

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
May 17, 1995

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

Others present: Wardell Sanders, SEH Program Assistant Director; Ellen DeRosa, IHC Program Assistant Director; DAG Valerie Bollheimer (DOL).

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 April 19, 1995 meeting as amended. D. Turner seconded the motion and the motion was approved unanimously by voice vote.*

The Board reviewed the minutes of the May 3, 1995 and recommended changes. The Board agreed to review the amended draft minutes of the May 3 meeting at its next meeting.

M. Lopes noted that the Board votes regarding changes to the policy forms were intended as guidance to the Policy Forms Committee in drafting changes. She indicated that a final vote on all changes would occur during the proposal and adoption of any rule changes. She noted that this procedure was important, in part, because the sum of all changes must be examined in their totality.

III. Public Comment Session

No comments were offered.

IV. HMO and POS

L. Moskowitz distributed copies of Department Bulletin 95-11, "Notice of Intent to Propose Rules for the Provision of Out-of-network Benefits by Health Maintenance Organizations," and announced that the bulletin was being mailed to all carriers. He noted that the Bulletin had been reviewed by both the Department of Health and the Attorney General's Office. L. Moskowitz said that the conclusions reached were an attempt to be as broad and permissive as possible. He further said that the SEH Board needs to start a review process itself to determine the impact of this bulletin on the small employer market. After some discussion, the Board agreed to the formation of an ad hoc committee to review the bulletin, to determine its impact, and to propose any necessary changes to its policy forms. It was agreed that the ad hoc committee would be composed of members of the Policy Forms Committee, A. Mansue and technical personnel from the Department of Insurance and the Department of Health. M. Lopes said that she would organize meetings of this ad hoc committee.

IV. Report of Assistant Director

The Assistant Director noted that the expense report (attached hereto as Exhibit 1) included an expense payable to Kevin O'Leary primarily for the purchase of two computers. The Board indicated that future expense reports should break out large purchases. The Board also noted that the reimbursement expense to the IHC Board was unclear as it indicated that the SEH Board incorrectly paid an IHC notice.

** L. Moskowitz made a motion to approve the expense report with the exception of the payment to the IHC Board. A. Mansue seconded the motion, and the motion was approved unanimously by voice vote. [Met 2/3rds supermajority requirement]*

The Board briefly discussed the client reimbursement agreement between the Attorney General's Office and the Board. V. Bollheimer suggested that further discussion take place in executive session.

The Assistant Director discussed the draft 1995 assessment spreadsheet explaining that the staff needed to do follow-up work with a number of carriers. C. Furman noted that Phoenix Home Life Mutual Insurance Company appeared on the spreadsheet as filing an Exhibit CC and a nonmember certification. DAG Bollheimer suggested using the statutory cite to the "Farm Bureau Exemption" rather than the "farm bureau ex." in the spreadsheet. L. Moskowitz raised the issue of whether penalties could be assessed to entities failing to file or filing late Exhibit CCs or nonmember certifications. DAG Bollheimer agreed to check on the possibility of assessing penalties.

The Assistant Director reported that the staff had received numerous requests for release of the Attorney General's advice regarding the status of municipalities under the SEH Act. He asked if the advice or the conclusions reached should be released. D.

Vanderhoof raised an issue concerning the scope of the Attorney General's conclusion. The Board agreed that discussion of the advice should take place in executive session.

D. Benbow reported that the ad hoc committee organized to review bids on auditing services had been completed by the committee.

** D. Benbow made a motion to award the RFP for auditing services to Deloitte and Touche, at \$85 an hour for the 1993 and 1994 audits, \$89 an hour for the audit of calendar year 1995, with a ceiling of \$26,000, and contractual provision for termination under appropriate circumstances. L. Moskowitz seconded the motion and the motion was approved unanimously by voice vote. [Met 2/3rds supermajority requirement]*

D. Benbow said that he would provide a report supporting the ad hoc committee's recommendation. He noted that the bidders were ranked based on technical merit, experience with public entities, experience with entities with reimbursable loss mechanisms, qualifications of staff, audit plan, and overall quality of proposal. He noted that the committee asked the bidders ranking in the top four for their best price, and the committee interviewed the bidders with the three best bids. D. Benbow said that D&T would meet with the Board to provide progress reports.

V. Executive Session

** L. Moskowitz made a motion to enter executive session for the purpose of discussing litigation, executive session minutes, and the Attorney General's advice regarding municipalities. D. Turner seconded the motion, and the motion was approved unanimously by voice vote.*

VI. Report of the Policy Forms Committee

M. Lopes reported that the Policy Forms Committee had met to discuss the Board's comments regarding the adoption of the compliance and variability rider rule proposal. She indicated that the recommendation of the committee was to remove the twelve month restriction of the use of the compliance and variability rider from the proposal and to provide instructions to carriers on how long such riders could be used in connection with specific text changes via OAL filings and SEH bulletins.

