

## 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

February 21, 1996

**Members present:** Maureen Lopes, Chair; James Donnellan, Vice Chair (Prudential); Pam Dickson (DOH); Justin Fiedler (BCBSNJ); Steven Fischl, M.D.; Eileen Gallagher (NYLife); Larry Glover; Linda Ilkowitz (Guardian); Jane Majcher (Home Life); Amy Mansue (HIP of New Jersey); Susan Martha (Aetna); Leon Moskowitz (DOI); Dutch Vanderhoof; M. 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 9:45 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 Comments

No public comments were offered.

#### III. Minutes

*\* J. Fiedler made a motion to approve the draft January 17, 1996 minutes, as amended. L. Moskowitz seconded the motion, and the motion was approved unanimously by voice vote.*

*\* L. Moskowitz made a motion to approve the draft January 17, 1996 executive session minutes. J. Donnellan seconded the motion, and the motion was approved by voice vote with J. Majcher abstaining.*

#### IV. Report of the Legal Committee

The Executive Director reported that the Legal Committee met via telephone conference on January 31, 1996. He reported that the first issue discussed by the

Committee was whether a carrier with a selective contracting arrangement which was limited to only certain areas of the state could fulfill its obligation under the law to offer the standard plans by offering only standard plans issued through or in conjunction with its selective contracting arrangement. He reported that the Committee had referred the issue to the Department of Insurance for further guidance; however, he noted that the Committee agreed that carriers with a selective contracting arrangement with limited service areas should be required to offer the standard indemnity plans in areas where the carrier did not have an approved service area. He further noted that the Committee believed that a carrier with an approved area that included the entire State should not be required to offer the standard plans on a pure indemnity basis in addition to the plans offered through the selective contracting arrangement. The Assistant Director noted that the issue had been raised by an attorney representing a carrier.

[Larry Glover and M. Willoughby arrived]

The Board agreed with the position of the Legal Committee and instructed the Assistant Director to reflect this position in the SEH rules.

*\* J. Donnellan made a motion to adopt the recommendation of the Legal Committee that a carrier must offer all five plans in all counties of the State and, if a carrier has a limited approved service area for its selective contracting arrangement, it must offer the standard indemnity plans in those areas in the State where it does not have approval for its selective contracting arrangement. L. Ilkowitz seconded the motion, and the motion was approved by voice vote with L. Glover abstaining.*

#### **V. Introduction of New Board Member**

M. Lopes introduced the newest member of the SEH Board, Larry Glover, and indicated that L. Glover had been elected by carriers to sit as the representative of minority small businesses. She said that L. Glover's impressive background in marketing was a great asset to the SEH Board. L. Glover thanked the Chair for her introduction and indicated that it was a pleasure to serve on the SEH Board.

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

M. Willoughby reported that the Marketing Committee met with representatives of Wenzel and Company. She reported that the first issue discussed was the need to gain greater exposure for the premium comparison surveys. She indicated that the survey had been sent to business editors of newspapers and weeklies in the State. Second, she reported that the Committee discussed contacting trade associations about the surveys, and about sponsoring speakers to discuss health care reform. M. Willoughby reported that the Committee also discussed redrafting the SEH Buyers' Guide so that it would reflect the recent amendments to both the law and to the policy forms. J. Fiedler suggested that the new requirement that small employers provide notice to employees of

their right to continue coverage under State continuation be mentioned in the revised Buyers' Guide.

[S. Fischl arrived]

L. Moskowitz noted that the premium comparison surveys were published for only three counties. He indicated that there was a way to link the published surveys to other counties. B. Vehec of the Department said that three counties were selected so that the surveys would capture reports for all HMOs, some of which are not licensed in all counties.

## **VII. Report of the Chair**

M. Lopes reported that the February election for Board seats had been rescheduled to March so that the election would be concurrent with the election required as the result of the passage of the amendments to the law which redesignated the seats for a risk-assuming carrier and a reinsuring carrier. The Assistant Director reported that the nominees were as follows: (1) A person representing small employers: M. Lopes; (2) a carrier whose principal health insurance business was in the small employer market: AmeriHealth Insurance; Celtic Life; and Protective Life; (3) two HMOs: AmeriHealth HMO; Harmony Health Plan; HIP of New Jersey; NYLCare Health; Oxford Health; Physician Healthcare Plan; U.S. Healthcare. M. Lopes indicated that newly elected Board members would be seated at the April meeting. At that time, she indicated that new committee assignments would be made on a voluntary basis.

M. Lopes reported that the amendments to the law required the Board to conduct a study to determine the effect of the transition to community rating on the market within 15 months. She indicated that the Board would need to develop a series of questions to pose to carriers, and that the Board would need to work with the Department on the study. She indicated that an ad hoc committee would need to be formed in order to make recommendations to the Board. The following persons were named to the ad hoc committee: L. Ilkowitz, J. Fiedler, A. Mansue, M. Willoughby, D. Vanderhoof, and the representatives of the Department of Insurance and the Department of Health.

