

**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
August 20, 2008**

Members participating: Chuck Cerniglia (United/Oxford); Gary Cupo; John Foley (CIGNA); Margaret Koller; Sandy Herman (Health Net); Tom Pownall (Aetna); Gale Simon (DOBI); Christine Stearns; Jim Stenger; Tony Taliaferro (AmeriHealth); Joseph Tricarico (DHSS); Dutch Vanderhoof.

Others participating: Ellen DeRosa, Executive Director; Rosaria Lenox, 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. E. DeRosa 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. A quorum was present.

II. Public Comments

J. Stenger opened the floor for public comments. Joan Fusco offered commentary on the use of the SEH Buyer’s Guide by employers as well as brokers, and shared her support in updating the existing buyer’s guide material on the website.

III. Minutes – June 18, 2008

C. Stearns offered a motion to approve the minutes of the June 18, 2008 Board meeting, with amendments. G. Cupo seconded the motion. The Board voted in favor of the motion, with J. Tricarico and T. Pownall abstaining.

IV. Staff Report

Expense Report – August 2008

R. Lenox presented the expense report for August 2008; expenses totaled \$4,082.44.

T. Taliaferro offered a motion to approve the payment of the expenses specified on the August 2008 expense report. C. Stearns seconded the motion, and the Board voted unanimously in favor of the motion.

Ad Hoc Committee

E. DeRosa reported that the Ad Hoc Committee formed at the Board's June meeting had met to identify issues for possible regulatory reforms, and had scheduled an additional meeting to continue its discussions, but did not yet have any recommendations to provide to the Board.

Additional Board meeting(s)

E. DeRosa suggested the Board schedule at least one additional meeting to discuss and take action on the readoption draft, as well as amendments necessary for implementation of S-1557, enacted on July 8th and effective in early January 2009. The Board decided to meet on September 5, 2008 at 10:00. The meeting location was not yet available, but notice would be provided.

Transfer of Funds

R. Lenox reported that the funds determined to be owed by carriers following the reconciliation of the administrative assessments for fiscal years 2000 through 2005 had now been collected in full, and thus, the Board is now able to issue refunds to those carriers to whom the Board owed money pursuant to the administrative assessment reconciliation. She noted that in order to do so, the Board would need to authorize a request for transfer of the funds from DOBI to the Board's account at Wachovia.

G. Cupo made a motion to transfer \$30,000 from the DOBI account to an account at Wachovia as soon as possible for the purpose of issuing refunds to carriers owed such refunds in accordance with the reconciliation of administrative assessments for fiscal years 2000 through 2005. D. Vanderhoof seconded the motion, and the Board voted unanimously to approve it.

V. Buyer's Guide

C. McDevitt reported she had received a few comments on the Buyer's Guide, frequently-asked questions and brochure/flyer by the deadline (July 31st) the Board had agreed to at its June 18th meeting. She stated she had incorporated these comments into the documents sent to the Board prior to the meeting. She noted staff subsequently received additional comments of a technical nature and corrections would be made prior to posting the information on the website. C. Stearns noted she had submitted some comments just prior to the Board meeting, some of which are substantive. E. DeRosa asked the Board to permit staff to review the additional comments and incorporate them as appropriate without another formal review by the Board, in order to expedite posting of the updated and new material. She noted additional changes can be made to the Buyer's Guide and other materials after posting if necessary. The Board agreed staff should proceed with revising and posting the materials as soon as possible.

VI. Legal Committee Report

Supplemental Code of Ethics

E. DeRosa explained the SEH Board had previously adopted its own code of ethics, but that the State Ethics Commission (Ethics Commission) has determined all state agencies (including boards and commissions) must comply with a designated uniform code of ethics. She further explained the Ethics Commission permits agencies to adopt a supplemental code of ethics to

address situations unique to the agency, subject to the approval of the Ethics Commission. E. DeRosa stated she had drafted provisions from the existing SEH code of ethics unique to the Board into a supplemental code of ethics, which the DOBI Ethics Officer had reviewed. E. DeRosa stated the Ethics Officer thought it was fine, but suggested the Board approve the draft before submitting it to the Ethics Commission. E. DeRosa stated she asked the Legal Committee to review the draft, and the Legal Committee had recommended approval by the Board. She explained that, after Board approval, the document is submitted to the Ethics Commission for approval, after which the Board would adopt the supplement and each Board member would attest to having read it and submit a completed SEH Conflict of Interest questionnaire.

T. Taliaferro made a motion to approve the draft Supplemental Code of Ethics and forward it to the State Ethics Commission for review and approval. M. Koller seconded the motion, and the Board approved it unanimously.

