

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
August 16, 1995

Members present: Maureen Lopes, Chair; Dana Benbow, Vice Chair (Prudential); Pamela Dickson (DOH); Timothy English (Guardian); Stephen Fischl, M.D.; Jane Majcher (Home Life); Leon Moskowitz (DOI); Amy Mansue (HIP of New Jersey); Charles Oliver (BCBSNJ); Susan Peters (Aetna); Dutch Vanderhoof; Melanie Willoughby.

Others present: Kevin O'Leary, Executive Director; Wardell Sanders, SEH Program Assistant Director; Ellen DeRosa, IHC Program Assistant Director; DAG Josh Lichtblau (DOL).

I. Call to Order

M. Lopes called the meeting to order at approximately 9:35 AM 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. Public Comment Session

No public comments were offered.

III. Minutes

** M. Willoughby made a motion to approve the draft minutes of the July 12, 1995 meeting as amended. L. Moskowitz seconded the motion, and the motion was approved by voice vote with P. Dickson, J. Majcher, A. Mansue, S. Peters, and D. Vanderhoof abstaining.*

IV. Department of Insurance Regulations

Ed Unger of the Department of Insurance distributed copies of "New Jersey's Health Maintenance Organizations Compendium" to the Board.

The Assistant Director reported that the Department of Insurance had received responses to the Premium Comparison Survey from all carriers except two. He noted that the responses comprised approximately 85 pages. M. Lopes indicated that the public

relations firm could be asked for input regarding the distribution of Premium Comparison Survey.

Bob Vehec of the Department of Insurance reported that he had received Loss Ratio reports from approximately half of the carriers in the small employer market. He further noted that comments to the proposed rule requiring the report were due on August 16, 1995 and that two carriers had provided comments to the proposal.

V. Medical Savings Accounts

Amy Mansue distributed copies of a report regarding Medical Savings Accounts ("MSAs"). She noted that she had received and reviewed relevant literature on MSA. She recommended that the Board review the draft report and be prepared to vote on the report at the September 27th meeting. The Board briefly discussed the report and of the tax implications of MSAs.

VI. Report of the Policy Forms Committee

M. Lopes reported that she had developed a list of all riders approved to date. She said that she would provide the Board with copies in the near future.

The Assistant Director reported that the Policy Forms Committee had reviewed an amendment to an optional benefit rider filing from First Option which rider would broaden the mental health and substance abuse benefit in the \$15 copay plan by allowing separate inpatient and outpatient maximums for each, with \$5 and \$10 copayment options for services other than mental health and substance abuse services. He reported that the committee recommend a finding that the filing was complete and in substantial compliance.

** A. Mansue made a motion to accept the recommendation of the Policy Forms Committee and to find the above-referenced filing from First Option complete and in substantial compliance. P. Dickson seconded the motion, and the motion was approved unanimously by voice vote.*

The Assistant Director reported that the Policy Forms Committee had reviewed an optional benefit rider filing from Trustmark Insurance which rider would waive the Hospital Confinement Co-Payment, and that the Committee recommended finding the filing complete and in substantial compliance.

** L. Moskowitz made a motion to accept the recommendation of the Policy Forms Committee and to find the above-referenced filing from Trustmark Insurance complete and in substantial compliance. D. Vanderhoof seconded the motion, and the motion was approved unanimously by voice vote.*

The Assistant Director reported that the Policy Forms Committee had reviewed an amendment to a utilization review filing from John Hancock Life, and that the Committee recommended approving the filing. He noted that the carrier had been using unapproved utilization review procedures and recommended that the approval letter include a requirement that the carrier do a survey to determine if it had ever penalized an insured in an amount exceeding covered charges.

** L. Moskowitz made a motion to accept the recommendation of the Policy Forms Committee to approve the above-referenced filing from John Hancock, and to ask the carrier to do a survey to determine if inappropriate penalties had been assessed. A. Mansue seconded the motion, and the motion was approved unanimously by voice vote.*

M. Lopes reported that in drafting HMO/POS contracts and certificates, the Policy Forms Committee would need guidance with respect to certain basic questions. She referred to an issues memorandum outlining these questions.

Question 1: Should the SEH Policy Forms Committee design the standard HMO/POS contract and certificate from the insurance or HMO format?

Ed Unger said that it makes more sense to start with an HMO contract, and that in the large group market, the Department would require that HMO/POS contracts use an HMO contract format. C. Oliver asked if the small employer marketplace would be confused by the use of two different POS plans. He further asked if there were a way to write the contracts so that the core elements of the POS forms were the same, with a second technical section addressing whether the plan is offered through an HMO or indemnity carrier. L. Moskowitz indicated that such an approach might make sense with the evidence of coverage issued to employees, but maybe not the contracts issued to employers. Ed Unger said that since there were different laws which apply to indemnity carriers and HMOs, there must be different forms. L. Moskowitz said that it would be better to make the POS forms as similar as possible, but he said the law would require differences.

Conclusion: Start with the HMO contract, but reexamine the indemnity POS forms to make them resemble the HMO/POS contract as much as possible.

Question 2: Would the Board support formulation of a two-contract plan design for POS plans in the small employer market? Should the Board seek a legislative amendment to effect this change?

L. Moskowitz noted that the Department had already approved the use of two contracts in the large group market by two carriers. Ed Unger added that there were about five carriers contemplating such an arrangement.

Conclusion: The Board agreed to ask the DAG to revisit the issue of whether a two-contract approach would be possible in the small group market.

Question 3: Does the Board wish to establish a requirement that HMO/POS plans track the use of these limited services in and out of network in order to prevent patients from receiving up to twice the limit (i.e., "stacking")?

