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 7, 2011

Directors present in person: Neil Sullivan (DOBI).

Directors present by phone: Darrel Farkus (Oxford); Sandi Kelly (Horizon); Tom Pownall (Aetna Health, Inc); Christine Stearns; Lisa Yourman.

Others participating: Ellen DeRosa, Executive Director; Chanell McDevitt, Deputy Executive Director; Deputy Attorney General (DAG) Eleanor Heck.

I. Call to Order

E. DeRosa called the meeting to order at 10:30 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. E. DeRosa stated that voting would be by roll call because most of the directors were participating by phone.

II. Minutes – *May 10, 2011 (Open Session)*

S. Kelly made a motion, seconded by C. Stearns, to approve the Open Session minutes of the meeting of May 10, 2011, with amendments. By roll call vote, the motion carried, with L. Yourman abstaining.

III. Staff Report

Expense Report and Transfer of Funds

E. DeRosa presented the Expense Report for June, with expenses totaling $19,641.60, which included: $12.54 for notice of the meeting in the Courier Post, $6,904.00 billed by the Division of Law; $12,544.00 for staff salaries and fringe; and $175.56 billed by Withum Smith + Brown as the final charge for the Guardian loss audits.

N. Sullivan made a motion, seconded by D. Farkus, to approve the June Expense Report. By roll call vote, the motion carried.

E. DeRosa then requested approval for the transfer of $19,700 from administrative funds in the Wells Fargo Money Market account to the IHC Board's checking account for the payment of operating expenses.

C. Stearns made a motion, seconded by N. Sullivan, to approve the electronic transfer of $19,700 from the IHC Board's Wells Fargo Money Market account to the checking account with Wells Fargo for purposes of paying operating expenses. By roll call vote, the motion carried.

Final Assessments and reconciliations – transfer of funds

E. DeRosa reminded the Board that, at the May 10th meeting, it approved the payment of audited reimbursable losses, with interest, to Guardian for the 2005/2006 calculation period, and to refund carriers following the final reconciliation and assessments for the 2003/2004 and 2005/2006 calculation periods, with interest. She noted, however, that there had been no action taken to authorize the transfer of funds from Treasury to the Board's Wells Fargo account, so she presented a transfer request totaling $564,580.24.

L. Yourman made a motion, seconded by C. Stearns, to transfer a total of $564,580.24 from the funds held in Treasury to the Board's Wells Fargo checking account for the purpose of issuing refunds plus interest totaling $63,580.44 to carriers for the 2003/2004 calculation period, and issuing refunds plus interest totaling $193,770.99 to carriers for the 2005/2006 calculation period, and issuing payment for net reimbursable losses of $307,228.81 to Guardian, including interest but less audit fees. By roll call vote, the motion carried.

Good-faith Marketing Reports

E. DeRosa reported that all of the carriers whose reports were deficient as of the date of the May 10th meeting have since corrected their reports, and pursuant to the Board's action at the prior meeting, the carriers have been determined to be in compliance with the good faith marketing requirements for both the Basic & Essential plans and standard individual plans. She reminded the Board that no action had been taken with respect to AmeriHealth, which had not filed either of its required good faith marketing reports prior to the May 10th meeting. She explained that AmeriHealth submitted its reports shortly thereafter, and that staff recommended finding the company to be in compliance for 2010.

S. Kelly made a motion, seconded by L. Yourman, to find that AmeriHealth marketed the B&E plan and its standard individual health benefits plans in good faith during CY2010. By roll call vote, the motion carried.

NJ Protect Audit

E. DeRosa explained that Withum Smith + Brown (WSB) had completed its fieldwork at the IHC Program offices, but was still engaged in fieldwork at Horizon, so there was no draft report for the Board to review at this time, but that WSB believed it would have a final report for submission to HHS by the end of June. Following discussion as to whether the Board should have another meeting in June, E. DeRosa noted that, although the Board may wish to see the audit report before it is submitted to HHS, the Board does not approve program audit reports, because they are independent. She explained that the Operations and Audit Committee (OAC) reviews the draft report, discusses findings with the auditor, and may make editorial suggestions, but does not make recommendations for approval or disapproval.

IV. Legal Committee – *Buying-up outside of open enrollment*

E DeRosa reminded the Board that it had asked the Legal Committee, as part of the proposal to close the buy-up loophole, to address an existing conflict in regulatory language regarding the purchase of the same plan from another carrier at any time. She reminded the Board that the problem in the existing language resulted from the decision to use price as a proxy for actuarial value, and that the existing language prevented someone from buying a plan from another carrier if the premiums are higher even though the plans are the same, and while buy-up in such a situation is likely to be rare, the Board did not intend to prevent it. She explained that the proposed new language in the hand-out presented to the Board clarifies that an individual can buy the exact same plan from another carrier at any time, so long as "same" includes the same copayments and deductibles and coinsurance. Following discussion, it was clarified that same-ness includes delivery systems, so a Plan C without a network is not the same as a Plan C with a network. It was also clarified that when someone first purchases an HMO Plan, they have 90 days to change from it, and that individuals always have a 30-day free-look period in which to change their minds about a plan.

N. Sullivan made a motion, seconded by D. Farkus, to approve the proposed amendments to N.J.A.C. 11:20-12. By roll call vote, the motion carried.

VII. Close of Meeting

C. Stearns made a motion, seconded by L. Yourman, to close the meeting of the Board. By roll call vote, the motion carried.

[The meeting adjourned at 11:20 A.M.]