

**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
April 22, 1998**

Members present: Justin Fiedler (BCBSNJ); Charlotte Furman (Anthem Health & Life); Mary Garcia (NYLCare); Larry Glover, Chair; Linda Ilkowitz (Guardian); Jane Majcher, Vice Chair (DOBI); Leon Moskowitz (DOHSS); Catherine S. John (The Prudential); Fred Title (HIP of New Jersey); Dutch Vanderhoof; Eric Wilmer (Celtic).

Others present: Ellen DeRosa, Deputy Executive Director; DAG Josh Lichtblau (DOL); Joanne Petto, Assistant Director; Wardell Sanders, Executive Director.

I. Call to Order

W. Sanders called the meeting to order at approximately 9:40 a.m. He 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. Public Comments

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

III. Election

Chair and Vice Chair Positions

J. Petto asked the Board members who had not responded by mail to complete the ballots for the Chair and Vice Chair positions. She stated that the resulting tally was 9 votes for L. Glover as Chair, and 10 votes for DOBI representative as Vice Chair.

SEH Committee Members

J. Petto read the Legal Committee membership roster and asked for comments. D. Vanderhoof stated that having confirmed that non-attorneys could be members of the Legal Committee, he wanted to become a member. J. Petto stated that this would bring the number of Board members on the Committee to seven, which is a quorum. She stated that if the Board voted to approve this addition, the Legal Committee meetings would invoke the Open Public Meetings Act. DAG J. Lichtblau stated that he would check the statute and the regulations concerning Committee membership. The Board decided to defer reconstitution of the Legal Committee until after DAG J. Lichtblau provided the results of his research.

J. Petto read the Policy Forms membership roster and asked for comments. J. Fiedler reported that the BCBSNJ representative should be changed to Loretta Curry.

L. Moskowitz offered a motion to approve the amended Committee membership roster. J. Fiedler seconded the motion and the Board voted unanimously in favor of approving the motion.

J. Petto read the Finance & Operations membership roster and asked for comments. There was no discussion.

L. Moskowitz offered a motion to approve the amended Committee membership roster. J. Fiedler seconded the motion and the Board voted unanimously in favor of approving the motion.

J. Petto read the Marketing Committee membership roster and asked for comments. C. Furman stated that her name was not on the list and this was corrected. There was no further discussion.

M. Garcia offered a motion to approve the amended Committee membership roster. J. Fiedler seconded the motion and the Board voted unanimously in favor of approving the motion.

IV. Minutes

March 18, 1998

L. Moskowitz offered a motion to approve the minutes of the Open Session of the March 18, 1998 Board meeting. D. Vanderhoof seconded the motion and the Board voted in favor of approving the minutes as amended, with three abstentions (C. St. John, F. Title, E. Wilmer).

V. Report of Staff

Expense Report (see attached)

W. Sanders presented the expense report for April and noted that there would be a correction to the total fiscal year for legal services.

L. Moskowitz offered a motion to approve the April expense report as amended. F. Title seconded the motion and the Board voted unanimously in favor of approving the motion.

Legislative Update

W. Sanders reported briefly on pending legislation for the bills listed in the Legislative Activity report included in the Board packets.

Rule-Making

W. Sanders reported that staff has reviewed the SEH regulations and made the necessary revisions to bring them into compliance with changes in the law. He stated that the revised regulations would be sent to the Legal Committee.

W. Sanders reported that bulletin 98-SEH-03 that outlines the carrier filing requirements for the Program was mailed to the carriers on March 27, 1998. D. Vanderhoof stated that carriers who are out of compliance with the reporting requirements should be referred to enforcement.

Web Site

W. Sanders reported that the memo from DOBI that reports on visitors to the web site, showed a substantial increase from 6,755 in November 1997 to 9,699 in March 1998. D. Vanderhoof asked if it was possible for brokers and agents to link their web sites to the DOBI web site, or to just reference the DOBI web site. W. Sanders asked D. Vanderhoof to send a written request which W. Sanders would forward to DOBI.

Market Share Report (Exhibit CC)

P. Lechner reported that all but one of the completed Market Share Reports had been received by the March 15, 1998 due date. She stated that staff was in the process of comparing carrier submissions of Exhibit CC (Market Share Report), Exhibit KK (Non-Member Certification), and enrollment reports to check for any discrepancies in the filings.

