

**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  
June 16, 1999**

**Members present:** Jeff Beck (NYLCare); Darrel Farkus (Oxford); Linda Ilkowitz (Guardian); Charlotte Furman (Anthem Health & Life); Larry Glover (Chair); Jane Majcher (DOBI); Mary McClure (The Prudential); Michael Torrese (Horizon BCBSNJ); Dutch Vanderhoof (arrived at 10:00 a.m.); Eric Wilmer (Celtic); Bonnie Wiseman (DOHSS).

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

**I. Call to Order**

W. Sanders called the meeting to order at 9:45 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.

*Public Comments*

L. Glover asked if any member of the audience wished to offer comments concerning the items stated on the agenda. No persons expressed an interest in offering comments.

**III. Minutes**

*May 19, 1999*

**L. Ilkowitz offered a motion to approve the minutes of the Open Session of the May 19, 1999 Board meeting, as amended. C. Furman seconded the motion. The Board voted in favor of the motion, with L. Glover abstaining.**

**IV. Staff Report**

*Expense Report (see attached)*

**M. Torrese offered a motion to approve the payment of the expenses specified on the June 16, 1999 expense report. J. Majcher seconded the motion. The Board voted unanimously in favor of approving the motion.**

### *Legislative Update*

W. Sanders reported that S. 1955, a bill that would authorize a Kidcare partnership in equity program, was reported out of committee, with amendments.

W. Sanders said that S. 1719, a bill that would extend credit under SEH plans for persons covered under certain other health benefits plans was scheduled for discussion. He said he went to the hearing, but that the bill was not discussed while he was present. W. Sanders said he hoped that when B. Markowitz arrived for the Board meeting, he would be able to offer some information concerning the status of the bill.

W. Sanders said the Department adopted the amendments to the withdrawal regulation that would allow carriers to file to withdraw an optional benefit rider. The regulation specifies a minimum 90-day notice of non-renewal to policyholders that are covered under optional benefit riders that are withdrawn pursuant to the regulation.

### *Outreach*

W. Sanders reported that he spoke at the annual meeting of the New Jersey Association of Health Underwriters in Atlantic City on May 25, 1999. He said there was a good turnout for his presentation.

W. Sanders said Commissioner LaVecchia recorded two Public Service Announcements concerning the SEH and IHC Programs. He said they were to be aired on radio stations throughout the State, during peak drive time.

### *Enrollment*

J. Petto reported that HIP, in liquidation, had not reported enrollment for 1Q99. Even without the HIP enrollment, the enrollment increased by 2.48% as compared to 4Q98 enrollment. She also noted that of the 50 carriers that reported enrollment for 1Q99, only 25 reported new business for 1Q99. She said the carriers that had not enrolled any new business would be sent a reminder of their obligation to file rates and keep the standard forms up to date in order to be in a position to sell new business.

## **V. Report of the Policy Forms Committee**

### **Optional Benefit Rider Filing**

#### **One Health Plan**

E. DeRosa said One Health Plan submitted a rider to waive the inpatient copayment. She noted that the Committee had some questions concerning the text of the rider but that she had contacted the carrier and the carrier appropriately revised the text of the rider.

**D. Vanderhoof offered a motion that the Board find the One Health Plan rider filing, as amended, complete and in substantial compliance. J. Majcher seconded the motion. The Board voted in favor of the motion, with C. Furman abstaining.**

### **Policy Forms Interpretation Issues**

E. DeRosa explained that a carrier contacted her concerning coverage for private duty nursing and home health care under an HMO plan. She said the Committee noted that the HMO plan did not include any language to limit the coverage for medically necessary and appropriate private duty nursing and home health care. She said the Committee discussed the different language included in the HMO plan and the indemnity plan and agreed to review the benefit as contained in the HMO and non-HMO plans in order to make a recommendation for a possible prospective change. E. DeRosa said the Committee suggested that a Bulletin be sent to all SEH carriers to ensure that all HMOs understand that the Home Health Care and Private Duty Nursing coverage is limited only by medical necessity.

D. Farkus offered a motion that a Bulletin be distributed, as recommended. D. Vanderhoof seconded the motion. The Board voted unanimously in favor of the motion.

