

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
September 20, 2017

Members participating: Herbert Ames; Mary Beaumont; Gary Cupo; Margaret Koller; Lauren Lalicon; Ulysses Lee (Oxford); Brendan Peppard (DOBI); Nicholas Peterson (Horizon); Tom Pownall (Aetna); Susan Tully Abdo (Cigna).

Others participating: Ellen DeRosa, Executive Director; Chanell McDevitt, Deputy Executive Director; Christine Machnowsky, Deputy Executive Director; Rosaria Lenox, Managing Financial Officer; Jeff Posta, Deputy Attorney General; Eleanor Heck, Deputy Attorney General (IHC Program).

I. Call to Order

E. DeRosa called the meeting to order at 10:05 A.M. She announced that notice of the meeting was provided to three newspapers of general circulation and the State House Press Corps, and posted at the Department of Banking and Insurance (“DOBI”), on the DOBI website, and at 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 some of the Board members were participating by phone.

She noted this is the Board’s annual meeting, and would include election of officers and reconstitution of committees.

II. Public Comments

There were no public comments.

III. Minutes of the August 16, 2017 Meeting

B. Peppard made a motion, seconded by M. Beaumont, to approve the minutes of the August 16, 2017 meeting. By roll call vote, the motion carried, with L. Lalicon abstaining.

IV. Elections of Officers and Reconstitution of Committees

Chair and Vice Chair

E. DeRosa stated that T. Taliaferro had indicated his willingness to continue serving as Chair if nominated. M. Koller stated that she would also be willing to continue as Vice Chair. M. Koller called for other nominations.

M. Beaumont nominated, and H. Ames seconded, T. Taliaferro to serve as Chair and M. Koller to serve as Vice Chair for an additional year. By roll call vote, the motion carried.

Committees

E. DeRosa set forth the current composition of the SEH Board's established committees, as follows:

Legal Committee: currently includes Aetna, Horizon, AmeriHealth, DOBI, and M. Beaumont.

Finance & Audit: currently includes AmeriHealth, Horizon, United, H. Ames, M. Koller, and DOBI

Marketing: currently includes Horizon, United, G. Cupo, and M. Koller

M. Beaumont indicated that she would like to participate on the Marketing Committee, and M. Koller removed herself from the Finance & Audit Committee, for the time being due to certain other obligations she has. No other changes to the committee compositions were suggested.

B. Peppard made a motion, seconded by N. Peterson, to reconstitute the committees as they currently exist, except for the addition of M. Beaumont to the Marketing Committee, and the removal of M. Koller from the Finance & Audit Committee at their respective requests. By roll call vote, the motion carried.

V. Staff Report -- Expenses

R. Lenox presented the expenses for September, totaling \$96.57, for rulemaking notices in newspapers. She stated no transfer of funds is necessary to cover these operating expenses, but suggested the Board authorize a transfer of \$100,000 of its funds from the DOBI to the Board's Wells Fargo Money Market account to earn interest.

H. Ames made a motion, seconded by M. Beaumont, to approve payment of the expenses on the September expense report, and to transfer \$100,000 of its funds currently held by the DOBI to the Board's Money Market account at Wells Fargo for the purpose of earning interest.

VI. Loss Ratio Report for CY2016

Gary Weiss presented the CY2016 loss ratio report on behalf of the DOBI. He highlighted the following:

- The CY2016 loss ratio for the market was 83.4%, which is a little higher than in CY2015, but still lower than the market-wide loss ratio for CY2014.
- Both the state and federal loss ratio rules calculate the loss ratio on a per entity basis, although the calculations are somewhat different, with New Jersey's refund liability being net of any Federal refund liability; two companies, AmeriHealth HMO and CIGNA HealthCare, owe refunds of \$1,132,671 and \$34,279 respectively, the amounts owed in each instance being only New Jersey refund liability because neither company had a Federal refund liability.
- For purposes of the SEH Program, the refunds must be distributed by December 1.

He said that the information will be posted on the website shortly.

