

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
April 19, 1995

Members present: Maureen Lopes, Chair; Dana Benbow (Prudential); Pamela Dickson (DOH); Stephen Fischl, M.D.; Charlotte Furman (Home Life); Linda Ilkowitz (Guardian); Leon Moskowitz (DOI); Charles Oliver (BCBSNJ); Paulette Ryan (NYLife); Amy Mansue/Fred Title (HIP of New Jersey); David Turner (Aetna); Dutch Vanderhoof.

Others present: Kevin O'Leary, Executive Director; Wardell Sanders, SEH Program Assistant Director; Ellen DeRosa, IHC Program Assistant Director; DAG Valerie Bollheimer (DOL); Jim Brown, SEH Legal Committee Chair (Aetna).

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.

II. Minutes

** C. Furman made a motion to approve the minutes of the March 15, 1995 meeting. L. Ilkowitz seconded the motion, and the motion was approved unanimously by voice vote.*

III. Public Comment Session

M. Lopes noted that the Board was beginning its practice to allow members of the audience to address the Board. The Assistant Director reported that no members of the audience had signed in to address the Board.

IV. Report of the Communications Committee

M. Lopes reported that the Communications Committee had met and discussed the Request for Proposal for communications services and the Board's advice to seek a

The Executive Director distributed copies of an expense report attached hereto as Exhibit 1. He noted that the report included charges from the Department of Corrections for distribution of approximately 750 Buyers' Guides. He said that the under-utilization of the 800 number could be corrected by better publication of the number. M. Lopes noted that while the 800 number was in the press release and was mentioned at the press conference on April 4, 1995, no paper printed the number. The Executive Director reported that the Board had received a draft agreement from the Attorney General's office, showing a ceiling of costs. He recommended that the Board go back to the Attorney General's office with a request to set the ceiling at \$120,000, and a provision to permit the parties to revisit the ceiling if the Board became involved in litigation.

** A. Mansue made a motion to authorize the Executive Director to approach the Attorney General's office with a recommendation to change the ceiling costs of services from the Attorney General's office to \$120,000. D. Vanderhoof seconded the motion, and the motion was approved unanimously by voice vote.*

** L. Moskowitz made a motion to approve the expense report (Exhibit 1). L. Ilkowitz seconded the motion, and the motion was approved unanimously by voice vote. [Met 2/3rds supermajority requirement]*

The Executive Director reported that the Request for Proposal for auditing services had been mailed to all entities on the Treasury's mailing list. He said that he held a pre-bid conference with D. Benbow on March 31, 1995 to address questions from potential respondees. The Executive Director noted that there were representatives from 18 entities in attendance, and that 12 entities submitted bids. He said that, pursuant to the Plan of Operation, an Operations Committee, which Committee is currently understaffed, should review the bids. The Executive Director recommended the formation of an ad hoc committee, composed of D. Benbow and L. Moskowitz (who were appointed to review similar bids for the IHC Program) and M. Lopes, to review the SEH bids, and to negotiate with bidders for the best price. [S. Fischl arrived.] The Executive Director said that the ad hoc committee should attempt to have a recommendation at the May Board meeting.

** P. Dickson made a motion to appoint the ad hoc committee as recommended. C. Furman seconded the motion, and the motion was approved unanimously by voice vote.*

The Executive Director noted that the Plan of Operation required the Board to consider whether an assessment was necessary at its April meeting. He reported that the market share reports have been received, and that there had been a substantial amount of follow up necessary. The Executive Director distributed copies of an Income Statement for 1993-94. The Income Statement reported \$744,251 in income, including \$782,201 in assessments, \$44,992 in refunds, and \$7,042 in interest. The expenses included \$373,612 in administrative expenses and \$147,745 in carrier expenses due. The net of the expenses from the income resulted in a balance of \$222,894.

The Executive Director also distributed copies of a draft 1995 budget, which did not include the anticipated cost of the audit, but did include adjustments to the anticipated costs from the Attorney General's Office of \$120,000. The Executive Director noted that the funds needed for 1995 would be \$530,200 plus the cost of auditing services, which \$530,000+ represented \$430,000 in estimated expenses plus a \$100,000 contingency fund. It was estimated that auditing services would cost about \$15,000. The Executive Director recommended that, from this \$545,000, the 1994 reconciliation should be subtracted, leaving an administrative assessment of approximately \$276,000 in 1995. He noted that the 1995 assessment would be lower than that for 1993-94, in part, because most startup costs had been incurred. The Board noted that the estimated budget did not account for the cost of additional Buyers' Guides, but that the contingency fund could cover those expenses. D. Benbow noted that it was not unreasonable to have a contingency fund representing 20% of the budget since the Program had relatively little experience upon which to base the budget and because legal expenses could rise dramatically if the Board becomes involved in litigation. L. Moskowitz suggested adjusting the assessment amount to \$300,000. M. Lopes and A. Mansue indicated that they did not believe that the adjustment was necessary.

