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NEW JERSEY
INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD

20 West State Street, 10th floor
CN 325
Trenton, NJ 08625

September 12, 1995

Directors Present: D. Benbow (Prudential); M.L.B. Kaplan (Blue Cross and Blue Shield of New Jersey); L. Moskowitz (Department of Insurance); R. Rondum, E. Shrem; R. Smart (Mutual of Omaha), G. Young (USHealthcare); L. Yourman

Others Present: K. O'Leary, Executive Director; DAG M. Smyth (DOL); E. DeRosa, IHC Program Assistant Director

I. Call to Order

D. Benbow called the meeting to order at 9:45 a.m.. K. O'Leary announced that notice of the meeting had been published in three New Jersey newspapers and posted at the Department of Insurance and the Office of the Secretary of State in accordance with the Open Public Meetings Act. K. O'Leary took roll call and determined that a quorum was present.

II. Review of Minutes from the Open Session of the August 22, 1995 Board Meeting

M.L.B. Kaplan offered a motion that the Board approve the minutes of the open session of the August 22, 1995 Board meeting. E. Shrem seconded the motion. The Board voted unanimously to approve the minutes of the open session of the August 22, 1995 Board meeting, with one abstention (D. Benbow).

III. Report of the Chair

K. O'Leary reported that he had spoken with C. Wowkanech who expressed concern that persons eligible for non-contributory group coverage were barred from purchasing coverage under the IHC Program. He noted that group plans may be inadequate. C. Wowkanech and the Commissioner received letters from Assemblyman Scott Garrett questioning the unavailability of coverage under the IHC program to persons who may be eligible for non-contributory group coverage.

K. O'Leary explained that the prior assumption was that persons eligible for non-contributory group coverage would not have an opportunity to waive such coverage. E. DeRosa commented that under the participation rules of the SEH plans, non-contributory coverage required only 75% participation. Thus, 25% of the eligible employees *could* waive the non-contributory SEH coverage. M.L.B. Kaplan stated that his prior company allowed eligible persons to waive non-contributory coverage. D. Benbow expressed concern that large group plans may not likewise permit an eligible person to waive non-contributory coverage. L. Moskowitz stated that he

believed even the most rigid non-contributory plans would allow a person to waive coverage. D. Benbow said it was not Prudential's policy to allow an eligible person to waive non-contributory group coverage, but the company would, however, allow a waiver for religious reasons.

K. O'Leary suggested that if a person *could* waive non-contributory coverage, that person should be allowed to buy an IHC plan, subject to the same rules as apply to persons who waive contributory coverage. L. Moskowitz suggested that the IHC and SEH Boards should jointly meet to discuss participation, and in particular, the 75% participation requirement contained in the standard SEH plans. D. Benbow suggested that C. Wowkanech could advise Assemblyman Garrett that the IHC Board is exploring options for coverage and would be discussing the issue with the SEH Board as well.

IV. Report of the Executive Director

Expense Report

L. Moskowitz inquired as to when the books for the program would be completed. K. O'Leary reported that the bookkeeper would complete the books later that week. K. O'Leary advised that he intended to give the books to the Operations Committee to review prior to providing them to D & T.

K. O'Leary suggested that the Operations Committee meet with D & T to discuss the status of the BCBSNJ audit.

L. Moskowitz requested that the arrangements with Deptcor for the distribution of Buyers' Guides should be re-evaluated.

G. Young offered a motion that the Board approve the payment of the expenses included on the 8/22/95 expense report. L. Moskowitz seconded the motion. The Board voted unanimously in favor of approving the payment of the expense, with one abstention (R. Smart)

Outreach

8/25/95	DOL Workshop
9/14/95	Health Underwriters in Southern New Jersey
9/9/95	Health Care Today (WOBM radio program)
9/19/95	Web (employee benefits specialists)

Escrow

K. O'Leary reported that he had just received, through DOI personnel, information concerning the amount of interest held in escrow for HMONJ, and would forward it to counsel so that USHealthcare would provide an accounting of its net earned premium attributable to ERISA plans.. M.L.B. Kaplan commented that it had taken an unusually long time to determine what funds were releasable. He noted that HMONJ had made the request regarding the amount of interest in the escrow account. G. Young stated that counsels for the case had agreed to wait to release the funds until the Board provided an accounting of escrow interest

Enrollment Report

K. O'Leary noted that the Carrier's data did not explain whether persons whose policies lapsed were securing coverage elsewhere. L. Moskowitz said an exit follow-up would be the best method to obtain that type of information. D. Benbow asked

what the Board would hope to accomplish with the information, given the fact that an exit survey would be an expensive task to ask Carriers to undertake. He suggested that if there was energy among Board members to have an exit survey that the Board should prepare a proposal stating what would be accomplished. L. Moskowitz said that part of the Board's report to the legislature should address lapses. D. Benbow asked the Marketing Committee to compile a list of desired exit survey data.

K. O'Leary said there would be a Press Conference on 9/21/95 at 1:00 p.m. to announce the enrollment data for the second quarter.

NAIC Task Force

K. O'Leary reported that he had been actively participating in meetings, and advocating the New Jersey approach to individual coverage, as authorized by the Board in May. He noted that there was a growing difference of opinion among Carriers and States represented on the task force as to what approach the model bill should take. He recommended that he discontinue active participation in the task force. D. Benbow asked if the options considered for the model would contemplate allowing a program such as the one in New Jersey to exist. K. O'Leary said it would.

L. Moskowitz commented that the Department would have to identify who would represent New Jersey at future NAIC task force meetings.

Harvard School of Public Health

K. O'Leary reported that the Robert Wood Johnson Foundation had awarded a grant to the Harvard School of Public Health and Brandeis to study the effects of the IHC Program. He stated they would need access to IHC Program data. L. Moskowitz asked for a written document summarizing the scope of the proposed study. He suggested that persons conducting the study should also discuss health reform with the Department. K. O'Leary noted that the study team would also need access to some Carrier data.

E. Shrem commented that the exit survey might be something the study team could perform.

V. Report of the Technical Advisory Committee

D. Benbow offered a motion that the Board deem the rate filings identified on the 8/22/95 TAC report, copy attached, complete. M.L.B. Kaplan seconded the motion. The Board voted unanimously in favor of deeming the listed rate filings complete.

D. Benbow briefly discussed the Sanus rate filing. Sanus had filed to expand the service area. It did not appear that a new certificate of authority had been part of the expansion. The rate filing included separate rates, by rating area. Community rating requires the use of the same rate for the entire service area. It would be inappropriate to allow Sanus to use these rates.

D. Benbow offered a motion that the Board deem the Sanus filing incomplete. M.L.B. Kaplan seconded the motion. The Board voted unanimously in favor of deeming the Sanus rate filing incomplete.

D. Benbow reported that TAC was working on revisions to the loss ratio report. He expected the committee would be ready to discuss the revisions by the October Board meeting

K. O'Leary reported he met with a representative of MetraHealth and would provide a memo to D. Benbow and M.L.B. Kaplan explaining the status of the company as regards any relationship with Metropolitan and Travelers.

[Break: 11:05 am - 11:25 am]

VI. Report of the Policy Forms Committee

R. Smart reported that with the exception of one Carrier, Greater Atlantic, all Carriers that market the IHC plans had filed the required Certification of Compliance, Exhibit Q. She noted that the Executive Director discussed a number of issues with Greater Atlantic, including the Exhibit Q requirement.