S-1557 Implementation

E. DeRosa reported the Legal Committee considered a summary report she prepared regarding the impact of S-1557 on the SEH program and possible implementation strategies. She indicated the Legal Committee generally agreed that the SEH Board needed to:

1. amend its rules regarding standard plan offerings to specify that carriers must offer at least three of the standard plans, and must file a notice of withdrawal of any of the plans currently offered that the carrier intends to cease offering;
2. add rules to address the requirement that carriers offering plans in the SEH market must also offer plans in the IHC market; the Legal Committee suggested: compliance be based on the IHC model regarding affiliated carriers; carriers be given 60 days to either enter the IHC market or file a notice of SEH withdrawal; the consequence of failure to market standard individual plans in good faith is withdrawal from the SEH market; and, carriers prohibited from re-entering the IHC market because of a prior withdrawal from that market must exit the SEH market;
3. amend rules to address the separate presentation of premiums for plans and riders during rate quotes, and hold carriers accountable for rate presentations prepared by vendors;
4. amend the standard plans regarding the changes under the dependent under 30 law to: change the overage child continuation maximum from 30 to 31 years old; clarify an overage child will not be covered via continuation if the child is covered under another plan on the date continuation is to begin; and, broaden the scope of prior coverage that makes an overage child eligible for continuation.

G. Simon noted there was a minority opinion on the Legal Committee regarding whether a carrier that previously withdrew from the IHC market must re-enter now, or leave the SEH market, taking the position that the requirement to be in both markets would not apply until the five-year prohibition had elapsed. Upon discussion of the Board, the question arose whether the federal Health Insurance Portability and Accountability Act may preclude a carrier from re-entering the individual market if the carrier has not satisfied a five-year prohibition. The Board asked staff to look into the issue.

Some members of the Board initially were uncertain the existing standard plans could remain unchanged pursuant to S-1557, but after a reading of the relevant statutory provisions, the

consensus was the Board need take no action, and only carriers had to decide whether or not to continue offering all of the standard plans (so long as they offer at least three). All agreed carriers must offer Plan A (the designated basic plan). Board members agreed the Ad Hoc Committee could consider separately whether to revise the number and design of standard plans, but should do so at a more deliberate pace, not for purposes of implementation of S-1557.

Some Board members questioned whether carriers should be accountable for deficient vendor actions, so long as carriers have provided accurate information to vendors. Some Board members also questioned whether S-1557 actually requires separate disclosure of plan and rider premium in rate quotes. Upon a reading of the statute, Board members agreed the statute was not specific, but disagreed whether the intent is for information to be available before plan selection or later (such as, upon billing). The Board came to no conclusion, but there was consensus the separate premium quote should be made prior to the effective date of coverage.

Upon questioning, G. Simon stated DOBI may permit notices regarding the “Dependent Under 31” election set forth in routine periodic member notices – such as quarterly newsletters – to satisfy the carrier obligation to provide notice of the election option.

Readoption

E. DeRosa noted she had not received any comments on the readoption memo presented to the Board at its June meeting, so she was working on a draft readoption consistent with the memo. She also stated her intent is to put the readoption as well as the amendments and new rules implementing S-1557 into one proposal.

VII. Finance & Audit Committee (FAC) Report

Administrative Audits

E. DeRosa reported the FAC had considered the Evaluation Committee’s report and recommendation regarding the bid received in response to the Scope of Work the SEH Board sent to the ten Treasury-contracted audit firms (using T-2458), and determined not to award the work to the firm that responded. She stated the FAC also recommended issuing a regular Request for Proposal in an effort to obtain an auditor. She noted that, unless the Board disagreed with the recommendation, no action was necessary. Upon discussion, Board members agreed with the recommendation.

Budget and Administrative Assessments

R. Lenox presented the budget for fiscal year 2009, noting an increase in projected expenses for the Division of Law based in part on the work related to the readoption and implementation of S-1557, as well as a projected increase in printing costs.

S. Herman moved to approve the budget for fiscal year 2009. G. Cupo seconded the motion, and the Board voted unanimously to approve it.

E. DeRosa reported the FAC had approved the administrative assessment drafts prepared for fiscal year 2009, but subsequent to the meeting, a revision to an additional Exhibit CC had been received. R. Lenox stated the revision had not substantially altered the administrative

assessment, and recommended sending out administrative assessment invoices immediately because the Board no longer has excess funds on hand.

M. Koller moved to approve the administrative assessment and to issue invoices as soon as possible to collect the assessments. D. Vanderhoof seconded the motion, and the Board voted unanimously to approve it.

IX. Public Comments

There were no public comments.

X. Close of Meeting

D. Vanderhoof offered a motion to adjourn the Board meeting. C. Stearns seconded the motion, and the Board voted unanimously in favor of the motion.

[The meeting adjourned at 12:10 P.M.]