

**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  
May 18, 2011**

**Members present by phone:** Thomas Collins; Gary Cupo; Darrel Farkus (United/Oxford); Dale Fratianni (CIGNA); Joyce Gralha (Horizon); Margaret Koller; Thomas Pownall (Aetna); Christine Stearns; Tony Taliaferro (AmeriHealth); Dutch Vanderhoof.

**Members present in person:** Neil Sullivan (DOBI)

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

**I. Call to Order**

T. Taliaferro called the meeting to order at 10:07 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. She determined a quorum was present, and stated that votes would be by roll call because of the participation of Board members by telephone.

**II. Public Comments**

There were no public comments.

**III. Minutes – March 16, 2011**

**D. Vanderhoof made a motion, seconded by T. Pownall, to approve the open session minutes for March 16, 2011. By roll call vote, the motion carried, with C. Stearns and D. Fratianni abstaining.**

**IV. Staff Report**

*Elections*

E. DeRosa reported that nominations had been received for the five seats up for election, and the voting closed. She noted that the nominations were as follows:

- Two persons representing small businesses – Christine Stearns and James Stenger
- A health, hospital or medical service corporation – Horizon Blue Cross and Blue Shield
- Two health maintenance organizations – Aetna Health Inc. and CIGNA Healthcare

She stated that each nominee had received six votes out of six ballots cast, and thus, each nominee had been duly elected to the seat for which nominated.

*Expense Report*

R. Lenox reported that the May expenses totaled \$8.99 for the refreshments provided at the March meeting.

**D. Vanderhoof made a motion, seconded by C. Stearns, to approve payment of the expenses on the expense report for May. By a roll call vote, the motion carried.**

*Transfer of Funds*

R. Lenox noted that the collection of the administrative assessment for FY2012 had been completed, and requested that the SEH Board authorize the transfer of \$175,000 from the Board's DOBI account to the Board's Wells Fargo Money Market Account, so that the funds would begin collecting interest.

**G. Cupo made a motion, seconded by T. Taliaferro, to approve transfer of \$175,000 from the SEH Board's DOBI account to the Board's Wells Fargo Money Market account. By a roll call vote, the motion carried.**

*Optional Benefits Riders*

*D. Farkus recused himself from discussion and any subsequent action that the Board might take with respect to optional benefit riders submitted by Oxford Health Plans and Oxford Health Insurance because of the interest of his employer, UnitedHealthCare, in the outcome of Board action on the matter.*

E. DeRosa explained that Oxford Health Plans submitted an optional rider for use with its HMO offerings and Oxford Health Insurance submitted an optional rider for use with its PPO offerings, both of which would expand upon the contractual definition of dependent to include "life partners." She explained that employers would first have to elect to cover domestic partners, which in New Jersey generally refers to individuals of the same gender who registered their relationship as a domestic partnership. She further explained that, once an employer elects to cover domestic partners, the employer can then purchase the life partnership rider, which would permit coverage of two adult individuals of the same or opposite genders in an unmarried, but committed relationship who otherwise are not consanguineous. E. DeRosa stated that the rider requires that the mutual commitment of the two individuals to one another's health and welfare must be evidenced by documentation and attestations as delineated in the rider. She noted that coverage of life partners would include coverage of the children of each partner. She stated that staff recommended finding the optional rider filings complete.

**G. Cupo made a motion, seconded by T. Collins, to find the Oxford Health Plan and Oxford Health Insurance rider filings complete. By a roll call vote, the motion carried.**

The Board requested that the full rider be distributed to Board members.

**V. Report of the Legal Committee**

E. DeRosa reported that the Legal Committee met to consider whether some additional amendments to the SEH policy forms may be required to address rescission as defined in the federal Patient Protection and Affordable Care Act (ACA). She explained that it had been brought to her attention that Aetna had issued guidance to brokers regarding a change in termination practice based upon Aetna's understanding of the U.S. Department of Health and Human Services' (HHS) guidance on the issue of rescission, which is prohibited by the ACA except for fraud or material misrepresentation. The Legal Committee agreed with Aetna's interpretation of the HHS guidance, and agreed that two provisions of the existing SEH standard plans (Premium Amounts and Clerical Error – Misstatements) would permit a prohibited "rescission" as the term is defined by HHS. E. DeRosa explained that HHS' definition of rescission is broader than the industry's common use of the term, and includes essentially any termination that is retroactive. She noted that HHS's guidance indicates that rescission is permissible if the employee has not contributed to the premium for the time period in question, and thus, has/had no expectation of coverage. She explained that the SEH policy forms are inconsistent with the guidance because retroactive terminations for clerical error and nonpayment of premium are permitted without regard to whether employees may have made contributions. E. DeRosa stated that draft revisions of the policy language would be presented to the Legal Committee in June for consideration, and a draft amendment is anticipated in time for the Board meeting scheduled for July.

**VI. Other Business – *Premium Comparison Survey***

Upon questioning, E. DeRosa reported that she would check on when the DOBI expected to post the Premium Comparison Survey, and would provide Board members with notice about it.

**IX. Public Comments**

There were no public comments.

**X. Close of Meeting**

**D. Vanderhoof made a motion, seconded by T. Collins, to adjourn the meeting. By a roll call vote, the motion carried.**

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