R. Smart reported that a hearing was scheduled for 1:00 that day, to accept comments on the proposed changes to the policy forms. M.L.B. Kaplan asked whether a Carrier would be permitted to implement the changes with respect to inforce plans *prior* to the anniversary on or after January 1, 1996. He suggested that Carriers should be required to implement the changes *no later* than the first anniversary on or after January 1, 1996. The Board agreed to discuss this at a later meeting.

VII. Report of the Marketing Committee

E. Shrem distributed drafts of two brochure designs. The committee met on 8/22/95, and the next meeting was scheduled for 9/14/95. During that upcoming meeting the committee hoped to finalize the copy and layout for the brochure, and discuss distribution.

The committee was working on drafting a new Buyers' Guide, and asked Carriers for samples of marketing materials.

M.L.B. Kaplan offered a motion that the Board close the Open Session and begin Executive Session. R. Smart seconded the motion. The Board voted unanimously in favor of closing the Open Session and entering Executive Session. [Open Session closed, and Executive Session began at 11:43 am.]

M.L.B. Kaplan offered a motion to close the meeting. R. Smart seconded the motion. The Board voted unanimously in favor of adjourning the meeting. [The meeting adjourned at 12:03 p.m.]

October 10, 1995

Directors Present: D. Benbow (Prudential); M.L.B. Kaplan (Blue Cross and Blue Shield of New Jersey); L. Moskowitz (Department of Insurance); R. Rondum, E. Shrem; R. Smart (Mutual of Omaha), L. Yourman

Others Present: K. O'Leary, Executive Director; DAG M. Smyth (DOL); W. Sanders, SEH Program Assistant Director; E. DeRosa, IHC Program Assistant Director

I. Call to Order

In the absence of C. Wowkanech, D. Benbow served as chair of the meeting. D. Benbow called the meeting to order at 9:40 a.m.. K. O'Leary announced that notice of the meeting had been published in three New Jersey newspapers and posted at the Department of Insurance and the Office of the Secretary of State in accordance with the Open Public Meetings Act. K. O'Leary took roll call and determined that a quorum was present.

II. Review of Minutes from the September 12, 1995 Board Meeting

L. Moskowitz offered a motion that the minutes of the open session of the September 12, 1995 Board meeting be approved, with modification. M.L.B. Kaplan seconded the motion. The Board voted unanimously in favor of approving the minutes of the September 12, 1995 Board meeting.

III. Report of Chair

D. Benbow said he had nothing to report as Chair, but that he and K. O'Leary could provide a report concerning a meeting the Operations Committee had had with the auditors, Deloitte and Touche. K. O'Leary stated that the Committee believed that in light of the complicated nature of the audit, it was proceeding as well as possible. The auditors were attempting to review approximately 10 million records, and there are many issues to review. L. Moskowitz observed that he believed the quality of the audit was consistent with what he had expected.

IV. Report of the Executive Director

a) Expense Report

E. Shrem offered a motion to authorize the payment of the expenses noted on the expense report. D. Benbow seconded the motion. The Board voted unanimously in favor of authorizing the payment of the expenses listed on the October 10, 1995 Expense Report, with one abstention, R. Rondum.

b) Meeting with Bookkeeper

K. O'Leary reported having met with the bookkeeper. She was working on getting the program books in order, back to inception of the Program. She expected to complete the task by Wednesday or Thursday (10/11 or 10/12). The Board would then have books through the end of fiscal year 1995 (June 30, 1995). K. O'Leary recommended that the Board continue to use her services, keeping the Board's books, on a regular basis. K. O'Leary said he would forward the completed books to the Operations Committee for review prior to releasing to the auditors.

c) Meeting with Kathy Swartz and Debra Garnick (Harvard School of Public Health and Brandeis team)

There was a concern as to how they would gain access to the policyholders in order to be able to secure information. They drafted a survey which K. O'Leary reviewed. He suggested alternative questions. The study team planned to speak to the Board during the November 14, 1995 IHC Board meeting. At that time, they would share what they planned to do, and how they planned to accomplish it. L. Moskowitz asked that both TAC and the Legal Committee review the survey before the team came to speak to the Board. D. Benbow asked Counsel to review whether the Board

could ask Carriers to cooperate with the study without jeopardizing confidentiality. In addition to the confidentiality issue, he said the Board should also consider the expenses Carriers would incur in cooperating with the survey. R. Rondum expressed a concern that the study might provide information concerning other states and may not provide adequate information concerning New Jersey. K. O'Leary assured her that the study was designed to exclusively study the NJ IHC Program. D. Benbow commented that data for the sake of data was not desired. Thus, it would be imperative that the survey questions be effectively framed.

M. Smyth inquired as to whether the Board had received a copy of the proposal. K. O'Leary said he had a copy. M. Smyth asked that a copy of the proposal be forwarded to her.

M.L.B. Kaplan said the Legal Committee would review the privacy and administrative issues surrounding the survey.

d) Outreach

9/14/95 NJ Health Underwriters (Southern New Jersey)

9/19/95 WEB

9/21/95 Enrollment Press Conference (was not well attended due to a simultaneous conference concerning the Commissioner of Insurance)

e) Metra Health

K. O'Leary reminded the Board that this company had been formed from Metropolitan Life and Travelers. While the new company did not exist until 1995, it had requested a conditional exemption from the 1995 reimbursable loss assessment. The Board had declined to grant the conditional exemption since the company had not filed an Exhibit K, a pre-requisite to requesting a conditional exemption. K. O'Leary reported that the company withdrew its request for a conditional exemption. The company did, however, ask the Board to consider some issues in order to facilitate the transition process.

MetraHealth asked that individuals enrolled in the Metropolitan HMO and the Travelers HMO be counted as enrolled by Metropolitan and Travelers, respectively, and not by MetraHealth.

MetraHealth asked that the Net Earned Premium (NEP) attributable to individuals enrolled in the Metropolitan HMO and the Travelers HMO be counted as NEP for Metropolitan and Travelers, respectively, and not for MetraHealth.

D. Benbow suggested that the Board should not make provisions for special treatment, and the Board agreed that there should be no exception made. K. O'Leary would advise MetraHealth that the regulations must be followed.

f) Assembly Bill 3123

K. O'Leary stated that there would be a meeting later that day during which carriers would have the opportunity to discuss the draft this draft bill proposed for introduction with Assemblyman Garrett, the sponsor. The bill would amend the SEH Program and possibly the IHC Program. K. O'Leary stated he would attend the meeting in Newark.

g) Counting of Medicare Risk and Medicaid lives

K. O'Leary reported that a bill had been introduced 9/25/95 which would amend the IHC statute to allow carriers to count 100% of Medicare Risk and Medicaid enrollees. The current law permitted that only a percent of those lives may be counted. In response to an inquiry from R. Rondum, D. Benbow briefly described the nature of a Medicare Risk and a Medicaid contract.

h) Compliance Agreements

K. O'Leary said that while the Board had previously authorized Paul DeAngelo of the Department of Insurance to negotiate and enter into compliance agreements with Allianz, CNA and Manhattan National, counsel had recommended that there be an affirmation of the finalized agreements by the Board.

M.L.B. Kaplan offered a motion that the Board affirm the action of Board entering into compliance agreements with Allianz, CNA and Manhattan National. R. Smart seconded the motion. The Board voted unanimously in favor of affirming the action of the Board entering into compliance agreements with Allianz, CNA and Manhattan National.

