

**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 24, 2001**

Members participating: Raymond Bascio (Horizon BCBSNJ); Gary Cupo (arrived at 10:25 a.m.); Darrel Farkus (Oxford); Larry Glover (arrived at 10:10 a.m.); Sandy Herman (Guardian); John Kilgallin (CIGNA); Jane Majcher (DOBI); Mary McClure (Aetna USHealthcare); Robert Shalongo (United); Joe Torella (AmeriHealth); Dutch Vanderhoof (arrived at 10:20 a.m.); 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 10:05 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 July 18, 2001

J. Majcher offered a motion to approve the minutes of the Open Session of the July 18, 2001 Board meeting, as amended. M. McClure seconded the motion. The Board voted unanimously in favor of the motion.

IV. Staff Report

Expense Report (see attached)

J. Majcher offered a motion to approve the payment of the expenses specified on the September 24, 2001 expense report. B. Wiseman seconded the motion. The Board voted unanimously in favor of approving the motion.

Quarterly Enrollment Data for 2Q2001

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

J. Petto said she drafted revisions to the SEH enrollment report to capture some plan specific data such as plan type, deductible and copay.

R. Bascio asked if employer contribution data could be added. Some Board members questioned whether contribution data is something that is currently collected in the system. S. Herman commented that the employer contribution information is collected on the original application, but is likely to change over time.

Conference

W. Sanders said HCFA has a new name, CMS. CMS stands for the Centers for Medicare and Medicaid Services. W. Sanders said he attended a Seminar on HIPAA's individual and small group provisions sponsored by CMS. He said he received a large binder of information and invited Board members to review and request copies.

Outreach

W. Sanders said he spoke at a meeting of the NJ Association of Health Underwriters. He said the topic they were most interested in discussing was purchasing alliances, as permitted by P.L. 2001, c. 225.

Legislative Update

W. Sanders said he put together a memo outlining some of the key features of P.L. 2001, c. 225. He noted it would not be effective until 180 days after signing, bringing the effective date to February 20, 2002. He explained that the alliance would try to negotiate a discount for the small employer members of the alliance. The Board discussed some questions about the law. For example, a couple of carrier members questioned where the savings would come from that would lead to a discount. Although the law states that the loss ratio for alliance business is to be calculated separately from the loss ratio for non-alliance business, it is not clear whether the loss ratio is to be calculated for each separate alliance, or is it to be calculated for all alliances, combined. D. Vanderhoof speculated that an alliance made up largely of larger small employer groups with heavy concentration of young employees might be attractive to carriers. S. Herman said it might be hard to prevent selection and if selection occurs, it could lead to the break-up of the SEH market. W. Sanders noted that the alliance is not the policyholder. Each small employer would apply to the carrier and be issued a policy. W. Sanders emphasized that an alliance may not use health status. D. Vanderhoof said he suspects some carriers may

solicit groups to join an alliance as a basis for determining membership. J. Torella noted that with the 75% loss ratio requirement there might not be enough room to do what the law discusses in terms of a discount. S. Herman suggested that the only way to get a meaningful discount might be to “game the system.”

W. Sanders invited Board members to share their questions on alliances with him so he can pass them along to the Department to consider when developing rules. He cautioned that rulemaking often takes months.

Based on the Board’s prior comments regarding A.3554, W. Sanders said he drafted a letter to be sent to the Commissioner. He noted that the Board recognized that neither it nor Board staff has the necessary expertise to oversee a subsidy program to assist charitable organizations with the purchase of coverage.

D. Vanderhoof offered a motion to send the Commissioner the letter, as drafted, regarding A. 3554. S. Herman seconded the motion. The Board voted in favor of the motion with J. Majcher abstaining.

