May 13 June 10 July 2 July 15 August 12

**MINUTES OF THE MEETING OF THE
NEW JERSEY INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD
AT THE OFFICES OF THE NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE
TRENTON, NEW JERSEY
May 13, 1997**

Directors Participating: J. Donnellan (Prudential); S. Kelly (Blue Cross and Blue Shield of New Jersey); E. Shrem; G. Simon (replaced by R. Vehec at 10:45 a.m.) (Department of Banking and Insurance); R. Smart (Mutual of Omaha); R. Rondum, L. Yourman (arrived 9:50 a.m.)

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

I. Call to Order

K. O'Leary called the Board meeting to order at 9:35 a.m. He announced that notice of the meeting had been published in three New Jersey newspapers and posted at the Department of Banking and Insurance and the Office of the Secretary of State in accordance with the Open Public Meetings Act. A quorum was present.

II. Report of the Executive Director

Expense Report
S. Kelly offered a motion to approve the payment of the expenses noted on the May 13, 1997 expense report. E. Shrem seconded the motion. The Board voted unanimously in favor of approving the payment of the expenses noted on the Expense Report.

Accountant
K. O'Leary introduced Pearl Lechner, the recently hired accountant for the Boards.

Audits
BCBSNJ provided the Medicaid payment data that D&T had requested. The audits of National Casualty and Time were complete, and D&T did not recommend any adjustment to the loss amounts for which reimbursement was being sought. D&T requested data tapes from Manhattan National and would be using the tapes to test some of the numbers.

1996 Losses

Travelers resubmitted Exhibit K and the revised Exhibit specified a larger amount of losses. Thus, the 1996 loss amount has been increased to $43,478,979. K. O'Leary sent revised notice to all member Carriers to notify them of the increased loss amount.

1996 Loss Audits
The Operations Committee met with representative of D&T following the April 24, 1997 Board meeting. D&T suggested that the Board consider expanding the scope of the audits to include more detailed claims audits. D&T proposed an increased hourly rate of $120 per hour, up from $102 per hour, but would be providing more information for the Operations Committee to consider. K. O'Leary said the information was received via fax prior to the meeting, and he would distribute it to the Operations Committee for consideration.

1996 Year End Enrollment
The 4th quarter 1996 reports reflected a decline in enrollment as compared to 3rd quarter 1996, of approximately 12,000 persons. The decline was primarily noted in the indemnity plans, reflecting a shift away from indemnity coverage toward HMO coverage.

Withdrawal Regulation
The Governor's counsel reviewed the draft regulation and gave approval for the Board to propose it.
S. Kelly offered a motion to propose the withdrawal regulation. R. Smart seconded the motion.

R. Rondum said she was "uncomfortable" with the prospect of a withdrawal regulation. She suggested that the Board may lose a sense of why a Carrier may want to leave the individual market. R. Smart explained that requests for withdrawal would be considered by the Board. R. Rondum asked what would happen if every Carrier applied to withdraw. K. O'Leary suggested there appears to be to "camps" of Carriers:

- Carriers that entered the market with the expectation of making money; and
- Carriers that have a major presence in the group market and elect to market IHC plans with the hope of mitigating the loss assessment.

He suggested that carriers in the first camp may withdraw after finding it difficult to make a profit on individual business, but the carriers in the second camp are likely to remain. R. Smart explained that the regulation allows Carriers to *request* withdrawal. J. Donnellan suggested there may be consumer outcry with non-renewal, but that Carriers would be required to provide information to the covered person explaining their options. L. Yourman expressed concern with how the Board could police whether the Carriers in fact provided the Buyer's Guides and other information.
Vote on Motion: 5 in favor, 0 opposed; 2 abstentions (R. Rondum and L. Yourman)

Legislation
A. 2261 was reported out of the Insurance Committee without recommendation. Some of the features of the bill included combined IHC and SEH Boards, mandated benefits review; 2:1 modified community rating; and various changes to the calculation of the loss

ratio. J. Donnellan commended K. O'Leary on the manner in which he responded to A. 2261.

Kennedy/Kassebaum
K. O'Leary said that the Commissioner's recommendation to modify the IHC Act to effect compliance with Kennedy/Kassebaum as well as other modifications was sent to Assemblyman Garrett. W. Sanders reported that guaranteed renewability applies to the IHC Program as of July 1. He noted that the regulations published by Treasury clarify that eligibility for Medicare cannot be a reason for non-renewal. He said that the deemer for the alternative mechanism filing would expire on July 1, 1997. He volunteered to follow-up with HCFA on the status of the filing as well as discuss Medicare eligibility.

W. Sanders reported that the SEH Board asked that he prepare a Bulletin to advise Carriers regarding HIPAA compliance. He explained that the Bulletin, as drafted, does not offer specific guidance, but rather advises Carriers that each Carrier is responsible for compliance. The forms contain a Conformity with Law provision. As soon as NJ legislation is enacted to bring New Jersey into compliance with federal law, the SEH Board would propose necessary changes to the standard plans. He said that staff believed there may be utility to modifying the Bulletin to create a Joint Advisory Bulletin since the IHC program also faces HIPAA compliance issues.

Harvard/Brandeis Study
K. O'Leary reported that he and E. DeRosa met with Kathy Swartz on April 17, 1997. K. Swartz said the study would include a series of recommendations as well as analysis of the current program. R. Rondum asked that a call be made to the funding source, Robert Wood Johnson, to advise them of the delay in the production of the results of the study and see if they may be able to expedite the release of the results.

Community Rating Study
The SEH Board is required to prepare a study on community rating which is due to the legislature by July 1, 1997. He sent surveys to Carriers and hopes to have a solid draft of the study by the time he leaves on June 13, 1997.

Outreach

April 30, 1997	NJBIA Conference
	He reported that he spoke about how to purchase health coverage.

III. Review of Minutes (Open Session)

March 11, 1997
L. Yourman offered a motion to approve the minutes of the March 11, 1997 Annual Board Meeting. R. Smart seconded the motion. The Board voted in favor of approving the minutes, with one abstention (R. Rondum).

April 8, 1997
R. Smart offered a motion that the Board deem the First Option Health Plan and Medigroup rate filings as were presented during the April 8, 1997 Board meeting complete. E. Shrem seconded the motion. The Board voted in favor of deeming the rate filings complete, with two abstentions (S. Kelly and R. Rondum).
[This motion amended action taken during the April 8, 1997 Board meeting. Refer to the minutes of that Board meeting.]

R. Smart offered a motion to approve the minutes of the April 8, 1997 Board Meeting. E. Shrem seconded the motion. The Board voted in favor of approving the minutes, with two abstentions (L. Yourman and R. Rondum).

[G. Simon left the meeting at 10:45 a.m. and R. Vehec replaced her on the Board.]

April 24, 1997
E. Shrem offered a motion to approve the minutes of the April 24, 1997 Board Meeting. L. Yourman seconded the motion. The Board voted in favor of approving the minutes.

May 1, 1997 (Joint IHC/SEH Meeting)
E. Shrem offered a motion to approve the minutes of the May 1, 1997 Joint IHC/SEH Board Meeting. L. Yourman seconded the motion. The Board voted in favor of approving the minutes, with one abstention (S. Kelly).

IV. Committee Positions

Legal Committee
R. Smart reported that the Committee decided on the following membership: Mutual of Omaha; BCBSNJ; Prudential; and USHealthcare. The Deputy Attorney General and Department of Banking and Insurance would participate in Committee meetings, but would be non-voting participants. R. Smart said she would come back to the Board with a recommendation for the Vice Chair position

S. Kelly offered a motion to accept the Legal Committee recommendation as to constitution of the Legal Committee. L. Yourman seconded the motion. The Board voted in favor of the Legal Committee membership, as recommended.

Operations Committee
J. Donnellan offered a motion to name the Department of Banking and Insurance as the Vice Chair. L. Yourman seconded the motion. The Board voted in favor of the Department of Banking and Insurance serving as Vice Chair.

Marketing Committee
E. Shrem reported that a non-Board member Carrier representative had joined the Committee, Jackie Henry from Qual Med Plans for Health. She said the Committee recommended that Joanne Petto from Prudential be named as Vice Chair.