V. Report of the Technical Advisory Committee

L. Moskowitz offered a motion that the Board deem the rate filings identified on the attached report of the Technical Advisory Committee to be complete. R. Smart seconded the motion. The Board voted unanimously in favor of deeming the identified rate filings complete.

R. Rondum commented that the rate changes were all increases. D. Benbow noted that such rating action would not be uncommon given his initial review of the experience data carriers had submitted.

After some discussion as to the usefulness of the column on the TAC report concerning the percentage change and the manner in which that data is secured (Carriers have been asked to report the percentage change in the rate filings), being unable to reach a consensus during the meeting, the Board tabled the discussion.

D. Benbow explained that TAC recommended that the Board propose a modification to the Loss Ratio Report requirements in order to enable carriers to "true-up" over time. Thus, losses that emerge over time may be taken into account. With respect to the refund plan, the proposal stated that the standard method would be to refund a percentage of premium. Although, the proposal would allow a carrier to file to request permission to use an alternate method. The proposal also clarified that the assessment considered on the Loss Ratio Report was the amount PAID during the previous calendar year. The proposal also clarified that the reimbursable loss assessment considered on the Loss Ratio Report was the amount PAID during the previous calendar year.

D. Benbow explained that the proposal would be subject to the required comment period. However, TAC recommended that carriers be contacted and advised that the Board would accept the use of the new approach for the 1994 reporting year. So, if a carrier wished to re-file the loss ratio report based on the proposed regulation, it may do so.

The proposal also revised Exhibit J, to correspond to the proposed regulation.

M.L.B. Kaplan offered a motion that the Board propose the modifications recommended by the Technical Advisory Committee to Subchapter 7, Loss Ratio and Refund Reporting Requirements (N.J.A.C. 11:20-7). R. Smart seconded the motion. The Board voted unanimously in favor of proposing the modification to Subchapter 7.

[Break: 10:55 - 11:05]

VI. Report of the Policy Forms Committee

R. Smart noted that the Board had received a number of comments to the proposed changes to the policy forms. Staff had drafted proposed responses which the Board would discuss, as necessary.

M.L.B. Kaplan commented that since the IHC and SEH Boards were distinct entities, the policy review process, discussion of changes, hearing, proposals and adoption decisions should be treated separately.

One commenter requested the ability to implement the modified forms with respect to inforce business as of a common date rather than deferring modification until the policy anniversary on or after January 1, 1996. R. Smart recalled that such an option was not permitted for the 1995 changes since one of the 1995 changes represented a benefit decrease. She asked about the impact on rates. D. Benbow said that rates would be a carrier issue.

M.L.B. Kaplan offered a motion to allow carriers to implement the policy form changes with respect to inforce business no later than the policy anniversary occurring on or after January 1, 1996. L. Moskowitz seconded the motion. The Board voted unanimously in favor of approving the motion.

One commenter suggested that the proposed language concerning securing a second and possibly a third opinion was unclear since it could be interpreted to require that an insured person secure confirming opinions from both the second and third opinions. The Board agreed that it was not intended that a person secure more than one confirming opinion, and asked that the proposal text be revised to more clearly state that only one confirming opinion was required.

As regards the issue of ABMT, the Board suggested that the response to the comment be revised to reflect the fact that the Board had discussed whether it was necessary to make the optional benefit available with Plan A, and had concluded that P.L. 1995, c. 100 applied to Plan A.

After some discussion concerning a comment regarding the section of the proposal concerning self referral to an OB/GYN, the Board recognized that the comment did not address the change that had been proposed by the IHC Board, but rather concerned action proposed by the SEH Board. The response should be revised to reflect the fact that the comment was not germane to the IHC proposal.

The Board asked that the response to the concern presented by the AFL-CIO regarding Utilization Review be modified to state that the Board deemed the procedures to be appropriate.

The Board asked that the response to a comment 1 from the Optometric Association be revised to omit the phrase which stated that for some issues, agreement between the SEH and IHC Boards may not be possible.

While a comment from Washington National concerning diagnostic services and primary care benefits was beyond the scope of the proposal, the Board asked that policy language be revised to clarify that diagnostic services include services in connection with a primary care benefit.

R. Smart offered a motion that the Board accept the draft responses to comments, revised, as discussed. L. Yourman seconded the motion. The Board voted unanimously in favor of accepting the draft responses to proposal comments, as amended

VI. Report of the Marketing Committee

E. Shrem reported that the Marketing Committee met on 9/14/95 to finalize the text of the pamphlets. The revisions were at the printer being typeset. Before printing, the revised text will be sent to C. McDevitt, E. DeRosa and K. O'Leary for final review.

C. Nicholas conducted an informal study of the 800 number service being provided by Deptcor with respect to the mailing of Buyers' Guides. She has begun to gather information on service from other vendors. M. Smyth requested that a copy of the contract the Board signed with Deptcor be forwarded to her.

C. Nicholas has begun work on a revised Buyers' Guide.

Concerning Open Enrollment, L. Moskowitz asked whether the Board was publicizing the opportunities available during the calendar month of October. C. Nicholas stated that she had written a piece addressing the open enrollment for a broker magazine. It was her understanding, however, based on discussion during a prior meeting, that the Board did not wish to aggressively publicize the open enrollment period. The Board did not modify that posture.

M.L.B. Kaplan offered a motion that the Board enter Executive Session. L. Yourman seconded the motion. The Board voted unanimously in favor of beginning Executive Session.

[Executive Session: 12:20 p.m. - 12:50 p.m.]

VII. Close of Meeting

M.L.B. Kaplan offered a motion to close the Board Meeting. D. Benbow seconded the motion. The Board voted unanimously in favor of closing the meeting. The meeting adjourned at 12:50 p.m.

November 14, 1995

Directors Present: D. Benbow (Prudential); M.L.B. Kaplan (Blue Cross and Blue Shield of New Jersey); L. Moskowitz (Department of Insurance); E. Shrem; R. Smart (Mutual of Omaha), C. Wowkanech; G. Young (USHealthcare); L. Yourman

Others Present: K. O'Leary, Executive Director; DAG M. Smyth (DOL); DAG C. Williams (DOL), E. DeRosa, IHC Program Assistant Director

I. Call to Order

C. Wowkanech called the meeting to order at 9:50 a.m.. K. O'Leary announced that notice of the meeting had been published in three New Jersey newspapers and posted at the Department of Insurance and the Office of the Secretary of State in accordance with the Open Public Meetings Act. K. O'Leary took roll call and determined that a quorum was present.

II. Review of Minutes from the October 10, 1995 Board Meeting

M.L.B. Kaplan complained again, as he had at the September Board meeting, about the length of time it was taking for Deloitte & Touche to complete its audit of BCBSNJ. He found no mention of his concern in either set of minutes and asked that it be recorded.

D. Benbow offered a motion that the minutes of the Open Session of the October 10, 1995 Board meeting be approved, as amended. L. Yourman seconded the motion. The Board voted unanimously in favor of approving the minutes, as amended.

III. Report of the Chair

C. Wowkanech reported that a Bill was introduced on November 9, 1995 which would seriously impact both the IHC and SEH programs, if the Bill were to pass. He identified two issues, out of approximately ten, as being the most important. The Bill would allow one-life groups to enter the small employer market. It would also allow association groups to be rated as separate from the community and would permit the maintenance of non-standard plans. C. Wowkanech expressed his hope that Board members would take appropriate action, and noted that when a Bill was proposed for introduction several months ago, it was modified as a result of comments offered by Board members.

