

New Jersey Small Employer Health Insurance Program ("SEH")
October 6, 1993 Meeting
Board of Directors

SEH Proc. 504

NOV 23 1993

Board members in attendance: J. Bellingham - NJ BC/SB, M. Willoughby - NJRMA, K. Robinson - Chubb, V. Wicks - HIP/Rutgers, A. Bossi - The Prudential, J. Eick - The Travelers, D. Swords - Aetna, L. Moskowitz - DOI, E. Crandall - Guardian, N. Featherstone - DOH.

I. Call to Order.

Melanie Willoughby called the meeting to order in the absence of Chair Lopes.

II. Review of Minutes

The minutes of the September 15 meeting were approved unanimously with a few minor corrections to be made and provided to the Board at a future meeting. The minutes of the September 22 meeting, as corrected, were distributed and approved unanimously.

In the course of discussing the September 22 minutes, the Board noted they were accurate as to how the Board decided to address carrier flexibility on utilization management but Mr. Bellingham noted that they thought the entire provision, rather than just parts, would be variable and asked the Board to reconsider allowing carriers to have even more flexibility in the design of a plan's utilization management features.

After discussion, upon motion by Mr. Bellingham, seconded by Mr. Robinson, the Board agreed unanimously to allow a carrier to propose alternative utilization management provisions to those in the contracts, which could be used subject to approval by the Board and any other regulatory authority, if any, that may have jurisdiction over such provisions.

III. Substantive Changes to Benefit Plans.

Emily Crandall distributed materials, a copy of which shall be on file with the minutes, explaining the agency-initiated revisions in the benefit plans and noted that the goal was to make all necessary changes and file the benefit plans with the OAL by October 15th for final adoption. As noted in the Department of Insurance's October 4 letter, a copy of which shall be filed with the minutes, the Department has approved the changes set forth in the materials distributed. Substantive changes made by the Board at this time will require renote to the public, with November 3 as the likely date by which the comment period on such changes shall be completed.

Ms. Crandall identified the substantive issues requiring discussion by the Board at today's meeting, which were addressed as follows:

Direct Payment. Upon motion by John Bellingham, seconded by Leon Moskowitz, the Board agreed to allow alternative contract language to permit direct payment to a provider, regardless of whether there is an assignment of benefits where managed care arrangements are involved or where the carrier is otherwise authorized by law.

COB/Supplemental Plan. After discussion of points raised by a representative from AFLAC regarding whether the coordination of benefits provisions in the SEH contracts would apply to certain payroll deduction plans, the Board approved unanimously a motion made by Ms. Bossi, and seconded by Mr. Title, to clarify that no COB will be applied to group or group type hospital indemnity benefits equal to or less than \$250 per day for which the employee pays the entire premium and that paragraph (e) be stricken from the COB provision.

Experimental/Investigational Drugs. Two draft versions of the relevant provisions from the definition of "Experimental or investigational" relating to medical devices, drugs, and biological products were distributed for discussion to determine the criteria to be used for making coverage decisions.

The Board recognized Mr. Neil Westfield from the New Jersey State Medical Society who argued against having overly restrictive wording since approximately 80% of uses for drugs are off-label and that there is often a long time between their acceptance by practitioners and discussion in medical literature. Board members expressed concern with having too open-ended terminology to assure that scientifically valid drugs and products are covered rather than those that are questionable or perhaps even dangerous. There was also concern that the criteria contemplate the possibility of conflicting findings in the medical literature. Representatives from CEBA noted some of the wording being suggested was similar to legislation already passed by the State Senate and urged that sufficient latitude be applied for appropriate off-label drug usages.

After discussion of various alternatives, the Board voted unanimously, upon motion by Ms. Bossi, seconded by Aetna's David Swords, to incorporate the following wording in the definition:

"Governmental approval of technology is not necessarily sufficient to render it of proven benefit or appropriate or effective for a particular diagnosis or treatment of a particular condition, as explained below.

[Carrier] will apply the following five criteria in determining whether services or supplies are Experimental or Investigational:

a. Any medical device, drug, or biological product must have received final approval to market by the FDA for the particular diagnosis or condition. Any other approval granted as an interim step in the FDA regulatory process, e.g., an Investigational Device Exemption or an Investigational New Drug Exemption, is not sufficient. Once FDA approval has been granted for a particular diagnosis or condition, use of the medical device, drug or biological product for another diagnosis or condition will require that one or more of the following established reference compendia:

1. The American Medical Association Drug Evaluations;
2. The American Hospital Formulary Service Drug Information; or
3. The United States Pharmacopeia Drug Information

recognize the usage as appropriate medical treatment. As an alternative to such recognition in one or more of the compendia, the usage of the drug will be recognized as appropriate if it is supported by the preponderance of evidence that exists in clinical studies that are reported in major peer-reviewed medical literature or review articles that are reported in major peer-reviewed medical literature. A medical device, drug, or biological product that meets the above tests will not be considered Experimental or Investigational.