NJCAR

W. Sanders reported that NJCAR was a self-funded multi-employer group plan that appeared to be insufficiently funded.

J. Torella read the following AmeriHealth statement regarding NJCAR.

“NJCAR and AmeriHealth Administrators, an AmeriHealth affiliate, entered into an agreement in April 2001 under which AmeriHealth Administrators would provide third party administrator services to NJCAR effective August 1, 2001. NJCAR was unable to meet certain material conditions under the agreement. In particular, it was unable to tender deposit equal to two (2) months of NJCAR’s average claims expense as required under the agreement. The inability of NJCAR to meet its financial funding responsibilities created significant financial risk for AmeriHealth Administrators and constituted a breach of contract.”

Riders of Decreasing Value

W. Sanders said the Department provided an updated listing of riders of decreasing value that were filed with the Department. A copy of the listing was included in the Board materials.

V. Report of the Legal Committee

E. DeRosa said the Legal Committee met to discuss whether P.L. 2001, c.236, a law mandating coverage for certain fertility services, applies to the SEH market. She said the Committee noted that the law applies to “groups with more than 50 persons.” The term “group” is not defined in the law and could be understood as encompassing only those employees for whom the plan makes coverage available. Under the SEH Act, part-time employees and employees covered under a collective bargaining arrangement plan are not eligible for coverage and therefore would not be counted in determining whether the

“group” has more than 50 persons. E. DeRosa said the Committee noted that the use of a cut-off of 50 persons was significant and denoted an intention to not require the application of the law to the SEH market. She further said the Committee noted that the law specifically amended various sections of the law, but notably did not amend N.J.S.A. 17B:27A-17, the SEH Act. Other mandated benefit laws have specifically amended N.J.S.A. 17B:27A-17. She said the Committee believes the arguments are sufficiently compelling to reach the conclusion that P.L. 2001, c.236 does not apply to the SEH market.

The Board agreed to discuss the issue further during Executive Session before reaching a conclusion regarding the Committee’s recommendation.

VI. Report of the Policy Forms Committee

E. DeRosa reported that the Committee considered a couple of optional benefit rider filings.

E. DeRosa said the Aetna U.S. Healthcare riders amend the HMO plan and the HMO-POS plan to allow coverage for services without referral from the PCP (open access). She reported that the Committee recommended that the Board find the filing complete and in substantial compliance.

J. Majcher offered a motion to accept the recommendation of the Policy Forms Committee and find the Aetna U.S. Healthcare filing complete and in substantial compliance. G. Cupo seconded the motion. The Board voted in favor of the motion with M. McClure abstaining.

E. DeRosa said the Horizon Blue Cross Blue Shield of New Jersey riders are revisions to previously submitted riders that amend the PPO Plan B. The riders provide for a deductible waiver for most services provided by a network practitioner, for x-rays and laboratory services provided by network providers and for emergency room visits. The maximum lifetime benefit is increased from \$1,000,000 to unlimited. She reported that the Committee recommended that the Board find the filing complete and in substantial compliance.

J. Majcher offered a motion to accept the recommendation of the Policy Forms Committee and find the Horizon filing complete and in substantial compliance. G. Cupo seconded the motion. The Board voted in favor of the motion with R. Bascio abstaining.

E. DeRosa reported that the Committee considered correspondence E. DeRosa sent to the U.S. Department of Labor (DOL) in response to a letter that asserted the standard plans failed to comply with a couple of federal laws. She said she recommended, and the Committee agreed, that the forms should be amended to include the specific text the DOL was looking for regarding coverage for “treatment of physical complications of

mastectomy including lymphedemas.” She noted that the standard plans already provide such coverage, so the inclusion of text would not represent an expansion of coverage.

E. DeRosa said the Committee considered a revised Employer Certification form. The form simply reorganized the text. The Committee believed the reorganized form was acceptable. She said the reorganized form would be included in the forms proposal.

The Board briefly discussed the manner in which the certification form is used.

VII. Executive Session

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

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

Executive Session 11:25 a.m. – 11:40 a.m.]

VIII. Close of Meeting

J. Majcher offered a motion to adjourn the Board meeting. D. Vanderhoof seconded the motion. The Board voted unanimously in favor of the motion. [The meeting adjourned at 11:40 a.m.]

Attachments: Expense Report