S. Kelly offered a motion to name Joanne Petto from Prudential as the Vice Chair of the Marketing Committee. R. Smart seconded the motion. The Board voted in favor of naming Joanne Petto as Vice Chair of the Marketing Committee.

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

V. Miscellaneous

S. Kelly asked the Board to offer feedback regarding whether there was any desire to settle with BCBSNJ regarding the 1993 and 1994 audits. She asked that the Board not delay taking action on the 1993 and 1994 audits until the 1995 audit has been completed. She asked if the Board was open to settlement discussions.

M. Smyth suggested that this issue be discussed during Executive Session. The Board agreed.

VI. Report of the Technical Advisory Committee

Rate Filings
R. Smart offered a motion that the Board accept the recommendations of the TAC concerning the completeness of the rate filings specified on the May 13, 1996 Report of the TAC. L. Yourman seconded the motion. The Board voted in favor of deeming the rate filings complete, with appropriate abstentions [S. Kelly with respect to the BCBSNJ filing and J. Donnellan with respect to the Prudential filing.]

1997 Conditional Exemptions
J. Donnellan reported that 16 Carriers filed requests for conditional exemptions. E. Shrem asked to see the non-group persons target for these Carriers. She also reported that "affordable health plan" posters were still being displayed throughout the state. T. Smith said that the Carrier agreed to market only standard plans. E. Shrem said she would send staff copies of some materials for staff to review to determine if standard plans were in fact being offered.

L. Yourman offered a motion to grant conditional exemptions to the 16 Carriers that had made appropriate requests for conditional exemptions from the 1997 loss assessment. R. Vehec seconded the motion. The Board voted in favor of granting the conditional exemptions, with appropriate abstentions [S. Kelly with respect to BCBSNJ and J. Donnellan with respect to Prudential.]

1995 Loss Ratio Reports (Exhibit J)
J. Donnellan reported that TAC reviewed the reports from BCBSNJ, CIGNA, HIP and Prudential, and recommended that the Board accept these reports. He explained that TAC first considered the reports from the Carriers that participate in Health Access since the analysis of the Health Access Loss Reports was dependent upon the reports for the IHC Program. TAC was awaiting a corrected report from USHealthcare, which was the remaining Heath Access Carrier.

R. Smart offered a motion to accept the 1995 Loss Ratio Reports from BCBSNJ, CIGNA, HIP and Prudential. L. Yourman seconded the motion. The Board voted in favor of accepting the reports, with appropriate abstentions [S. Kelly with respect to BCBSNJ and J. Donnellan with respect to Prudential.]

VII. Report of the Policy Forms Committee

Exhibit Q
L. Curry explained that the Committee discussed the timing of the filing of Exhibit Q and recommends that the Board modify the regulation to require the filing:

- when a Carrier first enters the market;
- within 60 days after the Board adopts changes to the standard forms;
- upon election of an option; and
- as may be directed in writing, by the Board.

The Board agreed with this recommendation. M. Smyth would discuss with staff the possibility of implementing this modification upon adoption of the outstanding Exhibit Q proposal, or initiating a new proposal.

Alternate Application
L. Curry explained that the Committee would like the regulation (N.J.A.C. 11:20-4.1(b)) amended to more correctly reflect current practice. The current regulation allows a Carrier to submit an alternate application that differs in format, but not content. However, in the past, Carriers have submitted alternate applications that differed in content, and these applications had been approved. The Committee would like the regulation to specifically allow modifications to content, provided the alternate application is approved by the Board. The Committee recommends that format changes not be filed. R. Rondum expressed concern that Carriers may include patient profile data on alternate applications. L. Curry explained that the Board would have the opportunity to vote on the alternate applications, and the Committee would describe the nature of the modifications so the Board could consider whether they were appropriate. The Board agreed and asked the Committee to work toward drafting proposed language to allow for modifications.

L. Curry said the Committee considered an alternate application filing from BCBSNJ and recommended that the Board accept the filing. The alternate form differed from the standard form in that the alternate form included information concerning the election of high deductible plans.

J. Donnellan offered a motion to approve the BCBSNJ alternate application. L. Yourman seconded the motion. The Board voted in favor of approving the alternate application, with S. Kelly abstaining.

PPO/POS
L. Curry explained that the Committee considered a request from an indemnity Carrier to offer a PPO plan using the standard forms. The Carrier requested more flexibility than the sample schedules seemed to permit. For example, the Carrier would like to use a coinsured charge limit feature, as is used in the SEH standard PPO and POS plans. The IHC plans seem to only allow for the use of a coinsurance cap. The Board indicated a willingness to consider allowing a Coinsured Charge Limit.

K. O'Leary said the current regulations allow a Carrier to come to the Board to say what they would like to do in terms of plan structure for PPO and POS. The Board asked K. O'Leary to participate in the next meeting of the Committee to explain the flexibility offered to Carriers.

Implementation of Policy Forms Changes
L. Curry said the Committee recommends that the Board use September 1, 1997 as the effective date for the policy forms changes the Board proposed. She said the Committee believed that changes to comply with HIPAA could be accomplished via rider once the legislature passes appropriate legislation. The Committee did not favor postponing the implementation of the proposal until HIPAA could be incorporated. The Board agreed with this recommendation. L. Curry said the Committee would be considering 6 sets of comments that were made relative to the proposal, and would be in a position to make recommendations during the June Board meeting.

M. Tagliafero Correspondence
L. Curry reported that the Committee reviewed correspondence from M. Tagliafero and a draft response. M. Tagliafero continues to ask that the Board modify the standard plans such that the coinsurance for mental or nervous conditions in Plan D would be consistent with the coinsurance applicable to other conditions. The draft response reiterated the Board's prior decision that the coinsurance not be modified.

VIII. Executive Session

R. Rondum offered a motion that the Board begin Executive Session for the purposes of discussing a contract with a marketing and communications firms and to receive legal advice. L. Yourman seconded the motion. The Board voted in favor of beginning Executive Session.

[Executive Session: 12:20 p.m. - 1:55 p.m.]

IX. Remaining Business and Close of Meeting

E. Shrem offered a motion that the Marketing Committee negotiate with Cox Communication Partners for a contract for marketing and communication services, with a monthly retainer for Option 2, within the parameters discussed. R. Smart seconded the motion. The Board voted in favor of the motion.

E. Shrem offered a motion that the signatories for Board checks be modified to replace K. O'Leary with E. DeRosa, W. Sanders and G. Simon. All checks must be signed by 2 persons, but both signatures on a check could not be signatures of staff persons. G. Simon seconded the motion. The Board voted in favor of the motion.

E. Shrem offered a motion to adjourn the Board meeting. L. Yourman seconded the motion. The Board voted in favor of adjourning the Board meeting. The meeting adjourned at 2:00 p.m.

MINUTES OF THE MEETING OF THE NEW JERSEY INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD AT THE OFFICES OF THE NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE TRENTON, NEW JERSEY June 10, 1997

Directors Participating: J. Donnellan (Prudential); S. Kelly (Blue Cross and Blue Shield of New Jersey); G. Simon (replaced by R. Vehec at 12:30 p.m.)(Department of Banking and Insurance); R. Smart (Mutual of Omaha); L. Yourman (arrived 10:05 a.m.)

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

K. O'Leary reported having received a call from L. Yourman to advise him that she was en route and would be arriving a little late for the meeting. With only four (4) Board members present, W. Sanders and J. Donnellan suggested the Board could discuss business that would not require any official Board action.

Cox Communications Partners
Teri Cox and Bill Cox introduced themselves and briefly discussed their goals, as the chosen Marketing and Communications consultant to the IHC Board. T. Cox noted the Backes Graphic Productions would be working with them on the creation of printed materials. T. Cox shared her expectation that their efforts would "give the IHC program a face." She explained that they would work toward neutralizing issues that may be perceived as negative and communicating a positive message.

J. Donnellan thanked the Marketing Committee for its hard work in the process of selecting a Marketing and Communications consultant.

Legislative Update

HR 1515 (Fawell Bill): W. Sanders reported that the NAIC had expressed concerns with this proposed federal legislation. For example, it would create a viable mechanism for association group plans which could result in the fragmentation of the market.

