

**FINAL  
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, 2008**

**Directors participating:** Darrel Farkus (United); Sandi Kelly (Horizon); Ulysses Lee (Guardian); Gale Simon (DOBI); Christine Stearns (*arrived at 10:25*) Mary Taylor (Aetna Health Inc.).

**Others present:** Ellen DeRosa, Executive Director; Chanell McDevitt, Deputy Executive Director; Rosaria Lenox, Program Accountant; Vicki Mangiaracina, DAG.

**I. Call to Order**

E. DeRosa called the meeting to order at 10:00 A.M. She announced that notice of the meeting had been published in two newspapers and posted at the Department of Banking and Insurance (“DOBI”), the DOBI website, and the Office of the Secretary of State in accordance with the Open Public Meetings Act. A quorum was present.

**II Minutes – May 13, 2008**

**S. Kelly offered a motion to accept the Open Session minutes of the May 13, 2008 Board meeting, as amended. G. Simon seconded the motion. The Board voted unanimously in favor of the motion.**

**III. Report of Staff**

*Expense Report*

R. Lenox discussed the expenses for June 2008, totaling \$44,582.09.

**M. Taylor offered a motion to approve the payment of the expenses on the June 2008 expense report. D. Farkus seconded the motion. The Board voted unanimously in favor of the motion.**

*B&E Marketing Report Update (Celtic)*

E. DeRosa reported Celtic submitted its B&E Marketing report after contact from Board staff. She reported Celtic provided evidence of marketing in calendar year 2007 (advertising in a trade magazine); provided a copy of the application that allows for B&E coverage; and, provided the required certification regarding identification of plans. She stated that, although the filing was late, Celtic is in compliance with regulatory requirements.

**G. Simon made a motion to approve Celtic’s B&E Marketing Report. M. Taylor seconded the motion, and the Board voted unanimously in favor of it.**

**IV. Report of the Technical Advisory Committee (TAC)**

S. Kelly reported the TAC reviewed the quarterly B&E enrollment reports, and would continue to monitor the results.

#### **IV. Report of the Operations and Audit Committee (OAC)**

##### *1993-1999 Administrative Expense Reconciliations*

E. DeRosa reminded the Board that staff had previously presented the Board with reconciliations for the administrative expenses of the IHC Program based on the audits completed through fiscal year 1999, and the Board had requested some revisions in the explanatory memos as well as the summary spreadsheet. She stated the OAC had reviewed revisions made by staff, and recommended proceeding with the reconciliations using the materials prepared. E. DeRosa said the explanatory memos will be sent with the summary spreadsheet, and year-specific spreadsheets will be posted on the IHC website. She noted invoices and checks will be issued with the summary/explanatory memos, and will be based on current-year carrier identification; true-ups between carriers necessitated by non-IHC transactions (e.g., mergers and acquisitions) would have to be accomplished by the carriers independently. Upon further review, the Board suggested some additional revisions. R. Lenox stated she anticipated the mailings would be issued prior to the Board's July meeting.

**M. Taylor offered a motion to authorize staff to proceed in the distribution of the spreadsheets and explanatory memos for the 1993 through 1999 reconciliation along with appropriate invoices and refunds as necessary to implement the reconciliations, amended appropriately. G. Simon seconded the motion, and the Board voted unanimously to approve it.**

##### *2005/2006 Loss and 2008/2009 Administrative Assessments with 2007/2008 Targets*

E. DeRosa reminded Board members that the revised assessments and target enrollment numbers arose because of the Humana challenge, in which it was determined that all premiums associated with Medicare coverage should be removed from the premium reporting on the Exhibit K. She also reminded the Board that it delayed distribution of the revised assessment and target enrollment notices previously so staff could determine why United did not file a revised Exhibit K (to exclude Medicare Advantage premium) when given the opportunity to do so. She reported that United indicated it had filed its Exhibit K so as to exclude all of the Medicare Advantage premium originally, and thus, had not needed to file a revised Exhibit K. Consequently, no additional changes needed to be made to the revised assessment and target enrollment notices.

Upon questioning, E. DeRosa clarified that all prior loss assessment exemption requests are voided, so carriers must take action anew. In addition, she clarified that all carriers will receive the spreadsheets, but only carriers owing money will receive invoices. The Board requested certain revisions for additional emphasis and clarity.

**S. Kelly made a motion to issue the revised explanatory material, spreadsheets and invoices for the 2005/2006 loss assessment, 2008/2009 administrative assessment and**

**2007/2008 target enrollment numbers, with amendments. D. Farkus seconded the motion, and the Board approved it, with U. Lee abstaining.**

*Audits and Agreed-Upon Procedures (AUPs)*

E. DeRosa reported the OAC met by teleconference with Deloitte & Touche (D&T) and representatives of AEGON addressing the problems with the Agreed-Upon Procedures (AUPs) for affiliates PFL, Midwest, and Mega. E. DeRosa reminded the Board that, essentially, premium reported on the Exhibit K's could not be reconciled with the Annual Statements (a problem across multiple years for some of the companies), and that, following discussion, AEGON had been offered the option for a full audit, which it considered acceptable until D&T's sample size request. She explained that D&T acknowledged the sample size is quite large for statistical reasons based on materiality requirements. E. DeRosa stated D&T had suggested and subsequently put into writing additional AUPs that could be used to validate whether premiums have been understated and/or claims overstated, and that the OAC had reviewed the additional AUPs and considered them reasonable, but did not want to present them to AEGON unless the Board was willing to continue on this path. She noted that with these AUPs, some underwriting files would now come under scrutiny.

