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 August 19, 1997

Members present: Jane Majcher, *Vice Chair* (DOBI); Linda Ilkowitz (Guardian); Amy Mansue (HIP of New Jersey).

Members present by telephone: Larry Glover, *Chair*; Justin Fiedler (BCBSNJ); Addie Gallagher (Anthem Health and Life); Eileen Gallagher (NYLCare); Leon Moskowitz, (DOHSS); Lee Ann Specht (Prudential); Dutch Vanderhoof (joined call at 2:15 p.m.).

Others present: Ellen DeRosa, *IHC Program Assistant Director*; DAG Josh Lichtblau (DOL), Gale Simon (DOBI).

I. Call to Order

L. Glover called the meeting to order at approximately 2:05 p.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

Some members of the Board participated by telephone conference. A speaker phone was used so the members of the public could hear the Board members participating by phone. By virtue of telephone participation, the Board had a quorum.

L. Glover asked if any person attending the meeting wished to offer any comments. No comments were offered.

II. Report of the Policy Forms Committee

E. DeRosa reported that the Committee met on August 6, 1997 to discuss optional benefit riders and other matters. She described the riders submitted and noted the Committee's and Staff's recommendations.

A. NYLCare Health Plans

Rider: "Open Access" rider amends Small Employer HMO Plan to eliminate the requirement that members obtain a referral from a primary care physician (PCP) prior to utilizing the services of a specialist. The rider includes a requirement that the member request authorization following three visits to a specialist in order to continue to receive covered services from the specialist. As a result, this rider retained more control than some similar, previously submitted riders. Although the rider encourages a member to select a PCP, a member would not be required to do so. E. DeRosa reported that the Committee suggested some technical changes to the text to NYLCare representatives who attended the meeting of the Policy Forms Committee agreed to make. She reported that the revised text had been provided, and it was consistent with the suggested changes.

Committee Recommendation: Complete and in substantial compliance.

L. Moskowitz inquired about an open access rider offered by USHealthcare. He said he had materials describing such a rider. E. DeRosa responded that the carrier had not filed an optional benefit rider with the SEH Board. She asked L. Moskowitz to forward copies of the material to her attention for review.

L. Moskowitz asked if any open access riders had been approved thus far. G. Simon said that riders for PHS and Mission Health Plans had been approved. She noted that the Managed Care Bureau of the DOBI had prepared a check-list to use as a basis for considering open access products.

L. Moskowitz reported that the Commissioner of Health and Senior Services believed it essential that open access riders require that the member select a PCP. G. Simon noted that two persons from the DOHSS attended the meeting of the Policy Forms Committee. The Committee specifically asked them if their Department had any concerns. They did not voice any concerns. L. Moskowitz reiterated that as a statement of policy, there must be a selected PCP.

A. Mansue commented that from an operational standpoint, since the standard application contains a space for the member to designate a PCP, it was probable that a PCP would be selected, even though the rider would not specifically require such selection. E. Gallagher said that if an applicant did not name a PCP on the application, the application would nevertheless be accepted.

J. Majcher said that the DOBI did not have any concerns with a non-mandatory PCP designation.

J. Fiedler asked if the acceptance of this filing would set a precedent that would to apply to future filings. The Board agreed that a precedent had already been set with the acceptance of two, prior open access filings. L. Moskowitz said that such precedent

should be reversed. He noted that the Commissioner of DOHSS may review the matter again and determine that it would not be worth pursuing.

** J. Majcher offered a motion to accept the NYLCare filing. D. Vanderhoof seconded the motion. By roll call vote, the Board voted as follows: YES: L. Ilkowitz; J. Majcher; A. Mansue; A. Gallagher; J. Fiedler; D. Vanderhoof; L. Specht; L. Glover; NO: L. Moskowitz; Abstain: E. Gallagher. By majority vote, the Board voted in favor of accepting the recommendation of the Policy Forms Committee and found the NYLCare open access rider complete and in substantial compliance.*

B. New York Life

E. DeRosa referred the Board to the Policy Forms Committee report in the Board materials for specific descriptions of the eight riders in this filing. She reported that all of the riders amend PPO Plans C or D, waive the hospital copay, add a copay maximum, and replace the coinsured charge limit with an out of pocket maximum. She reported that the carrier had submitted a number of versions of these riders and that this last set of corrected riders were received after the Policy Forms Committee met on August 6, 1997. She noted that the Board had accepted similar provisions in filings from other carriers.

Rider 1: Rider amends PPO Plan C to: waive the hospital confinement copay; add a copay maximum ($1,000 per person/$2,000 per family); replace the coinsured charge limit with an out-of-pocket maximum ($3,000 per person/ $6,000 per family); used with $1,000 deductible plan only.
Staff Recommendation: Complete and in substantial compliance
Rider 2: Rider amends PPO Plan C to: waive the hospital confinement copay; add a copay maximum ($600 per person/$1,200 per family); replace the coinsured charge limit with an out-of-pocket maximum ($3,000 per person/ $6,000 per family); used with $500 deductible plan only.
Staff Recommendation: Complete and in substantial compliance
Rider 3: Rider amends PPO Plan C to: waive the hospital confinement copay; add a copay maximum ($1,000 per person/$2,000 per family); modify the deductible to be $300; replace the coinsured charge limit with an out-of-pocket maximum ($3,000 per person/ $6,000 per family).
Staff Recommendation: Complete and in substantial compliance
Rider 4: Rider amends PPO Plan C to: waive the hospital confinement copay; add a copay maximum ($1,000 per person/$2,000 per family); replace the coinsured charge limit with an out-of-pocket maximum ($3,000 per person/ $6,000 per family); used with $500 deductible plan only.
Staff Recommendation: Complete and in substantial compliance
Rider 5: Rider amends PPO Plan D to: waive the hospital confinement copay; add a copay maximum ($600 per person/$1,200 per family);

