

**APPROVED**

**MINUTES OF THE MEETING OF THE  
NEW JERSEY SMALL EMPLOYER HEALTH BENEFITS PROGRAM BOARD  
AT THE OFFICES OF THE NEW JERSEY DEPARTMENT OF INSURANCE  
TRENTON, NEW JERSEY  
December 7, 1994**

**Members present:** Maureen Lopes, Chair; Melanie Willoughby, Vice Chair; Dana Benbow (Prudential); Debbie Cieslik (BCBSNJ); Charlotte Furman (Home Life); Linda Ilkowitz (Guardian); Beatrice Manning (DOH); Leon Moskowitz (DOI); Paulette Ryan (NYLife); Amy Mansue (HIP of New Jersey); David Turner (Aetna).

**Others present:** Kevin O'Leary, Executive Director; Wardell Sanders, SEH Program Assistant Director; Susan Church, IHC Program Assistant Director; DAG Valerie Bollheimer (DOL).

The Department of Insurance held a public hearing from 9:00 a.m. until 9:25 a.m. for the purpose of hearing public testimony on proposed changes to the SEH Program's Plan of Operation which proposal would conform the Plan of Operation with P.L. 1994, c. 97 and would permit reimbursement to Board members for Board related travel expenses. There were no public comments at the hearing.

**I. Call to Order**

M. Lopes called the meeting to order at approximately 9:40 a.m. and announced that notice of the meeting had been published in three newspapers and posted at the Department of Insurance and the Office of the Secretary of State in accordance with the Open Public Meetings Act. A quorum was present.

The Board's meeting schedule for 1995 was distributed. M. Lopes instructed Board members to call the Executive Director in the event of inclement weather to determine if the meeting would be held as scheduled.

**II. Utilization Review Determinations**

A. Mansue asked for a clarification of the nature of the alternative utilization review filings. The Assistant Director noted that the filings were submitted pursuant to N.J.A.C. 11:21-4.2 and were to be evaluated pursuant to N.J.A.C. 11:21-4.3. M. Lopes explained that the Board's rules permit carriers, within certain limitations, to alter the alternative utilization procedures developed by the Board.

*\* A. Mansue made a motion to approve the alternative utilization review filing submitted on behalf of Principal Mutual. D. Benbow seconded the motion, and the motion was approved unanimously by voice vote.*

*\* D. Benbow made a motion to disapprove the alternative utilization review filing submitted on behalf of the Travelers. D. Cieslik seconded the motion, and the motion was approved unanimously by voice vote.*

### **III. Rule Proposal Regarding the Plan of Operation**

The Executive Director, in response to comments made at the last Board meeting, distributed a memorandum on a rule proposal which would require a two-thirds supermajority of Board members present for expenditure of SEH Program funds. The Board noted that the proposed change would take place as its size would be increasing to 18 members as a result of P.L. 1994, c. 97. The Board noted that the proposed change could be undone at a later time by a majority of the Board.

*\* L. Moskowitz made a motion to propose the draft rule proposal amending the SEH Plan of Operation to require a supermajority of Board members for disbursement of SEH Program funds. C. Furman seconded the motion, and the motion was approved unanimously by voice vote.*

M. Lopes indicated that all rule proposals henceforth will be assumed to be proposed via normal APA procedures unless otherwise stated.

*\* D. Benbow made a motion to amend the above rule proposal regarding the expenditure of funds by adding language to require a two-thirds majority for assessments. L. Ilkowitz seconded the motion, and the motion was approved unanimously by voice vote.*

M. Lopes noted that the Board would need to review a budget for Program. The Executive Director said that he would try to develop a budget and present it to the Board shortly.

L. Ilkowitz reported that Emily Crandall would be leaving the Guardian effective December 22, 1994. She said that Emily asked her to tell the Board that she was sorry that she could not be at the Board meeting in person and that her participation on the Board was truly a great experience. D. Benbow suggested that the Board develop a resolution suitable for framing, and M. Willoughby volunteered to develop the resolution.

*\* D. Benbow made a motion to adopt the rule proposal amending the SEH Plan of Operation to conform with P.L. 1994, c. 11 and to permit reimbursement to Board members for travel expenses, subject to final approval by the Commissioner, and subject to the receipt of no comments by the end of the day. D. Cieslik seconded the motion, and the motion was approved unanimously by voice vote.*

#### **IV. One Life Groups**

The Executive Director asked the Board for its thoughts on the issue of eligibility of a group of two employees, who are husband and wife, for group and individual coverage. The Board agreed that this should be the only situation where coverage is permissible in both markets, noting that coverage in the small group market must be written with two certificates. L. Ilkowitz noted that Emily Crandall, at the March 30, 1994 meeting, set forth four scenarios regarding the line between coverage in the individual and small group markets. The Executive Director noted that the Board's current regulations would seem to address this issue of eligibility as they provide that counting toward coverage of an employee by a spouses policy toward the minimum required participation rate of 75% is permitted only where the spouse is covered under "another" health benefits plan. Therefore, a husband and wife who are the only two eligible employees must enroll as separate employees in order to meet the 75% participation requirement. If just one is participating they must enroll in an IHC plan. The Board asked the Executive Director to draft a bulletin clarifying various eligibility issues which have been the subject of confusion.