E. DeRosa said a question related to the home health care and private duty nursing issue was received after the Committee meeting. A carrier noted that the HMO plan includes language in the home health care benefit that says home health care would not be required to be provided if there is a more cost effective setting in which to provide medically necessary appropriate care. The carrier asked what the Board expected a carrier to do if Home Health Care were not the most cost effective setting. Would the standard plans require the carrier to provide coverage up to the level of the most cost effective setting, or would the standard plans require the carrier to provide no benefit if the member declined care in the most cost effective setting? L. Ilkowitz said the question is a matter for a carrier to determine in the claims adjudication process and not one for the Board to address. The Board did not discuss the inquiry.

E. DeRosa said the Committee considered a customer complaint where an SEH carrier had stated on the explanation of benefits that “Special Services Repo” is not covered under the plan. Upon inquiry to the carrier, E. DeRosa said it was learned that “Special Services Repo” refers to the cost to transport a specimen from the physician’s office to the lab for processing. She said the Committee believed the patient should not be expected to pay for transportation costs. The Board briefly discussed different ways a provider could bundle and unbundle charges. E. DeRosa explained that in all cases, the billed charges would be covered subject to the reasonable and customary charge for the service.

L. Ilkowitz offered a motion that the Board determine that “Special Services Repo” must be covered under the standard plan, subject to the terms of the plan. B. Wiseman seconded the motion. The Board voted unanimously in favor of the motion.

### **Policy Forms Proposal**

E. DeRosa said the Committee reviewed draft policy forms changes to address the newly adopted laws concerning coverage for biologically-based mental illness, certain dental

services, and the inflation-adjusted benefit amounts under the Health Wellness Promotion Act.

E. DeRosa said the IHC Board discussed a similar proposal during its meeting on June 14, 1999, and decided to defer the proposal so a couple of issues could be further reviewed. She explained that there was a question as to whether the Health Wellness Promotion Act applied to the IHC and SEH plans, and if it does, what dollar amounts would apply. In addition, she said a carrier questioned the manner in which coverage for biologically-based mental illness must be provided. She suggested that the SEH Board might also want to further review these issues. The Board agreed to defer the proposal until the July meeting.

B. Wiseman suggested some resources to investigate the Health Wellness Promotion Act.

*[J. Beck left the meeting at 11:05 a.m.]*

## VI. Report of the Legal Committee

W. Sanders reported that the Committee considered several issues.

### **Employed in New Jersey**

W. Sanders said the Committee discussed an inquiry regarding what is meant by “employed in New Jersey” as that phrase is used in the definition of “Small Employer.” He said the Committee noted that a person working in another state would be considered as employed in that other state for income tax purposes. He said the Committee believes that “employed in New Jersey” can only mean actually working at a location in New Jersey.

### **HMO Coverage for Out-of-State Employees**

W. Sanders said a carrier was applying a 10% rule whereby the HMO would issue coverage if fewer than 10% of the employees were out of state. He said the Committee concluded, based on the HMO regulations, that HMOs should only offer coverage if the employees live, work or reside in the service area.

### **Assessment**

W. Sanders said the Committee discussed how to deal with carriers such as HIP and APPP that had net earned health benefit premium in 1998, but are now in liquidation. The Committee recommended that the Board file proofs of claim against the carriers, but recognized that it would not be likely to recover the funds. Therefore, the Committee believed the amount should be redistributed among the other carriers.

**C. Furman offered a motion that the Board include carriers in liquidation in the assessment calculation, file proofs of claim against the carriers, but redistribute the assessment liabilities for the carriers in liquidation among the other carriers. D. Vanderhoof seconded the motion. The Board voted unanimously in favor of the motion.**

## **VII. Executive Session**

W. Sanders said that the Board would need to go into Executive Session to discuss Executive Session minutes, an enforcement issue, and a contract matter and asked for a motion. He said the Board would not discuss any further business following Executive Session.

**D. Vanderhoof offered a motion to begin Executive Session. M. McClure seconded the motion. The Board voted unanimously in favor of beginning Executive Session.**

*[Break: 11:30 a.m. – 11:40 a.m.]*

*[Executive session: 11:40 a.m. – 12:05 p.m.]*

## **VIII. Close of Meeting**

**D. Vanderhoof offered a motion to adjourn the Board meeting. J. Majcher seconded the motion. The Board voted unanimously in favor of adjourning the meeting. The meeting adjourned at 12:05 p.m.**

Attachment: Expense Report