Outreach

W. Sanders reported on the following activities: (1) He met with the Central New Jersey Association of Health Underwriters in Edison on February 19, 1998 to review recent changes in the individual and small employer markets; (2) On March 2, 1998 he addressed a group from the Cape May Chamber of Commerce on how to purchase insurance in the individual and small group markets.

E. DeRosa reported that she met with the Independent Insurance Agents of Ocean County on March 19, 1998 and discussed recent changes in the IHC and SEH markets; she taught Continuing Education classes on March 25, 1998 and April 3, 1998 on the IHC Program.

GAO Report and HCFA Bulletin:

W. Sanders reported on a recent GAO report and on HCFA Bulletin 98-01 that allege that some companies are thwarting the goals of HIPAA by overcharging individual or groups, by not handling applications expeditiously, and by setting agent commissions for sales in a manner to discourage issuance to certain groups. He stated that HCFA has asked the

Commissioner if DOBI intends to resend the HCFA bulletin to carriers in New Jersey. W. Sanders stated that since these three practices are already prohibited in New Jersey, there have been no problems.

Georgetown University/Institute for Health Care Research and Policy:

W. Sanders reported that this Washington, DC-based organization has created state guides to help consumers understand their protections with respect to health coverage under federal and state laws. W. Sanders reported that he spent a great deal of time with the project managers assisting them in understanding the individual and small employer markets, as did G. Simon (DOBI) with respect to the large group market. They spoke with high praise about New Jersey's public information efforts about health benefits coverage, and indicated that they found New Jersey's efforts the best in the country.

Enrollment Reports

J. Petto reported that for the fourth quarter of 1997, there were 846,765 persons covered by 97,173 standard and nonstandard small employer health benefits plans, up from 843,331 persons covered by standard and nonstandard health benefits plans for the previous quarter. In light of the reproposal of the regulations, she asked the Board to reconsider the value and necessity of the annual enrollment reports. The Board referred the issue to Marketing Committee for consideration.

VI. Report of Marketing Committee

J. Petto reported that the Buyer's Guide and Get the Facts brochure had been completed and were being distributed to carriers. She stated that, as requested by the Board in an attempt to monitor cost, the carriers were only receiving the brochures, not the Buyer's Guides. J. Petto stated that staff would be mailing an SEH Buyer's Guide, SEH brochure, IHC Buyer's Guide to all the State Legislators along with a rolodex card with the 800 numbers and the DOBI web site address. She stated that staff was looking into adding the Buyer's Guide text to the web site, currently the software used for the Buyer's Guide is not compatible with the web site.

W. Sanders advised the Board that there was a draft news release in the packets. He stated that the news release was based on a comparison of the 1997 and 1998 premium rate surveys. The comparison showed that some carriers had decreased rates from 1997 to 1998. There was some discussion among the Board members concerning the details of the news release, the attachment of a spreadsheet identifying the changes in premium by carrier, and possibly identifying the carriers with the lowest premiums. W. Sanders asked the Board members to provide him with comments within a week.

VII. Report of Finance & Operations Committee

W. Sanders reported that the Committee met on April 17, 1998 to discuss the following issues:

Procedures for Handling Enforcement Issues:

W. Sanders noted that in the context of the NAPP litigation, the Board asked the Committee to review the Board's procedures for handling enforcement issues. The Committee was provided with a copy of the memorandum of understanding agreed to by the IHC Board, the SEH Board, and the DOBI (attached). This document outlines the procedures that previously have guided staff in addressing enforcement issues. Section II, c provides: "compliance disputes: the Boards will investigate claims about carriers not complying with program rules and, when appropriate (i.e., failure to obtain compliance by consent) refer such matters to DOI for enforcement." W. Sanders reported that the staff's practice has been to undertake the initial investigation into a carrier or entity's practice that may be in violation of the Board's regulations or the law, and immediately to seek compliance from the carrier or entity. If there has been a significant violation of the Board's regulations or the law or if the carrier does not voluntarily comply with applicable law, Program staff sends a cover memorandum to Tom Smith of DOBI, outlining the facts, setting forth the provision of law and/or regulation that may have been violated, and attaching any relevant documents. The DOBI then investigates the matter.

