

**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 20, 2005**

Members participating: Robert Benkert (United); Tom Collins; Gary Cupo; John Foley (CIGNA); Jack Kalosy (HealthNet); Margaret Koller; Ulysses Lee (Guardian); Vicki Mangiaracina (DOBI); Mary McClure (Aetna); Christine Sterns; Tony Taliaferro (AmeriHealth); Mike Torrese (Horizon); Dutch Vanderhoof.

Others participating: Ellen DeRosa, Deputy Executive Director; DAG Karyn Gordon (DOL); Rosaria Lenox, Program Accountant; Wardell Sanders, Executive Director.

I. Call to Order

T. Taliaferro called the meeting to order at 10:04 a.m. W. Sanders 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

T. Taliaferro asked if any member of the public wished to address the Board. No audience members asked to address the Board.

III. Review of Minutes

Minutes of February 16, 2005

V. Mangiaracina offered a motion to approve the minutes of the Open Session of the February 16, 2005 SEH Board meeting, as amended. D. Vanderhoof seconded the motion. The Board voted unanimously in favor of approving the motion.

IV. Staff Report

Expense Report

M. McClure offered a motion to approve the payment of the expenses specified on the April 2005 expense report. D. Vanderhoof seconded the motion. The Board voted unanimously in favor of approving the motion.

Revised Meeting Schedule

W. Sanders noted that a revised meeting schedule was included in Board materials. The conference rooms to be used for some of the meetings were changed.

Executive Commission on Ethical Standards

W. Sanders explained that the IHC Board received a notice from the Executive Director of the Executive Commission on Ethical Standards advising the Board that it had to name an ethics liaison officer. The IHC Board named Ellen Nerback who serves as the ethics liaison officer for the DOBI. While the SEH Board has not yet received a similar notice, W. Sanders suggested that the Board should take action to name an ethics liaison officer. The SEH Board agreed to name Ellen Nerback who serves as the ethics liaison officer for the DOBI.

Enrollment Reports

W. Sanders said 4Q04 enrollment reports were included in Board materials.

SEH Election

W. Sanders said the election for the HMO seat which is currently held by CIGNA and the small employer seat which is currently held by J. Stenger would take place during the May meeting.

Annual Meeting

W. Sanders reviewed the requirements for an annual meeting set forth in N.J.A.C. 11:21-2.5(e).

- Review the plan of operations and submit any proposed amendments to the Commissioner. W. Sanders asked Board members to contact him with any proposed changes. He noted that since the Board recently readopted the regulations there may not be any additional changes at this time.
- Review Committee reports. Since Committee reports are considered during meetings throughout the year, W. Sanders said no additional review needed to occur during the annual meeting.
- Review and approve the interest rate charged for late payments. W. Sanders noted that late payments have not been an issue for the Board. The rate that would apply to an assessment not paid within 45 days is 1.5% per month. He asked Board members to contact him if there were suggested changes.
- Review and approve the communications plan. W. Sanders said the Marketing and Communications Committee would be meeting to consider the communications plan. M. McClure suggested taking greater advantage of the web site for communication.
- Identify any technical corrections or amendments to the Act and make recommendations to the Commissioner. He asked Board members to contact him if there were suggested changes. D. Vanderhoof expressed concern that the Board cannot directly contact the Legislature and must suggest changes through the Commissioner. As an agency in but not of the DOBI, W. Sanders explained the importance of the DOBI presenting a unified position.
- Fill Board member vacancies. W. Sanders noted that an election would be held during the May meeting.
- Review, consider and act on any other matters. W. Sanders noted that the Board regularly reviews and acts on matters necessary for the operation of the SEH Program.

Optional Benefit Rider Filings

E. DeRosa referred to the Staff Report summarizing two recommendations on optional benefit riders.

R. Benkert recused himself with respect to the rider filing from Oxford citing a conflict of interest since the matter related to a filing submitted by his employer, Oxford Health Plans.

E. DeRosa briefly discussed the Oxford rider that would eliminate the requirement that copay, deductible or coinsurance, if any, be paid in addition to the emergency room copayment. She recommended that the filing be found complete.

M. Torrese offered a motion to accept the staff recommendation and find the rider filing complete. J. Kalosy seconded the motion. The Board voted unanimously in favor of the motion.