Conclusion: HMOs have internal limits (e.g., therapeutic manipulation). If carriers want to permit "stacking," they should file a rider.

Question 4: Should the \$10,000 per person coinsured charge limit be included in the HMO/POS plan?

Conclusion: Yes.

Question 5: Should the HMO/POS plan include a separate listing of out-of-network Covered Charges?

Conclusion: The Board agreed that, to the extent possible, covered charges should be integrated.

Question 6: Should the HMO/POS plan provide for a minimum (as disincentive) and a maximum out-of-network coinsurance rate?

Conclusion: Yes.

Question 7: Should out-of-network services be paid on a reasonable and customary standard based on the Prevailing Healthcare Charges System profile for New Jersey?

Conclusion: Yes.

Question 8: Should the optional utilization review language be included in the HMO/POS plan?

Conclusion: Yes.

VII. Legislative Report

[M. Willoughby arrived.]

M. Lopes distributed copies of a handout on A3123 that separated the provisions of the bill into three categories: acceptable amendments, unacceptable amendments, and topics for discussion. She noted that the handout represented what she believed were the Board's current positions. The Board agreed that the "acceptable amendments" section of the handout represented the Board's unanimous opinion. L. Moskowitz noted that the Department had not developed final positions on many of the remaining issues. He agreed to come back to the Board with the Department's position on the issues contained in A3123 as soon as possible. M. Lopes announced that the Board would hold a public meeting on September 12, 1995 following the public hearing on the proposed amendments to the policy forms.

L. Moskowitz said that A3123 freezes community rating at a 3-to-1 band. He noted that the DOI and DOH are still receiving information on community rating, but expected to have recommendations for the Commissioner in one week. A. Mansue mentioned that while she would like the Board to support community rating, she saw little likelihood that the Board would be able to reach a consensus on this issue. C. Oliver

asked if the Board should present the legislature with majority opinions on issues. A. Mansue said that she believed that split opinions would not be helpful. The issue was raised as to whether a Board member could represent both the Board and a carrier on an issue like community rating. It was noted that the Legal Committee was currently developing an ethics manual and that the issue would be addressed in the manual. P. Dickson recommended tabling the issue of community rating until the DOI and DOH had issued their report.

On the issue of forced conversion, A. Mansue asked whether the Board would be willing to support a compromise to A3123, allowing existing plans to be grandfathered in but prohibiting the sale of new nonstandard plans. She noted that such a compromise would not present a danger to the Program and would avoid bad publicity with respect to persons who do not wish to switch to a standardized plan. L. Moskowitz asked about associations under such a compromise. The Executive Director noted that there might be adverse selection against the standardized plans, as groups could select nonstandardized plans that did not cover maternity benefits. Sanford Herman of Guardian noted that forced conversion has an added administrative cost and angers many insureds. M. Lopes noted that, with the inclusion of optional benefit riders to the standardized plans, it is not clear whether employers are able to compare plans.

[P. Dickson left the meeting.]

L. Moskowitz noted that it appeared that some legislation would be coming out of Washington soon regarding MSAs. M. Lopes reported that United States Senate Bill 1028 (Kassenbaum/Kennedy) permitting the use of purchasing cooperatives would have an effect on the SEH Program.

VIII. Report of the Assistant Director

The Assistant Director referred to a handout on the distribution of SEH Buyers' Guides. The handout indicated that approximately 45,000 Guides had been distributed to carriers, and that approximately 150 Guides had been distributed via the 800 number in both June and July.

IX. Report of the Executive Director

The Executive Director reported that assessment collection was proceeding very well. He reported that the bookkeeper had nearly completed work on the IHC's books and would begin with the SEH books shortly. He indicated that after the bookkeeper finished these projects, then Deloitte & Touche would begin the audit of the Program.

The Executive Director reported that he had attended a conference in Portland, Oregon, which was also attended by P. Dickson and Judy Hale of the Access Program.

The Executive Director noted that the Board's regulations require carriers to use a 10% contribution level, but permit carriers to require a minimum contribution level of less than 10%. He asked the Board if there were policy reasons to have such a minimum contribution level. He noted that where you have master group contracts issued to an association or trust, where the individual pays the entire premium, such contracts constitute individual insurance. D. Vanderhoof noted carriers have traditionally required minimum contribution levels much greater than 10%. Sanford Herman noted that carriers are more concerned with participation levels than contribution levels. M. Lopes noted that where there is no contribution, the distinction between the individual and small employer markets may be blurred, creating a situation where there is a risk of adverse selection. L. Moskowitz noted that a completely contributory plan might be unfair to some employees who would become ineligible for individual coverage and the Access Program subsidies.

The Executive Director presented the expense report.

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

X. Executive Session

** J. Majcher made a motion to enter into executive session for the purpose of discussing enforcement actions and to discuss the selection of a marketing firm. D. Vanderhoof seconded the motion, and the motion was approved unanimously by voice vote.*

[A. Mansue left the meeting.]

XI. Selection of a Marketing Firm

** M. Willoughby made a motion to hire the marketing firm of Wenzel & Company to serve at the pleasure of the Board at a fee of \$4000 per month, with other expenses as approved by the Board, for a term not to exceed July 1, 1998. J. Majcher seconded the motion, and the motion was approved unanimously by voice vote. [Met 2/3rds supermajority requirement.]*

XII. Executive Session Minutes

** L. Moskowitz made a motion to approve the executive session minutes from the July 12, 1995 meeting. D. Vanderhoof seconded the motion, and the motion was approved with J. Majcher and S. Peters abstaining.*

XIII. Close of Meeting

** L. Moskowitz made a motion to close the meeting. M. Lopes seconded the motion, and the motion was approved unanimously by voice vote.*