Alternative Mechanism Filing Status: W. Sanders reported that he had been in communication with HCFA and was advised that they "did not expect to disapprove the filing by July 1, 1997." That alternative mechanism filing spoke to the guaranteed issue and pre-existing conditions requirements of HIPAA. R. Smart noted that HCFA had commented that the New Jersey alternative mechanism filing was one of the best submitted by any state. She further noted that the guaranteed renewability provisions of HIPAA take effect on July 1, 1997.

Community Rating Study: The SEH Board was required to study the impact on the small employer market of a phase-in to pure community rating. That study was completed and the report has been written. Carriers in the SEH market were surveyed concerning the use of pure community rating. An overwhelming majority of the carriers opposed a transition to pure community rating and provided sample rates to indicate the cost impact if the transition to pure community rating were to occur. The recommendation made in the report was that modified community rating subject to a 2:1 ratio be retained in the SEH market.

State Action: W. Sanders spoke about the urgency of getting legislation passed which would bring New Jersey law into compliance with HIPAA. Any freezing of the SEH modified community rating also needed to be accomplished soon. He said he and K. O'Leary met with Department of Banking and Insurance staff to consult on the creation of bills to address those issues. A bill that would include all of the Commissioner's recommendations would be taken up later. S. 2192 was going to be discussed by the Senate Health Committee on Thursday, June 12, 1997.

I. Call to Order

W. Sanders called the Board meeting to order at 10:05 a.m. He announced that notice of the meeting had been published in three New Jersey newspapers and posted at the Department of Banking and Insurance and the Office of the Secretary of State in accordance with the Open Public Meetings Act. A quorum was present.

Update on Harvard/Brandeis Study of the Individual Health Coverage Program: E. DeRosa reported that she and K. O'Leary met with K. Swartz, D. Garnick and K. Skwara in late May. They had just received data from Mathematica. They were speaking with agents to capture another perspective on the Program. They were also looking into premiums/claims data. They plan to present the final results of their study during the October 1997 Board meeting. D. Garnick was scheduled to speak at the Capitol Forum on June 12, 1997. Her presentation would not offer any results of the study. Rather, she was asked to speak about the scope and process of conducting the study.

II. Review of Minutes (Open Session)

May 13, 1997

R. Smart offered a motion to approve the minutes of the May 13, 1997 Board Meeting. G. Simon seconded the motion. The Board voted unanimously in favor of approving the minutes.

III. Report of the Interim Executive Director

Expense Report

R. Smart offered a motion to approve the payment of the expenses specified on the May 13, 1997 Expense Report. S. Kelly seconded the motion. The Board voted unanimously in favor of approving the payment of the expenses.

Purchase of Resource Material

W. Sanders explained that staff has no access to materials which would describe the requirements of federal law as related to insurance plans. He noted that E. DeRosa was familiar with a loose leaf service published by Spencers. He secured a price quote for Spencer's Compliance Guide through the librarian. The annual cost would be $450, which would be shared with the SEH Board. He asked for approval to purchase the Guide. The Board asked that he investigate whether it may be available on CD ROM.

S. Kelly offered a motion to authorize the spending of an annual amount of up to $250 toward the cost of compliance materials. R. Smart seconded the motion. The Board voted unanimously in favor of the motion.

First Quarter 1997 Enrollment

W. Sanders reported that he received enrollment data from the consultant, A. Reese. However, reporting from a number of carriers appeared to be incorrect. He was following up with those carriers so he could provide A. Reese with correct numbers to include on the compilation sheet.

Carrier Audits for 1995 Reimbursable Losses

K. O'Leary said the final audit reports of Time and National Casualty were just completed, and had been delayed because Deloitte & Touche needed the representation letters from the carriers. The Board noted that the dates on the reports should reflect current dates.

R. Smart offered a motion to accept the audit report for National Casualty Company. L. Yourman seconded the motion. The Board voted unanimously in favor of accepting the audit report.

L. Yourman offered a motion to accept the audit report for Time Insurance Company. R. Smart seconded the motion. The Board voted unanimously in favor of accepting the audit report.

W. Sanders reminded the Board that it had paid these carriers 90% of the requested reimbursable loss amount for 1995 losses and that the outstanding balance could be paid since the audits did not result in a modification to the reimbursable loss amounts.

S. Kelly offered a motion to pay the outstanding balances for 1995 reimbursable losses to Time and National Casualty, plus interest earned on the amounts. G. Simon seconded the motion. The Board voted unanimously in favor of making such payments to Time and National Casualty.

K. O'Leary noted that carriers that are the subject of a reimbursable loss audit are responsible to pay half the cost of the audit.

R. Smart offered a motion to amend S. Kelly's motion such that the Board would pay the outstanding balances for 1995 reimbursable losses to Time and National Casualty, plus interest earned on the amounts *less* half the cost of the respective audits of Time and National Casualty. L. Yourman seconded the motion. The Board voted unanimously in favor of making such payments to Time and National Casualty.

S. Kelly asked if there was a need to adjust the administrative assessments such that the carriers that have already paid half the cost of their audits do not further contribute to the Board's share of the cost. K. O'Leary said no adjustment needed to be made. He explained that all carriers share the cost of the total administrative assessment, which includes the cost of the audits, in proportion to their Net Earned Premium.

Outreach

W. Sanders reported he was scheduled to speak to a group of Brokers in Edison New Jersey on June 12, 1997.

IV. Report of the Operations Committee

J. Donnellan reported that the Committee met via teleconference to discuss the charges for the 1996 reimbursable loss audits. He said the committee crafted a negotiating strategy. He reported that Deloitte & Touche proposed an expansion of the scope of the audits. That is, they suggested digging deeper into the claims payment and claims administration systems. J. Donnellan said the Committee considered the proposal but did not believe it would produce a significant change in the financial results. He further commented that the Committee did not believe it appropriate to only do a detailed claims audit of carriers seeking reimbursement. If any detailed study were to be done, it should be of all carriers. He noted that Board staff receives calls from consumers and/or agents if the claims practices of carriers are somehow inconsistent with the standard plans. The Committee opposed expanding the scope of the audit.

R. Smart offered a motion to oppose the expansion of the reimbursable loss audit, as had been proposed by Deloitte & Touche. G. Simon seconded the motion. The Board voted unanimously to oppose the expansion of the reimbursable loss audit.

V. Report of the Technical Advisory Committee

Rate Filings

J. Donnellan said the TAC reviewed rate filings from six (6) carriers and recommended that the Board deem them complete.

S. Kelly offered a motion to deem the rate filings of Celtic, CNA, Manhattan National, Metropolitan Life, United HealthCare and USHealthcare, as listed on the Report of the Technical Advisory Committee as complete. R. Smart seconded the motion. The Board voted unanimously in favor of deeming such rate filings complete.

Exhibit J

J. Donnellan said the Committee reviewed Exhibit J from USHealthCare. In order that Health Access may proceed with the review of the USHealthCare loss report for the Access Program, the IHC Board needed to act on this Exhibit J.

R. Smart offered a motion to accept the USHealthCare 1995 Loss Ratio Report, Exhibit J. G. Simon seconded the motion. The Board voted unanimously in favor of accepting the Exhibit J.

1995 Refund Plan

J. Donnellan said that CIGNA provided a refund plan that TAC recommends the Board accept. S. Kelly said that since TAC agreed to refer the Exhibit J reports of all carriers that used a calculated reserve in excess of the 3.3% safe harbor reserve to an independent actuary for review that the Board should defer action on the CIGNA refund plan. One of the CIGNA reports used a calculated reserve in excess of the 3.3% safe harbor reserve. J. Donnellan recalled that the amount of the reserve was slight.

S. Kelly offered a motion that the Board not move forward to approve the CIGNA refund plan until after the calculated reserve had been audited. ***[No Board member seconded the motion.]***

G. Simon offered a motion to approve the CIGNA refund plan. L. Yourman seconded the motion. The Board voted in favor of approving the CIGNA refund plan, 4 in favor, 1 opposed (S. Kelly)

K. O'Leary suggested that Cox prepare a press release to announce the refunds once the Board has approved the refund plans of all carriers that owe refunds for 1995.

[Break 11:05 a.m. - 11:28 a.m.]