VII. Adoption of Proposed Amendments

Proposed amendments implementing P.L. 2017, c. 117; P.L. 2017, c. 176; federal revisions to ACA regulations; and certain variable text

E. DeRosa stated that a hearing was held on the morning of September 12th, but there were no attendees, so the hearing officer's report will reflect no comments or recommendations. She stated that no comments were received prior to the end of the proposal's comment period on September 19th either, but that the draft adoption includes agency-initiated changes based on discussions with the DOBI regarding the telemedicine/telehealth benefit set forth in accordance with P.L. 2017, c. 117. She explained that the legislation is different from any mandates that have preceded it, because, while it is not optional, it only requires that reimbursement for telemedicine/telehealth services delivered in-network be the same as for comparable (primary or specialist) in-person visits, but there is no requirement for carriers to establish a network of telemedicine/telehealth providers, or to assure there are in-network health care providers that are willing and able to offer such services, nor is there a requirement that any health care providers deliver care via telemedicine/telehealth. She explained that policy forms would be revised upon adoption to clarify that coverage of these services are not optional, and that these services are considered the same as comparable (primary and specialist) in-person visits (thus, no separate mention is necessary in the schedule pages), and to clarify that practitioners may or may not offer these services.

E. DeRosa noted that DOBI had determined that having telemedicine/telehealth services available would not be considered for purposes of determining network adequacy.

N. Peterson explained that claims with a GT modifier indicate that the doctor rendered health care services using an audio-visual platform, and that Horizon treats the claim as if it were a face-to-face visit.

E. DeRosa stated that another agency-initiated change upon adoption is needed in both the rules and the policy forms with respect to the triggering events, to clarify that rejection from NJFamilyCare or Medicaid is only a triggering event if it occurs following the close of the open enrollment period.

E. DeRosa noted that the telemedicine statute was effective immediately, while the triggering events changes are effective as of January 1. She indicated she would develop a compliance and variability rider that carriers can use with their forms, but whether carriers want to use the rider, or issue new forms, the timeframe is tightening. It was suggested the Board go into Executive Session to receive legal advice from counsel prior to voting on the draft adoption with amendments, and the Board agreed to do so after it completed discussion on the regulatory portion of its agenda.

Proposed Amendment to the Employer Application Form

E. DeRosa stated that she received no additional comments regarding the suggested changes to the Employer Application form, which, as previously drafted would be revised to permit carriers to include options on the form for employers to choose ancillary benefits issued by the same carrier. E. DeRosa clarified that the ancillary benefits listed on the form must be offered by the same carrier offering the standard plan, because two carriers are not permitted to offer coverage using the same employer application form.

G. Cupo made a motion, seconded by N. Peterson, to approve the amendments to the Employer Application form as drafted. By roll call vote, the motion carried.

E. DeRosa reminded the Board that the change would be accomplished via an advisory bulletin, because the actual employer application form is not set forth in regulation; only its general purpose and contents are described in the rules, and this change to the form is consistent with the existing description. She stated she expected to post the bulletin and distribute it shortly.

N. Peterson made a motion, seconded by M. Koller, to go into Executive Session to receive legal information regarding litigation and other legal advice from counsel. By roll call vote, the motion carried.

[The Board was in Executive Session from 10:45A.M. until 10:56 A.M.]

H. Ames made a motion, seconded by M. Beaumont, to approve for publication the draft adoption with agency-initiated changes as presented, subject to review by the Deputy Attorney General. By roll call vote, the motion carried.

VIII. Passing of Thomas “Dutch” Vanderhoof: Resolution

E. DeRosa presented a proposed resolution in memoriam for Dutch Vanderhoof, who passed away on August 16, 2017, to be presented by the Board to Dutch Vanderhoof’s family. The resolution:

- Commemorates Dutch’s 22 years of service as an appointed Board member, having been appointed by multiple governors to represent insurance producers, during which time he had a significant impact upon the philosophy and public policy goals of the SEH Program, as well as its organization and operations;
- Recognizes Dutch’s influence in ethically representing the interests of small employers and their employees in the establishment of the SEH Program both before and after his appointment to the Board;
- Recognizes the great loss Dutch’s passing is not only to his family, but to the community at large; and
- Expresses condolences to Dutch’s family for their personal loss.

U. Lee made a motion, seconded by M. Koller, to approve, with amendments, the draft resolution memorializing the Board’s appreciation of Dutch Vanderhoof’s service and the presentation of the resolution to the family of Thomas L. “Dutch” Vanderhoof. By roll call vote, the motion carried.

IX. Public Comment

There was no formal public comment.

X. Close of Meeting

M. Beaumont made a motion, seconded by H. Ames, to adjourn the meeting. By roll call vote, the motion carried.

[The meeting adjourned at 11:07 A.M.]