

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 15, 1996**

Members present: Maureen Lopes, Chair; Leon Moskowitz, Vice Chair (DOI); Pam Dickson (DOH); James Donnellan (Prudential); Justin Fiedler (BCBSNJ); Charlotte Furman (Anthem); Eileen Gallagher (NYLCare); Larry Glover; Linda Ilkowitz (Guardian); Dan Morgan (Celtic Life); Fred Title (HIP of New Jersey); Dutch Vanderhoof; M. Willoughby.

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

I. Call to Order

M. Lopes called the meeting to order at approximately 9:40 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

** L. Moskowitz made a motion to approve the draft minutes of the April 17, 1996 Board meeting, as amended. E. Gallagher seconded the motion, and the motion was approved by voice vote, with C. Furman and F. Title abstaining.*

IV. Legislative Update

M. Lopes reported that A800, a bill concerning the combination of the Boards, had been released by the Assembly Insurance Committee, but not yet posted for a floor vote. She indicated that it was unclear when the Legislature would vote on the bill. She reported that another bill, from Assemblyman Garrett, would eliminate community rating in both the individual and small employer markets. She indicated that the bill had not yet been introduced.

V. Committee Volunteers

The Assistant Director reported that Ann Kohler of Physician Healthcare Plan of New Jersey had volunteered to serve on an SEH committee. The Assistant Director suggested to the Board that he notify the committees of Ms. Kohler's offer to serve so that each committee could consider their needs for additional assistance.

** F. Title made a motion to add Sandy Herman of Guardian to the Finance and Operations Committee. C. Furman seconded the motion, and the motion was approved unanimously by voice vote.*

VI. Report of the Marketing Committee

M. Lopes referred to a draft of a grid showing the standard health benefits plans for inclusion in the SEH Buyer's Guide. L. Ilkowitz noted that the grid would be very helpful to carriers and brokers as an informal reference tool. M. Lopes and the Executive Director indicated that the grid may be too detailed for inclusion in a guide for small employers. L. Moskowitz indicated that a grid as detailed as the one provided was appropriate for inclusion in the Buyer's Guide but that the Guide needed to be set up with a brief explanation of the coverages of the standard health benefits plans. The Assistant Director noted that the draft of the Guide did include a brief overview of the standard plans in the Introduction and Executive Summary section. After some discussion, the Board agreed to include the grid in the Guide as an Appendix. The Board agreed to provide staff with any changes to the grid by the May 22, 1996.

VII. Report of the Policy Forms Committee

The Assistant Director reported that the Committee elected L. Ilkowitz as Chair of the Policy Forms Committee. He reported that the 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.

** F. Title made a motion to accept the recommendation of the Policy Forms Committee with respect to the optional benefit rider filing from Physician Healthcare Plan, listed on Exhibit 1 as Rider 1, to find the filing complete and 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 Physician Healthcare Plan, listed on Exhibit 1 as Rider 2, to find the filing complete and in substantial compliance. J. Donnellan 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 Healthcare Plan, listed on Exhibit 1 as Rider 3, to find the filing complete and in substantial compliance. F. Title 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 Healthcare Plan, listed on Exhibit 1 as Rider 4, 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 Medigroup, Inc. had filed a compliance rider with the SEH Board and asked if the rider was necessary as the result of the enactment of P.L.1996, c.415, which requires coverage for Pap smear testing. He reported that the Committee's recommendation was that the rider was unnecessary since the standard HMO contract already provides coverage for pap smear testing under the Covered Services and Supplies section under "Outpatient Services" or as a medically necessary testing procedure. The Board agreed. L. Moskowitz asked if this was a matter which had proven to be a source of confusion for the whole market. The Assistant Director noted that no other carrier had contacted staff about this issue. It was agreed that the next SEH Bulletin should note that a compliance rider is not necessary to accommodate the benefits required by P.L.1996, c.415. L. Moskowitz also suggested that the Appendix to the DOH regulations listing mandated benefits should be updated to reflect the Pap smear testing benefit.

VIII. Report of the Department of Insurance

Gale Simon, an Assistant Commissioner with the Department of Insurance, reported that the DOI would be holding a meeting to receive input from interested parties on "passive networks." L. Moskowitz added that the DOI had to learn more about how passive networks are operating, and their relationship to current regulations.

