

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
June 19, 2019

Members participating: Herb Ames; Robert Benkert (Oxford); Natalie Bernardi (Cigna); Gary Cupo; Phil Gennace (DOBI); Laura Hahn; Margaret Koller; Taylor Kopelan (Horizon); Thomas Pownall (Aetna); Tony Taliaferro (AmeriHealth).

Others participating: Ellen DeRosa, Executive Director; Chanell McDevitt, Deputy Executive Director; Jeff Posta, Deputy Attorney General.

I. Call to Order

E. DeRosa called the meeting to order at 10:00 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.

II. Public Comments

There were no public comments.

III. Minutes of May 15, 2019

L. Hahn made a motion, seconded by M. Koller, to approve the minutes of the meeting of May 15, 2019, without amendment. By roll call vote, the motion carried, with T. Taliaferro abstaining.

IV. Expense Report

E. DeRosa discussed the Expense Report for June, noting that expenses totaled \$499, and are solely charges for legal work from the Division of Law. She stated that the Board would need to authorize the transfer of \$500.00 from its Wells Fargo Money Market account to its checking account to pay for the expense, if approved.

T. Pownall made a motion, seconded by H. Ames, to approve the transfer of \$500 from the Board’s Wells Fargo Money Market account to the Board’s Wells Fargo checking account to pay the June operational expenses.

V. Report of the Finance & Audit Committee – Q3FY19 Financial Statements

E. DeRosa stated that the Finance & Audit Committee reviewed the financial statements for the period ended March 31, 2019 (including the Statement of Net Assets, the Statement of Changes in Net Assets, the Statement of Cash Flows, and a comparison of Budget to Actual Expenditures),

and committee members had no questions or comments. She noted the Board does not need to take any action on the Q3FY19 statements.

VI. Federal Limitation on the Use of Participation and Contribution Requirements

E. DeRosa stated that she had recently spoken at some broker meetings, and become aware that many brokers were not familiar with the federal limitations on the application of participation and contribution requirements for small employer plans. She explained that everyone was apparently familiar with the requirement to offer small employer plans without application of participation and contribution requirements during the annual open enrollment period of November 15 through December 15, but that most brokers were unfamiliar with the prohibition on the use of participation and contribution requirements when a plan is newly offered after the start of a calendar year.

E. DeRosa explained that this requirement is not new, but rather, has been in existence for years, with the Centers for Medicare and Medicaid (CMS) issuing guidance in December 2013 explaining its position on the meaning of “guaranteed availability.” She noted initially CMS interpreted participation and contribution requirements to be a barrier to guaranteed availability, and considered prohibiting such requirements entirely, but came away from that position, requiring the waiver of participation and contribution requirements during an annual open period that runs from November 15 through December 15. She noted that CMS determined it is permissible for small employer carriers to newly offer a plan during the course of a calendar year, but because such newly offered plan would not have been available for small employers to buy during the annual open enrollment period, such newly offered plan would not satisfy the guaranteed availability requirement. CMS stated, to remedy this situation, any newly offered plan that was not available for purchase during the annual open enrollment period must be made available without participation and contribution requirements for the balance of the calendar year.

E. DeRosa pointed out that the removal of the participation and contribution requirement did not obviate the need for the applicant to be a small employer. She further clarified that carriers may require all small employers to meet participation and contribution requirements upon renewal unless the renewal coincides with the annual open enrollment period of November 15 to December 15.

There was general discussion about how to better communicate this message, and whether off-cycle plan offers create unfair advantages or disadvantages for carriers or the market generally. The following were noted:

- Staff intends to update the Buyer’s Guide to address the topic
- Off-cycle plans must be in the same rating pool as all other plans
- While off-cycle plans may advantage some employers, any advantage will be short-lived unless the employer satisfies participation and contribution requirements upon renewal.

VII. Audit Engagement – SOW

E. DeRosa reminded Board members that it had been decided to create and issue a Scope of Work (SOW) combining the needs of the Individual Health Coverage (IHC) Program, the SEH Program, and the Medicare Supplement Under 50 (MSU50) Program for audit services, with the expectation that a larger job might create more interest among potential vendors. She noted that one response

was received from the vendors (on an existing Treasury audit contract), so staff will soon be asking the Joint Evaluation Committee, and subsequently, each Board's audit committees to meet to determine whether to engage the vendor that responded. She explained that the Joint Evaluation Committee, composed of Aetna, United, and the DOBI (each of which sits on all three Boards), will make the initial evaluation and recommendation to the respective audit committees, and the audit committees will make a recommendation to each Board. She stated that if all Boards decide to engage the vendor, there will be a single contract for the services.

She said she expected the Joint Evaluation Committee to meet before the end of June, and the Finance & Audit Committee to meet in early July, so that the Board may take action on the engagement at its July meeting.

VIII. Public Comments

There were no public comments.

IX. Close of Meeting

G. Cupo made a motion, seconded by N. Bernardi, to close the meeting. By roll call vote, the motion carried.

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