

**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  
November 28, 2001**

**Members participating:** Gary Cupo; Darrel Farkus (Oxford); Larry Glover; John Kilgallin (CIGNA); Ulysses Lee (Guardian); Jane Majcher (DOBI); Bryan Markowitz; Mary McClure (Aetna USHealthcare); Bob Shalongo (United); Neil Sullivan (Horizon BCBSNJ); Tony Taliaferro (AmeriHealth); 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 10:02 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”), the DOBI website, and the Office of the Secretary of State in accordance with the Open Public Meetings Act. Roll call was taken. A quorum was present.

L. Glover introduced Neil Sullivan who was representing Horizon at the Board meeting.

**II. Public Comments**

L. Glover asked if any member of the public wished to address the Board. No comments were offered.

**III. Minutes**

*Open Session October 17, 2001*

**J. Majcher offered a motion to approve the minutes of the Open Session of the October 17, 2001 Board meeting, as amended. D. Vanderhoof seconded the motion. The Board voted in favor of the motion with B. Markowitz abstaining.**

**IV. Staff Report**

*Expense Report (see attached)*

**B. Markowitz offered a motion to approve the payment of the expenses specified on the November 28, 2001 expense report. J. Majcher seconded the motion. The Board voted unanimously in favor of approving the motion.**

*Status of Rulemaking*

E. DeRosa reported that she sent the SEH rule proposal that amends the standard policy forms to Chip Dutcher of the DOBI so he could forward it to Governor's Counsel. In response to an inquiry as to the effective date of the forms changes, E. DeRosa said the Board had not discussed how much lead time to allow once the changes have been adopted. She said she suspected the Board would want to consider two or even three months given the voluminous nature of the changes.

#### *Purchasing Alliances*

W. Sanders said staff had received numerous calls on purchasing alliances. He reported that the DOBI was working on the regulations on the filing requirements. He reminded the Board that the law does not take effect until February 20, 2002.

#### *Legislative Report*

##### S.2458/A.3493

W. Sanders said this bill requires self-funded or partially self-funded multiple employer welfare arrangements to register with the Commissioner of Banking and Insurance. Under the bill, a self-funded arrangement shall: (a) maintain a cash reserve for excess loss of 75 days of benefits paid, net stop-loss coverage or excess risk insurance; (b) file annually its audited financial statements and an actuarial opinion by a qualified actuary, and file quarterly its unaudited financial statements and the amount of its claim reserve; and (c) provide a written notice to employers and employees stating that a self-funded multiple employer welfare arrangement is not an insurer and does not participate in any guarantee funds created by New Jersey law. He said this bill was reported out of Committee on a 3/2 vote. He said the New Jersey Hospital Association noted concerns about failure of NJ Car and indicated they were owed \$20 million, and were expecting 3 cents on the dollar. He said the AFL/CIO, NJAHP/Horizon testified against the bill. W. Sanders said AMT/Bill Megna testified in favor of the bill.

D. Vanderhoof noted that the NJ Car program did not have aggregate stop loss coverage.

W. Sanders said that if this bill were to become law, insured products would be competing against self-funded MEWAs.

##### S.1769/A.3722

W. Sanders said this bill addresses the status of University Health Plans and University Health Plans would not subject to the IHC assessment for the 1999/2000 cycle only. He said the bill also changes the concept of what carriers are not "members" of the IHC Program.

##### S.207/A./3938

W. Sanders said this bill amends SEH participation requirements. He said the bill passed Senate, and was introduced in the Assembly on November 19, 2001.

##### A.3722

W. Sanders said this bill would permit certain self-employed individuals to purchase small group coverage.

#### *2001 HMO Performance Report*

W. Sanders said that a copy of the 2001 HMO Performance Report was included in the Board packets. He reminded the Board that while the DOHSS has sent a representative to briefly discuss the report in prior years, it was believed that Board members were sufficiently familiar with the report and did not need such a presentation. W. Sanders said that the goals of the report are to provide assistance to consumers in shopping for coverage and to provide an incentive for health plans to improve the quality of care.