#### **V. Report of the Marketing Committee**

M. Willoughby reported that the Buyers' Guide is at the printer and should be ready before Christmas. She noted that the color of the cover will be purple. D. Turner asked if there would be any restrictions with respect to copying the Buyers' Guide. M. Willoughby said that she would work with DAG Bollheimer in drafting appropriate language to indicate that the text of the Buyers' Guide may not be altered. M. Willoughby asked if there would be a need to publish the Buyers' Guide in Spanish. L. Moskowitz suggested that Hispanic brokers be contacted.

M. Willoughby also reported that the Board would be holding a legislative briefing on December 14, 1994 at 1:00 in the Assembly Caucus room. She indicated that M. Lopes, the Executive Director, A. Mansue, Jim Donnellan and she would be present. M. Willoughby said that the purpose of the briefing was to inform the Legislature of the Board's progress now that most of the Board's regulations implementing the Program are in place. She reported that six persons had confirmed and that the remainder of the invitees would be called.

#### **VI. Medical Savings Accounts**

A. Mansue distributed the second draft of the Board's report to the Legislature regarding Medical Savings Accounts. She noted that the Board had not developed a consensus regarding the merits of Medical Savings Accounts. A. Mansue proposed that representatives of the Board meet with the persons in the Legislature who developed the idea of Medical Savings Accounts to speak with them about the Board's findings. She indicated that she would share with these Legislators the draft of the Board's report, which outlines both the positive and negative aspects of Medical Savings Accounts. She

asked for volunteers and L. Ilkowitz, C. Furman, and M. Willoughby agreed to participate. A. Mansue said that she would report back to the Board on this issue at its January meeting.

(The Board recessed from 11:20 a.m. until 11:45 a.m.)

## **VII. Report of the Executive Director**

The Executive Director distributed a copy of the SEH Assessment collections (attached hereto as Exhibit 1), which set forth those entities with outstanding nonmember certification requests. He noted that the list included five requests for nonmember status from entities requesting an exemption under what has come to be known as the "Farm Bureau Exemption." He noted that the entities on the list had filed certifications indicating that they were not carriers or had no inforce health benefits plans in New Jersey. C. Furman noted that the Board should remember that as a result of changes to the definition of "health benefits plans", entities issuing coverage called "stop loss" may not be meeting the requirements set forth by the Board and therefore may be issuing a health benefits plan. She said that this issue would need to be considered in filing for next year. The Executive Director said that he had not sought collections from entities owing less than \$10. He further indicated that there were some outstanding collection matters, but that the Board would need to close the process shortly. M. Lopes indicated that a reconciliation should be done by the end of the year.

*\* D. Benbow made a motion to find the entities so noted as nonmembers, then on the basis of a concern expressed by D. Cieslik, amended the motion to remove Provident Life and Accident from consideration for nonmember status. C. Furman seconded the motion, and the motion was approved unanimously by voice vote.*

The Executive Director informed the Board that nonmember status determination letters would be sent to carriers.

*\* D. Benbow made a motion to approve the expense report submitted by the Executive Director ( attached hereto as Exhibit 2). L. Ilkowitz seconded the motion, and the motion was approved unanimously by voice vote.*

The Executive Director informed the Board that Diane Rustay had purchased a computer with her own money so that she could perform Board work at home. He said that Diane's extraordinary act in purchasing the computer should not go unnoticed, and he recommended that the Board consider reimbursing her for one-half the cost of the computer. D. Benbow suggested that the Executive Director submit to the Board a written agreement between Ms. Rustay and the Board so that if she were to leave the employment of the Board, the computer, or the value of it, is returned to the Board.

*\* A. Mansue made a motion to approve the reimbursement to Diane Rustay for the computer, pending execution of a contract. D. Benbow seconded the motion, and the motion was approved unanimously by voice vote..*

The Executive Director reported that the offices for the Programs were scheduled to be completed by the end of the week. He also reported that he sent a request to Commissioner for permission to secure two full-time employee slots, but has not yet received a response. L. Moskowitz agreed to look into this matter.