In any event, any drug which the Food and Drug Administration has determined to be contraindicated for the specific treatment for which the drug has been prescribed will be considered Experimental or Investigational.

b. Conclusive evidence from the published peer-reviewed medical literature must exist that the technology has a definite positive effect on health outcomes; such evidence must include well-designed investigations that have been reproduced by non-affiliated authoritative sources, with measurable results, backed up by the positive endorsements of national medical bodies or panels regarding scientific efficacy and rationale."

One other question was raised concerning whether drug charges related to treatment for a mental/nervous condition should be counted toward the mental/nervous benefit maximum, as the contract language now provides, or counted separately under the general plan maximum. The Board discussed the advantages and disadvantages of each approach and concluded that the typical amounts involved did not necessitate any change in the benefit plan approach agreed upon. Upon motion duly made by Ms. Bossi and seconded by Ms. Crandall, the Board voted to leave the contract language as is. The Department of Health voted to oppose and the Department of Insurance abstained.

Ms. Crandall noted that employee certificates will be prepared now that the benefit plans have been drafted. Upon motion by Ms. Crandall, seconded by Ms. Bossi, the Board voted unanimously to accept the report of the Policy Drafting Group and to make the benefit plan/certificate materials available on disk for ten dollars when all are finalized.

IV. RFP for Permanent Administrator.

Ms. Willoughby distributed a draft RFP for a joint permanent administrator for the SEH Program, and the Individual Health Coverage (IHC) Program, and also distributed a draft job description in case the boards decide to hire staff instead. She noted that Chair Lopes had indicated a preference for hiring an executive director, who would have an office located in downtown Trenton, with appropriate staff and office supplies.

The Board discussed the merits of hiring an executive director as described by Ms. Willoughby, noting such an approach would meet the Program's needs and also provide the most flexibility in the event the Program changed or in the event federal legislation on health care reform necessitated a different approach. The Board also agreed that this approach could be funded by means of assessing carrier board representatives who could be provided on offset against Program assessments similar to the way funding for the Interim Administrator has been handled. Mr. Moskowitz noted the right candidate should have some experience in health insurance or managed care experience but have no conflicts of interest. Several board members indicated opposition to having a carrier fill the position because of concerns about public perception of such conflicts and out of concern that a carrier could be exposed to proprietary information about other carriers. Mr. Moskowitz noted that the majority of both boards, small group and individual, opposed having a carrier as permanent administrator.

After discussion, upon motion duly made by Mr. Robinson and seconded by Ms. Bossi, the Board, with Mr. St. John dissenting, adopted the following resolution:

WHEREAS, the New Jersey Small Employer Health Benefits Program board desires to jointly with the New Jersey Individual administrative assistants, and a secretary; and

WHEREAS, the Board is authorized to enter into contracts as are necessary and proper to carry out the purposes of the Act (N.J.S.A. 17B:27A-17 et seq.), pursuant to N.J.S.A. 17B:27A-32(a); and

WHEREAS the Board finds that hiring administrative staff is a necessary and proper means to carry out the purposes of the Act and to address the Administrative functions required to implement the Act.

NOW, THEREFORE, BE IT RESOLVED by the New Jersey Small Employer Health Benefits Program as follows:

1. The Board authorizes the hiring of a Program Administrator, two Administrative Assistants, and a Secretary jointly with the Individual Program.
2. The Board authorizes and directs the Operations Committee to commence a search for the position of Program Administrator, and to make recommendations to the Board with respect to qualified candidates for the position.

3. The Board agrees to fund the Administrative Operation, for at least the first six months, by assessing this carrier members of the current Board and by providing each an offset in an amount equal to that carrier's assessment against any interim or other assessment by the Program.

The Board agreed that details of the compensation package for the proposed executive director should be discussed in executive session. Upon motion duly made and seconded, the Board unanimously approved the following resolutions:

The Board of Directors of the New Jersey Small Employer Health Benefits Program hereby resolves to close the meeting to the public:

- A. For the purpose of discussing the terms and conditions of employment or appointment of prospective Board employees - NJSA 10:4-12(b)8.
- B. The time when and the circumstances under which the discussion conducted in closed session of the public body can be disclosed to the public subject to confidentiality which may

The Board resumed open session, and with no further business to address, adjourned at approximately 1:30 p.m.

Date

Maureen Lopes, Chairperson

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