

FINAL
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
April 25, 2007

Members participating: Thomas Collins (*by phone*); Gary Cupo (*by phone*); John Foley (CIGNA – *by phone*); Margaret Koller (*by phone*); Ulysses Lee (*by phone*); Gale Simon (DOBI); Christine Stearns; James Stenger (*by phone*); Tony Taliaferro (AmeriHealth, arrived 10:15); Mary Taylor (Aetna – *by phone*); Mike Torrese (Horizon – *by phone*); Joseph Tricarico (DHSS – *by phone*); Dutch Vanderhoof (*by phone*).

Others participating: Ellen DeRosa, Executive Director; Rosaria Lenox, CPA, Program Accountant; DAG Vicki Mangiaracina (DLPS); Chanell McDevitt, Deputy Executive Director.

I. Call to Order

E. DeRosa called the meeting to order at 10:05 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. E. DeRosa took roll call. A quorum was present.

II. Public Comments

E. DeRosa invited public comments. None were offered.

III. Minutes

March 7, 2007

M. Taylor offered a motion to approve the minutes of the Open Session of the March 7, 2007 Board meeting, with amendments. M. Torrese seconded the motion. The Board voted by roll call in favor of the motion, with M. Koller and D. Vanderhoof abstaining.

IV. Staff Report

Program Audit Reports

E. DeRosa stated that staff is in the process of mailing the printed Deloitte & Touche reports of the audit of the SEH Program to Board members.

Expense Report and Accountant Expenses

E. DeRosa requested that the Board approve reimbursement of continuing education expenses that R. Lenox had incurred since she has been working for the SEH and IHC Programs. E. DeRosa stated that the IHC Board had previously agreed to pay 50% of the expenses, and also noted that 50% of the expense (that is, \$1,438.64) had been included on the SEH April Expense

Report. R. Lenox then presented the remainder of the expense report for April 2007, totaling \$1,517.25.

T. Collins offered a motion to approve the payment of the expenses specified on the April 2007 expense report. D. Vanderhoof seconded the motion. By roll call, the Board voted unanimously in favor of the motion.

V. Legal Committee Report – Proposed rule amendments

E. DeRosa explained that the Legal Committee had reviewed a draft proposal to amend provisions of the SEH rules and policy forms to incorporate language consistent with the intent of the Civil Union Act, P.L. 2006, c. 103., and had recommended the Board approve the draft for proposal.

E. DeRosa explained the provisions being amended and why, such as the definition of dependent to add a separate category for children of an employee's civil union partner (who would otherwise be treated the same as an employee's stepchild), and the provisions not being amended and why, such as those related to COBRA (for which an employee's civil union partner is not eligible). E. DeRosa noted that the draft version sent to the Board did not include the summary language regarding the impact of the civil union legislation on the Dependent Under 30 continuation (in which obtaining a civil union legal status would result in a loss of coverage of the Dependent Under 30 individual just as a marriage would), but that it was being added in. She said that she would like to use the Board's expedited rulemaking authority with the 20-day comment period, and the ability to propose as soon as sign-off is obtained from the Governor's Counsel.

The Board engaged in discussion of the draft. Some expressed concern that the proposal amended the definition of spouse to include a civil union partner, rather than adding a separate definition, primarily because the failure to have a readily visible reference to civil union partner may result in the perception that the Board is not complying with the law. It was noted that re-defining spouse was the simplest process and consistent with the spirit of the Civil Union Act, which says civil union partners and spouses should essentially be treated the same. In addition, this change was considered the most cost-effective for carriers, because the alternative proposition would probably necessitate reprinting of contracts, while this could be accomplished with a compliance rider for the time being.

The question arose as to how employers and employees will become aware of the tax and billing implications and issues involved in adding civil union partners (that is, federal tax law does not recognize civil union partners and thus, monies used to fund coverage of an employee's civil union partner is not treated the same as such monies would be treated when used to fund coverage of an employee's spouse). All acknowledged that no one was really certain how these issues were being brought to the attention of the employers and employees, but T. Taliaferro agreed to make some inquiries at his company.

C. Stearns suggested changing "legally-recognized spouses" to "married spouses" to avoid any questions as to what "legally-recognized" means.

The question arose as to how same sex domestic partners from other states would be recognized in New Jersey, and whether the language of the proposed amendments adequately captured the concepts. It was noted that the Attorney General's office had issued a statement indicating that in some instances, same sex domestic partners formed in other states should be considered as if they were civil union partners, but in some instances, same sex domestic partnerships formed in other states should be treated as same sex domestic partnerships in New Jersey – all depending upon whether the laws of the other states consider domestic partnerships to be the essentially equivalent of marriages).

G. Cupo noted that Advisory Bulletin 05-SEH-01, concerning continuation rights, needs to be revised to provide information regarding civil union partners' rights to continue coverage when qualifying events occur.

G. Simon offered a motion to propose the draft rule and policy form amendments using the expedited rulemaking process. T. Taliaferro seconded the motion. The Board voted unanimously by roll call in favor of the motion.

VI. Public Comments

Another opportunity was presented for public comments. None were offered.

VII. Other Discussion

D. Vanderhoof stated that he had received an email announcing that New Jersey now approves the coverage of one-man shops through the Master Plumbers Trust, and questioned the accuracy of the statement. G. Simon explained that the Department of Banking and Insurance had finally concluded that the Association Master Trust, in which the plumbers would participate, is a multiple employer welfare arrangement (registered with the Department), and that employers could be "one-man shops" based on an interpretation of the federal law (ERISA). That being the case, the Department had to accept a single-case rate filing for the Association Master Trust. G. Simon noted that no Department rules have actually been changed, nor did the Department affirmatively approve the action. D. Vanderhoof stated he would fax the information to G. Simon and other interested Board members.

IX. Close of Meeting

D. Vanderhoof offered a motion to adjourn the Board meeting. M. Koller seconded the motion, and the Board voted unanimously by roll call in favor of the motion.

[The meeting adjourned at 10:40 A.M.]