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
September 20, 2000

Members participating: Gary Cupo; Darrel Farkus (Oxford); Larry Glover; Linda Ilkowitz (Guardian); Mary McClure (NYLCare); John Kilgallin (CIGNA); Jane Majcher (DOBI); Kevin Monaco; Vaughn Reale; Robert Shalongo (United Healthcare); Tony Taliaferro (AmeriHealth) (arrived at 9:50 a.m.); Mike Torrese (Horizon BCBSNJ); Dutch Vanderhoof; Bonnie Wiseman (DOHSS).

Others present: Ellen DeRosa, Deputy Executive Director; DAG Prince Kessie (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. W. Sanders 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

W. Sanders asked if any member of the audience wished to offer comments concerning the items stated on the agenda. No comments were offered.

III. Minutes

Open Session July 19, 2000
D. Vanderhoof offered a motion to approve the minutes of the Open Session of the July 19, 2000 Board meeting, as amended. J. Majcher seconded the motion. The Board voted unanimously in favor of the motion.

IV. Staff Report

Expense Report (see attached)
L. Ilkowitz offered a motion to approve the payment of the expenses specified on the September 20, 2000 expense report. D. Vanderhoof seconded the motion. The Board voted unanimously in favor of approving the motion.

Legislative Report
A 1309
W. Sanders reported that this bill would amend the Right to Know Law making a wider range of documents accessible. He said that documents could be protected from disclosure under limited circumstances.

Senator DiFrancesco's Health Care Agenda
W. Sanders said that a copy of a press clipping as well as a summary of the health care agenda were included in the Board materials. He said part of the agenda included a requirement that carriers offer two bare bones type plans. The agenda also addressed health benefit exchanges. J. Majcher said there was Senate Health Committee meeting scheduled for the following Monday and that the Department would be taking a position on the items scheduled for that meeting.

NJ FamilyCare
W. Sanders said that some informational materials on NJ FamilyCare were included in the Board materials.

Meeting with Senator Matheussen
W. Sanders said the Department indicated that it would be acceptable for W. Sanders to call Senator Matheussen. He said he planned to call Senator Matheussen as soon as possible.

Data on the Uninsured
W. Sanders said that in response to a request from some Board members to review available data on the uninsured, the Board materials included a California study and some information on a new study to be conducted by the Center for State Health Policy. D. Vanderhoof suggested that another data source would be census data that would likely be available on the census web site.

Participation/Multiple Plans Issue
W. Sanders said that by using the NAIC broadcast he was able to send an inquiry to regulators in other states to ask about participation requirements and whether multiple plans are permitted. He said he had already received some responses. He said he would prepare a summary document to illustrate the requirements of every responding state.

Professional Employer Organization (PEO) Bulletin
W. Sanders said the Bulletin on PEOs was released and that a copy was included in the Board materials.

Health Care Financing Administration (HCFA) Transmittal No. 00-04
E. DeRosa explained that this Bulletin from HCFA addressed the manner in which the discontinuance and replacement regulations (D&R) of a state coexist with HIPAA. She explained that among the protections of D&R is the provision of an extension of benefits for a person who is totally disabled on the date of a group transfer. Under D&R, the prior carrier is liable for a 12-month extension of benefits, for charges related only to the

disabling condition. The succeeding carrier is responsible for all charges not related to the disabling condition. She said that some carriers have argued that the extension of benefits is no longer applicable since HIPAA requires that the succeeding carrier accept risk regardless of a health status-related factor. E. DeRosa explained that the Bulletin from HCFA clarified that the issue HIPAA addressed was the fact that a person with a disabling condition could not be excluded from coverage. HIPAA did not preclude the coverage from being provided under an extension of benefits under the plan of a prior carrier. Therefore, the extension of benefits set forth under D&R regulations is still operative. E. DeRosa noted that the standard SEH plans include an extension of benefits provision consistent with D&R and that this was consistent with HIPAA and HCFA guidance.

Group to Group Transfer

W. Sanders noted that there appeared to be no consensus as to how to best address effective dates for cases that are switching from one carrier to another. The Board discussed the period for the review of an application, the notice period required for a carrier to change rates, and whether a carrier could be required to give a retroactive termination date. The Board seemed to agree that using a prospective effective date would solve the concern many employers have voiced regarding being covered under two group plans for some overlap period.