L. Moskowitz stated that the Department of Insurance was reviewing the Bill, independently of the Board, and would take a public position.

C. Wowkanech stated that Board members had received a letter from Mr. William A. Marino (BCBSNJ) concerning the assessment procedure and the payment of interest on the amount of reimbursable losses due to BCBSNJ. The Board would discuss the issues during Executive Session.

IV. Presentation by Project Team (Harvard University, School of Public Health & Heller Graduate School, Brandeis University, et. al.)

C. Wowkanech explained that members of a project team that intended to study the IHC Program were present to offer a summary of the nature and scope of the study, and answer questions Board members may have.

The Robert Wood Johnson Foundation offered funding for an independent and rigorous evaluation of the New Jersey IHC program, as it believed the New Jersey

model had potential as a model for other states and possibly the nation. Harvard and Brandeis were selected from among the bidders to conduct the study.

Katherine Swartz (Harvard University, School of Public Health), through verbal presentation and use of overheads, outlined the research questions, as currently framed. She offered an overview of the types of information that would be requested from enrollees under the IHC and Access programs. She hoped that, given the nature of the questions, and the precautions to safeguard identity of survey respondents, there would be no confidentiality concerns. K. Swartz provided Board members with a handout which included all the information offered during her prepared presentation.

K Swartz stated that the enrollees selected for the survey would be contacted by telephone, by trained interviewers. The initial contact would request that the enrollee participate and set an acceptable time for the interview, which would take approximately 20 minutes. She said the team hoped to conduct the interviews during the months of February and March. The final results of the study should be ready within 16 months following the completion of the surveys.

Richard Strouse of Mathematica Policy Research Inc. discussed the protocols his firm utilizes in order to protect the confidentiality of respondents to various surveys his firm conducts. His firm will assist with the design of the actual survey to be used. Mathematica will produce a data file for K. Swartz and D. Garnick who would prepare the data set.

D. Garnick proposed providing carriers that participate in the project with the survey results and all project publications. They could produce documents which would compare the particular carrier's enrollment with the total enrollment. G. Young expressed concern that a carrier might use such comparative information as a marketing tool.

L. Moskowitz suggested that the survey should address the Open Enrollment opportunity available annually during October. He also encouraged the team to consider the involvement and influence of agents in the insurance purchasing decision process.

G. Young asked if, rather than carriers releasing enrollee data to the team to enable the team to initiate contact with the enrollees, the carriers could send a communication to their enrollees, and ask persons who would be willing to participate in the survey to contact the team. D. Garnick stated that the response rate for such an approach would not be adequate.

K. O'Leary asked the team to clarify exactly what they wanted the Board to do. They stated they hoped the Board would encourage carriers to participate, and would be willing to speak with the research team. The team would work with the carriers to define sample data, and would work with carriers to randomly select enrollees via computer. They noted they would primarily be interested in persons who had enrolled within the 6 months prior to the interview, as such persons would likely have better recall of the information addressing the period prior to enrollment. They indicated they would expect between 75% to 80% participation from among the randomly selected persons. While the final survey product might take 16 months, they expected to be able to provide preliminary results by September or October 1996.

V. Report of the Executive Director

Expense Report

K. O'Leary noted that the bookkeeper completed the task of setting up the books for the program from inception until the end of fiscal year 1995. The fee shown on the expense report for bookkeeping services would exceed the amount the Board had originally authorized. K. O'Leary noted that the total amount paid for such services was within the range set forth in the Board's RFP for bookkeeping services.

Deptcor continued to mail a large volume of Buyers' Guides. K. O'Leary stated that only English Guides were available to 800 number callers. C. Nicholas commented that her office had distributed a number of Spanish guides to various community organizations.

G. Young offered a motion to approve the payment of the expenses shown on the 11/14/95 expense report. C. Wowkanech seconded the motion. The Board voted unanimously in favor of approving the payment of the expenses shown on the expense report.

Program Books

K. O'Leary reported that he would review the books that had been prepared, then forward to the Operations Committee. Following such reviews, he would release the books to Deloitte & Touche for the purpose of the program audit. He asked whether the Board would object to giving the Operations Committee the authority to authorize the release of the books to the auditors. D. Benbow said he believed the Plan of Operations provided the Operations Committee with the necessary authority. K. O'Leary said he would schedule a meeting of the Operations Committee.

Outreach

10/19/95 Kentucky Joint Legislative Committee session
11/14/95 Camden County Medical Society

Joint Advisory Bulletin 95-05

K. O'Leary stated that this Bulletin merely reiterated information previously released in Joint Advisory Bulletin 95-01. Any Board members who wished to comment on the text were to contact K. O'Leary no later than Friday, November 17, 1995. Counsel was also to provide any comments by such date.

C. Wowkanech offered a motion authorizing the release of Joint Advisory Bulletin 95-05, with any necessary modifications. L. Yourman seconded the motion. The Board voted unanimously in favor of releasing the Bulletin.

Catastrophic Coverage

K. O'Leary suggested that this topic be deferred until the December meeting.

Code of Ethics

A draft, patterned after the Code of Ethics developed by the SEH Board, was forwarded to the Attorney General's Office for review. The Commission on Ethical Standards must also review the Code. K. O'Leary stated he would forward review comments to the Legal Committee.

VI. Report of the Operations Committee

D. Benbow stated that the Committee met with Deloitte & Touche about 2 weeks earlier. The audit at BCBSNJ was ongoing. In order to provide an audit opinion as to the payment of claims, Deloitte & Touche would need to audit the BCBSNJ teleprocessing methodology. Hard copy claim data was not available. BCBSNJ considered the teleprocessing methodology to be confidential and proprietary and would require Deloitte & Touche to sign a confidentiality agreement before allowing the firm access to the data. While a first draft of the agreement would not have allowed Deloitte & Touche to discuss specific findings with the Board, a revised draft eliminated such restriction.

M.L.B. Kaplan explained that BCBSNJ was concerned that Deloitte & Touche is in the business of advising clients on audit methodology.

D. Benbow stated that while the draft of the confidentiality agreement he previously received and reviewed did not allow Deloitte & Touche to discuss specific findings with the Board, the revised draft, attached to the material distributed to the Board, and which he was first reviewing during the meeting, appeared to be appropriately drafted.

M.L.B. Kaplan reminded the Board that in March, the Board believed the audit could be completed by June. He asked why the audit was taking so long. A November 1, 1995 memorandum from BCBSNJ outlined concerns with the audit process. He noted that audits generally identified areas to be changed. D. Benbow asked M.L.B. Kaplan for suggestions as to how to expedite the process. He responded that the auditors should simply be told they must finish.

Mr. William A. Marino (BCBSNJ) addressed a letter to Board members asking that the assessment bills be sent before the audit was completed. He also asked that interest on the reimbursable loss amount due to BCBSNJ be paid to BCBSNJ. D. Benbow suggested that the interest issue be deferred until Executive Session. With respect to the release of the assessment bills, however, D. Benbow suggested that the Board could authorize the Executive Director to send the assessment bills, and advise the carriers that there will likely be a reconciliation. He noted that he had not been advised of any major concerns with respect to the audit.