E. DeRosa said WellChoice submitted several decreasing value riders to the DOBI. One of the riders, however, was an increasing rider, creating an open access product. She explained that a requirement for filing an increasing value rider is the submission of a certification. E. DeRosa suggested that the Board consider the rider complete, subject to receiving the required certification.

J. Kalosy offered a motion to accept the staff recommendation to find the WellChoice rider filing complete, subject to receipt of the required certification. J. Foley seconded the motion. The Board voted unanimously in a favor of the motion.

NJBIA 2005 Health Benefits Survey

C. Sterns briefly discussed some of the highlights of the survey. She noted that for the first time, the percentage of employers who provide health benefits dropped as compared to prior years.

D. Vanderhoof questioned the data above table 2 on page 2 of 2. He said that the statement regarding providing coverage for dependents was incorrect and he said he believed the information perhaps related to *paying* for coverage for dependents rather than *providing* coverage for dependents.

V. Legal Committee

State Continuation Bulletin

W. Sanders said the Legal Committee considered a number of questions concerning state continuation as it exists pursuant to P.L. 2004, c. 162.

W. Sanders said the Committee believes that under the State continuation law if an employee has a qualifying event but chooses not to continue coverage, any dependents who lose coverage have a right to make an independent election to continue coverage for the time period determined by the employee qualifying event, 18 months.

W. Sanders said the Committee believes that persons continuing coverage as a result of one qualifying event are not entitled to a subsequent continuation election if another qualifying event should occur. He said each person covered as a result of the initial continuation election would be eligible to continue coverage for the full period applicable to the initial qualifying event.

W. Sanders said the Committee discussed the requirement that notice of the continuation right be provided in the certificate. The Committee believes the Board should use its special rulemaking process to amend the standard plans.

W. Sanders said the Committee believes no continuation is available if loss of coverage is not due to a circumstance that is considered a qualifying event. An example is loss of coverage due to the employee dropping coverage under the employer's plan in favor of Medicare.

W. Sanders said the Committee was not yet prepared to make a recommendation regarding the 150% charge permitted for persons who are disabled who extend continuation beyond 18 months.

Comments from the Employee Benefits Security Administration (EBSA) of the US Department of Labor

E. DeRosa explained that in the course of investigating a complaint from a consumer who is covered under an SEH plan, EBSA reviewed the SEH standard plan language in its entirety and raised some objections.

E. DeRosa said EBSA advised that the definition of "creditable coverage" must be expanded to specifically include S-CHIP coverage. E. DeRosa noted that the definition already includes Medicaid and since Family Care is an expansion of Medicaid, it was probable that carriers have already considered S-CHIP coverage as creditable coverage.

E. DeRosa said EBSA objected to a definition of "per lifetime" that would consider coverage under prior plans as part of the period. She explained that the definition was a carryover from Plan B, which previously applied a \$1,000,000 lifetime limit. Since all plans provided unlimited lifetime benefits, E. DeRosa said the definition should be deleted.

E. DeRosa explained that EBSA challenged the use of the enrollment date for purposes of measuring a pre-existing condition period but eventually agreed that the plans appropriately use the enrollment date.

E. DeRosa said EBSA believed the language in the dental care and treatment section which limits coverage to injuries that occur while insured under the plan is a hidden pre-existing conditions exclusion and insisted that it be revised. E. DeRosa noted that concern with the dental care and treatment text was the issue that brought the standard

plans to the attention of EBSA. E. DeRosa recommended that the requirement that injury occur while covered under the plan be deleted and noted that the benefit is only for 6 months following the injury.

E. DeRosa said the final issue was not as easy to evaluate and EBSA sent copies of a recent regulation to help clarify the issue. EBSA stated the illegal occupation exclusion could not apply to injuries related to domestic violence or to a medical condition. E. DeRosa said the Legal Committee would review the materials, and if necessary, she would call EBSA for further clarification.

VI. Public Comments

No comments were offered.

VII. Close of Meeting

C. Sterns offered a motion to adjourn the Board meeting. J. Kalosy seconded the motion. The Board voted unanimously in favor of the motion.

[The meeting adjourned at 11:35 a.m.]