

**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
October 13, 2009**

Directors present: Darrel Farkus (United); Sandi Kelly (Horizon); Tony Taliaferro (AmeriHealth); Gale Simon (DOBI); Mary Taylor (Aetna Health Inc.).

Others participating: Ellen DeRosa, Executive Director; Chanell McDevitt, Deputy Executive Director; DAG Vicki Mangiaracina.

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 of general circulation 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 – September 8, 2009 Open Session

M. Taylor made a motion to approve the open session minutes of the September 8, 2009 meeting, with amendments. T. Taliaferro seconded the motion. The motion was approved by a unanimous vote.

III. Staff Report

Expense Report

E. Derosa presented the October Expense Report, with expenses totaling \$21,707.57. She noted that \$11,729 is owed to the Small Employer Health Coverage (SEH) Board as the IHC Board’s share of salary and fringe for staff, and almost \$10,000 is for Withum, Smith+Brown’s (WSB) expenses for loss audits, for which carriers being audited will reimburse the Board 50%.

T. Taliaferro made a motion to approve payment of the expenses for October 2009, which was seconded by G. Simon. The motion was approved by a unanimous vote.

IV. Annual Meeting Actions

Reconstitution of Officers

E. DeRosa reminded the Board that this meeting was the annual meeting, at which the Board votes on the position of Chair and Vice Chair, currently held by Mary Taylor and Sandi Kelly, respectively.

Upon a determination that M. Taylor would be willing to continue to serve as chair, G. Simon made a motion to nominate and install M. Taylor as Chair until the next annual meeting. T. Taliaferro seconded the motion. Following a determination that there were no other nominations, the motion was approved by a unanimous vote.

Upon determining that S. Kelly would be willing to continue to serve as vice chair, M. Taylor made a motion to nominate and install S. Kelly as Vice Chair until the next annual meeting. T. Taliaferro seconded the motion. Following a determination that there were no other nominations, the motion was approved by a unanimous vote.

Reconstitution of Committees

E. DeRosa stated that the Board should also consider reconstitution of its committees, and noted that it currently has four standing committees, with membership currently as follows:

Legal Committee – Aetna, Horizon, DOBI
Technical Advisory Committee – Horizon, AmeriHealth, DOBI
Operations and Audit Committee – Aetna, United/Oxford, DOBI
Marketing Committee – Horizon, United/Oxford, Christine Stearns

E. DeRosa stated that the number of participants on each committee cannot be increased at this time because of vacancies in the Organized Labor seat and a Consumer seat on the Board. In response to questions, she reported that everyone on the committees has been participating and works well together.

S. Kelly made a motion to reconstitute the existing standing committees with the existing membership composition. The motion was seconded by G. Simon, and the motion was approved by unanimous vote.

V. Report of the Operations and Audit Committee (OAC)

Joint Audit RFP

E. DeRosa reminded the Board that it had agreed to issue a request for proposal (RFP) jointly with the SEH Board for audit services. She reported that the bid period had closed with one bid received from Withum, Smith+Brown (WSB). She reported that the joint evaluation committee formed between the two boards had reviewed the bid, and found it acceptable, and recommended awarding the contract to WSB. She stated that the recommendation had been given to the OAC, which found that WSB has both strong technical expertise and prior experience, and thus, the OAC also recommended that the Board award the contract to WSB, pending concurrence by the SEH Board. E. DeRosa reported that the SEH Board's Finance and Audit Committee would be considering the joint evaluation committee's recommendation shortly, and the SEH Board would consider the recommendations and bid on October 21, 2009. Upon questioning, E. DeRosa noted that the WSB bid had contained some incorrect statements regarding the IHC and SEH programs, but stated that WSB has been accurate in its actual work product

previously completed for both Boards. She clarified that WSB's bid rate is considerably less than was Deloitte & Touche's despite the passage of time, and that WSB has traditionally come in under budget and on-time with respect to administrative audits.

M. Taylor made a motion to award the contract for auditing services to Withum, Smith+Brown consistent with the recommendation of the OAC. The motion was seconded by S. Kelly, and approved by unanimous vote of the Board.