R. Kuhn, a representative of Empire who was attending the meeting, said that Empire has been successful in stating that the case must be submitted at least 10 business days prior to the requested effective date.

L. Ilkowitz offered a motion that the Board change the regulation to specify that a carrier must give at least 45 days advance notice of a rate change, that only prospective effective dates may be assigned, and that the prior carrier is entitled to premium until the date the employer gives notice that coverage should terminate.

J. Kilgallin asked that the motion be separated such that there would be two votes: one on the 45 days notice and another on prospective effective dates.

V. Reale seconded the motion.

On the issue of 45-day notice, the Board voted unanimously in favor of requiring carriers to give 45 days advance notice of a rate change. On the issue of prospective effective dates, the Board voted in favor of the motion, the two votes in opposition, D. Vanderhoof and J. Kilgallin.

[Break: 11:10 – 11:22]

V. Report of Policy Forms Committee

Home Health Care /Private Duty Nursing Issue
E. DeRosa explained that the Committee considered the nature and extent of coverage for home health care and private duty nursing under indemnity-based SEH plans. She reminded the Board that while the Policy Form Committee and the Board had previously issued a Bulletin concerning coverage under an HMO-based plan, that Bulletin had not specifically stated that the same conclusion applied to coverage under an indemnity-based plan. She said she had been contacted by a consumer covered under POS Plan C. The carrier had initially refused to cover any additional private duty nursing, then agreed to cover 4 hours per day. E. DeRosa said she wrote to the carrier and noted contract language and the fact that the contract included no provision that would support the imposition of a 4-hour limit. E. DeRosa explained that the carrier agreed that coverage for 24 hours per day was medically necessary, but that the carrier argued that the contract language supported limiting coverage to only 4 hours per day. E. DeRosa said that when the carrier was unwilling to adhere to the terms of the standard plan as outlined in her letter to the carrier that she brought the issue to the Policy Forms Committee to see if the Committee believed that the provision could be read as supporting a 4-hour limit per day. She reported that the Committee voted that the standard plan language does not support the imposition of any sort of limit on coverage, other than medical necessity. She noted that one Committee member abstained from the vote, and also noted that the abstaining member represented the carrier that was refusing to provide more than 4 hours of coverage. E. DeRosa said the Committee favored the release of a Bulletin to supplement the previously issued Bulletin on HMO-based coverage for home health care and private duty nursing to note that the indemnity-based coverage, as stated in the contract forms, is also unlimited.

M. Torrese said he believed that home health care coverage was supposed to be a cost containment mechanism.

D. Vanderhoof offered a motion that the Board accept the findings of the Policy Forms Committee regarding the unlimited nature of medically necessary coverage for home health care and private duty nursing and issue a Bulletin to reiterate the nature and extent of coverage. L. Ilkowitz seconded the motion. The Board voted in favor of the motion, with one vote in opposition, M. Torrese.

M. Torrese said he opposed the motion because he believed that a change in benefits would require a change to the regulations. V. Reale noted that he understood the Committee recommendation as stating that the regulations already provide for such coverage and that the bulletin would not be changing the coverage that already exists.

Riders
E. DeRosa said the Committee considered rider filings from two carriers, United Health Care and AmeriHealth, as set forth on the Report of the Policy Forms Committee.

D. Vanderhoof offered a motion to find the United Healthcare rider filing complete. J. Majcher seconded the motion. The Board voted in favor of the motion, with R. Shalongo abstaining.

D. Farkus offered a motion to find the Amerihealth rider filing complete. V. Reale seconded the motion. The Board voted in favor of the motion, with D. Vanderhoof and T. Taliaferro abstaining.

VI. Report of the Operations Committee

W. Sanders said the Operations Committee thoroughly reviewed the bids for an auditor and that the Committee unanimously recommended that Deloitte & Touche (D&T) be awarded the contract.

L. Ilkowitz offered a motion that the Board accept the recommendation of the Operations Committee and award the auditing contract to D&T. B. Wiseman seconded the motion. The Board voted unanimously in favor of the motion.

VII. Close of Meeting

D. Vanderhoof offered a motion to adjourn the Board meeting. V. Reale seconded the motion. The Board voted unanimously in favor of the motion.

[The meeting adjourned at 12:00 p.m.]

Attachment: Expense Report