M. Lopes also reported that the amendments to the law required the Board to conduct a study to determine the impact on the individual and small employer insurance markets of permitting individuals to purchase small employer plans. J. Donnellan noted that the Board should reach out to the IHC Board to obtain input from that Board. L. Moskowitz noted that the Board may want to consider holding a public hearing or inviting written public comment to aid the Board in the development of its study. The following persons were named to the study: J. Donnellan, M. Lopes, L. Glover, D. Vanderhoof, E. Gallagher, and representatives of the Departments of Insurance and Health.

### **VIII. Report of the Assistant Director**

The Assistant Director reported that he had finished a draft of amendments to the SEH rules to conform the rules with the recent changes in the law. He indicated that he had also made technical corrections to sections of the law that were unclear. The Executive Director indicated that he was reviewing the draft and noted that the section addressing nonstandard plans had proven to be difficult to draft. He said that the draft would be forwarded to the Legal Committee for its review.

The Assistant Director reported that the staff had received two complaints from carriers regarding the Board's recent rule change to its participation regulation which has the effect of permitting small employers to purchase multiple health benefits plan. He indicated that one complaint was received from The Guardian. L. Ilkowitz said that Guardian had received a request to write a standard plan for a group which had an existing nonstandard plan; she noted that there was a potential for adverse selection. D. Vanderhoof indicated that he did not believe that there would be a substantial risk of anti-selection. He noted that the Board's current regulations provided a limited ability for an employer to purchase multiple plans. He also noted that, prior to reform, many carriers permitted this type of arrangement, but that most small employers did not exercise the option to purchase multiple plans. He indicated that the Board should monitor the situation. A. Mansue asked if the Board had the discretion under the statute to prohibit small employers from offering multiple plans to different classes of employees. L. Moskowitz indicated that the law seemed to permit the sale of multiple plans to a single employer. He recommended that the carriers monitor their business to determine if many small employer chose multiple plans and to identify any problems arising therefrom. He indicated that if the present rules presented problems, that the Board could go to the Legislature to modify the statute, but that the Board should have data to support any proposed modifications. J. Fiedler suggested that the Board revisit this issue in six months.

The Assistant Director reported that D. Vanderhoof had raised an issue concerning the Department's loss ratio regulations. D. Vanderhoof noted that if a carrier developed and maintained provider networks there were ongoing expenses that should be recognized as claims expenses rather than as administrative expenses for purposes of determining loss ratios. After some discussion, the Board noted that the issue was one for the Department to consider and that carriers and others should direct their comments to the Department.

## **IX. Executive Session**

*\* D. Vanderhoof made a motion to move into executive session for the purpose of receiving legal advice and to discuss enforcement actions. J. Donnellan seconded the motion, and the motion was approved unanimously by voice vote.*

Return to Open Session

## **X. Report of the Policy Forms Committee**

L. Moskowitz reported that the Department anticipated that it would conclude its review of the regulations regarding the necessary contractual arrangements to permit HMOs to offer out-of-networks benefits by the end of the month and that the regulation would be forwarded to the Department of Health.

The Assistant Director referred to a draft of the rule adoption of the Board's rule proposal containing the standard HMO/POS contract. The Board considered the draft responses to comments provided to the rule proposal. The Assistant Director noted that the Board was seeking clarification of some of the issues raised by the commenters and that the draft did not include responses to those comments which were unclear. The Board reviewed the document and made minor modifications. The Board indicated that it intended to vote to adopt the rule proposal at its next meeting.

E. DeRosa reported that a draft of the evidence of coverage for the HMO/POS product had been developed. She noted that this draft already had included changes required as the result of comments to the HMO/POS contract rule proposal. She also referred to a document describing how the HMO/POS product worked and noted that it would appear at the beginning of the evidence of coverage. L. Moskowitz noted that the document would need slight modification, since it was written to refer to all HMOs.

*\* L. Ilkowitz made a motion to propose the draft HMO/POS evidence of coverage, as amended, to be filed pursuant to the SEH Board's special expedited rule making procedures. J. Majcher seconded the motion, and the motion was approved by voice vote with L. Glover abstaining.*

The Assistant Director noted that if the contract and evidence of coverage were adopted at the next SEH Board meeting, then the adoptions would appear in the April 15, 1996 New Jersey Register.

The Assistant Director referred to the document attached hereto as Exhibit 1 regarding the recommendations of the Policy Forms Committee regarding certain filings. He then outlined the substance of the filings.

