

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
August 20, 2014

Members participating: Herbert Ames; Charles Cerniglia (Oxford); Gary Cupo; Patrick Gillespie (Cigna); Margaret Koller; Nicholas Peterson (Horizon); Thomas Pownall (Aetna Health Inc.); Gale Simon (DOBI); Christine Stearns; Tony Taliaferro (AmeriHealth); Dutch Vanderhoof.

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

I. Call to Order

E. DeRosa called the meeting to order at 10:03 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. Following a roll call, she determined there was a quorum present, and stated that all votes would be by roll call because many of the Board members were participating by phone.

II. Public Comment

There were no public comments.

III. Minutes – June 18, 2014

T. Pownall made a motion, seconded by M. Koller, to approve the minutes of June 18, 2014. By roll call vote, the motion carried, with D. Vanderhoof and P. Gillespie abstaining.

IV. Staff Report

Expense Report

R. Lenox presented the expense report for August, with expenses totaling \$1925.00. She noted that the expense was from charges from the Division of Law, for the 4th quarter of FY14. She requested that the Board transfer \$2000 from its Money Market Account to its checking account in order to pay the expense, if approved.

D. Vanderhoof made a motion, seconded by P. Gillespie, to approve the payment of the expenses on the August expense report, and to transfer \$2,000 from the Board’s Wells Fargo Money Market account to the Board’s Wells Fargo checking account in order to pay for the approved operating expenses. By roll call vote, the motion carried.

V. Ad Hoc Committee – Treatment of C- and S-corporations (ERISA)

E. DeRosa reported that the Ad Hoc Committee met to discuss whether a business composed of a husband and wife could constitute a small employer for purposes of eligibility for small employer health insurance under any business structure. She indicated that the Ad Hoc Committee concluded that it did not matter what the structure of the business might be, if the business was composed of a husband and wife with no other employees, then the business would not be a small business for purposes of purchasing small employer coverage. She explained that the committee's determination was based on long-standing opinions issued by the U.S. Department of Labor, as well as the courts, that specify that husbands and wives are not considered employees of a business that one or both owns. E. DeRosa said the committee did not believe this precludes such a business from being considered a small employer if, indeed, there is one or more common law employees in the business in addition to the owner/spouse, nor does it preclude the owners from being covered under the health plan if the group is a small employer and can meet participation requirements. She noted that she has asked for confirmation of the position from CCIIO and the U.S. Department of Labor, but has not received a response. She also noted that the question presented concerned husbands and wives, not domestic partnerships or civil union partnerships.

E. DeRosa stated that the Ad Hoc Committee also agreed that partners of a partnership do not constitute employees for purposes of meeting the definition of small employer with respect to health insurance.

VI. Joint Evaluation Committee to Review Bid for Audit Services

C. McDevitt explained to the Board that there currently are three Board members assigned to the Joint Evaluation Committee, but that the Board has the opportunity to add two additional Board members if it would like to do so, but that there is no necessity for a larger committee. She noted that the jointly-issued RFP received only one bid. The Board decided to maintain its representation on the joint evaluation committee at three members.

VII. Public Comment

There were no public comments.

VIII. Close of Meeting

G. Simon made a motion, seconded by D. Vanderhoof, to adjourn the meeting. By roll call vote, the motion carried.

[The meeting adjourned at 10:25 A.M.]