** D. Turner made a motion to (1) approve the budget of \$445,000, (2) approve an assessment of \$276,000, (3) require that amounts assessed nonmember carriers in 1993-94 not be reassessed to member carriers prior to the 1995 assessment, and (4) reconcile 1994 assessment with the 1995 assessment. P. Ryan seconded the motion, and the motion was approved unanimously by voice vote. [Met 2/3rds supermajority requirement]*

D. Benbow said that the Board, in exercising its fiduciary responsibilities to the Program, should begin to obtain quarterly financial reports. He noted that the Board's staff is currently not equipped to generate such reports. He said that the Board needs to explore whether this would be best accomplished by hiring a staff person, using the expertise of an existing State agency, or hiring a consultant. D. Benbow raised a concern that the auditing entity hired to review the SEH Program finances not be the same entity brought in to assist the staff in the organization of the Program's books. He also said that the Board should consider waiting on the 1995 assessment until its books had been reviewed. The Executive Director expressed a concern that the Board may not have enough funds to delay an assessment until an auditor completes its report.

** P. Dickson made a motion to annul the prior Board vote regard administrative assessments. C. Oliver seconded the motion, and the motion was approved unanimously by voice vote. [Met 2/3rds supermajority requirement]*

[F. Title replaced A. Mansue as the representative of HIP of New Jersey.]

** L. Moskowitz made a motion to (1) approve an interim assessment of \$300,000 to be billed in June, based on draft budget \$445,000, (2) instruct the aforementioned ad*

hoc committee to make a recommendation to the Board with respect to development of a system to keep the Program's books in order to develop regular financial reports to the Board, (3) provide no refunds to carriers until such time as an audit has been completed and provide notice to carriers of the same, and (4) delay final reconciliation of the 1994 assessment until 1995. L. Ilkowitz seconded the motion, and the motion was approved unanimously by voice vote. [Met 2/3rds supermajority requirement]

The Executive Director reported that he had hired Allen Reese, who had experience in health care policy and had extensive computer skills, on a part time basis (approximately 20 hours a week) on a six month trial basis. He further noted that he was planning to hire a secretary.

The Executive Director reported that he had spoken at a meeting of the Medical Society, and was enthusiastically received, and that they had suggested posting the 800 number in Doctors' offices. P. Dickson said that she would look into the Access Program's plans to publish its 800 number. The Executive Director reported that he provided testimony at the Assembly Insurance Committee's hearing on the technical amendments bill. M. Lopes distributed copies of the bill, and noted that it was voted out of Committee that day, and that the Senate had not yet considered the bill. The Executive Director reported that on March 28, 1995 he appeared on the cable show "Its Your Business." He reported that he recently spoke to his local Rotary Club, and that an agent came up to him after the meeting and spoke highly of the SEH Program. He invited that agent to speak at the April 4, 1994 press conference, the agent accepted and provided positive anecdotal testimony of his experience as a broker since the reforms.

The Executive Director reported that he attended a League of Women Voters forum on the problem of the uninsured on April 5, 1995, along with M. Lopes and L. Moskowitz. He said that they stressed that the material distributed to the forum attendees included data only until 1993, and thus did not reflect the effects of New Jersey's reform. It was noted that the Robert Wood Johnson Foundation had more recent data suggesting that dependent coverage in all size groups was decreasing. D. Benbow noted that both large and small employers are raising the contribution levels of employees, and noted that decreases in dependent coverage were an economic problem rather than an insurance problem. The Executive Director noted that he would be speaking on May 5, 1995 at the Harvard School of Public Health.

The Executive Director noted that his one year anniversary with the Board had occurred, and he asked Board members to complete a staff evaluation form that was included in their Board packets and return it to him or to M. Lopes.

VI. Report of the Legal Committee

J. Brown, Chair of the Legal Committee, gave a brief overview of the statutes affecting permanent disability issues. The Executive Director said that it would be

helpful to develop a bulletin on disability issues. The Board agreed to discuss the issue of permanent disability in executive session.

