

**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
October 16, 2002**

Members participating: Gary Cupo; Darrel Farkus (Oxford); Larry Glover, (arrived at 10:20 a.m.); Karen Hunt-Haynes (United); John Kilgallin (CIGNA); Ulysses Lee (Guardian); Vicki Mangiaracina (DOBI); Mary McClure (Aetna Health); Jim Stenger; Tony Taliaferro (AmeriHealth); Michael Torrese (Horizon BCBSNJ); Dutch Vanderhoof (arrived at 10:20 a.m.); Bonnie Wiseman (DOHSS).

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

I. Call to Order

W. Sanders called the meeting to order at 10:12 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. Election of Board Chair

W. Sanders reminded the Board that Larry Glover who had served as Chair of the Board for a number of years had resigned. W. Sanders reported that J. Kilgallin of CIGNA received a nomination for the Chair position.

J. Stenger offered a motion to name J. Kilgallin as Chair of the SEH Board. B. Wiseman seconded the nomination. The Board voted in favor of the motion, with J. Kilgallin abstaining.

IV. Minutes

September 18, 2002

G. Cupo offered a motion to approve the minutes of the Open Session of the September 18, 2002 Board meeting, as amended. B. Wiseman seconded the motion. The Board voted unanimously in favor of the motion.

V. Staff Report

Expense Report (see attached)

V. Mangiaracina offered a motion to approve the payment of the expenses specified on the October 16, 2002 expense report. M. McClure seconded the motion. The Board voted unanimously in favor of approving the motion.

Vacant Board Seats

W. Sanders noted that with the resignations of three elected Board members, the Board would be holding an interim election. He noted that member carriers would need to nominate persons for the various seats representing small businesses.

Prescription Drug Rider

E. DeRosa explained that she included copies of the prescription drug rider that was part of the Board's forms proposal in the Board materials. She said she learned that it is permissible to break apart a rule proposal to adopt a portion, provided the portion to be adopted is independent of the portions of the proposal that are not being adopted. She said very few comments were provided on the prescription drug rider and she understood from several carriers that they desired availability of a standard rider that allows for a 3-tier copayment structure, and pre-approval for stated drugs. She noted, however, that she just received a series of comments from a carrier regarding the proposed rider. She said that even though the comments were provided well beyond the close of the comment period, that given the nature of the comments, she would like the Policy Forms Committee to have the opportunity to consider them before proceeding to adopt the rider text. Several Board members asked to receive copies of the comments. J. Stenger asked if a cost analysis had been done to identify what type of cost savings the rider might be expected to produce.

Participation Regulation

W. Sanders said that with the change in the law allowing participation to be satisfied based on employees who are covered under group plans or under Medicare that it would be a good time for the Board to consider other changes or clarifications to the participation rule. He said that the Board has periodically discussed employers offering multiple plans. He noted that under HIPAA States are permitted to limit guaranteed issue using participation requirements.

D. Farkus suggested that if any part of an employer's plan is self-funded that guaranteed issue provisions should not be applicable to the remainder of the group. D. Vanderhoof noted that HIPAA does not require that participation credit be extended for coverage under a self-funded plan. D. Farkus commented that under the current regulation an employer could apply for as many plans as the employer may desire and create significant complexity. However, because of rating limitations there can be no cost

associated with the multiple plans. He said that in large group carriers can impose a size load to compensate for the added complexity.

The Board agreed to review NJSA 17B:27A-50 believing it may be understood as discussing not just replacing plans but also adding plans.

W. Sanders said that that it might be helpful for the Board to review how some other states structure participation requirements.

J. Stenger asked for clarification of the phrase “existing health benefits plan” which is found in NJSA 17B:27A-50a. For example, if an employer buys the same plan from another carrier, is the first anniversary measured from the anniversary of the original plan or from the new plan’s effective date?

The Board agreed to ask the Legal Committee to consider legal issues regarding the participation requirement. The Board recognized that the Board would have to address any political issues.

M. Torrese commented that riders are guaranteed issue under the law. The result is that an employer may buy a plan with a rider for some employees and remaining employees would be given the plan without the rider. He cited prescription drug riders as examples.

D. Vanderhoof suggested that a solution would be to seek a legislative change that would specifically allow carriers to rate using participation as a rating factor. This type of rating could result in a better rate for an employer that has the entire group enrolled under a single plan as opposed to allowing multiple plans.

The Board agreed to form an *ad hoc* Committee to consider participation issues. Volunteers for the Committee are: D. Vanderhoof; D. Farkus; T. Taliaferro; representative from Aetna; and representative from Guardian. J. Stenger, as regional legislative chair for NAHU said he would assist D. Vanderhoof.

Enrollment Reports

E. DeRosa said enrollment reports for 2Q02 were included in Board materials. She commented that F. Smith learned to work with enrollment data and had completed the SEH enrollment reports. E. DeRosa noted that there was a slight decline in total enrollment as compared to 1Q02.

Staffing Issues

W. Sanders said the Board has the authority to hire a Program Accountant. He has received several resumes and conducted some interviews. Regarding a Program Assistant, W. Sanders said he had requested the ability to hire a replacement for J. Petto, but that there is a hiring freeze. He said he is seeking a waiver to allow the position to be filled.

W. Sanders said he learned from the Department that it is possible to hire an independent contractor on a temporary basis subject to certain salary limitations.

D. Vanderhoof offered a motion that W. Sanders pursue securing the temporary assistance. D. Farkus seconded the motion. The Board voted unanimously in favor of the motion.

Miscellaneous Materials

W. Sanders said Board packets also include information on the cost of coverage and loss ratio data for 2000.

W. Sanders reminded the Board that premium comparison survey data would be due November 1, 2002.

M. Torrese reported that St. Barnabas and QualCare are marketing a MEWA. D. Farkus said the program is self-funded and that it is being marketed to small employers.

W. Sanders said the Department's Purchasing Alliance regulation is due to be published soon.

VI. Final Business and Close of Meeting

M. McClure offered a motion to adjourn the Board meeting. L. Glover seconded the motion. The Board voted unanimously in favor of the motion. [The meeting adjourned at 11:40 a.m.]

Attachments: Expense Report