G. Young asked K. O'Leary to summarize what he had done thus far concerning the assessments. K. O'Leary reminded the Board that the preliminary assessment had been delayed pending receipt of NAIC statement premium information from the Department of Insurance. In addition, staff had attempted to secure accurate non-member status and/or Exhibit K information from carriers prior to releasing the preliminary assessment. He did release the preliminary assessment in May, 1995.

M.L.B. Kaplan asked the Board to consider the reallocation of the reimbursable loss assessment for carriers that earned a partial exemption. He noted that the preliminary assessment had not reallocated the reimbursable loss assessment to carriers that earned a partial exemption.

K. O'Leary said that 4 carriers had filed Exhibit Ks that reported reimbursable losses. He believed 3 were in error, but would contact the carriers to verify whether there were, in fact, losses eligible for reimbursement under the Program.

D. Benbow offered a motion that the Board authorize the Executive Director to send assessment bills that:

- a) use the spreadsheet, as constituted**
- b) include reimbursable losses of \$40,054,8999**
- c) include administrative expenses of \$599,999**
- d) include the 1993 reconciliation**

The cover letter should advise carriers that the reimbursable loss audit was in the final stages and that there would be adjustments to the assessment.

L. Moskowitz seconded the motion. The Board voted unanimously in favor of sending the assessment bills, as described, with one abstention (M.L.B. Kaplan)

M.L.B. Kaplan stated that the final decision on the HMONJ suit could require further reconciliation of the assessments. L. Moskowitz commented that if the FEHBA issue is decided in favor of the carrier, other carriers may file for reimbursement of assessment moneys.

K. O'Leary stated he believed he could get the 1994 assessment bills out within 4 working days. The bills would be sent by registered mail, and payment would be due within 30 days of the date of the invoice. Thus, payment would be due before the end of calendar year 1995.

M.L.B. Kaplan said carriers would be upset at receiving a bill for the 1994 assessment so late in 1995, then soon thereafter receiving a bill for the 1995 assessment. D. Benbow said the Board had an obligation to protect carriers from paying any assessment until the Board was convinced the money was owed.

VII. Report of the Technical Advisory Committee

D. Benbow offered a motion that the Board accept the rate filing recommendations noted on the Report of the Technical Advisory Committee, copy attached. G. Young seconded the motion. The Board voted unanimously in favor of accepting the rate filing recommendations of the Technical Advisory Committee.

D. Benbow reminded the Board that Time Insurance Company was using an alternate fee profile to determine reasonable and customary charges. Time provided a demonstration of actuarial equivalency. A demonstration is required by regulation, but the regulation did not include guidance as to how a demonstration of actuarial equivalency should be evaluated. The Technical Advisory Committee discussed possible definitions for actuarial equivalency, but was unable to agree upon one definition. D. Benbow provided Board members with a written summary of the majority opinion and the minority opinion. He suggested that the Board should consider the issue during the next Board meeting.

M.L.B. Kaplan commented that the PHCS data had some "dark holes." D. Benbow suggested that carriers had mechanisms to deal with services and supplies for which no specific value was assigned. He also reported that TAC had discussed the need to perhaps give specific guidance to carriers to ensure that all carriers use similar procedures.

VIII. Report of the Policy Form Committee

R. Smart distributed an updated listing of carriers that had filed the required Certification of Compliance. Greater Atlantic was the only outstanding carrier. She stated that carriers would be filing Certifications of Compliance in 1996 to address the use of the revised forms.

IX. Report of the Marketing Committee

E. Shrem reported that the committee had met to discuss a New Jersey regulation which required that the agent witness the signature of the applicant, unless the carrier waived the requirement, in writing. The committee drafted a sample authorization that carriers could use, and provided it to Department of Insurance personnel for review. After some discussion, the Board concluded that it may be more appropriate to simply send a notice to carriers advising them of this regulation, and reminding them that they have the right to waive the witnessed signature if they so elect. The Board and the Department of Insurance would have further discussions before any action would be taken.

D. Benbow offered a motion that the Board enter Executive Session. C. Wowkanech seconded the motion. The Board voted unanimously in favor of entering Executive Session. (12:30 p.m.)

[Executive Session 12:30 p.m. - 1:55 p.m.]

L. Moskowitz offered a motion to revise the HMONJ stipulation agreement that would be submitted to the Judge. The recalculated escrow amount, \$5,885,723.00, less \$60,653.00, disputed by HMONJ, should be released to the Board, then released to BCBSNJ. R. Smart seconded the motion. The Board voted in favor of the motion. [6 in favor, 1 opposed (G. Young), 1 abstained (M.L.B. Kaplan)]

D. Benbow offered a motion to close the Board meeting. C. Wowkanech seconded the motion. The Board voted unanimously in favor of closing the Board meeting. (2:00 p.m.)

December 12, 1995

Directors Present: J. Donnellan (Prudential); M.L.B. Kaplan (Blue Cross and Blue Shield of New Jersey); L. Moskowitz (Department of Insurance); R. Rondum, E. Shrem; R. Smart (Mutual of Omaha), C. Wowkanech; G. Young (USHealthcare); L. Yourman

Others Present: K. O'Leary, Executive Director; DAG M. Smyth (DOL), E. DeRosa, IHC Program Assistant Director

I. Call to Order

C. Wowkanech called the meeting to order at 9:47 a.m.. K. O'Leary announced that notice of the meeting had been published in three New Jersey newspapers and posted at the Department of Insurance and the Office of the Secretary of State in accordance with the Open Public Meetings Act. K. O'Leary took roll call and determined that a quorum was present.

Prior to proceeding with the agenda, C. Wowkanech informed the Board that he received a letter from Dana Benbow, which he read to the Board. As a consequence of his recent change in assignment at Prudential, D. Benbow explained that he would not be in a position to continue to participate in Board or committee meetings. He named James Donnellan, recently named Director of External Affairs, to be his replacement. C. Wowkanech asked the Executive Director to appropriately respond to D. Benbow, on behalf of the Board.

II. Review of Minutes

Revised Minutes from October 10, 1995 Open Session

L. Moskowitz offered a motion that the minutes of the Open Session of the October 10, 1995 Board meeting be approved, as amended. G. Young seconded the motion. The Board voted unanimously in favor of approving the minutes, as amended.

Minutes from November 14, 1995 Open Session

C. Wowkanech offered a motion that the minutes of the Open Session of the November 14, 1995 Board meeting be approved, as amended. G. Young seconded the motion. The Board voted unanimously in favor of approving the minutes, as amended, with one abstention (R. Rondum).

III. Report of the Chair

C. Wowkanech stated that there was a hearing on December 7, 1995, on S 2380, a Bill introduced by Senator Sinagra. While the Bill would amend the Small Employer Health Benefits Program, it would have an effect on the Individual Health Coverage Program as well. Only the AFL-CIO testified in opposition to the Bill. The AFL-CIO requested an amendment to the Bill to allow an additional year for the required study of the effects of community rating. That amendment was included. The Bill would be heard in the Assembly on December 14, 1995, and a vote taken December 18, 1995.

C. Wowkanech stated that he and the Board had spent 2 1/2 years working on the IHC Program. He believed the results thus far demonstrated that the IHC Program was, and is, on the right track. He was anxious to have a credible organization review the Program and thus receive documentation as to the success of the Program. C. Wowkanech expressed dismay that Carriers on the Board had failed to provide comments with respect to the proposed study to be conducted by Harvard / Brandeis. He expressed his desire that the Board leave the meeting with a commitment to participate in the study.