#### *HIAA Lifetime Achievement Award*

W. Sanders reported that the HIAA posthumously awarded Linda Ilkowitz its Lifetime Achievement Award in recognition of outstanding contributions made to the HIAA. He said a copy of the press release was included in the Board packets.

#### *Outreach*

W. Sanders said he was a guest lecturer at a graduate class in Health Care Policy at Rutgers. He also reported that he spoke to a group of producers in Florham Park, NJ.

#### *Filing Requirements Seminar*

E. DeRosa explained that although the regulations outline filing requirements, carriers continue to have problems providing proper and timely information. She said staff was planning a seminar to address the filing requirements for both the IHC and the SEH Programs to be held in January 24, 2002. She noted that the blank report forms for the SEH Program would be sent in December and receiving the forms might serve as an incentive to carriers to come to the seminar to find out about reporting requirements.

## **V. Report of the Legal Committee**

#### *War Exclusion*

E. DeRosa said the Legal Committee met to discuss the extent of the exclusion contained in the standard plans that reads: "Services or supplies received as a result of a war, declared or undeclared; police actions; service in the armed forces or units auxiliary thereto; or riots or insurrection."

She said the Committee noted that the terrorist actions of September 11, 2001 were not acts of war. Thus, the plans would cover treatment of injuries sustained in the attacks. With respect to anthrax, it was noted that the source has yet to be identified. The war exclusion could not be used as a basis to deny coverage for antibiotics to treat anthrax.

She said the Committee discussed application of the exclusion to hypothetical situations. If a sovereign country were to declare war on the United States, and fighting were to occur in the United States, there would be the potential for injuries to be sustained by civilians. The Committee discussed whether the plans would provide coverage for those civilians. One Committee member noted that war is "uninsurable." One Committee member had already contacted a reinsurer to inquire as to the availability of reinsurance if coverage were to be provided for civilians injured during war.

E. DeRosa reported that staff would contact other states and the NAIC to seek information regarding what other states have done or plan to do.

N. Sullivan added that terrorism is not war. He noted there would be consequences to carriers if it were determined that coverage must be provided. D. Vanderhoof suggested that one option might be to consider imposing some sort of benefit limit on coverage for injuries sustained as a result of war. T. Taliaferro suggested that in the event of massive numbers of casualties it might be a government endeavor to provide coverage rather than an issue commercial carriers must deal with. L. Glover noted that there must be a balance between public policy and business policy.

#### *Draft Bulletin on Producer Compensation*

W. Sanders said he drafted a bulletin to address the information requests the Board discussed during the October Board meeting.

Several Board members expressed concern that the Bulletin would gather data, but there did not seem to be a clear idea about what to do with it. Without normative data, raw data would not demonstrate whether a commission structure was acting to impede access to coverage. W. Sanders suggested that the Board could issue a Request for Proposal and contract with a firm that would have the expertise to analyze data.

D. Vanderhoof said the Bulletin, as drafted, does not request necessary data. He suggested that it would be necessary to secure dependent status and age and gender data for both new issues and renewals.

J. Kilgallin said he was not in favor of quarterly reporting requests. He noted that the additional data D. Vanderhoof suggested would be burdensome to report.

L. Glover asked that Board members provide any comments on the draft bulletin to W. Sanders by December 15, 2001. If a specific query would be useful, please formulate the query.

#### **VI. Executive Session**

W. Sanders said the Board needed to hold an Executive Session to discuss a personnel matter. He said the Board would return to Open Session only to adjourn the Board meeting.

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

*[Executive Session: 11:05 a.m.– 12:00 noon]*

#### **VII. 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 the motion.** [The meeting adjourned at 12:03 p.m.]

Attachments: Expense Report