

APPROVED

**MINUTES OF THE MEETING OF THE
NEW JERSEY SMALL EMPLOYER HEALTH BENEFITS PROGRAM BOARD
AT THE OFFICES OF THE
NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE
TRENTON, NEW JERSEY
July 23, 1997**

Members present: Larry Glover, *Chair*; Jane Majcher, *Vice Chair* (DOBI); Justin Fiedler/Joan Fusco (BCBSNJ); Charlotte Furman (Anthem Health and Life); Eileen Gallagher (NYLCare); Linda Ilkowitz (Guardian); Karen Dickinson (HIP of New Jersey); Bryan Markowitz; Leon Moskowitz, (DOHSS); Lee Ann Specht (Prudential); Dutch Vanderhoof; Eric Wilmer (Celtic Life).

Others present: Wardell Sanders, *Interim Executive Director*; Ellen DeRosa, *IHC Program Assistant Director*; Pearl Lechner, *Program Development Assistant*; DAG Josh Lichtblau (DOL).

I. Call to Order

L. Glover called the meeting to order at approximately 9:45 a.m. and announced that notice of the meeting had been published in three newspapers and posted at the Department of Banking and Insurance ("DOBI") and the Office of the Secretary of State in accordance with the Open Public Meetings Act. A quorum was present.

II. Minutes

* L. Moskowitz made a motion to approve the draft minutes of the June 18, 1997 Board meeting, as amended. D. Vanderhoof seconded the motion, and the motion was approved by voice vote, with L. Glover and L. Specht abstaining.

* L. Moskowitz made a motion to approve the draft minutes of the June 18, 1997 executive session Board meeting, as amended. C. Furman seconded the motion, and the motion was approved by voice vote, with L. Glover and L. Specht abstaining.

III. Report of the Policy Forms Committee

E. DeRosa reported that the Committee met on July 16, 1997 to discuss optional benefit riders and other matters. She described the riders submitted and noted the Committee's recommendations.

A. Prudential

Rider 1: Waives the hospital inpatient copayment under the HMO plan.

Recommendation: Complete and in substantial compliance.

Rider 2: Modifies the fixed \$25 maternity (pre-natal) copayment to coincide with the physician visit copayment.

Recommendation: Complete and in substantial compliance.

** L. Moskowitz made a motion to accept the recommendation of the Policy Forms Committee to find the filing complete and in substantial compliance. L. Ilkowitz seconded the motion, and the motion was approved by voice vote, with L. Specht abstaining.*

B. United States Life

Rider 1: Amends comprehensive PPO plans to provide benefits at the network level when non-network providers are used, under stated circumstances.

Recommendation: Complete and in substantial compliance.

Rider 2: Amends wraparound PPO plans to provide benefits at the network level when non-network providers are used, under stated circumstances.

Recommendation: Complete and in substantial compliance.

C. Garden State Hospitalization Plan

Rider 1: Amends hospital PPO plans to provide benefits at the network level when non-network providers are used, under stated circumstances.

Recommendation: Complete and in substantial compliance.

L. Moskowitz raised a concern that the covered person not be balanced billed by the provider for payment of amounts which exceed the network level negotiated fee. C. Furman suggested that there should not be balance billing based on a reasonable and customary allowance. The Board noted that while the filing appeared to be complete and in substantial compliance, some assurance that the consumer will not be balanced billed should be sought from the carrier.

** D. Vanderhoof made a motion to accept the recommendation of the Policy Forms Committee to find the filing complete and in substantial compliance, subject to carrier assurance that consumers would not be balanced billed. B. Markowitz seconded the motion, and the motion was approved unanimously by voice vote.*

E. DeRosa reported that the Board had received two additional riders, one from United Healthcare extending spousal coverage to domestic partners, and one from NYLCare that would provide open access to specialists. After some discussion, the Board agreed that complete consideration of the riders should be referred to a meeting in August. The Board agreed to schedule a meeting for August 19, 1997 at 2:00 pm. The Board also asked DAG Lichtblau to consider the issue of whether a carrier could issue a rider to a small employer health benefits plan to extend coverage to domestic partners. The Board instructed staff to refer the issue to the SEH Legal and Policy Forms Committees.

[J. Fielder replaced J. Fusco as the Blue Cross representative.]

E. DeRosa reported that the Committee made some corrections to the draft bulletin and survey on the use of prescription drug formularies. She reported that the staff had made the corrections and sent the bulletin to interested parties and the bulletin and survey to carriers.

E. DeRosa reported that the Committee discussed a draft bulletin regarding the recent policy form amendments. She indicated that the Committee unanimously agreed that the administrative compliance implementation option and was a realistic and practical option to offer to carriers. The committee was satisfied with the text of the bulletin, as drafted. Staff described the modifications that the IHC Board had recommended, and concurred with the changes. She reported that the bulletin was sent to interested parties and carriers. She also reported that carriers were provided with copies of the adoption and a disk with the inputted changes and a compliance and variability rider text. The Board thanked the Assistant Director for her work on the forms, compliance rider and bulletin.