M. Lopes noted that the Board packets included a spreadsheet prepared by Peter Thexton of the DOI, showing the premium impact of riders waiving the hospital confinement copayment. She noted that she had requested the spreadsheet at a prior meeting so that the Board could consider whether modifications to the standard plans were appropriate. She further noted that the hospital confinement copayment was included in the standard forms when they were first crafted due to comments that that there was a significant cost associated with the benefit. D. Vanderhoof added that the riders waiving the copayment were very popular with small employers. The Board decided to consider the information further during its next formal review of the standard plans.

IX. Report of the Legal Committee

The Executive Director reported that the Legal Committee had met May 13, 1996 via telephone conference. He reported that the staff had forwarded to the Committee a preliminary draft of various key regulatory changes required by the amendments to the law or based on a review of the regulations by staff. L. Moskowitz noted that there would be some benefit to coordinating the DOI's rule proposals with those of the SEH Board. The Assistant Director noted that while there would be benefits to coordinating the proposals, the SEH Board's draft changes were of a less urgent nature than the DOI's regulations which include filing requirements for non-standard plans, and that the SEH draft changes had not been fully considered by the Legal Committee. It was agreed that the staff would provide the whole Board with draft changes well in advance of the next SEH Board meeting.

The Executive Director reported that the Committee considered a draft of a section of the regulations regarding the issuance and renewal of non-standard health benefits plans (N.J.A.C. 11:21-3A). He noted that the draft provided to the Board would include references to the relevant statutory provisions.

The Executive Director reported that the Committee considered a draft of a regulation setting forth the requirements for carriers offering the standard plans through or in conjunction with a selective contracting arrangement ("SCA"). He noted that the concept of what carriers can or must offer had proven to be hard to pin down. After some discussion, it was agreed that the DOI needed to consider more fully the requirements for carriers with approved SCAs.

The Executive Director reported that the Committee considered a draft amendment which would clarify that newly formed small employers would be immediately eligible for small group coverage upon certifying that on the date of the application the entity had two to 49 employees. He noted that the definition of "small employer" requires a measurement in the prior calendar quarter, which new small employers could not meet. He reported that the Legal Committee had considered the staff's proposed change and noted that there was a danger of increasing the likelihood of gaming of the market. The Committee noted that Connecticut had recently moved to restrict eligibility to protect against persons gaming the market to obtain guaranteed coverage. D. Vanderhoof noted that it had been his experience that carriers had not strictly required that a small employer be in existence at least one quarter to obtain coverage. L. Moskowitz indicated that it did not seem appropriate to require newly formed employers to wait for a few months before they could obtain coverage in the small group market. L. Glover added that at a time when many larger employers were downsizing this was an important issue for those trying to start a new business. After some further discussion, the Board asked the Legal Committee to consider whether the statute would permit newly formed small employers to obtain coverage without having to look back to the prior calendar quarter.

The Executive Director reported that the Committee also considered a draft rule amendment which would set forth a participation requirement for dependents, noting that the standard policy forms already contain a provision requiring dependent participation, with only the percentage level variable. He reported that the Committee had planned to review this matter further to determine whether a dependent eligibility requirement was advisable. The Board asked the staff to survey carriers in the small employer market to determine their current practice with respect to dependent participation.

The Executive Director reported that the Committee also considered a draft rule amendment to N.J.A.C. 11:21-7.5 which outlines the restrictions on the replacement of health benefits plans. He noted that the amendments were necessary as the current rule was drafted at a time when forced conversion was still a requirement, and because the rule used the term "actuarial value," a difficult measurement, in determining what changes in coverage were permissible. He noted that the draft amendment borrowed concepts from the IHC Program, restricting movement based on the deductible and coinsurance levels of the respective plans. There was some discussion by Board members about the fundamental issue of whether there was a need for any restrictions on the replacement of health benefits plans. J. Fiedler recommended that the staff take a poll of small employer carriers to determine whether the carriers believe that restrictions are necessary.

Lastly, the Executive Director reported that the Committee considered the issue of whether the Board could provide any assistance to employees who contact the Board's staff complaining that their employer had refused to offer them continuation of coverage pursuant to State law. After some discussion, the Board agreed that representatives of the DOI and the SEH Board meet with the Department of Labor to discuss enforcement of this law.