VI. Report of the Policy Forms Committee

Office of Administrative Law (OAL) Filing Procedures
W. Sanders reported that he, K. O'Leary and E. DeRosa had discussions with people at the OAL concerning the proposal and adoption of policy forms text. Since the text is massive and appears in the Appendix to the regulation, it contains no citations that could be used for reference. Consequently, text surrounding portions of text that are being amended must be printed in order to give context. The hand mark-up process has been extremely time consuming. Invariably, the published version of the changes has not accurately captured all the hand-marked changes which has resulted in confusion when carriers compare the published regulation with the text of the forms as made available to carriers on disk. The OAL has agreed that the proposal and adoption of policy forms need not be accompanied by hand mark-ups to the published regulation. Rather, a proposal would consist of the summary piece which describes the nature of the changes. The document would advise interested persons that a copy of the full text of the proposal would be available from the Board. The Board would release the changes on disk. Thus, the hand-mark-up process can be avoided. Unfortunately, the outstanding proposal must be adopted using the prior practice of hand mark-ups to specify changes made upon adoption.

Discussion of Forms Adoption

L. Curry reported the Policy Forms Committee met on June 3, 1997 to discuss the comments received to the proposed policy forms changes.

<u>HIPAA</u>
L. Curry said BCBSNJ commented that the proposal should be expanded to include revisions necessary to bring the forms into compliance with HIPAA. The majority of the Committee recommended that no HIPAA changes be included until after New Jersey legislation has been passed to conform to the requirements of HIPAA.

Child First Issue - Well Child Care Coverage

L. Curry reported that the Committee could not respond to some of the comments concerning the well child care coverage and would need Board direction. For example, must the well child care coverage be made available with rating tiers other than the child only tier? Should availability of the coverage be limited to Child First participants? Could a carrier not participating in Children First make the coverage available?

J. Petto (audience member from Prudential) explained that she used to work for the administrator for Health Access. She said that it was her understanding that the well child coverage was mandatory for all children participating in Children First. While it may be issued under the Child Only rating tier, the Program contemplated circumstances where one or more parents may also be covered. The subsidy would apply only to the child portion of the plan. But, the plan would be issued using the Adult/Child or Family rating tier. Thus, the coverage may need to be made available with other rating tiers in addition to the child only tier.

G. Simon suggested that restricting availability to the child only tier would seem to violate the guaranteed issue requirements of the IHC Act.

R. Smart suggested that this particular component of the proposal be broken out from the adoption. It was presented in a separate exhibit and would thus not impede adoption of the other policy forms changes. The Board agreed to remove the revisions to Exhibit R from the adoption.

The Board recognized that the questions required further study and asked TAC to consider the issues and be prepared to make a recommendation during the July Board meeting.

Coverage for Children Based on Physical Custody

L. Curry summarized the comment made by the Office of Law Guardian which asked that the definition of dependent be expanded to include a child in physical custody of the adult. R. Smart commented that the Board already considered an expansion to the dependent definition and had agreed only expand it to include children to the extent there is a legal or blood relationship.

R. Smart offered a motion that the Board not expand dependents to include children in the physical custody of an adult. S. Kelly seconded the motion. The Board voted in favor of the motion with 4 in favor and 1 opposed (L. Yourman) ***[The motion did not carry since a modification to the policy forms requires the affirmative vote of a majority of the Board, or 5 votes.]***

J. Donnellan explained that children in physical custody were not being entirely denied coverage. They could secure single coverage or child only coverage. There was a concern with adverse selection in expanding the definition any further. L. Yourman asked if the issue could be re-reviewed at a later date. The Board agreed to review the

results of the liberalization to include blood and legal relationship in the definition of a dependent, and consider further expansion at a later time.

R. Smart offered a motion that the Board not expand dependents to include children in the physical custody of an adult. S. Kelly seconded the motion. The Board voted unanimously in favor of the motion.

Phase Out of Plan A

L. Curry reported that a commenter questioned the process for phase out of Plan A. The Committee response referred to the Withdrawal Regulation. S. Kelly asked when the Board agreed to base the phase out of Plan A on the Withdrawal Regulation. She referred to the minutes of the September 1996 meeting during which the Board voted to eliminate Plan A. At that time, the Board discussed a termination within 12 months. She noted that the Board communicated that approach to the Commissioner. The Board reminded S. Kelly that there was no Withdrawal Regulation proposal at the time of the September discussions. The Board's subsequent action to propose a Withdrawal Regulation modified that prior discussion. The Board agreed that the appropriate response to the commenter was to refer to the Withdrawal Regulation.

Caption for Deductible Carryover

L. Curry reported that one of the comments had asked that a caption be included to identify the text that says there is no deductible carryover. S. Kelly said she agreed that there should be a caption. E. DeRosa explained that while there is credit for deductible when changing from one plan to another during a calendar year, provided there is no lapse in coverage, that there is no carryover of deductible from one year to the next. The reason a statement concerning the absence a deductible carryover had been included was to address questions from agents who have assumed that if the plan gives deductible credit it must also provide for a deductible carryover. E. DeRosa said she thought it would be confusing to add a caption to a sentence that basically describes something the form does not provide. The Board decided not to add a caption as had been requested by the commenter.

Certification

L. Curry explained that a commenter had asked that the application be expanded to include a certification regarding dependents. The Policy Forms committee agreed with the draft response which advised the commenter that all information on the application is expected to be complete and true, and the signature certifies to that belief. S. Kelly said BCBSNJ would prefer a specific certification. She said BCBSNJ wants to be able to get proof. W. Sanders explained that a carrier always has the right to require reasonable proof, and the recommendation to not include a separate certification did not diminish that right. He noted that the seeking of proof, however, could not be used to delay the issuance of a plan.

N.J.A.C. 11:20-3.1(b)

S. Kelly suggested that items 1 and 4 of (b) could be combined since Plan B, D and E, as amended in this proposal, offer the same standard deductible options. The Board agreed.

L. Yourman offered a motion to adopt the policy forms proposal without the well child coverage described on Exhibit R. R. Smart seconded the motion. The Board voted unanimously in favor of adopting such policy forms changes.

MSA Proposal
L. Curry reported that the Board packet contained a draft proposal to modify the policy forms when offered with the high deductible options. The language was created to conform to an IRS Revenue Ruling concerning the family deductible. K. O'Leary suggested that the Board may not need to propose the text since it was changed to conform to federal law. The Board asked staff to investigate.

R. Smart offered a motion to accept the language, as drafted. If it needs to be proposed, she moved that the Board propose the language. S. Kelly seconded the motion. The Board voted unanimously in favor of the motion.

W. Sanders noted that an appropriate notice concerning the change would be sent to all carriers.

PPO/POS
L. Curry reported the Committee was working on putting together a list of PPO/POS issues for Board discussion.

VII. Report of the Marketing Committee

J. Petto reported that a verbal agreement was reached with Cox Communication Partners. The contract was not yet executed, but that should be accomplished in the next few weeks.

VIII. Report of the Legal Committee

Vice Chair
R. Smart said the Committee recommended that Joan Russo of Prudential be named as Vice Chair.

L. Yourman offered a motion to name Joan Russo Vice Chair of the Legal Committee. S. Kelly seconded the motion. The Board voted unanimously in favor of naming Joan Russo as Vice Chair of the Legal Committee.

HIPAA

W. Sanders reminded the Board that the guaranteed renewability provisions of HIPAA were not part of the alternative mechanism filing. Guaranteed renewability takes effect July 1, 1997. While the IHC Act allows termination upon eligibility for Medicare, HIPAA does not. He said that HIPAA was clear in this regard. Renewability under HIPAA upon eligibility for group coverage or relocation from New Jersey is less clear.

Draft Bulletin 97-IHC-03 discusses administration of the IHC plans in a manner consistent with HIPAA. The Board agreed that the Bulletin should be released.

R. Smart suggested that the Board should re-consider making forms changes prior to revisions to New Jersey law during the July Board meeting if the legislature has not acted by that time.

R. Smart noted that the public must be educated concerning the Medicare issue. The Buyer's Guide will require modification to explain that a Medicare eligible person has an option to retain an IHC plan beginning July 1, 1997. The Senior Services Health section needs to be kept apprised of the Board's actions concerning persons who become eligible for Medicare on or after July 1, 1997. She noted that open enrollment for a Medicare Supplement plan exists for only 6 months following initial Medicare eligibility. If a person delays purchasing a Medicare Supplement plan, he or she will be subject to medical underwriting or a pre-existing conditions exclusion.