Loss Audits

E. DeRosa reported that the OAC had considered draft audit reports for multiple loss calculation periods prepared by WSB on Celtic, and asked for certain working papers from WSB to better understand calculations regarding the net investment income. E. DeRosa explained that WSB had forwarded the information for the OAC's review.

E. DeRosa reported that WSB is continuing to work on other loss audits, and noted there have been some delays for WSB in trying to get information from some carriers.

Late Fees

R. Lenox reported that Empire HealthChoice/Wellchoice Ins. Co. of NJ had failed to pay its assessment for the 2007/2008 losses and the 2010/2011 administrative expenses timely, incurring a late fee of \$21.68. She stated that the company had argued that it had not realized it should be liable for the assessment until it discussed the situation with staff, and had asked for the late fee to be waived on that basis, but that the OAC had recommended sending an invoice for the late fee. Upon questioning, she noted that the *de minimis* for invoicing is \$10.00.

VI. Technical Advisory Committee (TAC)

Basic & Essential; Enrollment

E. DeRosa stated that TAC had reviewed Basic & Essential (B&E) quarterly reports, as well as loss ratio reports. She explained that TAC had determined that there was no reason for committee members to be recused from B&E discussions if the vote has no specific carrier impact, and thus, the full committee considered all of the reports this time. TAC reviewed the filings from AmeriHealth, Horizon and Oxford and agreed TAC should continue to monitor the companies' data. TAC also recommended that the reporting information required from carriers offering B&E plans with a rider be revised to eliminate section B (which asks for information about an enrollee's prior insurance status), because completing Section B is highly labor intensive, requires significant data entry and thus, is subject to a high error rate. E. DeRosa explained that, although the statute does not require carriers to file specific reports – it only specifies that the Board monitor to assure adverse selection is avoided to the extent possible – the rules have specific reporting requirements, and so will need to be amended.

Loss ratio reports

E. DeRosa reported that N. Vance had provided TAC with information about the loss ratio filings for the IHC Program in 2008. She explained that three companies (Celtic,

CIGNA and HealthNet) were required to pay refunds, but that the overall loss ratio for the market had increased to 84.53%.

RFP for consulting services

E. DeRosa reported that TAC reviewed the draft RFP for consulting services regarding out-of-network reimbursement mechanisms that might serve as an alternative to the Ingenix Prevailing Healthcare Charges System, and had made several suggestions.

E. DeRosa agreed to send the draft RFP to the Board so that the Board can determine whether the draft asks for everything that the Board may be looking for, but also agreed not to delay sending it to the Legal Committee.

VII. Additional Business

Additional benefits changes

E. DeRosa told the Board that after the Board adopted its plan changes in November of 2008, the following laws were enacted, requiring further amendments to the forms:

- Grace's Law (requiring hearing aid benefits for children 15 years old and younger)
- Michelle's Law (a federal law limiting the disenrollment of college-age eligible child dependents who drop below full-time status because of illness or injury)
- P.L. 2009, c. 115 (requiring coverage of applied behavioral analysis for treatment of autism and physical therapy, occupational therapy and speech therapy for developmental disabilities).

E. DeRosa noted that she has been working on draft amendments, and anticipates having something for the Board to review in November or December, but that the autism/developmental disabilities legislation was proving to be particularly problematic. She stated that, until such time as actual language is adopted, carriers should be providing appropriate benefits in accordance with the compliance of law provisions in the plan forms. She explained that the autism/developmental disabilities legislation would be effective in February of 2010.

Executive Session Minutes for September 8, 2009

G. Simon made a motion to approve the executive session minutes of September 8, 2009 without amendment. The motion was seconded by D. Farkus and approved by a unanimous vote.

Protective Insurance Company (Protective)

V. Mangiaracina provided an update regarding the situation with Protective, stating that Protective had now submitted the full amount of the money demanded by the Board, and the money had been placed in a separate interest-bearing account pending the outcome of the appeal, which Protective initiated with the Appellate Court a week before the Board meeting. She explained she will file a Statement of Items with the Appellate Division,

after which the Appellate Division will issue a scheduling order setting forth dates for briefs to be filed by Protective and the IHC Board.

VIII. Close of Meeting

T. Taliaferro made a motion to adjourn the meeting. D. Farkus seconded the motion, which was approved by a unanimous vote.

[The meeting adjourned at 10:50 A.M.]