

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 17, 1996**

Members present: Maureen Lopes, Chair; James Donnellan, Vice Chair (Prudential); Pam Dickson (DOH); Justin Fiedler (BCBSNJ); Eileen Gallagher (NYLCare); Larry Glover; Linda Ilkowitz (Guardian); Jane Majcher (Home Life); Amy Mansue (HIP of New Jersey); Dan Morgan (Celtic Life); 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 9:35 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 Comments

No public comments were offered.

III. Minutes

** A. Mansue made a motion to approve the draft minutes of the February 21, 1996 Board meeting, as amended. L. Ilkowitz seconded the motion, and the motion was approved by voice vote, with D. Morgan abstaining.*

** P. Dickson made a motion to approve the draft minutes of the February 21, 1996 executive session meeting. D. Vanderhoof seconded the motion, and the motion was approved by voice vote, with J. Fiedler, J. Majcher, and D. Morgan abstaining.*

IV. Seating of New Board Members

M. Lopes introduced the two new Board members: Dan Morgan representing Celtic Life, a carrier primarily in the small employer market, and Eileen Gallagher representing NYLCare Health Plans, an HMO.

V. Election of Chair and Vice Chair

Ballots for Chair and Vice Chair were distributed to Board members. Board members were asked to vote and provide the votes to the Assistant Director.

VI. Committee Assignments

M. Lopes referred to a copy of the SEH Plan of Operation regulations regarding standing committees. She said that the Board should review the regulation to determine if the regulation should be amended. She also noted that the committees would be reconstituted. P. Dickson noted that the Policy Forms Committee was not listed as a standing committee in the Plan of Operation regulation and recommended its inclusion. Noting that the functions of the Finance and Operations Committees were similar, and noting that both Committees met infrequently, the Board decided to merge those two Committees. The Board also noted that the Dispute Resolution Committee had never been formed. The Board further noted that the functions of the Dispute Resolution Committee were being performed by the Legal Committee or the Department of Insurance. As a result, the Board decided to remove the Dispute Resolution Committee from the list of standing committees and moved its functions, as appropriate, to the Legal Committee.

** E. Gallagher made a motion to combine the Finance and Operations Committees. M. Willoughby seconded the motion, and the motion was approved unanimously by voice vote.*

** A. Mansue made a motion to abolish the Dispute Resolution Committee and to move the functions set forth in N.J.A.C. 11:21-2.6(b)5vi(1) through (3) to the functions of the Legal Committee. P. Dickson seconded the motion, and the motion was approved unanimously by voice vote.*

** A. Mansue made a motion to compose a Policy Forms Committee, and for the Committee to develop a list of its functions. J. Donnellan seconded the motion, and the motion was approved unanimously by voice vote.*

The Board then reviewed the current committee assignments. The Executive Director noted that while Aetna was no longer a member of the Board, he recommended that Jim Brown of Aetna be asked to remain as the Chair of the Legal Committee. He noted that J. Brown was an invaluable member of the Legal Committee and had performed an excellent job as Chair, organizing and running the Committee's meetings. A. Mansue indicated that it would be important to seek to retain J. Brown's services,

especially as the Legal Committee would soon be reviewing significant amendments to the SEH regulations.

J. Donnellan made a motion to retain J. Brown as the Chair of the Legal Committee. L. Ilkowitz seconded the motion. L. Moskowitz expressed a concern about having the Board name a chair to a standing committee who was not a member of the SEH Board; he recommended that it would be better for the Committee to nominate its own chair. J. Donnellan withdrew the motion.

** J. Donnellan made a motion to permit J. Brown of Aetna to continue to serve as a member of the Legal Committee despite the fact that Aetna was no longer a member of the SEH Board. M. Willoughby seconded the motion, and the motion was approved unanimously by voice vote.*

M. Lopes asked Board members to volunteers for the various standing committees.

** L. Ilkowitz made a motion to approve the following volunteers for the **Finance and Operations Committee**: S. Fischl, M. Lopes, the Department of Insurance, Blue Cross and Blue Shield of New Jersey, Celtic, and Prudential. E. Gallagher seconded the motion, and the motion was approved unanimously by voice vote.*

** P. Dickson made a motion to approve the following volunteers for the **Legal Committee**: the Department of Insurance, J. Brown of Aetna, Blue Cross and Blue Shield of New Jersey, HIP of New Jersey, Guardian, and NYLCare Health Plans. L. Glover seconded the motion, and the motion was approved unanimously by voice vote.*

** L. Moskowitz made a motion to approve the following volunteers for the **Marketing Committee**: L. Glover, M. Lopes, D. Vanderhoof, M. Willoughby, Blue Cross and Blue Shield of New Jersey, HIP Health Plan of New Jersey, and Home Life. P. Dickson seconded the motion, and the motion was approved unanimously by voice vote.*

** L. Moskowitz made a motion to approve the following volunteers for the **Policy Forms Committee**: the Department of Insurance, the Department of Health, Blue Cross and Blue Shield of New Jersey, Celtic, Guardian, Home Life, and Prudential. E. Gallagher seconded the motion, and the motion was approved unanimously by voice vote.*

The Assistant Director noted that some people not sitting on the SEH Board had volunteered to serve on the SEH Committees. M. Lopes asked the Assistant Director to come back with a list of any volunteers at the next meeting.