*\* A. Mansue made a motion to accept the recommendation of the Policy Forms Committee with respect to the optional benefit rider from Harmony Health Plan listed on*

*Exhibit 1 to find the filing complete and in substantial compliance. J. Donnellan seconded the motion, and the motion was approved by voice vote with L. Glover abstaining.*

*\* D. Vanderhoof made a motion to accept the recommendation of the Policy Forms Committee with respect to the optional benefit rider from Oxford Health Insurance listed on Exhibit 1 as Rider 1 to find the filing complete and in substantial compliance except with respect to the \$750 deductible option when offered with the \$250 or \$500 deductible options of the standard plans since under those options the rider would result in a benefit decrease. J. Donnellan seconded the motion, and the motion was approved by voice vote with L. Glover abstaining.*

*\* D. Vanderhoof made a motion to accept the recommendation of the Policy Forms Committee with respect to the optional benefit rider from Oxford Health Insurance listed on Exhibit 1 as Rider 2 to find the filing complete and in substantial compliance. E. Gallagher seconded the motion, and the motion was approved by voice vote with L. Glover abstaining.*

*\* J. Fiedler made a motion to accept the recommendation of the Policy Forms Committee with respect to the optional benefit rider from Oxford Health Insurance listed on Exhibit 1 as Rider 3 to find the filing complete and in substantial compliance. J. Donnellan seconded the motion, and the motion was approved by voice vote with L. Glover abstaining.*

*\* D. Vanderhoof made a motion to accept the recommendation of the Policy Forms Committee with respect to the optional benefit rider from Oxford Health Insurance listed on Exhibit 1 as Rider 4 to find the filing complete and in substantial compliance. J. Fiedler seconded the motion, and the motion was approved by voice vote with L. Glover abstaining.*

L. Moskowitz indicated that he was unclear of the content of Rider 5 filed by Oxford Insurance.

*\* D. Vanderhoof made a motion to accept the recommendation of the Policy Forms Committee with respect to the optional benefit rider from Oxford Health Insurance listed on Exhibit 1 as Rider 5 to find the filing complete and in substantial compliance. J. Donnellan seconded the motion, and the motion was approved by voice vote with L. Glover and L. Moskowitz abstaining.*

*\* J. Donnellan made a motion to accept the recommendation of the Policy Forms Committee with respect to the optional benefit rider from Physician Healthcare Plan listed on Exhibit 1 as Rider 1 to find the filing complete and in substantial compliance. J. Fiedler seconded the motion, and the motion was approved by voice vote with L. Glover abstaining.*

*\* L. Moskowitz made a motion to accept the recommendation of the Policy Forms Committee with respect to the optional benefit rider from Physician Healthcare Plan listed on Exhibit 1 as Rider 2 to find the filing incomplete and not in substantial compliance. J. Donnellan seconded the motion, and the motion was approved by voice vote with L. Glover abstaining.*

*\* D. Vanderhoof made a motion to accept the recommendation of the Policy Forms Committee with respect to the optional benefit rider from Trustmark Insurance listed on Exhibit 1 to find the filing complete and in substantial compliance. J. Fiedler seconded the motion, and the motion was approved by voice vote with L. Glover abstaining.*

*\* J. Donnellan made a motion to accept the recommendation of the Policy Forms Committee with respect to the utilization review filing from Employers Health Insurance listed on Exhibit 1 to approve the filing. A. Mansue seconded the motion, and the motion was approved by voice vote with L. Glover abstaining.*

*\* L. Moskowitz made a motion to accept the recommendation of the Policy Forms Committee with respect to the request from Employers Health Insurance to modify the standard forms as listed on Exhibit 1 to disapprove the request. J. Donnellan seconded the motion, and the motion was approved by voice vote with L. Glover abstaining.*

It was noted that the appointment of the ad hoc committees to conduct the statutory studies would require the vote of the Board.

*\* J. Donnellan made a motion to appoint an ad hoc committee for the purpose of studying the effect of the transition to community rating with the following members: Ken Fody (AmeriHealth), P. Dickson (DOH), S. Herman (Guardian), a representative of Blue Cross and Blue Shield, a representative of HIP of New Jersey, M. Willoughby, D. Vanderhoof, and a representative of the Department of Insurance. A. Mansue seconded the motion, and the motion was approved unanimously by voice vote*

*\* L. Moskowitz made a motion to appoint an ad hoc committee for the purpose of studying the impact of the individual and small employer insurance markets of permitting individuals to purchase a small employer plan with the following members: M. Lopes, D. Vanderhoof, a representative of Prudential, a representative of New York Life, L. Glover, and representatives of the Departments of Health and Insurance. J. Fiedler seconded the motion, and the motion was approved unanimously by voice vote*

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

The Executive Director presented the Board with an expense report attached hereto as Exhibit 2.

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

The Executive Director presented the Board with a comparison of rates in the individual and small group market based on the most recent individual rate survey and one of the small employer premium comparison surveys published by the SEH Board. He explained that he took the fictional six person group identified in the small employer survey and determined their rates for individual coverage, and added the individual premiums for all six employees and dependents to compare with the same carrier's group rates.

## **XII. Close of Meeting**

*\* D. Vanderhoof made a motion to close the meeting. E. Gallagher seconded the motion, and the motion was approved unanimously by voice vote.*