The Executive Director reported that he would be giving a training session for Department of Corrections staff for distribution of the IHC Buyers' Guide. He noted that a similar training session would be held for the SEH Buyers' Guide when completed. The Executive Director reported that the IHC Program's upcoming press conference would announce the 800 number and the IHC Program's most recent enrollment numbers

*\* D. Benbow made a motion to go into executive session for the purpose of discussing personnel matters and for receiving legal advice. L. Moskowitz seconded the motion, and the motion was approved unanimously by voice vote.*

[The Board was in executive session from approximately 12:00 until 1:45.]

[A. Mansue left the meeting during executive session.]

### **VIII. Motions and Matters After Executive Session**

*\* D. Benbow made a motion to redraft the marketing regulation to require that carriers market all five standard plans, whether or not the carrier markets through an association. C. Furman seconded the motion, and the motion was approved, with D. Cieslik opposed.*

J. Brown asked the Board for clarification as to what the Board would like from the Legal Committee with respect to permanent disability coverage issues. The Board agreed that J. Brown should try to simplify the discussion of the interplay between various statutes and regulations relating to the coverage under SEH plans of persons with permanent disabilities.

DAG Bollheimer asked if it was the Board's intention to request an Attorney General opinion on the issue of whether the law prohibits an association from transferring a health benefits plan from one carrier to another. The Board agreed that it wanted an opinion on this issue.

*\* L. Moskowitz made a motion to accept the recommendation of the Policy Forms Committee, as set forth in Exhibit 3, with respect to the optional benefit rider filings submitted by Travelers. L. Moskowitz seconded the motion, and the motion was approved unanimously by voice vote.*

*\* D. Benbow made a motion to accept the recommendation of the Policy Forms Committee, as set forth in Exhibit 3, with respect to the optional benefit rider filings submitted by Oxford. C. Furman seconded the motion, and the motion was approved unanimously by voice vote.*

*\* L. Ilkowitz made a motion to accept the recommendations of the Policy Forms Committee, as set forth in Exhibit 3, with respect to the optional benefit rider filings submitted by The Prudential. B. Manning seconded the motion, and the motion was approved by voice vote with D. Benbow abstaining.*

*\* D. Turner made a motion to accept the recommendations of the Policy Forms Committee, as set forth in Exhibit 3, with respect to the optional benefit rider filings submitted by New York Life. B. Manning seconded the motion, and the motion was approved by voice vote with P. Ryan abstaining.*

*\* L. Moskowitz made a motion to accept the recommendations of the Policy Forms Committee, as set forth in Exhibit 3, with respect to the optional benefit rider filings submitted by Keystone. D. Benbow seconded the motion, and the motion was approved unanimously by voice vote.*

*\* D. Turner made a motion to accept the recommendation of the Policy Forms Committee, as set forth in Exhibit 3, with respect to the optional benefit rider filing submitted by CIGNA.*

*\* D. Benbow made a motion to accept the recommendation of the Policy Forms Committee, as set forth in Exhibit 3, with respect to the optional benefit rider filing submitted by Trustmark. D. Cieslik seconded the motion, and the motion was approved unanimously by voice vote.*

*\* D. Benbow made a motion to approve the minutes from the October 19, 1994 minutes as amended. P. Ryan seconded the motion, and the motion was approved by voice vote with D. Cieslik abstaining.*

*\* L. Moskowitz made a motion to approve the minutes from the November 16, 1994 meeting. C. Furman seconded the motion, and the motion was approved by voice vote with D. Cieslik abstaining.*

The Assistant Director noted that the Board took action on a few items at the November 16, 1994 meeting in open session after its executive session meeting, but had indicated at that meeting that it did not intend to act after the executive session meeting. He recommended that the Board ratify those votes.

*\* L. Moskowitz made a motion to ratify the Board's prior vote to approve the expenditure of up to \$50,000 as the SEH Board's share of the cost of two additional staff*

*members to be shared equally with the IHC Program. C. Furman seconded the motion, and the motion was approved with D. Benbow and D. Cieslik abstaining.*

*\* L. Moskowitz made a motion to ratify the Board's prior vote to accept the Department of Correction's bid and to authorize payment for a phone bank for the SEH Buyers' Guide. B. Manning seconded the motion, and the motion was approved with D. Benbow and D. Cieslik abstaining.*

*\* D. Turner made a motion to ratify the Board's prior vote to refer the Petition for Rulemaking received from the New Jersey Optometric Association to the Policy Forms Committee for a recommendation to the Board due by the January meeting, and for the Board to respond within 90 days thereafter. L. Moskowitz seconded the motion, and the motion was approved with D. Benbow and D. Cieslik abstaining.*

## **XII. Close of Meeting**