

**FINAL  
MINUTES OF THE MEETING OF THE  
NEW JERSEY INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD  
AT THE OFFICES OF THE  
NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE  
TRENTON, NEW JERSEY  
APRIL 14, 2009**

**Directors participating:** Darrel Farkus (United); Sandi Kelly (Horizon); Ulysses Lee (Guardian); Gale Simon (DOBI); Christine Stearns; Mary Taylor (Aetna Health Inc.); Lisa Yourman (joined the teleconference at 10:20 a.m.).

**Others participating:** Ellen DeRosa, Executive Director; Rosaria Lenox, Accountant; Vicki Mangiaracina, DAG

**I. Call to Order**

E. DeRosa called the meeting to order at 10:00 A.M. She announced that notice of the meeting had been published in two 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. Since some Directors were participating by phone, she noted that all votes would be by roll call. A quorum was present.

**II. Minutes**

*Open Session March 10, 2009*

**S. Kelly made a motion, to approve the open session minutes of the March 10, 2009 meeting, with amendments. C. Stearns seconded the motion. By roll call vote the Board voted in favor of the motion, with U. Lee abstaining. [See corrected motion later in the minutes.]**

**III. Staff Report**

*Expense Report*

R. Lenox presented the April Expense Report, with expenses totaling \$30,746.14.

**M. Taylor made a motion to approve the payment of the expenses on the April 2009 expense report. D. Farkus seconded the motion. By roll call vote the Board voted unanimously in favor of the motion.**

*Alternative Mechanism Filing*

E. DeRosa reported that every three years each state must submit a filing to CMS regarding the state’s individual market mechanism and how it satisfies the requirements of HIPAA. The New Jersey filing was due in 2009. E. DeRosa reported that she submitted an alternative mechanism filing on behalf of the State of New Jersey noting that it is an alternative mechanism since, in many instances, New Jersey law is more generous than required by HIPAA.

### *Appellate Division Decisions*

E. DeRosa reported that the Appellate Division released three decisions favorable to the IHC Board. The decisions were in the following cases:

- Guardian Life Insurance Company's challenge to the December 18, 2006, interim reconciliations of the 1997/1998 and 1999/2000 loss assessments and the 2001/2002 loss assessment.<sup>1</sup>
- Chubb Colonial Life Insurance Company of America, et al., which challenged the Board's adoption of new rules at N.J.A.C. 11:20-2.17 (sometimes referred to by the Board as Chubb II).<sup>2</sup>
- Celtic Insurance Company v. New Jersey Individual Health Coverage Program Board, et al, challenging the Board's denial of Celtics "full reimbursement" for its net-paid losses for 1997-1998.<sup>3</sup>

E. DeRosa commented that there remained the option for each challenger to file a motion for certification with the New Jersey Supreme Court. Any such motion(s) would have to be filed within 20 days.

#### **IV. Report of the Legal Committee**

E. DeRosa reported that Celtic Insurance Company filed its Exhibit K for the 2007/2008 calculation period, claiming non-member status, but reporting a net loss of \$463,005 for the two-year period. Celtic's non-member status is based on its affiliation as of July, 2008, with University Health Plan (via common parent ownership by Centene Corporation). The affiliated companies have in excess of 75% of their aggregate average enrollment in Medicaid and/or Medicare business, resulting in both carriers being considered non-members of the IHC Program.

E. DeRosa said the Legal Committee considered the statutory language of N.J.S.A. 17B:27A-12, which indicates in several instances that carriers issuing individual health benefits plans – not just members – are eligible for reimbursement of losses sustained on the individual health benefits plans. Therefore, the Committee recommended that the Board consider the losses Celtic submitted as losses for which Celtic may request reimbursement, and the Board concurred.

E. DeRosa said the Committee also discussed Celtic's non-member status and the fact that non-member carriers share no responsibility for either loss assessments or administrative assessments.

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<sup>1</sup> In The Matter Of The Challenge And Request For Hearing By Guardian Life Insurance Company Of America Regarding The New Jersey Individual Health Coverage Program Board Of Directors' Issuance Of The December 18, 2006, Interim Reconciliations Of The 1997/1998 And 1999/2000 Loss Assessments And The 2001/2002 Loss Assessment (Unpublished Opinion: Superior Court Of New Jersey, Appellate Division, Docket No. A-3635-06t3).

<sup>2</sup> In The Matter Of The Challenges By Chubb Colonial Life Insurance Company Of America, Guardian Life Insurance Company, Jefferson Pilot Life Insurance Company, John Alden Life Insurance Company, Massachusetts Mutual Life Insurance Company, Time Insurance Company, And United States Life Insurance Company To The New Jersey Individual Health Coverage Program's Adoption Of New Regulation N.J.A.C. 11:20-2.17 (Unpublished Opinion: Superior Court Of New Jersey, Appellate Division, Docket No. A-2911-06t3).

<sup>3</sup> Unpublished Opinion: Superior Court Of New Jersey, Appellate Division, Docket No. A-1459-05t3, A-0071-06t3, A-0072-06t3, A-2908-06t3 And A-4166-06t3.

**S. Kelly made a motion, seconded by M. Taylor, to move the meeting into Executive Session for the purpose of reviewing Executive Session minutes. By roll call vote, the Board voted unanimously in favor of the motion.**

*The IHC Board met in Executive Session from 10:20 A.M. until 10:25 A.M.*

### **VIII. Close of Meeting**

C. Stearns noted that she did not attend the March meeting and thus needed to abstain from the vote on the open session minutes.

*Open Session March 10, 2009*

**S. Kelly made a motion, to approve the open session minutes of the March 10, 2009 meeting, with amendments. G. Simon seconded the motion. By roll call vote the Board voted in favor of the motion, with U. Lee and C. Stearns abstaining.**

**G. Simon offered a motion to close the meeting, seconded by S. Kelly. By roll call vote, the Board voted unanimously in favor of the motion.**

*The meeting adjourned at 10:27 A.M.*