VII. Marketing Committee Report

The Board briefly discussed a draft of the revised SEH Buyer's Guide and made some minor editorial comments. The Assistant Director indicated that the grids of the

standard plans would be faxed, as soon as possible, to Board members for comments. The Board agreed that the HMO/POS contract should be reflected in the grids. Jim Gorman of Wenzel and Company indicated that it would take approximately 15 days from receipt of the final copy of the Guide to completion of the printing. It was agreed that the Marketing Committee would review the final layout, and that it would not be forwarded to the Board for approval. It was agreed, however, that the Board would need to finalize the Committee's recommendations with respect to distribution of the Guide and the cost of printing the Guide. Based on the timeframes discussed, it was estimated that a new Guide would be available around June 1, 1996. The Board noted that the Committee should also develop a press release announcing the publication of the revised SEH Buyer's Guide.

VIII. Report of the Legal Committee

The Executive Director reported that the Legal Committee had met March 27, 1996 via telephone conference. He reported that the Committee considered the issue of whether a nonprofit entity such as a church was a "small employer." He noted that the Committee reviewed prior advice from the Attorney General's Office regarding municipalities. He indicated that the Committee recommended that a nonprofit entity be considered a "small employer" under the SEH Act. The Committee noted that the notion of profit did not appear to be an essential element to be considered a small employer. The Board noted that most labor laws applied to not-for-profit institutions. After some discussion regarding some distinctions of entities not operating for profit under the IRS Code, the Board decided to limit its interpretation to the narrow question presented to the Board.

** M. Lopes made a motion to find that the definition of "small employer" in the SEH Act includes churches. M. Willoughby seconded the motion, and the motion was approved unanimously by voice vote.*

The Executive Director reported that the Legal Committee was continuing its consideration of the status of seasonal employees under the law. The Assistant Director reported that he had contacted the NAIC and other state Insurance Departments regarding the status of seasonal employees, and had reviewed other New Jersey regulations regarding seasonal employees for guidance. He reported that Massachusetts had defined an "eligible employee" as someone whom an employer has hired to work for more than five months. L. Moskowitz noted that developing a clear rule defining which seasonal employees are eligible employees could have a mixed impact, encouraging some employers to cover more persons, but encouraging other employers to cover fewer employees or to drop coverage entirely.

IX. Report of the Policy Forms Committee

The Assistant Director reported that the Policy Forms Committee had met to review optional benefit rider filings and other matters. The Assistant Director referred to

the document attached hereto as Exhibit 1 regarding the recommendations of the Policy Forms Committee, and described the riders submitted.

** J. Donnellan made a motion to accept the recommendation of the Policy Forms Committee with respect to the optional benefit rider filing from The New England, listed on Exhibit 1 as Rider 1, to find the filing incomplete and not in substantial compliance. J. Fiedler seconded the motion, and the motion was approved unanimously by voice vote.*

** J. Fiedler made a motion to accept the recommendation of the Policy Forms Committee with respect to the optional benefit rider filing from The New England, listed on Exhibit 1 as Rider 2, to find the filing incomplete and not in substantial compliance. L. Glover seconded the motion, and the motion was approved unanimously by voice vote.*

** L. Moskowitz made a motion to accept the recommendation of the Policy Forms Committee with respect to the optional benefit rider filing from The New England, listed on Exhibit 1 as Rider 3, to find the filing incomplete and not in substantial compliance. J. Fiedler seconded the motion, and the motion was approved unanimously by voice vote.*

** L. Moskowitz made a motion to accept the recommendation of the Policy Forms Committee with respect to the optional benefit rider filing from The New England, listed on Exhibit 1 as Rider 4, to find the filing incomplete and not in substantial compliance. P. Dickson seconded the motion, and the motion was approved unanimously by voice vote.*

** L. Moskowitz made a motion to accept the recommendation of the Policy Forms Committee with respect to the optional benefit rider filing from Physician Health Services, listed on Exhibit 1 as Rider 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. Ilkowitz abstaining.*

** L. Moskowitz made a motion to accept the recommendation of the Policy Forms Committee with respect to the optional benefit rider filing from Physician Health Services, listed on Exhibit 1 as Rider 2, to find the filing complete and in substantial compliance. J. Fiedler seconded the motion, and the motion was approved by voice vote, with L. Ilkowitz abstaining.*