M. Smyth noted that the HIPAA regulations are unclear as to how to avoid duplication of benefits. The text refers to a coordination of benefits, yet the description seems to be consistent with a carve-out.

VIII. Executive Session

S. Kelly offered a motion to begin Executive Session. L. Yourman seconded the motion. The Board voted in favor of beginning Executive Session.

[Executive Session: 12:15 p.m. - 12:50 p.m.]

IX. Miscellaneous Business Following Executive Session

R. Smart offered a motion to authorize staff to negotiate with Deloitte & Touche concerning the 1996 reimbursable loss audits, within the range authorized by the Board. R. Vehec seconded the motion. The Board voted unanimously in favor of the motion.

S. Kelly asked when the interest calculation for BCBSNJ would be made. K. O'Leary speculated it would occur during July.

R. Smart offered a motion to begin Executive Session. L. Yourman seconded the motion. The Board voted in favor of beginning Executive Session.

[Executive Session: 12:55 p.m. - 2:00 p.m.]

X. Close of Meeting

R. Smart offered a motion to adjourn the Board meeting. L. Yourman seconded the motion. The Board voted in favor of closing the Board meeting. The meeting adjourned at 2:00 p.m.

MINUTES OF THE MEETING OF THE NEW JERSEY INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD AT THE OFFICES OF THE NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE TRENTON, NEW JERSEY July 2, 1997

Directors Participating: *S. Kelly* (Blue Cross and Blue Shield of New Jersey); *W. Kramer* (USHealthcare); J. Majcher (Department of Banking and Insurance); *R. Rondum*; *R. Smart* (Mutual of Omaha); *L. Specht* (Prudential);

Others Participating: W. Sanders, Interim Executive Director; DAG M. Smyth (DOL); P. Lechner, Program Accountant; E. DeRosa, IHC Program Assistant Director

Note: The name of persons who participated in the meeting via teleconference are shown in italics.

I. Call to Order

W. Sanders called the Board meeting to order at 2:05 p.m. He announced that notice of the meeting had been published in two New Jersey newspapers and posted at the Department of Banking and Insurance and the Office of the Secretary of State in accordance with the Open Public Meetings Act. Roll Call was taken and a quorum was present.

II. Purpose for Meeting

R. Smart explained that the purpose of this special meeting was to discuss the litigation with BCBSNJ and to discuss the Board's administration of the litigation.

III. Executive Session

R. Rondum offered a motion to begin Executive session. L. Specht seconded the motion. The Board voted unanimously in favor of beginning Executive Session.

[Executive Session: 2:08 p.m. - 3:15 p.m.]
[S. Kelly returned to the meeting.]

IV. Final Business and Close of Meeting

R. Smart offered a motion to authorize staff to enter into an agreement with D&T to provide litigation support as soon as possible; with payment per the proposed fee schedule. M. Smyth would work with D&T to compose the letter of agreement. L. Specht seconded the motion.

S. Kelly asked what the fees would be. R. Smart said the Partner fee would be $340/hr. and the Senior Manager fee would be $305/hr.

By roll call vote, the Board voted in favor of the motion. (IN FAVOR: R. Rondum; R. Smart; W. Kramer; L. Specht; J. Majcher / ABSTAINED: S. Kelly)

W. Kramer offered a motion to adjourn the Board meeting. J. Majcher seconded the motion. The Board voted in favor of closing the Board meeting. The meeting adjourned at 3:22 p.m.

MINUTES OF THE MEETING OF THE NEW JERSEY INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD AT THE OFFICES OF THE NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE TRENTON, NEW JERSEY July 15, 1997

Directors Participating: S. Kelly (Blue Cross and Blue Shield of New Jersey); W. Kramer *(arrived 9:55 a.m.)* (USHealthCare); J. Majcher (Department of Banking and Insurance); R. Rondum; E. Shrem; R. Smart (Mutual of Omaha); L. Specht (Prudential); L. Yourman

Others Participating: E. DeRosa, IHC Program Assistant Director; W. Sanders, Interim Executive Director; DAG M. Smyth (DOL)

I. Call to Order

R. Smart (Vice Chair) called the Board meeting to order at 9:40 a.m. W. Sanders announced that notice of the meeting had been published in three New Jersey newspapers and posted at the Department of Banking and Insurance and the Office of the Secretary of State in accordance with the Open Public Meetings Act. A quorum was present.

II. Elections

Chair of Board

R. Smart said that two Board members, S. Kelly and J. Majcher, expressed an interest in serving as Chair of the Board to complete the year term begun by J. Donnellan during the

March 1997 Annual meeting. She said both persons have background with the Program. R. Smart invited S. Kelly and J. Majcher to comment.

S. Kelly said that while she had only served as the official BCBSNJ Board representative for about a year, she had been actively involved with the IHC program since 1993. She noted the large market share of BCBSNJ and the interest BCBSNJ has in the Program. E. Shrem said she thought the large market share of BCBSNJ may have a negative impact on public perception of BCBSNJ serving as Chair. R. Rondum commended S. Kelly for her technical expertise and retention of Board history. She was concerned, however, that since BCBSNJ was currently involved with litigation against the Board that it could be awkward to ask the Chair to recuse herself.

J. Majcher said she was new to the Department of Banking and Insurance. She worked for the Health Insurance Association of America during the period when the New Jersey Reform laws were passed and first being implemented and was thus familiar with the IHC Program. She subsequently worked for Anthem Life and Health, and participated in SEH Board meetings. She said she was familiar with the issues facing the IHC Board.

R. Rondum reminded the Board that the Board is "*in*" but not "*of*" the Department of Banking and Insurance.

R. Smart said that the designation of Chair would be a personal designation as it had been for J. Donnellan. The position thus does not transfer to another person sitting for the entity the Chair represents. J. Majcher commented that this was a different practice than she had encountered with other Boards and asked if it was acceptable. The Board agreed it was consistent with the IHC regulations and past practice.

L. Yourman said she had experience working with J. Majcher on the search committee for an Executive Director and was impressed with her objectivity.

L. Yourman offered a motion to nominate J. Majcher, personally, to serve as Chair of the IHC Board. R. Rondum seconded the motion. The Board voted in favor of the motion [5 in favor, 2 abstained (J. Majcher and W. Kramer) and 1 opposed (S. Kelly)]

S. Kelly explained that her vote in opposition to the motion was based on discomfort with a person from the Department of Banking and Insurance serving as Chair due to the perception that the Board is an extension of the Department of Banking and Insurance.

Chair of TAC

R. Smart offered a motion to nominate S. Kelly to serve as Chair of TAC. E. Shrem seconded the motion. The Board voted in favor of the motion with one abstention (S. Kelly).

TAC should come back to the Board with a recommendation for Vice Chair, the position previously filled by S. Kelly.

Chair of Operations Committee

S. Kelly said the Chair of the Board usually serves as Chair of the Operations Committee.

R. Smart offered a motion to nominate J. Majcher to serve as Chair of the Operations Committee. E. Shrem seconded the motion. The Board voted in favor of the motion, with one abstention (J. Majcher).

The Operations Committee should come back to the Board with a recommendation for the Vice Chair position, previously filled by the representative of the Department of Banking and Insurance.

[J. Majcher assumed role of Chair of the meeting]

III. Review of Minutes

June 10, 1997 - Open Session
S. Kelly offered a motion to approve the Open Session minutes of the June 10, 1997 Board meeting. R. Smart seconded the motion. The motion did not carry: 5 abstained: L. Specht, R. Rondum, J. Majcher, E. Shrem and W. Kramer; 3 in favor: S. Kelly, R. Smart, L. Yourman.

The minutes should be sent to J. Donnellan and G. Simon who attended the June 10, 1997 meeting.

May 13, 1997 Executive Session
S. Kelly offered a motion to approve the Executive Session minutes of the May 13, 1997 Board meeting. L. Yourman seconded the motion. The Board voted in favor of approving the minutes with 3 abstentions (L. Specht, J. Majcher, W. Kramer).

July 2, 1997 Open Session
R. Smart offered a motion to approve the minutes of the Open Session of the July 2, 1997 Board meeting. W. Kramer seconded the motion. The Board voted in favor of approving the minutes, with one abstention (L. Yourman).