** L. Moskowitz made a motion to accept the recommendation of the Policy Forms Committee and approve the draft rule adoption. C. Furman seconded the motion, and the motion was approved unanimously by voice vote.*

Policy Form Changes

Copies of a draft of specific language changes for the policy forms was distributed. M. Lopes explained that the numbered changes in the handout corresponded to the numbers set forth in her memorandum to the Board regarding policy form review

dated April 6, 1995. She noted that prior to the SEH Board meeting on June 7, 1995 another handout with additional proposed changes would be distributed.

1. Routine Footcare

The draft language would modify the exclusion by limiting it, and the proposed change would move it to the covered charges with special limitation section of the policy forms. The Board expressed concern over providing routine foot care for the treatment of "metabolic or peripheral vascular disease" and whether this language was too broad. *The Board agreed that carriers would speak with their medical directors to determine if this language could be more narrowly drawn.*

6. Smoking Cessation

M. Lopes indicated that she had asked the Medical Society for specific recommendations regarding smoking cessation aids and programs but had not yet received recommendations.

N. Fiorentino agreed to look into this matter.

7. Non-prescription drugs

The proposed changes would limit the exclusion for non-prescription drugs to include items, such as colostomy pouches, which are important and costly to those with chronic illnesses or injuries. C. Furman said that she shared the proposed change with people with Home Life and while they thought the changes were too broad, they were unable to provide a more narrowly drawn change.

The Board agreed that the Board members would consider how to craft a more narrowly drawn expansion of the exception to the exclusion.

12. Therapeutic Manipulation

The proposed change would add therapeutic manipulation to the list of covered charges with limitations in the HMO policy forms.

The Board agreed that the changes were appropriate.

13. Out-of-Country

The proposed change would exclude services or supplies provided outside of the United States under certain circumstances.

The Board agreed to modify the proposed change by (1) limiting the exclusion for business or pleasure travel outside of the United States when the travel is for more than six months and noted that this period corresponds to the six month residency requirement under individual plans, (2) adding text to specify that the reason for travel would not be to secure medical care or treatment, and (3) modifying the text to limit coverage to only those students studying at an accredited institution out-of-country for less than one year..

15. Family deductible

The purpose of the proposed change was to remove the individual satisfaction requirement of the family deductible. Also modified on the schedule page was the text

specifying the Emergency Room Copayment. The modification would have renamed this as a "Penalty."

The Board agreed to the proposed language modification regarding the individual satisfaction requirement. After some discussion, the Board agreed that the text discussing the copayment should be modified to clarify that such payment was in addition to the deductible and coinsurance.

16. Coinsured Charge Limit

The proposed change to the coinsured charge limit was designed to add a \$5000 option in addition to the current \$10,000 limit. D. Cieslik noted that by putting this in brackets it would be unclear whether carriers would be required to offer this option. It was noted that the proposed change was initiated by numerous optional benefit rider filings. C. Furman noted that the number of carriers who have filed riders to lower the coinsured charge limit would likely increase as the nonstandard plans are phased out. The Board concluded that if the \$5000 option were not mandated, the \$5000 option could be effectuated by using one of the standard riders or via optional benefit rider.

The Board decided to retain the \$10,000 limit; carriers that desire to offer a \$5000 limit would have to file an optional benefit rider.

M. Lopes noted that a mandatory offering bill regarding autologous bone marrow transplants was recently passed. She indicated that the Policy Forms Committee would discuss at a future meeting the issue of how the Board should handle "mandatory offer" legislation.

25. Specialist Doctor Benefits

The Board agreed to delete the list of services from the HMO contract.

26. Oral Contraceptives

The Board agreed to a modification of the proposed language to clarify coverage for oral contraceptives.

New Issue: Grievance Procedure

The Board agreed to add a section on grievance procedure and changed the recommended language to indicate that the procedure must be approved by the appropriate regulatory body and to add a statutory cite.

New Issue: Special Care Units

The Board agreed to clarify the language regarding Special Care Units to indicate that charges would be covered up to the hospital's daily room and board charge for the Special Care Unit.

D. Fischl raised the issue of whether the policy forms addressed the "23 hour day" used by some hospitals which policy falls between an emergency room visit and full admission. The Board indicated that this policy was not specifically addressed in the policy forms but may need to be.

M. Lopes indicated that the letter from S. Fischl to L. Ilkowitz regarding nutritional counseling would be forwarded to the Policy Forms Committee for consideration.

X. Close of Meeting

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