

**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**  
**August 11, 2010**

**Members present:** Darrel Farkus (United/Oxford); Joyce Gralha (Horizon); Tom Pownall (Aetna); James Stenger; Neil Sullivan (DOBI).

**Members present by phone:** Thomas Collins; Gary Cupo; Margaret Koller; Niranjana Rao; Dutch Vanderhoof.

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

**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. She determined a quorum was present. She stated that votes would be by roll call because many members of the Board were participating by phone.

**II. Public Comments**

There were no public comments.

**III. Credit for coinsurance when replacing withdrawn plans**

E. DeRosa reminded the Board members that they had tabled action on the question of whether there should be coinsurance credit from a withdrawn plan to a replacement plan so that carrier representatives could consider the following:

- What would be involved to implement a process to allow coinsurance and maximum out-of-pocket (MOOP) credit when the carrier has filed a plan option withdrawal AND the employer receiving the nonrenewal selects another plan from the same carrier AND a member covered under the replacement plan provides information to document the coinsurance and MOOP satisfied under the prior plan?
- Could the carrier credit deductible and coinsurance year-to-date under the replacement plan so that the MOOP accumulation does not start anew?
- What would the carrier propose if the employer has more than one plan with the carrier, and only one of the plans is renewed?

E. DeRosa stated that all but one carrier responded (that being Aetna) to the first two questions, and all said they could permit it, although the process could not be handled automatically in their

systems, and the employee would need to contact customer service to initiate the process. She noted that carriers were not only able to permit the credit, but willing to do so.

E. DeRosa stated that only Horizon responded to the question regarding the third question (an employer with multiple plans, only one of which is withdrawn), saying that it was only willing to credit the coinsurance for those employees who are moved to a replacement policy because of withdrawal of a plan.

**J. Stenger made a motion, seconded by N. Sullivan, to require carriers to provide a credit of the coinsurance towards satisfaction of the MOOP requirements on a plan issued to replace a plan that was withdrawn when: (1) the carrier has filed a plan option withdrawal, and (2) the employer receiving the nonrenewal selects another plan from the same carrier, and (3) the member covered under the replacement plan provides information to document the coinsurance and MOOP satisfied under the prior plan. The motion carried by roll call vote, with Aetna opposing it.**

E. DeRosa stated she will issue an advisory bulletin alerting carriers to the standard and requiring that they give some form of notice to employers.

**J. Stenger made a motion, seconded by G. Cupo, to make the Board's prior motion apply to plan withdrawals beginning as of August 1, 2010.**

The Board discussed the motion, noting that for employers that have already left a carrier whose plan withdrawal occurred prior to adoption of this motion, there is no remedy, but for those employers that have chosen to remain with the carrier, the covered members could at least self-identify, and receive credit under the replacement plan. E. Heck stated she would consider the retroactivity question.

**J. Stenger made a motion, seconded by G. Cupo, to amend his prior motion to issue a bulletin advising carriers that, effective August 1, 2010, a carrier must provide credit for coinsurance satisfied at the time of the withdrawal-triggered replacement of a plan with the same carrier, pending contrary advice from counsel indicating the effective date should be no earlier than the date the bulletin is issued. The motion carried following a roll call vote, with Aetna voting against the motion, and N. Rao abstaining.**

#### **IV. Minutes – July 21, 2010**

**N. Sullivan made a motion to approve the open session minutes for July 21, 2010 with amendments, which was seconded by J. Gralha. The motion carried unanimously by roll call.**

#### **V. Executive Session**

V. Mangiaracina indicated that she had advice to provide regarding agent commissions, and suggested that the Board move into Executive Session.

*T. Pownall recused himself from participation in the discussion and action on the matter because of the interest of his employer in the outcome.*

*J. Stenger recused himself from participation in the discussion and action on the matter because of his business interest in the outcome.*

*G. Cupo recused himself from participation in the discussion and action on the matter because of his business interest in the outcome. [Arrangements were made to bring him back on the teleconference when the executive session had ended.]*

**D. Vanderhoof made a motion, seconded by M. Koller, to move into Executive Session for the purpose of receiving legal advice from counsel and to discuss executive session minutes from a prior meeting. The motion carried unanimously by roll call.**

*[The Board was in Executive Session from 10:50 until 11:17 A.M. G. Cupo rejoined the teleconference at 11:20 A.M.]*

#### **VI. Agent Compensation Differentiation by Group Size**

E. DeRosa stated that the Board received advice from counsel, and the Board believes that the practice of paying a different commission to a general agent based upon the size of the group violates N.J.A.C. 11:21-17.5(b). She stated she would send a letter to Aetna, which is currently engaged in this practice, to notify Aetna of the Board's position, requesting that Aetna submit a written response indicating its intent to cease paying a different (\$0.00) general agent commission based on group size. She said she would request a response from Aetna prior to the Board's next regularly-scheduled meeting on September 15, 2010.

#### **VII. Public Comments**

There were no public comments.

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

**T. Collins made a motion, seconded by M. Koller, to adjourn the meeting. The motion carried unanimously by roll call.**

*[The meeting adjourned at 11:30 A.M.]*