J. Brown reported that the Board had received a letter on behalf of Protective Life Insurance Company requesting that it be permitted to require a 50% participation rate upon the renewal of its inforce nonstandard small employer health benefits plans, but require a 75% participation rate to newly issued nonstandard and standard plans. J. Brown reported that the Committee considered the request, and recommended disapproval of the request, based on the statute and regulatory provisions which require that the participation rates be applied uniformly to all small employer groups and all small employers.

** L. Moskowitz made a motion to disapprove the request made on behalf of Protective Life to alter its participation requirements as described above. F. Title seconded the motion, and the motion was approved unanimously by voice vote.*

J. Brown reported that the Board had received a letter on behalf of Protective Life Insurance Company requesting that it be permitted to lower its contribution requirement to 1%. J. Brown noted that the Board's regulations permit carriers to file to lower their contribution requirements based on a showing of reasonableness. The Executive Director noted that the only distinguishing feature between individual and group coverage in the individual market is the employer contribution, and as a result, for purposes of enforcement, a employer contribution set at 0 or an unreasonably low level could make enforcement actions very difficult. D. Vanderhoof noted that prior to reform, indemnity carriers would typically require an employer contribution level of at least 25% or greater. M. Lopes said that she was aware of no employers indicating that a 10% contribution was too great.

** L. Moskowitz made a motion to disapprove the request made on behalf of Protective Life Insurance Company to lower its employer contribution requirement to 1%. D. Vanderhoof seconded the motion, and the motion was approved unanimously by voice vote.*

M. Lopes said that the Board had recently received an optional benefit rider filing which proposed to change eligibility, and that the Legal Committee and the Policy Forms Committee were considering if this was permitted in an optional benefit rider filing. She asked for Board comments. She indicated that the statute provides that riders may revise in any way the "coverage in the five plans." C. Furman suggested developing a regulation to define "coverage." Some Board members said that "coverage" generally refers to the level of benefits, their structure and design, but did not include things like eligibility. M. Lopes said that the Board would delay further discussion of this issue, and that she would seek clarification of this provision with the Governor's Office, as this provision was added to the SEH Act in the conditional veto to P.L.1994, c.11.

M. Lopes noted that the staff has received a number of questions regarding municipalities. She reminded the Board that it had received advice on the status of municipalities from the Attorney General's Office. A copy of the advice was distributed. She instructed the Board to review the advice and to be prepared to decide at the next meeting whether the advice should be released.

** L. Moskowitz made a motion to resolve to enter into executive session for the purpose of reviewing executive session minutes from February 17, 1995, discussing enforcement issues, and receiving legal advice. D. Benbow seconded the motion, and the motion was approved unanimously by voice vote.*

VII. Executive Session

The Board entered executive session at approximately 12:35 p.m.

VIII. Report of the Policy Forms Committee

** L. Moskowitz made a motion to schedule an additional SEH Board meeting for May 3, 1995, at 9:30 am. D. Benbow seconded the motion, and the motion was approved unanimously by voice vote.*

M. Lopes announced that the additional Board meeting was necessary in order to consider policy forms issues. She asked Board members to review the memorandum on policy form changes before the next meeting. M. Lopes asked S. Fischl whether the Board's chelation therapy benefit should be changed. S. Fischl responded that chelation therapy serves a useful medical function only in cases of heavy metal poisoning.

M. Lopes said that the compliance and variability rule adoption would be put on the agenda for the next meeting.

IX. Report of the Assistant Director

The Assistant Director reported that the staff had distributed nomination forms for the election of Chair and Vice Chair to all Board members and contacted all nominees to determine if they would be willing to serve. He indicated that some nominees had indicated that they would not be able to serve. The only nominee for the position of Chair able to serve was M. Lopes.

** D. Benbow made a motion to re-elect M. Lopes as Chair of the SEH Board. L. Moskowitz seconded the motion, and the motion was approved unanimously by voice vote.*

The only nominee for the position of Vice Chair able to serve was D. Benbow.

** F. Title made a motion to elect D. Benbow as Vice Chair of the SEH Board. L. Moskowitz seconded the motion, and the motion was approved unanimously by voice vote.*

The Assistant Director reported that the Policy Forms Committee had reviewed optional benefit rider filings from HMO of New Jersey which would alter the copayment for prescription drugs in the HMO plan (\$5 version and \$10 version), and made a recommendation that the Board find the filing complete and in substantial compliance.

** D. Vanderhoof made a motion to accept the recommendation of the Policy Forms Committee with respect to the optional benefit rider filing submitted by HMO of New Jersey. D. Furman seconded the motion, and the motion was approved unanimously by voice vote.*

X. Close of Meeting

** D. Benbow made a motion to close the meeting. F. Title seconded the motion, and the motion was approved unanimously by voice vote.*