E. DeRosa also explained the difference between the AUPs and the audit concept: the AUPs uses a "judgmental" sample size (for example, 50), rather than a sample size designed to address statistical materiality.

E. DeRosa further explained that, if the Board finds the additional AUPs process acceptable, staff would get more information about sample size from D&T, present it to AEGON, and if they agree, their original engagement with D&T will be amended to include the expanded AUPs. She also noted AEGON had agreed to pay the full cost of the audit, and likewise, understood that it would bear the full costs of the expanded AUPs.

**G. Simon made a motion to pursue expanded AUPs for evaluation of the reported losses of the AEGON affiliates, subject to payment by the companies the full cost of the expanded evaluation process. M. Taylor seconded the motion, which the Board approved unanimously.**

*Additional Engagements*

E. DeRosa reported D&T has stated it could accept Protective's language qualifying some of the issues arising in the AUPs, and thus, D&T expected to complete the AUP by July. She reported D&T also stated it expected to complete the AUPs report for Metropolitan by July. E. DeRosa stated that it would then be up to the Board to determine how to proceed with the information in the Protective AUPs report, noting, for instance, that Protective has been unable to produce 13 month of missing information.

E. DeRosa also reported D&T said it could accept the language Time proposes to include in its management representation letter, so long as it is clear the information provided by Time is in compliance with the Board's rules.

*FY3Q08 Financial Reports*

R. Lenox reviewed the FY3Q08 financials with the Board. She noted the IHC administrative accounts have been combined, although tracking of collections and expenses for separate fiscal years would still occur. She also stated she projects the IHC Program will be over-budget this year by approximately \$5,000, with both copying and legal costs higher than expected. She noted that some overhead allocations are not always actually charged by DOBI, but because of the uncertainty, she includes them in the budget. R. Lenox reported the OAC had asked her to look at projections for the second year in the 2-year budget cycle (FY2009) to determine if the IHC Board may need to make another assessment. She stated she is still analyzing the information.

**V. Executive Session**

E. DeRosa said the Board would need to go into Executive Session to consider draft Executive Session minutes, receive legal advice from counsel and discuss current or pending litigation. She said the Board may conduct additional business following Executive Session.

**S. Kelly offered a motion to begin Executive Session for the stated reasons. M. Taylor seconded the motion. The Board voted unanimously in favor of the motion.**

*Executive Session: 11:25 A.M. – 11:40 A.M.*

**VI. Orders**

*The PerfectHealth Insurance Company*

M. Taylor explained that the Board had inadvertently issued a refund in the amount of \$839,656.78 intended for Alta Health and Life Insurance Company (Alta) to The PerfectHealth Insurance Company (PerfectHealth), which PerfectHealth has refused to return. She stated an order had been drafted and reviewed by the Legal Committee, but in the interim, Alta has taken action against PerfectHealth. She noted the Legal Committee recommended issuing the order nonetheless, with the understanding that, in the event PerfectHealth pays the funds to Alta pursuant to a settlement, the Board could amend its order.

**G. Simon made a motion to issue an order requiring PerfectHealth to return to the Board the full amount of the 1997/1998 refund intended to be paid to Alta but remitted to PerfectHealth in error. C. Stearns seconded the motion, and the Board unanimously approved it.**

*Time Insurance Company*

G. Simon briefly explained the Board had previously advanced funds to Time Insurance Company (Time) and its affiliates pending completion of the audit of Time's reported losses for which Time sought reimbursement, but that in February 2008, upon determining the audit could not be completed under the circumstances, the Board ordered

Time to return the funds advanced, plus interest. She further explained Time had asked for a stay, which the Board denied as to the payment of the principal but agreed to defer payment of the interest, after which Time proposed to return half of the principal to the Board for placement in a segregated interest-bearing account, and to hold the other half in an interest-bearing account under Time's control. She stated the Legal Committee had reviewed the proposal and determined there was no advantage to the Board in accepting Time's proposal, and recommended against it. G. Simon explained the Legal Committee reviewed an order denying Time's request, and memorializing the Board's decision at its May meeting to amend its February order to defer the interest payment, which the Legal Committee recommended issuing.

**M. Taylor made a motion to issue an order amending the February 2008 order deferring the payment of interest, but otherwise affirming the requirement that Time return in full the principal amount previously advanced to Time with respect to the 1997/1998 and 1999/2000 reported losses. C. Stearns seconded the motion, and the Board unanimously approved it.**

## **VII. Final Business and Close of Meeting**

E. DeRosa reminded Board members the mandatory pre-bid conference for the IHC loss audits is being held on June 11, 2008 at 10:00 A.M. in the 11th floor conference room of the Roebbling building. She noted only one company had as yet notified staff of an intention to attend, but staff had received questions from additional companies and was hopeful additional companies will participate. She stated bids responding to the administrative audits RFP are due June 19, and those for the loss audits RFP are due July 8, 2008.

**S. Kelly offered a motion to close the meeting, seconded by D. Farkus. The Board voted unanimously in favor of the motion.**

*The meeting adjourned at 11:50 A.M.*