K. O'Leary stated that the Board should consider writing a letters to Carriers to encourage participation in the study. L. Moskowitz commented that in order for the study to be effective, the Board might have to **mandate** carrier participation and cooperation. M.L.B. Kaplan stated that the Legal Committee recommended, as a result of their review of the study proposal, that the Board should not mandate participation in the study.

M.L.B. Kaplan noted a couple of the concerns the Legal Committee had with the proposed survey. First, the interviewer should not state to the respondent that he or she understands that the respondent is covered by XYZ Company. The committee was also concerned with the proposed request that carriers provide the study with information concerning the length of time a person has been covered.

L. Moskowitz reminded the Board that the Board could exercise some control with respect to the nature and extent of the survey questions.

L. Moskowitz asked the Board to consider whether mandating carrier participation would be appropriate. He said he believed the study would not make sense if carriers could refuse to cooperate. For example, given the size of the enrollment in Time Insurance Company plans, he felt it essential that the study consider Time insureds. R. Smart questioned whether the Board could legally require that carriers cooperate and participate. C. Wowkanech said he understood the Legal Committee to have reported that it believed the Board could not mandate participation. R. Smart offered to contact carriers to *encourage* participation. E. Shrem suggested that if any carrier unwilling to participate had comparatively small enrollment, lack of participation would not be harmful to the study.

J. Donnellan stated that an objective study of the Program was needed. C. Wowkanech stated he believed the study would document the effectiveness of the Program. G. Young said that at the Board level, the study seemed to be a good idea. He noted that some Board members had material concerning the study prior to the presentation that was made during the November 14, 1995 Board meeting. Those members who did not have prior information may not had have had ample opportunity to formulate specific questions/concerns. He suggested that a committee be formed to review all issues concerning the study. He also suggested that before the Board could ask carriers if they would be willing to participate, the Board should be in a position to give the carriers a fairly good idea as to what would be involved.

L. Yourman said she received a survey from her carrier asking whether she was satisfied.

R. Rondum stated that she had a concern with the premise of the study, which was that IHC covered persons included a disproportionate percentage of older and sicker persons. L. Moskowitz explained that this premise was intended to respond to the question of whether community rating was an incentive or a deterrent to getting people covered. K. O'Leary said he has been asked whether a system that accepts bad risks can be sustained. E. Shrem said the major complaint she has heard has been the cost of the plans. C. Wowkanech commented that the loss ratio requirement prevented carriers from making profits due to unnecessarily high rates. He said that Stu Cameron from the Bankers Association had long complained about the standard plans. C. Wowkanech said he challenged him to demonstrate how the plans were inadequate. He said S. Cameron finally admitted that his main concern

was not with the standardization of plans, but rather, with the required community rating of the standard plans.

M.L.B. Kaplan said he was personally in favor of the study and would encourage BCBSNJ to participate. He noted there may be a substantial cost to carriers in providing the data. He suggested the Board should be cautious about passing the cost onto carriers. He said he believed the study questions could be restated so as to address privacy concerns. L. Moskowitz said that if cost became a major issue, the Board should ask the Robert Wood Johnson Foundation for funding assistance and minimize the cost to carriers.

R. Smart said she would like to contact carriers before all issues concerning the study have been resolved. She suggested that it may be useful to secure input from carriers not on the Board. They may have valid concerns Board members may not identify.

G. Young offered a motion to create an ad hoc committee to work with the Harvard/Brandeis team to address carrier concerns with the proposed survey. The committee should report back to the Board during the January Board meeting. E. Shrem seconded the motion. The Board voted unanimously in favor of the creation of an ad hoc committee. (Chair - R. Smart; Vice Chair - E. Shrem)

R. Smart suggested that the Executive Director should consider sending a letter to carriers to advise them that funding for a study of the program has been awarded and that the carriers would be contacted to encourage them to participate.

[Break - 10:55 a.m. - 11:10 a.m.]

IV. Report of the Executive Director

Expense Report

G. Young asked if the bookkeeping charge represented charges for work done in connection with the books for 1993 and 1994 or were the charges for work done to keep the books current. K. O'Leary stated the charges were made for work done for the 1993 and 1994 books.

M.L.B. Kaplan offered a motion to approve the payment of the expenses shown on the December 12, 1995 expense report. J. Donnellan seconded the motion. The Board voted unanimously in favor of approving the payment of the expenses shown on the expense report.

Salary Expenses

K. O'Leary wrote a memo, included in Board packets, explaining the manner in which IHC and SEH staff salaries have been paid, since November 1994. He asked the Board to authorize the payment of \$163,190.96 to the SEH Board as reimbursement to the SEH Board for the IHC Board share of salary, benefits and overhead.

R. Smart offered a motion to approve the payment of \$163,190.96 to the SEH Board for the IHC Board share of salary, benefits and overhead. G.

Young seconded the motion. The Board voted unanimously in favor of approving the payment to the SEH Board.

Construction and Equipment Expenses

K. O'Leary explained that the SEH Board paid for the construction of office space and the office equipment. The IHC Board should reimburse the SEH Board for the IHC Board's share of such expenses.

L. Moskowitz offered a motion to approve the payment to the SEH Board of the IHC Board's share of the cost for construction and equipment. C. Wowkanech seconded the motion. The Board voted unanimously in favor of approving reimbursement to the SEH Board of the IHC Board's share of the construction and equipment expenses.

Program Audit

K. O'Leary reported that the Operations Committee reviewed the program books, as put together by the bookkeeper. He said auditors from Deloitte & Touche began their review and hoped to complete such review prior to Christmas.

1994 Assessment

K. O'Leary stated that the assessment bills for the 1994 assessment were sent via certified mail on November 21, 1995. He said he already received some appeals.

K. O'Leary noted he received an appeal from HIP. The assessment had not considered conversion lives enrolled by HIP in determining the number of enrolled non-group persons. L. Moskowitz asked whether the Board had an obligation to give notice to IHC carriers that community rated conversion lives could be counted toward the number of enrolled non-group persons. He suggested there should be a true-up for 1993 and 1994 to take conversion lives into account.

C. Wowkanech offered a motion that the Board contact carriers that requested exemptions for 1993 and 1994 and advise them that community rated conversion lives could have been included in their reported non-group person enrollment. L. Moskowitz seconded the motion. The Board voted unanimously in favor of contacting such carriers concerning community rated conversion enrollment.

Outreach

11/14 Camden County Medical Society

K. O'Leary said he received an invitation from the HIAA to discuss the SEH program during an April meeting in Washington. The HIAA would pay his expenses.

K. O'Leary reported he was invited to speak on ERISA and enforcement at an ABA meeting in New York in June. L. Moskowitz speculated that the one-life group issue might come up, and suggested caution.

Enforcement/Other Issues

K. O'Leary reported having distributed Joint Advisory Bulletin 95-05 addressing association health plans. He also reported having referred the issue of catastrophic coverage to the Complaint Committee.

Code of Ethics

K. O'Leary reported having discussed the draft Code of Ethics with persons at the Attorney General's Office. The composition of the Board, which includes company members, made the Board different from other state entities. M.L.B. Kaplan asked why the Board's Code of Ethics had not been patterned after that of the Guaranty Association. K. O'Leary stated that the SEH Legal Committee reviewed the Code for the Guaranty Association and concluded that it did not fit.