The Interim Executive Director reported that the Board packets also contained a list of carriers who have made nonstandard form certification filings with the DOBI. He noted that some carriers were issuing and renewing nonstandard forms without having filed and that the DOBI was pursuing those carriers. He reported that the packets also contained a list of riders of decreasing value.

IV. Report of the Marketing Committee

The Interim Executive Director reported that the Committee met and discussed setting up better communication channels with Wenzel and Company. He noted that the Committee made several recommendations which were then shared with Wenzel & Company. Wenzel & Co. agreed to provide monthly updates to the Board. J. Fiedler asked that Wenzel & Co. be prepared to provide reports to the SEH Board at its monthly meetings. The Assistant Director reported that the Committee made specific recommendations regarding Wenzel's draft public relations plan. He invited the Board to provide any additional comments to him.

The Interim Executive Director reported that Betsy Kapulsky had drafted an article about the SEH Program for placement in the Mercer County Business magazine, a publication of the Mercer County Chamber of Commerce. The Interim Executive Director reported that he had drafted two press releases regarding the SEH and IHC enrollment figures and that \$13.5 million in refunds went to small employers from carriers that did not meet the 75% loss ratio requirements. He indicated that he shared the press releases with representatives of the DOBI, and that the DOBI recommended that the press release focus on the refunds and mention the enrollment statistics secondarily. The Board asked that, in addition, the Interim Executive Director pursue a second press release on the enrollment statistics alone. L. Ilkowitz recommended that a press release be issued regarding the HIPAA/State changes to the small group and individual markets. The Interim Executive Director reported that Cox Communications, the IHC Board's consultant, was working on that press release.

V. Report of the Interim Executive Director

The Interim Executive Director presented an expense report attached hereto as Exhibit 1.

** B. Markowitz 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 Interim Executive Director indicated that staff was interested in obtaining copies of Spencer's Compliance Guide, a guide to federal laws. He noted that the IHC Board had already agreed to split the cost with the SEH Board.

** E. Gallagher made a motion to approve the purchase of a compliance guide up to \$450. B. Markowitz seconded the motion, and the motion was approved unanimously by voice vote. [Met 2/3rds supermajority requirement.]*

The Interim Executive Director referred to the 1st Quarter enrollment statistics for both the SEH and IHC Programs. He noted that enrollment was up approximately 40,000 covered lives in the SEH market from the previous quarter. He further noted that this was the first report to break out plans issued with both network and non-network benefits.

The Interim Executive Director reported that on June 30, 1997 the Governor signed P.L.1997, c.146, amending the IHC and SEH laws, and large group statutes. He reported that he was working on a draft bulletin on the law which he would send to the Legal Committee for review. He noted that the DOBI had received comments from three carriers that were concerned about the modifications to the IHC law which shifted the loss reimbursement to a two-year cycle, retroactively to January 1, 1997, and the reduction of the loss assessment by allowing reimbursement only of paid claims in excess of 115% of earned premium. With respect to the start of the two year cycle beginning

retroactively, the DOBI has indicated that it would be willing to seek remedial legislation to correct this.

The Interim Executive Director reported on two other State bills. First he noted reported on A3198/S-2265, which would exempt certain carriers who withdrew from the SEH market from the 5-year prohibition on reentry into the market. Second, he noted that S-2167/A-3153 would require carriers to provide coverage for the treatment of mental illness under the same terms and conditions as provided for any other sickness. L. Moskowitz asked if the second bill applied to the individual market too. The Interim Executive Director reported that it did.

The Interim Executive Director reported on a federal bill, the Fawell Bill, and noted that information about the bill was in the Board's packets. He reported that the bill exempts "Association Health Plans," which includes MEWAs, from most state reforms and introduces federal standards, with the U.S. Department of Labor as the regulatory agency responsible for enforcement. He noted that the fear was that it would segment states' individual and small group markets, with purchasers basing their buying decision on the health status of covered persons. He noted that the bill was opposed by the NAIC, the National Governor's Association, and the National Conference of State Legislatures. L. Ilkowitz reported that the bill had been part of the budget reconciliation bill, but had been removed, and would be reconsidered in September. J. Majcher indicated that the Board should consider the bill at a later date.

The Interim Executive Director reported that he had received responses on the Board's survey regarding the issuance of multiple plans to a single small employer as permitted by the Board's participation regulation. He indicated that he had received 21 responses from the approximately 65 carriers in the market. The Board agreed that the responses should be forwarded to the Finance and Operation Committee for consideration.

The Interim Executive Director reported that the DOBI was working on completion of a draft of the regulation for the loss ratio and rate filing requirements for nonstandard plans. He indicated that he would send copies of the draft to the SEH Board. He also indicated that he was working with the DOBI on rule changes to the DOBI's premium comparison survey regulation.

The Interim Executive Director reported that Deloitte & Touche had completed the 1994 and 1995 Program audits and that he had received a draft report. He indicated that these numbers could be used for finalizing the assessment.

The Interim Executive Director reported that he had spoken to an agent's group in Florham Park on July 2, 1997.

VI. Executive Session

** L. Moskowitz made a motion to move into executive session to discuss staffing issues. D. Vanderhoof seconded the motion, and the motion was approved unanimously by voice vote.*

VII. Close of Meeting