W. Sanders reported that the Committee recommended no change to the existing procedures for handling complaints. However, the Committee recommended that Board and staff closely monitor matters that require significant input from the Attorney General's Office, and track costs. If a matter progresses to the point where a complaint will be filed, the Board has agreed that it should evaluate the case with DOBI and agree upon how the costs of litigation should be borne prior to filing the complaint.

Attorney General Office Billing Procedures:

W. Sanders reported that he had provided the Committee with a memorandum from DAG Lichtblau that provides guidance on the agreement between the Division of Law and the SEH Program. As the memorandum indicates, DOL staffing for the Boards has remained unchanged since the SEH Board initially entered into an agreement with DOL. The Committee asked W. Sanders to determine what the Board would have paid the Attorney General had the cap on costs not been triggered in previous fiscal years. .

Should the Board consider hiring an entity to provide an analysis of the cost impact of mandated coverage bills in the small employer market?

W. Sanders noted that at the last Board meeting, the Board expressed concern about the number of mandated benefit bills that were introduced in the Legislature, and the cost impact of these bills on small employer plans. The Board asked the Committee to consider the cost of hiring an outside entity to price each of the mandated benefit bills, and to consider how cost information could be used.

W. Sanders reported that after the last Board meeting, he and Jane Majcher met with the Commissioner, Denise Coyle (Chief of Staff), and Cynthia Codella and that they addressed the issue of mandated benefit bills. The Commissioner did not believe that the Board's efforts to hire an entity to provide an analysis of the cost impact of such bills would be timely. W. Sanders reported that the Commissioner recommended that an expert body, commission, or task force be set up to assist the Legislature in analyzing the cost impact.

G. Simon noted the practical difficulties of commenting on any pending mandated coverage bill. W. Sanders noted that the DOBI had developed a list of all mandated benefit laws that would be provided to the Board. J. Fiedler suggested that the Board undertake an analysis of some of the existing mandated benefit laws.

W. Sanders reported that the Committee: (1) In light of the Commissioner's comments, would recommend that the Board not hire an outside entity to price mandated benefit bills; (2) Would ask carrier Board members to measure both the administrative cost and rating impact of some of the existing mandated benefits laws; and (3) Due to the significance of the legislation, ask carrier Board members to determine the likely cost impact of the pending State mental health bill on the standard plans.

- **Pending legislation that would combine the IHC and SEH Boards**

W. Sanders reported that the Committee discussed the Board resolution submitted to the Commissioner in response to the same bill during the last legislative session. The Board packets contain a copy of the resolution as amended by staff to reflect the current circumstances. W. Sanders stated that the Committee recommended that the Board renew its prior resolution to oppose the merger of the two Boards. After some discussion, the Board agreed that, at this juncture, it would be more prudent to have the Executive Director discuss the proposed bill with the Commissioner.

[Break 11:37 a.m. - 11:50 a.m.]

VIII. Report of Policy Forms Committee

Optional Benefit Riders

E. DeRosa reported on a number of optional benefit rider filings, outlined in the April 15, 1998 minutes, that had been made in response to the Board's bulletin concerning previously filed optional benefit riders. L. Moskowitz suggested that any optional benefit riders which only reflect changes necessitated by modifications the Board has made to the standard plans could be reviewed by staff. Those riders which staff find acceptable should not require full attention by either the Policy Forms Committee or the Board. He asked that staff nevertheless provide a summary of the riders that had been submitted and found acceptable. Staff will draft a resolution for the Board's official vote at the next meeting.

AmeriHealth HMO, Inc.

Rider 1: **Recommendation:** Complete and in substantial compliance.

Rider 2: **Recommendation:** Complete and in substantial compliance, subject to some minor text changes to the setup of the schedule in the rider.

F. Title offered a motion to find the riders complete and in substantial compliance pending the receipt of corrected text. C. St. John seconded the motion and the Board voted unanimously to accept the motion.

Anthem Health

Rider 1 to 3 and 5 to 8: **Recommendation:** Complete and in substantial compliance.