Consent Agreement

K. O'Leary said the IHC and SEH Boards and the Department of Insurance had reached a preliminary agreement with AmeriHealth HMO. The agreement would prohibit enrollment in non-complying plans and would contain a mechanism to get covered persons out of non-complying plans and offer them the opportunity to enrolling a standard plan. M. Smyth said her office had not reviewed the agreement.

G. Young offered a motion that the IHC Board approve the consent agreement and authorize C. Wowkanech to sign the agreement, subject to Attorney General and Legal Committee review. E. Shrem seconded the motion. The Board voted unanimously in favor of approving the consent agreement, subject to Attorney General and Legal Committee review.

Enrollment

Third quarter enrollment statistics were provided in Board packets. K. O'Leary noted that the IHC Program had 168,180 persons enrolled as of the end of the third quarter of 1995. Of those, about 23% were previously uninsured. C. Wowkanech suggested that the Board should write to legislators to advise them of enrollment. R. Rondum further suggested that if the Board could identify enrollment by legislative districts, a communication could be developed that the legislators would be able to release to their constituents. L. Moskowitz said he would like an explanation of the decrease in enrollment in BCBSNJ plans.

[C. Wowkanech left the meeting at 12:00; J. Donnellan (Vice Chair) assumed the role of Chair for the balance of the meeting.]

Meetings for 1996

L. Moskowitz offered a motion to approve the draft meeting schedule included in Board packets. M.L.B. Kaplan seconded the motion. The Board voted unanimously in favor of approving the draft meeting schedule.

M. Smyth noted that the seat now held by USHealth Care would be up for election. She said the Board could release notice by January 11, 1996, with nominations due January 22, 1996. The Absentee Ballot would have to be mailed by February 9, 1996, and due by March 7, 1996. The election could be held during the March 12, 1996 Board meeting. That meeting should be designated as the Annual meeting.

L. Moskowitz said he would like to see a Program Report during the Annual Meeting. As part of that report, he would want the Department's actuaries, plus TAC, to put together a report of premiums and claims paid under the Program.

Legislation

M.L.B. Kaplan stated he was concerned that S 2380 may use the term "issued" as opposed to "offered." He explained that a policy is *issued* to an association. Coverage under the policy would be *offered* to members.

Reimbursable Losses Audit

M.L.B. Kaplan reported that BCBSNJ had not yet received an audit report from Deloitte & Touche. He noted that the senior partner left for vacation. He further stated that BCBSNJ was dissatisfied that the escrow fund would be short by approximately \$1 million in interest.

HMONJ

K. O'Leary said the Board awaited a court order to release the money to BCBSNJ. As soon as he received that order, he would be in a position to arrange for a transfer to BCBSNJ. M.L.B. Kaplan said he believed HMONJ had deliberately held up the release of the funds to BCBSNJ.

Additional Board Meeting

The Board agreed to an additional meeting, to be held **Wednesday, December 27, 1995, beginning at 11:00 am.** . Members that wish to participate via teleconference may do so. M.L.B. Kaplan agreed to outline, in writing, the advantages to the Board of making payment to BCBSNJ, during 1995, of the principal due to BCBSNJ for 1994 reimbursable losses. His memo would also explain why payment during 1996 would be beneficial to BCBSNJ.

V. Report of the Policy Forms Committee

R. Smart distributed a revised Exhibit Q to Board Members. She noted that the Certification of Compliance had been designated as an Annual certification and that carrier options first available in January 1996 had been included. She recommended that the Board agree to having the revised form sent to carriers to use for the 1996 certification, even though the revised form would have to be proposed and adopted. The Board agreed to use of the form prior to proposal and adoption.

R. Smart reported that the SEH Board had developed and was proposing an HMO Point of Service plan. She noted that the IHC Board had not discussed the possibility of creating such a plan. G. Young said he thought the HMO Association would be interested in having such a plan. L. Moskowitz said he thought HMOs would want to have a POS plan available. The Board agreed to defer further discussion until the HMO Association could be contacted and invited to comment on the desirability of a Point of Service plan for individuals.

VI. Report of the Technical Advisory Committee

5 rate filings.

J. Donnellan reported that the rate filing for Medigroup North was complete, but that TAC understood there were some issues still unresolved with the Department of Insurance. Thus, TAC recommended including a qualification in the letter concerning matters still to be addressed with the Department.

J. Donnellan stated that the First Option rate filing was complete. However, First Option had not yet secured Federal Qualification, and did not file rates for Plans A - D.

L. Moskowitz offered a motion that the Board deem the First Option rate filing complete, but advise First Option that the rates could not be used until Federal Qualification was received, and the Board was provided with notice of receipt of Federal Qualification. E. Shrem seconded the motion. The Board voted unanimously in favor of deeming the rate filing complete, with the stated qualification.

M.L.B. Kaplan offered a motion that the Board deem the remaining 4 rate filings (Aetna, BCBSNJ, Medigroup North, Principal Financial) complete. G. Young seconded the motion. The Board voted unanimously in favor of deeming the 4 rate filings complete.

Actuarial Equivalency

J. Donnellan reviewed the TAC majority and minority opinions concerning the manner to define actuarial equivalency. (The majority and minority opinions were outlined in a memo from D. Benbow, distributed to Board members during the November 14, 1995 Board meeting.)

R. Rondum recalled that BCBSNJ initially indicated it may not be able to modify claims systems to use PHCS data for the standard plans before the date required. She asked if BCBSNJ was, in fact, using PHCS. M.L.B. Kaplan responded that the company was.

R. Rondum offered a motion that the Board adopt the minority TAC opinion concerning the definition of actuarial equivalency. TAC should develop test standards, write to Time Insurance Company to request data consistent with such standards, then return to the IHC Board with a recommendation as to whether or not the use of MDR satisfies the actuarial equivalency test. L. Yourman seconded the motion.

M.L.B. Kaplan observed that two of the carrier representative Board members were no longer present at the meeting. He suggested that the vote on the actuarial equivalency definition issue should be deferred until other carrier representative Board members were present to participate in the discussion and vote. The Board noted his concern, but since a quorum was present, elected to proceed with the vote.

The Board voted, by roll call, as follows: 5 in favor (E. Shrem, L. Yourman, R. Rondum, L. Moskowitz, J. Donnellan); 1 opposed (M.L.B. Kaplan) The motion carried by majority vote.

VI. Report of the Marketing Committee

E. Shrem asked that the Board or Department of Insurance, as appropriate, take quick action to address the requirement that an agent witness the signature of an applicant unless the carrier waived the requirement. L. Moskowitz said it was a matter that should be handled by the licensing section of the Department. He said that discussions with the Department of Insurance should begin, with a goal of releasing a bulletin to carriers.

E. Shrem distributed the latest draft of the brochure the marketing committee developed. Any comments were to be sent to E. DeRosa no later than Friday, December 15, 1995.

E. Shrem reported that the Marketing Committee had a first draft of a new Buyers' Guide, as drafted by C. Nicholas. The committee was to comment no later than January 16, 1996.

M.L.B. Kaplan offered a motion that the Board begin Executive Session. L. Yourman seconded the motion. The Board voted unanimously in favor of beginning Executive Session.

[Executive Session: 1:38 pm - 1:46 pm.]

L. Moskowitz offered a motion to adjourn the Board meeting. M.L.B. Kaplan seconded the motion. The Board voted unanimously in favor of adjourning the Board meeting.

[The meeting adjourned at 1:47 pm.]

