

**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  
July 18, 2001**

**Members participating:** Raymond Bascio (Horizon BCBSNJ); Gary Cupo; Darrel Farkus (Oxford); Larry Glover; Sandy Herman (Guardian); John Kilgallin (CIGNA); Jane Majcher (DOBI); Bryan Markowitz; Mary McClure (Aetna USHealthcare); Robert Shalongo (United); Tony Taliaferro (AmeriHealth); Dutch Vanderhoof; Bonnie Wiseman (DOHSS).

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

**I. Call to Order**

W. Sanders called the meeting to order at 10:00 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”), the DOBI website, and the Office of the Secretary of State in accordance with the Open Public Meetings Act. Roll call was taken. A quorum was present.

**II. Public Comments**

W. Sanders asked if any member of the public wished to address the Board. No comments were offered.

**III. Minutes**

*Open Session June 20, 2001*

**B. Markowitz offered a motion to approve the minutes of the Open Session of the June 20, 2001 Board meeting. J. Majcher seconded the motion. The Board voted in favor of the motion, with J. Kilgallin abstaining.**

**IV. Staff Report**

*Expense Report (see attached)*

**J. Majcher offered a motion to approve the payment of the expenses specified on the July 18, 2001 expense report. S. Herman seconded the motion. The Board voted unanimously in favor of approving the motion.**

*Quarterly Enrollment Data for 1Q2001*

J. Petto noted that there was a decrease in enrollment in both the SEH and IHC markets. The total enrollment in both markets fell below one million lives.

*Optional Benefit Rider Filing*

E. DeRosa reported that One Health Plan submitted an optional benefit rider that reduces the prescription drug copay under the standard HMO plan to \$10. She said the Policy Forms Committee did not review the rider since it was only recently submitted. She said staff recommends that the filing be found complete. She noted it was a very simple filing and did not contain any questionable changes.

**J. Majcher offered a motion to accept the staff recommendation to find the One Health Plan rider filing complete. D. Vanderhoof seconded the motion. The Board voted unanimously in favor of the motion.**

*Updated Contact Lists*

W. Sanders noted that the Board packets included updated Board and Committee lists.

*Legislative Update*

W. Sanders said that S.3554 would establish a subsidy for small charitable organizations in New Jersey to assist them in the purchase of health coverage. The subsidy would be funded by Treasury, and administered by the SEH Board. W. Sanders said he provided a copy of the bill to the Board after the last meeting. He asked if Board members would be interested in commenting on the bill. Several Board members expressed an interest in commenting on the bill. M. McClure noted that the administration of a subsidy for small charitable organizations did not seem to be consistent with the established purpose of the SEH Board. W. Sanders said he would draft a letter for review by the Board.

*Professional Employer Organizations (PEOs)*

W. Sanders said that any inquiries relative to PEOs were being sent to Enforcement and Consumer Protection for handling.

J. Majcher said that the DOBI has advised interested parties that it would be providing guidance and that it expects to initially provide the guidance by Bulletin and then to propose regulations. She said the DOBI has advised those carriers that write PEOs as large groups not to issue any new plans pending further guidance but that existing plans should not be cancelled at this time.

*DOBI Bulletin 01-11*

W. Sanders said this Bulletin that deals with the invalidity of subrogation and reimbursement provisions was included in the Board materials. He said the Bulletin was issued following a NJ Supreme Court decision. E. DeRosa said she spoke with Gale Simon to determine whether any portion of the Right to Recovery provision that was included in the SEH forms could be retained. E. DeRosa reported that Gale Simon advised that the entire provision should be deleted.

### *Policy Form Changes*

E. DeRosa said she completed making all of the changes to all of the standard policy forms. W. Sanders said he was working with Chip Dutcher regarding filing under the new APA rules and review by Governor's Counsel.

### *Meeting Schedule for 2002*

After some discussion concerning the frequency of Board meeting, the Board agreed to provide public notice of eight meetings to be held during 2002. The Board would meet every month, with the exception of February, May, August and December. Additional meetings can be scheduled, if needed.

**B. Markowitz offered a motion that the Board give notice of eight meetings for 2002, and schedule additional meetings as may be necessary. J. Majcher seconded the motion. The Board voted unanimously in favor of the motion.**

### **V. Report of the Ad Hoc Committee**

W. Sanders said the Executive Commission on Executive Standards provided advice regarding which Board members must be recused from participation in the discussion and voting on the producer compensation issue. He said the advice noted that because of their financial interest in the issue, Horizon, G. Cupo, and V. Reale must recuse themselves and that D. Vanderhoof must recuse himself because his employer has a direct financial interest.

D. Vanderhoof suggested that every carrier Board member would have a financial interest in the issue and that all carrier members should also be recused from the discussion and vote. W. Sanders said the Board did not seek advice concerning other carrier members. D. Vanderhoof asked whether recused Board members could vote if the Board was to consider amending the SEH regulation. W. Sanders said he thought a vote on amending a regulation would probably be permissible.

*[R. Bascio, G. Cupo and D. Vanderhoof were asked to recuse themselves from the discussion.]*

D. Vanderhoof said he objected, but that he would adhere to the opinion. R. Bascio and G. Cupo agreed to adhere to the opinion. *[These three Board members stayed in the conference room for the Open Session discussion, but did not participate in the discussion.]*

W. Sanders said the Committee requested information from Horizon and received most of the information requested. Part of the response included a chart showing compensation, comparing the per contract structure to the percent of premium structure for various sizes of groups. S. Herman said the chart did not demonstrate that agents writing smaller sized groups were necessarily being paid less under the new structure than under the percent of premium structure.

W. Sanders said Neil Vance, actuary with the DOBI, created a spreadsheet using information contained in Horizon's rate filing and information about Horizon's old and new compensation arrangements to illustrate commissions for various contract types. S. Herman observed that the per contract commission structure could result in single business being placed with one carrier and family business with others, but that that would not necessarily constitute antiselection. S. Herman said he checked with the sales people at Guardian to see if they had noted any change in business since the onset of the new commission structure from Horizon. He said the sales people had not detected any change.

W. Sanders reminded the Board that the threshold question is whether the new commission structure was impeding access to coverage.

J. Kilgallin noted that Horizon was only applying the new commission structure to small group business. Commissions for large group cases were still being paid as a percentage of premium.

L. Glover suggested that the ad hoc committee should continue to look at the issue, but do so with a timeframe for reaching a conclusion. The Committee would request that Horizon provide lapse information by early October. The Board thought this would give ample time for Horizon to report lapses. L. Glover suggested that carrier members should check to find out if the sales areas are noting any difference in the groups they are getting.

J. Kilgallin would like the work to continue on drafting a regulation change, noting it would help people understand what kind of change would be suggested if it is found that the commission structure is acting to impede access. The Board did not agree that drafting a change to the regulation should be done in advance of determining whether there is an impediment to access.

The issue will be included on the agenda for the October Board meeting.

## **VI. Executive Session**

W. Sanders said the Board needed to move into Executive Session to review the Executive Session minutes from the last meeting and consider a personnel issue. He said there would not be further discussion in Open Session following the Executive Session.

**M. McClure offered a motion to begin Executive Session. D. Vanderhoof seconded the motion. The Board voted unanimously in favor of the motion.**

*Executive Session 12:00 p.m. – 12:10 p.m.]*

*[B. Wiseman left the meeting prior to Executive Session.]*

## **VII. Close of Meeting**

**D. Vanderhoof offered a motion to adjourn the Board meeting. M. McClure seconded the motion. The Board voted unanimously in favor of the motion. [The meeting adjourned at 12:10 p.m.]**

Attachments: Expense Report