[M Willoughby arrived]

The Board took a brief recess.

X. Report of the Executive Director

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

** L. Moskowitz made a motion to accept the attached expense report. 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 accountant's review of the SEH books was not complete. He indicated that he would work with the accountant to ensure that the task was accomplished as soon as possible.

The Executive Director referred to his letters to Sens. Kennedy and Kassebaum thanking them for their assistance in revising their health care bill.

The Executive Director reported on press reports regarding New Jersey's health reforms. He noted that press articles were written after the DOH's release of a mid-decade report on the progress on health related goals in general. The article was based on a very small section of the DOH report entitled "unfulfilled goals" and noted that the number of uninsured in the State grew from 1989 to 1993, *i.e.*, a period prior to the active implementation of New Jersey's health reforms. The Executive Director reported that he sent out responses to the articles through Wenzel & Co. He also reported that the Associated Press had picked up a story about rates in the individual market from an article in the *Asbury Park Press*, and that the AP article had misreported it as an article about both the individual and small employer markets. He indicated that he contacted the AP to advise of the error but the article had already been picked up by a few newspapers in the State. He indicated that he has been working with Wenzel & Co. and many papers have agreed run retractions and an article by the Executive Director. He indicated that he had been trying to respond to every charge so that the debate about health care reform was based on accurate information rather than hearsay and anecdotal evidence. L. Moskowitz added that the Legislature should be made aware of the responses to the press.

The Executive Director reported that he was present at a Senate Legislative Oversight Committee hearing on health care reform on May 4, 1996. He noted that the hearing was not scheduled by the Board, but rather at the urging of a lobbyist, and that the speakers who were selected to speak were largely critical of the IHC and SEH Programs. In order to further the goal of having a debate based on accurate facts, the Executive Director developed a comprehensive report on the Program's progress, with data submitted directly from the carriers, which he made available to members of the Legislature and the press. Members of the Board complimented the Executive Director on the report. The Executive Director said that he believed that it was important to distribute the report more broadly. D. Vanderhoof added that in his discussion with members of the Legislature he was left with the impression that the members were not aware of the how the Programs were functioning. He suggested that live presentations be made to members of the Legislature, their aids, and to various caucuses. L. Moskowitz indicated that while the report was good, it needed to have or be accompanied by a less technical, and more attractive summary. M. Willoughby indicated that the Marketing Committee should look into distribution of the Executive Director's report. The Board was asked to provide any comments on the report to the Executive Director.

M. Lopes noted that the some people may have forgotten that reform in the small group market was to address *access* to health coverage, not affordability. She indicated that the message needs to be made that the legislation has been successful in meeting its goals. Jane Majcher, from Anthem Health and Life, said that there were out-of-State critics of New Jersey's health reform efforts and that their message was that reform was failing, and that the assessments in the individual market made the State a bad place to do

business. F. Title said that the Board needs to be more proactive in getting its message heard, rather than to just react to the activities of lobbyists.

The Executive Director reported that the IHC Board had considered allowing the Executive Director to hire a person to perform financial functions for the Board. The Executive Director noted that his energies could be better spent in areas such as promotion of the Programs and regulatory work, rather than working on the details of the assessments, cutting checks, and other financial tasks. He asked the SEH Board to consider the same for the SEH Program.

With respect to outreach, the Executive Director reported that he had spoken at a meeting of the Health Insurance Association of America on April 30th. He reported that representatives from Mutual of Omaha, Guardian, and Travelers, each of which are important carriers in the many states' small group markets, spoke at the HIAA meeting and they noted that they were finding that small group reform efforts were working in most states. He indicated that he would be speaking on May 16 at the New Jersey Association of Health Underwriters annual meeting. He further reported that he had filmed a segment for Comcast Newsmakers which would run sporadically in June on CNN in New Jersey. He also reported that he would be speaking at the American Bar Association meeting on June 3rd.

XI. Resignation of Chair

M. Lopes notified the Board that she was resigning from her job with the New Jersey Business and Industry Association, and resigning from the Board effective at the close of the meeting. She thanked the Board and the Department of Insurance, and noted that serving on the Board had been a wonderful opportunity, and that she was proud of the Board's accomplishments. Individual Board members thanked M. Lopes for her time, commitment, and energy in serving as Chair for the Board since its inception.

XII. Close of Meeting

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