IV. Report of the Interim Executive Director

Expense Report

S. Kelly offered a motion to approve the payment of the expenses shown on the July 15, 1997 expense report. R. Smart seconded the motion. The Board voted in favor of approving the payment of the expenses, with J. Majcher abstaining with respect to payment due to her.

Legislative Activity

Alternative Mechanism: W. Sanders reported that the Health Care Financing Administration "did not disapprove" the state's alternative mechanism filing. Thus, with minor modifications to the individual health reform law, the health reform approach already in effect in New Jersey may continue.

P.L. 1997 c. 146: W. Sanders noted that while the Senate health statement to the bill says the loss reimbursement mechanism was revised to refer to *incurred* claims, the law did not change the basis for loss reimbursement, and still refers to *paid* claims.

He said he was working on a bulletin to summarize the features of the law. He asked the Board to authorize him to release the Bulletin, subject to review by the Legal Committee. The Board agreed.

W. Sanders said a few carriers objected to the section of the law which revised the loss mechanism to a two year calculation beginning January 1, 1997. The Commissioner responded to a written inquiry from one of these carriers. A copy of her response was in the Board packets. Remedial legislation would be sought to rectify the retroactive feature to the loss mechanism revisions made in the law.

TAC would look at how the 2 year calculation period would work if a carrier entered the market after any given two-year period had commenced.

R. Smart said the change to a 115% loss ratio from a 75% loss ratio as the point at which a carrier may seek reimbursement was not something the Board recommended. She suggested such a change could discourage carriers from entering or remaining in the IHC market. S. Kelly said it was not a straight change from 75% to 115% because the new law removed administrative expenses from the equation. W. Sanders said the Department of Banking and Insurance was examining the issue. If the Board wanted to develop a position on this issue it should go through the Department.

R. Rondum said that since the Board is "*in*" but not "*of*" the Department it should be able to speak independently. W. Sanders said there would be a danger of Executive branch agencies speaking with two voices. R. Rondum said there must, however, be a "balanced" voice. W. Kramer commented that the Board is a creature of the legislature.

L. Yourman reminded the Board that when the Board asked for an opportunity to meet with the Commissioner when the Garrett bill was being debated that the Commissioner never agreed to a meeting. J. Majcher asked the Board to give the process another chance.

The Board identified several issues: 1/1/97 effective date for the first two-year period; change to 115%; incurred vs. paid claims for TAC to consider.

W. Kramer said it was ridiculous to "bail out" carriers that made mistakes, as occurs when reimbursement is based on losses in excess of a 75% loss ratio. W. Sanders said there was some belief that there needs to be an incentive for carriers to control administrative costs.

<u>First Option Appeal</u>: The Appellate Division ruled in favor of the Board on the First Option appeal. W. Sanders commended M. Smyth and thanked her for her work on this appeal.

First Quarter 1997 Enrollment

The IHC first quarter enrollment reflected an increase of 2.7%. The SEH Program also experienced an increase in enrollment. S. Kelly cautioned that the enrollment needs to be evaluated over several quarters.

Rulemaking

The modifications to the standard forms to accommodate the changes to the high deductible MSA plans were filed with the Office of Administrative Law (OAL). As requested during the June Board meeting, staff checked with Mark Stanton of the OAL as to whether a proposal was necessary in light of the fact that the changes were in response to federal law. Staff was advised that a proposal was required.

Comments were received on the Board's proposal of changes to Exhibits K (Market Share and Net Paid Loss Report) and Q (Certification of Compliance) He would prepare the comments for consideration by the appropriate Committees.

Comments on the proposed withdrawal regulation were due July 16, 1997.

Staff will be working on changing the policy forms and regulations to conform to P.L. 1997, c. 146 and HIPAA.

Projected Budget for the Attorney General's Office

The Attorney General's Office has projected an annual budget of $130,000 (ceiling), which represents the services of 1 Deputy, 1/2 paralegal and 1/2 secretary.

Carrier Loss Reimbursement for 1995 Losses

The Board previously approved payment of the 10% balance of the loss reimbursement due to Time and National Casualty. Deloitte & Touche only recently provided cost information for each of these audits. Staff was working to calculate the amounts due to each of these carriers and hoped to be in a position to make payment by the end of the week.

Outreach

W. Sanders spoke to broker groups in Edison, NJ (6/12/97) and Floram Park (7/2/97).

E. DeRosa reported she spoke at the State Initiatives on Health Reform Conference sponsored by Alpha Center on June 12, 1997.

1996 Assessment

W. Sanders said he and P. Lechner were working to get the billing for the 1996 assessment out in August.

Audit Reports for 1995 Reimbursable Loss Audits

W. Sanders said he followed-up with Deloitte & Touche (D&T) about the dates on the audit reports for Time and National Casualty. D&T said those dates were the dates they completed the field work. D&T said it was customary to use that date on the report as opposed to the date the report was actually sent to the client. D&T agreed to send a transmittal to indicate the dates the reports were actually given to the Board.

S. Kelly said that BCBSNJ sent a letter to D&T on April 24, 1997. D&T was first coming to BCBSNJ to begin to look into the information on July 15, 1997.

P. Lechner said the administrative audits for the SEH program were complete for 1994 and 1995. She reported that she expected the SEH assessment to be sent in the next month.

[Break: 11:10 - 11:25 a.m.]

V. Draft Bulletins

Advisory Bulletin 97-JOINT-01
(summary of 9/97 policy forms changes and implementation options)

W. Sanders explained that this Bulletin contained a policy forms implementation option unlike options offered to carriers in the past. With the recent passage of P.L. 1997, c. 146 which includes modifications to New Jersey law to comply with HIPAA, staff recognized that while both Boards had just adopted a host of policy forms changes which were effective September 1, 1997, the Boards would soon be proposing additional changes to effect compliance with P.L. 1997 c. 146. Thus, the Boards would be requiring carriers to either modify their policy forms or issue compliance and variability riders beginning September 1, 1997, and then within several months require carriers to further revise text that had very recently been revised. The Bulletin thus contained an "Administrative Compliance" option for carriers. Carriers would nevertheless be required to give written notice to covered persons of the changes, but that notice would not need to take the form of a compliance and variability rider or forms reissue. The bulletin would be revised to require carriers to use the text of the Bulletin for the basis of notice to covered persons, thus ensuring that accurate information is distributed. With respect to in force business, the notice should be provided on or before the effective date of renewal. New business solicitation materials should include information concerning the September 1997 changes. A notice to amend the Buyer's Guide would be developed, based on the changes as outlined in the Bulletin. Since the new $2500 deductible option for Plan C could not be accomplished administratively, the Bulletin allows carriers to modify the deductible text on the Schedule page of Plan C to include the new option.

Some Board members asked what the Board would do if a carrier failed to give notice of the changes on a timely basis. W. Sanders advised that the matter would be forwarded to

the Division of Enforcement and Consumer Protection of the Department, as was the practice with any actions which are inconsistent with the Board's rules.

The application can be modified via a "buck" slip, to add questions to gather the information required by HIPAA.

The Board agreed that the Bulletin should be released. W. Sanders said that the Bulletin would be released, along with copies of the actual adoption and computer disks which contain the forms, incorporating all modifications, and text for the compliance and variability riders.

Advisory Bulletin 97-IHC-04
(Medicare eligibility does not terminate IHC coverage)

After some discussion as to how a coordination of benefits (COB) provision operates, the Board agreed that the sample calculation contained in the draft was acceptable, provided it was revised to explicitly state that the example assumed the covered person had satisfied the deductible under the secondary (IHC) plan. Staff suggested that the Bulletin could offer further guidance concerning the operation of a COB provision by referring to a Bulletin released by the Department of Banking and Insurance. The Board agreed that the Department's Bulletin should be referenced.

The Board agreed that the Bulletin, as revised, should be released.

VI. Report of the Technical Advisory Committee

Rate Filings

S. Kelly said the TAC reviewed 9 rate filings and recommended that 8 be deemed complete and 1 be deemed incomplete.

L. Yourman offered a motion to deem the 8 rate filings specified on the Report of TAC (copy attached) complete. J. Majcher seconded the motion. The Board voted in favor of the motion, with S. Kelly abstaining with respect to the BCBSNJ rate filings.

E. Shrem offered a motion to deem the AmeriChoice rate filing incomplete. R. Smart seconded the motion. The Board voted unanimously in favor of deeming the AmeriChoice filing incomplete.