** L. Moskowitz made a motion to accept the recommendation of the Policy Forms Committee with respect to the optional benefit rider filing from Sentry Life, listed on Exhibit 1 as Rider 1, to find the filing complete and in substantial compliance. L. Ilkowitz seconded the motion, and the motion was approved unanimously by voice vote.*

The Assistant Director reported that the Policy Forms Committee had discussed a work schedule and had agreed that E. DeRosa should begin developing a draft of linking language for a dual contract product. The Board noted that no carrier could offer a dual

contracting product in the small employer market until the SEH Board promulgated a standard form for the product. With respect to other projects for the Policy Forms Committee, the Board agreed that the Committee should coordinate its draft revision to the standard HMO contract with the Department of Health's regulations governing HMOs in the State.

The Assistant Director noted that the HMO/POS contract and evidence of coverage rule adoptions, as well as the Department of Health rule adoption regarding the ability of HMOs to offer out-of-network services, were published in the April 15, 1996 New Jersey Register. He further noted that computer disks with the HMO/POS contract, evidence of coverage, and explanation of brackets were available by contacting the Board's staff. L. Moskowitz asked if the Board would know which carriers were offering the HMO/POS contract. The Assistant Director noted that carriers offering the HMO/POS contract would be required to file rates for the product, and that he received copies of the Department's determination letters, and thus would have a record of carriers offering the HMO/POS product.

X. Report of the Assistant Director

The Assistant Director referred to a copy of a spreadsheet showing enrollment figures for the fourth quarter of 1995 for all carriers. He noted that the report showed modest increases in both the number of plans in force and employees covered. He noted that with the changes to the participation regulation (N.J.A.C. 11:21-7.6) broadening the circumstances under which an employer could sponsor multiple health benefits plans would have an effect on the enrollment figures. L. Moskowitz noted that future reports should reflect that fact. The Board agreed that the Assistant Director should share the enrollment figures with the Department of Insurance for assistance in analyzing the data.

XI. Report of the Executive Director

The Executive Director presented an expense report attached hereto as Exhibit 2. L. Moskowitz inquired about the Department of Corrections expense for distribution of the Buyer's Guide. The Executive Director noted that he believed that the service was indispensable and that the Department was not on a retainer, it received compensation only based on the number of Guides distributed.

** L. Moskowitz made a motion to accept the attached expense report. L. Moskowitz seconded the motion, and the motion was approved unanimously by voice vote. [Met 2/3rds supermajority requirement]*

The Executive Director reported that Peter Van Riper was proceeding with the collection of data for the Board's study on the impact of permitting individuals to purchase small group insurance. D. Morgan volunteered the services of representatives of Celtic for this study.

The Executive Director reported that he had spent some time on seeking amendments to the federal health bills to acknowledge the reform efforts already undertaken in New Jersey. Toward that end, he reported that he accompanied the Commissioner on a trip to Washington, D.C. He reported that their efforts were successful in obtaining on the House bill what amounted to a carve out for New Jersey, and on the Senate Bill, they received an agreement from the sponsors to create a carve out for the State which would preserve New Jersey's option to limit health purchasing cooperatives. A. Mansue thanked the Executive Director and members of the Department for all of their hard work and commended them for their success in obtaining these modifications to the two bills.

The Executive Director reported that he attended a meeting of the Assembly Insurance Committee in which a bill was passed which would join the IHC and SEH Boards; he noted that the Senate had not addressed the bill. He reported that the Assembly bill requires the unified Board to perform a reviewing function of proposed mandated benefits.

The Executive Director briefly reported on the IHC Program assessment for reimbursable losses, noting that three carriers reported reimbursable losses totaling approximately \$79,000,000.

The Executive Director reported that he had appeared on "Perspectives New Jersey," a television show which aired on Saturday afternoon, April 20th on Channel 6 in Philadelphia. He reported that he would be appearing on a cable television show out of Red Bank which had been arranged by a broker, and on another cable show which appearance had been arranged by Wenzel and Company. He indicated that he would be giving presentations to the Health Insurance Association of America on April 30th, to the New Jersey Association of Health Underwriters in May, and to the American Bar Association in June.

The Executive Director referred to various newspaper articles covering a press conference held by Assembly members Weinberg and Pascrell. The press conference concerned a New Jersey resident covered under the standard individual health benefits Plan A who needed a heart transplant who was denied coverage for the transplant under the "bare-bones plan." The Executive Director also referred to a response from Commissioner Randall.

XII. Election Results

The Assistant Director announced that M. Lopes was reelected as Chair of the SEH Board and L. Moskowitz was elected as Vice Chair of the SEH Board.

XIII. Close of Meeting

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