replace the coinsured charge limit with an out-of-pocket maximum ($1,500 per person/ $3,000 per family); used with $500 deductible plan only.
Staff Recommendation: Complete and in substantial compliance
Rider 6: Rider amends PPO Plan D to: waive the hospital confinement copay; add a copay maximum ($600 per person/$1,200 per family); replace the coinsured charge limit with an out-of-pocket maximum ($2,000 per person/ $4,000 per family); used with $500 deductible plan only.
Staff Recommendation: Complete and in substantial compliance
Rider 7: Rider amends PPO Plan D to: waive the hospital confinement copay; add a copay maximum ($1,000 per person/$2,000 per family); replace the coinsured charge limit with an out-of-pocket maximum ($1,500 per person/ $3,000 per family); used with $500 deductible plan only.
Staff Recommendation: Complete and in substantial compliance
Rider 8: Rider amends PPO Plan D to: waive the hospital confinement copay; add a copay maximum ($1,000 per person/$2,000 per family); replace the coinsured charge limit with an out-of-pocket maximum ($2,000 per person/ $4,000 per family); used with $500 deductible plan only.
Staff Recommendation: Complete and in substantial compliance

** D. Vanderhoof offered a motion to accept the staff recommendations for all eight of the New York Life riders. L. Ilkowitz seconded the motion. By voice vote, the Board voted in favor of finding the eight riders complete and in substantial compliance, with E. Gallagher abstaining.*

C. CIGNA

E. DeRosa reported that an additional filing had been received a couple of days before the Policy Forms Committee meeting. She said she had contacted CIGNA concerning the filing on August 4, 1997 since it was not filed in accordance with the regulations governing the filing of optional benefit riders. She said she provided the carrier with a copy of the regulation. However, since the carrier neither withdrew the filing nor submitted corrections, she recommended that the Board find the filing incomplete and not in substantial compliance. Otherwise, the 45-day review period would expire and the filing would be deemed complete.

** L. Moskowitz offered a motion to find the CIGNA filing dated July 22, 1997 incomplete and not in substantial compliance. D. Vanderhoof seconded the motion. The Board voted unanimously in favor of finding the filing incomplete and not in substantial compliance.*

[L. Glover left the teleconference at 2:30 p.m. J. Majcher chaired the remainder of the meeting.]

Prescription Drug Formularies

E. DeRosa reported that DOBI was developing a position on the use of formularies and had requested input from the Department of Health and Senior Services (DOHSS). The Committee recommended that the Board defer consideration of whether standard forms should be amended to allow for the use of formularies until after the position had been established. The Committee recognized that carriers could submit an optional benefit rider of decreasing value which would limit the prescription drug coverage by including a benefit reduction or limitation for failure to use a drug on the formulary.

A. Mansue asked about the anticipated timing for such a position. L. Moskowitz said that there had already been discussions at DOHSS and that DOHSS would soon be finalizing its position. G. Simon asked that DOBI be included in the discussions and asked that the joint meeting be held as soon as possible. A. Mansue offered to provide national experts to provide any technical information the Departments may request.

A. Mansue said carriers should be able to use prescription drug formularies without having to file a rider of decreasing value. She noted that the survey results indicated that a large number of carriers were interested in being able to use formularies in the standard plans. She asked that the forms be amended to include variable text which carriers could choose to use. E. DeRosa commented that HIP had sent her text which would accomplish that objective.

Timeline for Forms Amendments

The Committee considered potential timetables for proposal, and subsequent adoption of amendments to the standard health benefits plans in order to have a January 1, 1997 effective date. In order that the new text may be implemented for a January 1, 1997 effective date, the Committee recommended an aggressive schedule which would require that the Board vote to propose the changes at the September 17, 1997 Board meeting. The Board's special expedited procedures should be used which require only a 20-day comment period. The hearing could be conducted on a non-Board meeting day, with E. DeRosa acting as hearing officer. The Board could have a special meeting in late October to adopt the text. Thus, carriers could be provided revised text by late October or early November. E. DeRosa said she would distribute the text of the proposal prior to the Board meeting. She said the Policy Forms Committee reviewed the amendments in the context of a couple of the forms and offered comments. She would revise all forms in a consistent manner for the proposal. The Board agreed to this timeline.

III. Expense Report

E. DeRosa presented an expense report attached hereto as Exhibit 1.

** 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.]*

IV. Executive Session

** L. Moskowitz made a motion to move into executive session to receive advice from counsel. D. Vanderhoof seconded the motion, and the motion was approved unanimously by voice vote.*

[Executive Session: 2:45 p.m. - 3:00 p.m.]

V. Final Business and Close of Meeting

** D. Vanderhoof offered a motion to refer the United Health Care rider filing to expand coverage to include domestic partners to the Department of Banking and Insurance. L. Moskowitz seconded the motion. The Board voted in favor of referring the filing, with A. Mansue abstaining.*

** A. Mansue offered a motion to adjourn the meeting. D. Vanderhoof seconded the motion. The Board voted in favor of adjourning the meeting. [The meeting adjourned at 3:03 p.m.]*