Well Child Care Rider

S. Kelly shared the recommendations of TAC concerning the offering of a well child care benefit. (Refer to the attached Report of the Technical Advisory Committee.) She explained that the Committee recommended that any adoption of a well child care rider text be contingent upon funding for the Children First Program. The Board agreed with

the TAC recommendations and suggested that the Board propose the necessary text, but delay adoption until the Children First Program secures necessary funding. S. Kelly said that the administrator for Health Access required rates 75 days in advance, and the same would likely be required for Children First. Thus, Children First would not be able to immediately use the well child care rider once it has been adopted.

J. Majcher offered a motion that the Board withdraw the outstanding proposal concerning the well child care coverage and propose well child care coverage consistent with the TAC recommendations, if funding appears to be imminent. E. Shrem seconded the motion. The Board voted unanimously in favor of the motion.

Refund Plans

1994 Plan	Protective	$233,643.80 to be refunded
1995 Plan	Trustmark	$104,137.01 to be refunded

R. Smart offered a motion to approve the refund plans of Protective and Trustmark. L. Yourman seconded the motion. The Board voted unanimously in favor of the motion.

Auditor

S. Kelly explained that the TAC recommended securing an audit of the calculated reserves reported on the Exhibit J (Loss Ratio Report) of all carriers that used a calculated reserve in excess of the safe harbor 3.3% reserve. M. Smyth was working with staff to develop the necessary solicitation for an auditor document. If the amount to be paid is not more than $10,000, a full Request for Proposal would not be required.

S. Kelly offered a motion that the Board authorize a Solicitation for Auditor, with the fee not to exceed $10,000. W. Kramer seconded the motion. The Board voted unanimously in favor of the motion.

Exemptions for 1996

S. Kelly said TAC recommended that the Board grant the 1996 Exemptions of Aetna, AmeriHealth, BCBSNJ, Celtic, First Option, USHealth Care, HIP, Oxford, PFL, United HealthCare and United (Mega Life). TAC was not in a position to make a recommendation with respect to the 3 carriers that met less than 50% of their market target since those carriers were required to submit Good Faith Marketing reports which were reviewed by the Marketing Committee.

R. Smart offered a motion to grant the 1996 Exemptions for: Aetna, AmeriHealth, BCBSNJ, Celtic, First Option, USHealth Care, HIP, Oxford, PFL, United HealthCare and United (Mega Life). L. Yourman seconded the motion. The Board voted in favor of the motion, with S. Kelly abstaining with respect to BCBSNJ and W. Kramer abstaining with respect to Aetna and USHealthcare.

VII. Report of the Marketing Committee

E. Shrem reported that 3 carriers were required to submit Good Faith Marketing Reports. Only two of the carriers submitted reports, as required. Refer to the attached Report of the Marketing Committee.

CIGNA
The Committee recommended that the Board find the Good Faith Marketing Report unacceptable. As reported by CIGNA, CIGNA did not undertake any marketing that was specific to the sale of individual plans in New Jersey. The report referred to mail drops that were conducted during 1993 and 1994. The Committee did not believe it reasonable for CIGNA to have expected 1996 sales based on mailings done 2 to 3 years earlier. The Committee also noted that some of the "brand awareness" material was specific to markets other than the New Jersey individual market. The Committee noted that CIGNA was required to submit reports in two prior years, and was thus aware of what a good faith marketing effort must entail.

NYLCare
The carrier did not submit a report. Staff contacted the carrier and was advised that no report would be provided. The Committee recommended that the failure of NYLCare to submit the required report be the basis for finding the good faith marketing effort unacceptable.

Prudential
The Committee noted that Prudential reported a number of strategies to market individual health coverage in New Jersey. Prudential reached out in a variety of ways to brokers and agents as well as potential consumers with individual health coverage specific materials. Prudential also used a number of "brand awareness" strategies. The Committee recommended that the Board accept the Prudential report.

E. Shrem offered a motion that the Board accept the 1996 Good Faith Marketing Report of Prudential, and grant the 1996 exemption to Prudential. W. Kramer seconded the motion. The Board voted in favor of the motion, with L. Specht abstaining.

E. Shrem offered a motion that the Board not accept the 1996 Good Faith Marketing efforts of CIGNA and NYLCare, and thus deny the 1996 Exemptions for CIGNA and NYLCare. W. Kramer seconded the motion. The Board voted unanimously in favor of the motion.

VII. Executive Session

R. Smart offered a motion that the Board begin Executive Session. L. Specht seconded the motion. The Board voted unanimously in favor of beginning Executive Session.

[Executive Session: 1:05 p.m. - 1:50 p.m.]

[J. Majcher left the meeting]

VIII. Final Business and Close of Meeting

S. Kelly reminded the Board that the interest due to BCBSNJ had still not been paid.

S. Kelly offered a motion to adjourn the Board meeting. L. Yourman seconded the motion. The Board voted unanimously in favor of adjourning the meeting.

MINUTES OF THE MEETING OF THE
NEW JERSEY INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD
AT THE OFFICES OF THE NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE
TRENTON, NEW JERSEY
August 12, 1997

Directors Participating: J. Beck (Aetna USHealthCare); S. Kelly (Blue Cross and Blue Shield of New Jersey); J. Majcher (Department of Banking and Insurance); R. Rondum *(arrived at 9:50 a.m.);* E. Shrem; R. Smart (Mutual of Omaha); L. Specht (Prudential); L. Yourman *(arrived at 9:50 a.m.)*

Others Participating: E. DeRosa, IHC Program Assistant Director; DAG E. Heck (DOL); W. Sanders, Interim Executive Director; DAG M. Smyth (DOL)

I. Call to Order

J. Majcher called the Board meeting to order at 9:45 a.m. W. Sanders announced that notice of the meeting had been published in three New Jersey newspapers and posted at the Department of Banking and Insurance and the Office of the Secretary of State in accordance with the Open Public Meetings Act. A quorum was present.

II. Report of the Interim Executive Director

Expense Report

S. Kelly offered a motion to approve the payment of the expenses shown on the August 12, 1997 Expense Report. R. Smart seconded the motion. The Board voted in favor of the payment of the expenses, with E. Shrem abstaining with respect to reimbursement due to her.

Legislative Activity

W. Sanders reported that Governor Whitman signed the Health Care Quality Act on August 7, 1997. It becomes effective on February 3, 1998. He said that a preliminary review of the law indicates there are two areas which may require action by the IHC Board. First, there must be disclosure of an independent health care appeals program in plan materials. Second, HMO carriers are required to make a point of service product satisfying the requirement by selling a plan with out-network benefits through an affiliated indemnity carrier. W. Sanders said he intended to add discussion of this Health Care Quality Act to the Bulletin he was preparing to describe the changes made by P.L. 1997 c. 146.

Carrier Compliance with HIPAA
W. Sanders reminded the Board that he had reported during the last Board meeting that Oxford had made some serious errors in interpreting the eligibility requirements of HIPAA as concerns the IHC Program. Oxford has agreed that it had misinterpreted the requirements of HIPAA and was taking remedial action.

Prescription Drug Formularies
W. Sanders reported that staff had reported to the SEH Board that it had received oral inquiries as well as written evidence concerning the use of prescription drug formularies in connection with the standard plans in the small employer market. He said the SEH Board directed staff to issue an Advisory Bulletin to advise carriers that there is no text in the standard SEH forms to support the use of prescription drug formularies that reduce or limit coverage for prescription drugs. The SEH Board further asked that the Bulletin contain a survey which would seek information concerning any utilization of prescription drug formularies by carriers in other states. The survey also asked whether the carriers believed the standard plans should allow carriers to use prescription drug formularies. W. Sanders said that the results of the survey indicated an interest on the part of a number of carriers, particularly HMO carriers, to be able to use a prescription drug formulary with the standard SEH plans. J. Majcher added that carriers believe the use of formularies is an important cost containment measure.

R. Rondum suggested that it would be important to survey the consumers whose benefits for prescriptions drugs may have been reduced or denied due to the use of a formulary. E. DeRosa noted that the inquiries staff received were not from consumers, but were rather from agents. Customers may not even be aware of the substitution of a formulary drug for a non-formulary drug the physician may have originally prescribed.