December 27, 1995

Directors Present: *J. Donnellan* (Prudential)(Vice Chair); *M.L.B. Kaplan* (Blue Cross and Blue Shield of New Jersey); L. Moskowitz (Department of Insurance); *E. Shrem*; *R. Smart* (Mutual of Omaha), *G. Young* (USHealthcare); *L. Yourman*

Others Present: K. O'Leary, Executive Director; DAG *M. Smyth* (DOL), E. DeRosa, IHC Program Assistant Director

[The names of persons participating via teleconference are italicized, *thus*.]

I. Call to Order

J. Donnellan called the meeting to order at 11:05 a.m.. K. O'Leary announced that notice of the meeting had been published in three New Jersey newspapers and posted at the Department of Insurance and the Office of the Secretary of State in accordance with the Open Public Meetings Act. K. O'Leary took roll call and determined that a quorum was present.

I. Release of 1994 Funds to Carriers Claiming Reimbursable Losses for 1994

K. O'Leary stated that the question before the Board was whether the Board was willing to authorize him to arrange for a transfer of available 1995 assessment funds to carriers that had filed for reimbursement of 1994 losses. He reported that as of

12-27-95, the Board had collected \$23,444,761. Of that amount, approximately \$800,000 was due to carriers for 1993 reconciliation. A number of carriers filed appeals of all or part of their assessments, with the appealed amount thus far totaling \$3,930,843. An additional \$600,000 was designated for the administrative budget. Thus, \$18,113,918 would be available for transfer, if the Board was willing to authorize a transfer.

M. Smyth inquired as to the nature of the appeals. K. O'Leary stated that all manner of appeals had been received. For example, some carriers asserted the Exhibit K numbers were incorrect. Others claimed they were non-members. M.L.B. Kaplan commented that BCBSNJ had submitted an appeal based on the redistribution of assessments solely among carriers that had not received an exemption.

L. Moskowitz said he was prepared to make a motion to authorize a transfer, subject to the results of an audit. J. Donnellan said that the party receiving payment should be required to agree to refund any amounts an audit may determine to have been paid without justification.

L. Moskowitz offered a motion to authorize the release of \$18,000,000 to carriers that had filed for reimbursement of 1994 losses, subject to the findings of an audit. E. Shrem seconded the motion.

L. Moskowitz asked if any carrier other than BCBSNJ filed for reimbursement of 1994 losses. K. O'Leary said a few carriers filed, but upon further inquiry, BCBSNJ and New York Life appeared to be the only carriers the Board would need to consider as having appropriately requested reimbursement. He reported that New York Life deducted its reimbursable loss of about \$40,000 from the amount of its assessment before remitting payment. M.L.B. Kaplan said that was consistent with the manner BCBSNJ handled the amount it owed.

By roll call, the Board voted on the motion: 5 in favor (L. Moskowitz, J. Donnellan, E. Shrem, L. Yourman, R. Smart); 1 opposed (G. Young); 1 abstained (M.L.B. Kaplan) The motion carried by majority vote.

K. O'Leary stated he would send a letter to BCBSNJ on December 27, 1995, stating that \$18,000,000 would be transferred as soon as the money was moved from the treasury account into the Board's account.

M. Smyth asked whether this action affected the advice her office had been requested to provide concerning the payment of interest under stated conditions. M.L.B. Kaplan stated the advice was still needed.

II. Marketing Activity by First Option Health Plan Prior to Board Notification of Federal Qualification

K. O'Leary explained that a consumer called E. DeRosa inquiring about information contained in sales literature from First Option Health Plan (First Option). He stated that the literature indicated that the date of application would be the effective date of coverage. E. DeRosa added that the consumer also stated that the material encouraged purchasing a plan in December, as rates would increase in January. E. DeRosa summarized the telephone conversations she had with Denise Linton of First Option. D. Linton stated that someone from HCFA called First Option to advise the company that its application for Federal Qualification was granted. However, since

the Federal Government was on furlough, written approval would be delayed. D. Linton also indicated that their application to write Medicare Risk contracts had been approved. E. DeRosa said she asked D. Linton if she had received the Board's December 13, 1995 letter which advised First Option that First Option was not to *offer* the standard HMO plan in New Jersey until First Option provided written notice to the Board that it had received Federal Qualification. D. Linton said she had received the letter.

E. DeRosa noted that D. Linton asked what the penalty would be for offering the standard HMO plan without Federal Qualification.

L. Moskowitz reported D. Linton called him, and during their conversation, told him First Option needed to enroll persons during 1995 in order to mitigate the assessment. He said he would want a letter from HCFA stating that approval of First Option's application was orally communicated to First Option as of a stated date in December. He further stated that the Department may take compliance action against First Option if it is found it acted without proper approval of its Federal Qualification application from the Federal Government. Further, the company acted in conflict with what had been communicated in the Board's December 13, 1995 letter.

G. Young said he found it disturbing that First Option did not come to the Board to advise the Board it received oral approval of its Federal Qualification application. J. Donnellan suggested the Board should require First Option to provide a written explanation of its activity.

The Board concluded that E. DeRosa should draft a letter to First Option in which First Option would be asked to explain what it had done. In addition, First Option should be required to secure a letter from HCFA which would state that a person from HCFA verbally communicated approval of First Option's Federal Qualification application as of a stated date in December. Before the letter was sent, it was to be sent to M. Smyth for review.

III. Use of Riders to Effect Compliance with 1996 Policy Forms Changes

R. Smart reported that staff had received a number of "panic" calls from carriers stating that they could not be ready to issue the new forms by January 1, 1996. One carrier drafted riders to demonstrate that the changes could be effectively communicated via rider. R. Smart said she spoke with several persons on the Policy Forms Committee to determine whether any member had a concern with the use of riders, and heard no opposition. Staff released a Bulletin to carriers advising them that they would have the option to use the Board created riders to amend in force policies and contracts and that if the carriers had pre-printed policies and contracts, the rider could be used to issue new business until March 1, 1996. As of March 1, 1996, all new business would have to be issued using the revised forms.

R. Smart said the riders were an alternate means to effectuate compliance with the standard plans the Board adopted. J. Donnellan agreed the riders were another presentation of what was contained in the revised standard plans.

L. Moskowitz asked if the use of a rider plus a policy form satisfied the requirements of the law to offer standard plans. He suggested that the riders should be provided to Gail Simon and to the Policy Forms Committee. The Committee should be

prepared to make a recommendation to the Board during the January Board meeting. M.L.B. Kaplan said the Board should undertake the proposal and adoption process with the riders.

IV. Harvard/Brandeis

R. Smart reported she and K. O'Leary developed a Bulletin to survey carriers to find out if they would be willing to participate in the Harvard/Brandeis study. In addition, she called a number of carriers to encourage participation. She reported that G. Young suggested organizing a conference call to give carriers the opportunity to "call in" to discuss any concerns they may have with participation in the study.

L. Moskowitz said he wanted to see the specific questionnaire. R. Smart said the study team provided general questions in the material distributed during the November Board meeting. She recommended that those general questions be reviewed and commented on before the study team refined the questionnaire. The Board would then review the actual questionnaire. In the meantime, she was conceptually speaking to carriers about the study.

V. Close of Meeting

M.L.B. Kaplan offered a motion to adjourn the meeting. L. Moskowitz seconded the motion. The Board voted unanimously in favor of adjourning the meeting. The meeting adjourned at 12:05 p.m.