

**FINAL**  
**MINUTES OF THE OPEN SESSION 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**  
**March 19, 2014**

**Members present:** Herbert Ames (*arrived at 10:20*); Charles Cerniglia (Oxford); Gary Cupo; Patrick Gillespie (CIGNA); Margaret Koller; Mary Ellen Peppard; Nicholas Peterson (Horizon); Thomas Pownall (Aetna Health Inc.); Christine Stearns; Neil Sullivan (DOBI); Dutch Vanderhoof (*arrived at 10:20*).

**Others participating:** Ellen DeRosa, Executive Director; Chanell McDevitt, Deputy Executive Director; Rosaria Lenox, Program Accountant; Eleanor Heck, Deputy Attorney General.

**I. Call to Order**

E. DeRosa called the meeting to order at 10:07 A.M. E. DeRosa announced that notice of the meeting was provided to three newspapers and the State House Press Corps, 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 Comment**

There were no public comments.

**III. Minutes – February 19, 2014**

**T. Pownall made a motion, seconded by N. Peterson, to approve the minutes of February 19, 2014. The motion carried.**

**IV. Staff Report**

*Expense Report*

R. Lenox presented the expense report for March, with expenses totaling \$179.50, for her CPA license and continuing education courses, as well as the Board’s subscription to the *NJ Legislative Manual*. She stated that no transfer of funds would be necessary to pay these expenses.

**C. Stearns made a motion, seconded by T. Pownall, to approve the payment of the expenses on the March expense report. The motion carried.**

*SEH Board Advisory Bulletin 14-SEH-01*

E. DeRosa stated that advisory bulletin (numbered 14-SEH-01) was issued and posted to the Board’s website. She reminded Board members that the bulletin outlines the option for carriers to request use of a lower participation rate under specified circumstances, and that the intent of

the bulletin is to address the potential that some small employers will no longer meet existing participation requirements because one or more employees (currently covered by the employer) purchases coverage in the individual Marketplace. E. DeRosa reported that two carriers – Oxford and Health Republic – submitted a request to use a lower participation requirement.

*C. Cerniglia recused himself from discussion or any action to be taken by the Board with respect to Oxford Health Plans and Oxford Health Insurance because of the interest of his employer in the outcome of the Board's action.*

E. DeRosa explained that: Health Republic asked to lower the participation rate to 50% for qualifying employers; and, Oxford asked for approval of a flexible participation standard, wherein a qualifying employer meets participation at whatever level the employer is able to achieve, so long as the employer otherwise meets the circumstances specified in Bulletin 14-SEH-01. E. DeRosa confirmed that both carriers intended to comply with the circumstances specified in Bulletin 14-SEH-01. She reminded Board members that the employer only qualifies for the lower participation rate if the employee receives a premium tax credit (and provides proof thereof), and the employer has not decreased the employer's contribution rate between the employer's current and prior plan years.

**G. Cupo made a motion, seconded by M. Koller, to approve the separate requests made by Health Republic and Oxford to lower the participation requirement, as specified in their respective requests, for employers whose circumstances meet the requirements set forth in 14-SEH-01. The motion carried.**

#### *Nominations for Seats Expiring in 2014*

E. DeRosa reported that staff issued explanatory notices and nomination forms to carriers to solicit nominations for the five seats expiring in 2014 (two small employer representatives, 2 HMOs, and a health service corporation), using the DOBI Legislative & Regulatory Affairs system (typically used for broad distribution of rulemaking activity, bulletins, and other notices). She noted that such notices usually go to the Company Secretary, and that the Board packet included the nomination notice and form for informational purposes. She stated the return date for nominations is April 2, 2014, with the expectation of voting on candidates no later than at the May 21, 2014 Board meeting.

#### **V. Report of the Finance and Audit Committee (FAC)**

R. Lenox reported that the FAC reviewed and recommended approval of the proposed budget of \$306,270. She explained that the budget had several significant changes from the prior budget:

- Overhead allocation is being substantially increased because of a change in the way the DOBI is charging the Board for administrative services (e.g., human resources, information technology support). It was further explained that the DOBI has not heretofore charged the Board for such services, but recently charged the Board an allocation for administrative services retroactively for FY2014. However, the DOBI subsequently agreed to reverse the charge (refund the money), and only charge for such services prospectively, starting in FY2015.

- There has been a substantial increase in fringe to 51% of salary. She noted that the bulk of the increase in fringe is related to pension.
- There is an assumption that a new administrative assistant can be hired during the fiscal year

E. DeRosa stated that, to support the FY2015 budget, the Board needs to issue an administrative assessment. She briefly explained the process for making and reconciling administrative assessments for the SEH Program. She reported that the FAC reviewed and recommended approval of the assessments as presented by staff. E. DeRosa confirmed that carriers have 45 days to pay their assessment following notice (invoice), and that if carriers are invoiced in March, the money will be available in time for the start of FY2015.

**T. Pownall made a motion, seconded by C. Cerniglia, to approve the budget and assessments as presented, and authorized staff to issue invoices consistent with the assessment report. The motion carried.**

## **VI. Out-of-Network Reimbursement Methodology**

The Board again took up the topic of how to address the issue of out-of-network reimbursement given the discontinuation of the PHCS profiles upon which the Board's standard is based. The last draft of the White Paper prepared in 2013 and excerpts from minutes in the prior 12-months were circulated prior to the meeting. E. DeRosa reminded Board members that it had been strongly considering holding a stakeholder meeting, with the Rutgers Center for State Health Policy facilitating it, but had not actually approved the most recent version of the White Paper or determined whether to move separately or in tandem with the IHC Board. In addition, quarterly enrollment data for calendar year 2013 was distributed, the data suggesting that an increasing number of lives are enrolled in closed panel products. [The majority of products within the Selective Contracting Arrangement category were Exclusive Provider Organization products in 2013, rather than Preferred Provider Organization products with optional out-of-network benefits; however, carriers would have to provide more detailed information to determine the actual ratio of enrollment between their EPO and PPO products when both are available.]

There was brief discussion about the need and value of maintaining a standardized system, with the consensus continuing to be that standardization remains preferable. Multiple Board members stressed the need to push for a solution on the new methodology because the current PHCS data is now 4 years old. It was also noted that an increasing number of CPT (and other) codes have been developed in recent years that cannot be reimbursed using the old PHCS profiles in any event, often resulting in carriers paying billed charges. Further, it was pointed out that the PHCS profiles cannot be purchased any longer, and thus, new carriers in the New Jersey small group (and individual) market are at a particular disadvantage.

Following discussion, it was agreed that staff would draft a rule proposal for the Legal Committee and the Ad Hoc Committee previously assigned to address the out-of-network reimbursement issue to review.

**VII. Public Comment**

Neil Eicher, representing the NJHA, stated that the NJHA would strongly support having a stakeholder meeting prior to proposing any rules regarding reimbursement methodology.

**VIII. Special Announcement – Neil Sullivan**

N. Sullivan announced that he is leaving the Department of Banking and Insurance, and thus, this was his final meeting representing the DOBI on the SEH Board. He stated it had been a pleasure.

**IX. Close of Meeting**

**D. Vanderhoof made a motion, seconded by N. Peterson, to adjourn the meeting. The motion carried.**

*[The meeting adjourned at 10:57 A.M.]*