of the missing contract rider. M. McClure seconded the motion. The Board voted unanimously in favor of the motion.**

E. DeRosa reviewed the summary of recommended changes to the policy forms. A copy of that summary is attached.

The following issues were raised as a result of the discussion of the listed recommendations:

- For the mail order and retail pharmacy coverage, the carriers should have the option to either charge a single copayment for a 90-day supply of a prescription drug or charge a copay per 30-day supply. The copay need not be consistent between mail order and retail unless the retail pharmacy agrees to the same terms and conditions as a mail order pharmacy.
- The Board would like information concerning the use of methadone before deciding to exclude coverage. B. Wiseman said she might be able to provide some information.
- The Board would like information from DOBI concerning how existing Home Health Care benefits should be grandfathered and for what period of time.
- The Board would like to know whether donor costs for transplants are generally covered under commercial plans.
- On the employer application, add a question concerning whether the employer is affiliated with a Professional Employer Organization.

*[V. Reale and B. Markowitz left the meeting at approximately 12:25 p.m.]*

E. DeRosa said she would include the changes described on the summary memo in the policy forms, and distribute them to the Committee for review. The next step would be to provide sample forms to the Board so the Board can read actual provisions and not merely brief summary statements. She said she hoped that the Board would receive the sample forms about a week prior to the February Board meeting.

## **VI. Close of Meeting**

**D. Vanderhoof offered a motion to adjourn the Board meeting. B. Wiseman seconded the motion. The Board voted unanimously in favor of the motion. [The meeting adjourned at 1:05 p.m.]**

Attachments: Expense Report; Report of Policy Forms Committee