E. DeRosa added that the SEH Policy Forms Committee briefly discussed the survey results. She said that G. Simon, as a Policy Forms Committee member, had reported that the Department of Banking and Insurance was preparing a joint position, with the Department of Health and Senior Services (DOHSS), on the use of prescription drug formularies. W. Sanders noted that the use of formularies is really a quality of care issue and therefore, is a matter that should receive close attention by the DOHSS.

Timetable for Proposal of HIPAA Changes
W. Sanders said that if the Board were to propose the policy forms changes at the September 9, 1997 Board meeting, using the Board's special expedited procedure, it could be in a position to adopt the forms proposal at the November 12, 1997 meeting. The special procedure requires only a 20-day comment period, from the date of notice. R. Smart suggested that the Board not delay adoption until the regularly scheduled Board meeting in November. She asked that the Board consider having a special meeting to adopt the changes and thus give carriers a greater amount of time to make necessary changes to the forms. The Board asked that staff investigate the possibility of moving the October 7, 1997 meeting to the following week. The Board could then adopt in October, and not need an additional meeting. W. Sanders said the hearing could be held on a day

during the 20 day comment period, with E. DeRosa serving as hearing officer. The Board need not be present at the hearing.

Carrier Request for Buyer's Guides
W. Sanders said a carrier contacted him to ask about copying the Buyer's Guide to mail to customers in conjunction with notice of a substantial rate increase. W. Sanders said he could give the carrier the phone number of the printer that printed the Guides to ensure integrity of the text. Another option would be to include the toll-free number in the communication to customers.

Status of Rule Making
MSA Proposal: Comments are due September 9, 1997. The hearing will be held during the beginning of the Board meeting that day.

Well Child Coverage: J. Majcher contacted the DOHSS and learned that there is a need for this coverage and the Board should move forward to propose appropriate text.

Exhibits K and Q (Carrier Market Share & Net Paid Loss Report and Certification of Compliance): Comments were received on the proposals to amend these reports. W. Sanders said the comments will be forwarded to the appropriate committees (TAC and Policy Forms, respectively).

Withdrawal: Comments were received. Discussion will be deferred until the Report of the Legal Committee.

Reimbursement to Carriers for 1995 Losses
W. Sanders reported that staff had encountered difficulty calculating interest due to Time and National Casualty for 1995 loss reimbursement. The Board previously agreed to pay these carriers the 10% balance due, less half the cost of the audits, and any interest due. Since the calculation of interest had proven to be extremely difficult, staff paid the principal, less half the cost of the audit. The interest will be paid as soon as possible.

Other Items in Board Packets
W. Sanders said he wrote a letter to the editor in response to some recent articles which discussed Medical Savings Accounts (MSAs), in general. His letter noted that plans which could be used as the high deductible plans required in conjunction with an MSA were available in the IHC and SEH markets.

Cox Communication Partners provided a detailed report of activities during the month.

L. Yourman noted the report indicated that several news releases had been written. She asked if any had been released to the press, and how many had been printed. W. Sanders said none had been released. J. Majcher said the Commissioner had just returned from vacation and that she had not yet considered the releases.

Rate Sheet

W. Sanders said that the program that was written several years ago to produce the rate comparison sheets can not be easily updated to include the new information needed for the September rate sheet (add $2500 deductible for Plan C and delete plan options the Board eliminated). He said he wanted to check with a consultant. In the interim, staff would produce a simple Excel spreadsheet to display the rates.

Amendments to P.L. 1997, c. 146
S. Kelly asked J. Majcher what process the Department would prefer with respect to technical and other modifications to P.L. 1997, c. 146, and asked how quickly the Department would need to receive suggestions. She reminded the Board that during the last Board meeting it had asked TAC to review the changes to the loss ratio requirement for reimbursement. S. Kelly said that TAC would be meeting prior to the September Board meeting and would probably be able to make recommendations at that time. J. Beck asked why the TAC was going to look at the changes to the loss ratio requirement. W. Sanders said that the law, as signed, was retroactive with respect to moving to the 2-year calculation of losses. In addition, the law increased the liability of carriers for losses sustained since reimbursement is available only for losses which exceed a 115% loss ratio. R. Smart said TAC should look at what the shift from 75% to 115% would mean. In addition, she believed TAC was going to consider reimbursement based on paid losses vs. incurred losses basis.

L. Yourman said that the Operations Committee should also consider the issue of paid vs. incurred losses. She noted that an issue in connection with the 1995 reimbursable loss audit of BCBSNJ was paid vs. incurred losses. The Board agreed that the Operations Committee should also consider the issue of paid vs. incurred losses.

M. Smyth Comments
M. Smyth said she had resigned her position with the Attorney General's Office to accept a position with DeCotiis FitzPatrick & Gluck. She introduced Eleanor Heck, the Deputy who had been assigned to replace her as counsel to the Board. R. Rondum said she had the most profound respect for Maria Smyth. J. Majcher thanked M. Smyth for her hard work and dedication to the IHC Board.

III. Minutes

June 10, 1997
R. Smart offered a motion to approve the minutes of the June 10, 1997 Board meeting, as amended. L. Yourman seconded the motion. The Board voted in favor of approving the minutes, with R. Rondum, J. Beck and E. Shrem abstaining.

July 15, 1997
L. Yourman offered a motion to approve the minutes of the July 15, 1997 Board meeting, as amended. L. Specht seconded the motion. The Board voted in favor of approving the minutes, with J. Beck abstaining.

IV. Report of the Technical Advisory Committee (TAC)

Rate Filings
S. Kelly noted that the rate filing submitted by Aetna was technically one day late. It was filed on August 1, 1997 for an August 1, 1997 effective date.

The filing from Oxford indicated the carrier wanted to use the Liberty network instead of another network. TAC was concerned that the Liberty network may not be available in all areas where the other network was available. E. DeRosa said she had received a response from Oxford that morning. The Liberty network has not been approved in seven counties. The carrier agreed to use the other network in those counties. S. Kelly said TAC would have to re-review the filing in light of this new information.

S. Kelly said Trustmark filed notice that it was discontinuing the practice of offering a six month rate guarantee, but was not clear with respect to honoring outstanding guarantees. E. DeRosa said she had just received confirmation from Trustmark that it would honor outstanding guarantees.

S. Kelly said TAC recommended that the Board find the rate filings from Aetna Health Plans and Celtic complete.

L. Specht offered a motion that the Board find the rate filings from Aetna Health Plans and Celtic complete. R. Smart seconded the motion. The Board voted in favor of the motion, with J. Beck abstaining with respect to the Aetna filing.

1995 Refund Plans
S. Kelly said TAC recommended that the Board approve the refund plans submitted by First Option Health Plan and Qual Med Plans for Health. The refunds were $6,994.76 and $10,650, respectively. She noted that with these plans, about $1,040,000 was due to be refunded.

L. Yourman offered a motion to approve the 1995 refund plans for First Option Health Plan and Qual Med Plans for Health. J. Majcher seconded the motion. The Board voted in favor of approving the refund plans.

Vice Chair
S. Kelly said that she invited volunteers to serve as vice chair, but no member participating in that meeting was interested. She said she was reaching out to B. Sobus (USHealthcare) who had missed that meeting. J. Beck also offered to speak with him.

V. Report of the Marketing Committee

E. Shrem reiterated that a report from Cox Communication Partners was in the Board packets.

She said the IHC program is on the internet, as part of the state's home page. L. Yourman said she had detected some errors in the text. W. Sanders said he would supply a print-out of the text to the Board.

E. Shrem said the Marketing Committee would be meeting after the Board meeting.

VI. Executive Session

R. Smart offered a motion that the Board begin Executive session. L. Yourman seconded the motion. The Board voted in favor of beginning Executive session.

[Executive Session: 11:30 a.m.- 2:03 p.m.]

[Break: 11:30 a.m. - 11:50 a.m.]

VII. Final Business and Close of Meeting

L. Specht offered a motion that the Board adopt the Withdrawal Regulation, with changes, as discussed. R. Smart seconded the motion. The Board voted in favor of adopting the Withdrawal Regulation, with L. Yourman and S. Kelly abstaining.

E. Shrem offered a motion to adjourn the Board meeting. J. Majcher seconded the motion. The Board voted unanimously in favor of adjourning the Board meeting. [The meeting adjourned at 2:05 p.m.]