J. Fiedler offered a motion to find the riders complete and in substantial compliance. F. Title seconded the motion and the Board voted to accept the motion with one abstention (C. Furman).

Rider 4: **Recommendation:** Complete and in substantial compliance for INFORCE business only. Incomplete and not in substantial compliance for new business since the plan design is inconsistent with the SCA regulations which allow a coinsurance differential not to exceed 30%.

C. St. John offered a motion to find the riders complete and in substantial compliance for Inforce business. L. Ilkowitz seconded the motion and the Board voted to accept the motion with one abstention (C. Furman).

Blue Cross Blue Shield of New Jersey

Rider 1 to 3: **Recommendation:** Complete and in substantial compliance, subject to receipt of a corrected certification.

M. Garcia offered a motion to find the riders complete and in substantial compliance. C. Furman seconded the motion and the Board voted to accept the motion with one abstention (J. Fiedler).

CIGNA

Rider 1 and 2: **Recommendation:** Complete and in substantial compliance.

F. Title offered a motion to find the riders complete and in substantial compliance. L. Ilkowitz seconded the motion and the Board voted unanimously to accept the motion.

New York Life

Riders 1 to 24: **Recommendation:** Complete and in substantial compliance.

J. Majcher offered a motion to find the riders complete and in substantial compliance. F. Title seconded the motion and the Board voted to accept the motion with one abstention (M. Garcia).

Oxford

Riders 1 to 4: **Recommendation:** Complete and in substantial compliance.

J. Majcher offered a motion to find the riders complete and in substantial. F. Title seconded the motion and the Board voted to accept the motion.

United HealthCare

Rider 1 to 3: **Recommendation:** Complete and in substantial compliance.

L. Moskowitz offered a motion to find the riders complete and in substantial compliance. J. Fiedler seconded the motion and the Board voted unanimously to accept the motion.

United States Life

Rider 1 and 5: **Staff Recommendation:** Carrier failed to provide requested clarification, therefore find the rider incomplete and not in substantial compliance.

Rider 2 to 4 and 6 to 10: **Recommendation:** Complete and in substantial compliance.

J. Fiedler offered a motion to accept the Committee's recommendations for the riders. L. Moskowitz seconded the motion and the Board voted unanimously to accept the motion.

Alternate Utilization Review Provisions

Blue Cross Blue Shield of New Jersey

Recommendation: Approve

L. Moskowitz offered a motion to accept the Committee's recommendation. F. Title seconded the motion and the Board voted to accept the motion with one abstention (J. Fiedler).

Open Access Riders

Blue Cross Blue Shield of New Jersey

Recommendation: Find the riders (found complete and in substantial compliance at the February 18, 1998 Board meeting complete and in substantial compliance as amended.

M. Garcia offered a motion to accept the Committee's recommendation. F. Title seconded the motion and the Board voted to accept the motion with two abstentions (J. Fiedler, L. Moskowitz).

Draft Text to Modify the Mental or Nervous Conditions Coverage in Plans B - E and the Out-Network coverage in the HMO-POS plan

Recommendation: To propose changes to the Mental or Nervous Conditions provisions found in standard plans B-E and the HMO-POS to effect compliance with Federal Mental Health Parity.

L. Moskowitz offered a motion to accept the Committee's recommendation. F. Title seconded the motion and the Board voted unanimously to accept the motion.

IX. Miscellaneous

L. Glover acknowledged that L. Moskowitz was retiring from the Department of Health and Senior Services, and as such, this would be his last SEH Board meeting. L. Glover expressed the Board's appreciation for L. Moskowitz' assistance and expertise over the years.

X. Executive Session

J. Fiedler offered a motion to move into Executive Session to discuss legal issues. D. Vanderhoof seconded the motion and the Board voted in favor of moving into Executive Session. W. Sanders advised that the Board would not return to Open Session.

[Executive Session: 12:40 p.m. - 1:30 p.m.]

IX. Close of Meeting

C. Furman offered a motion to close the meeting. J. Fiedler seconded the motion and the Board voted in favor of closing the meeting. The meeting adjourned at 1:35 p.m.

Attachments:

Exhibit 1 March 18, 1998 Expense Report