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
July 12, 2011

Directors present in person: Darrel Farkus (Oxford); Neil Sullivan (DOBI).

Directors present by phone: Sandi Kelly (Horizon); Tony Taliaferro (AmeriHealth); Mary Taylor (Aetna Health, Inc); Lisa Yourman.

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

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. E. DeRosa stated that voting would be by roll call because most of the directors were participating by phone.

II. Minutes – *June 7, 2011 (Open Session)*

M. Taylor made a motion, seconded by D. Farkus, to approve the Open Session minutes of the meeting of June 7, 2011, with amendments. By roll call vote, the motion carried, with T. Taliaferro abstaining.

III. Staff Report

Expense Report and Transfer of Funds

R. Lenox presented the Expense Report for July, with expenses totaling $13,059.74, which included: $34.81 for legal notices, $903.84 billed by Withum Smith + Brown for professional services related to software packages and service plans; and $12,121.09 for staff salaries and fringe.

S. Kelly made a motion, seconded by L. Yourman, to approve the July Expense Report. By roll call vote, the motion carried.

E. DeRosa then requested approval for the transfer of funds. After noting that staff was requesting the Board to approve multiple transfers of money, the Board elected to act upon three transfer requests through a single motion as follows:

D. Farkus made a motion, seconded by N. Sullivan, to approve the transfer of: $13,100 from the IHC Board's Wells Fargo Money Market account to the checking account with Wells Fargo for purposes of paying operating expenses; $200,000 from the funds held in the DOBI to the Board's Wells Fargo Money Market account in order to earn interest on the funds; and, $1,024,690.15 from funds held in Treasury to the Board's checking account for the purpose of refunding carriers for the 2003/2004 and 2005/2006 final loss assessments, with interest, and paying Guardian for its 2003/2004 and 2005/2006 net reimbursable losses, with interest, reduced by Guardian's share of the audit fees. By roll call vote, the motion carried.

[Note: the Board approved refunds for loss assessments and net reimbursable losses for the 2003/2004 and 2005/2006 calculation periods at its May 10, 2011 meeting, and authorized a transfer of funds to actually pay the refunds and losses at the Board's June 7, 2011 meeting. After the June 7th meeting, staff determined that the amounts approved for transfer were incorrect. Thus, staff did not submit a request to Treasury for transfer of funds to the Board's checking account, and no payments with respect to the loss assessments and net reimbursable losses were made based upon the June 7, 2011 Board action.]

Rulemaking – Buying-up outside of open enrollment (N.J.A.C. 11:20-12)
E. DeRosa reported that the Governor's Office had signed-off on the proposal approved by the Board, and the proposal had been sent to the Office of Administrative Law. She stated that the comment period on the proposed amendments would be accepted until the close of business on July 25, 2011, and that no comments had been received as yet.

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

Budget for FY 2012-2013
R. Lenox reported that the OAC had met to consider the proposed budget for the fiscal years ending June 30, 2012 and June 30, 2013 totaling $649,280.00, as well as the related administrative assessment. She explained that the budget was derived from actual and forecast expenses for FY 2010 and 2011. She noted that the budget continued to assume fringe for staff at approximately 36% of salaries, despite the legislative changes made to public employee health and pension benefits, since the actual impact is yet unknown. She also noted a projected increase in the amount allocated for legal services because of anticipated future need. E. DeRosa explained that the amount shown in the forecast column for FY2010 and FY2011 for professional services was due to the Board having assessed the $400,000 needed to fund the Navigant contract, and a similar expense is not forecast for FY2012 or FY2013. She also noted that miscellaneous costs related to meetings and conferences had been eliminated as part of the government's current measures to reduce expenses. R. Lenox reported that the OAC had approved the budget as presented.

M. Taylor made a motion, seconded by L. Yourman, to approve the budget totaling $649,280.00 for FY2012 and FY2013 combined. By roll call vote, the motion carried.

E. DeRosa stated that, with the budget approved, it was appropriate for the Board to consider authorizing invoices for an administrative assessment in support of the new budget. R. Lenox

explained that the amounts assessed were based on filed 2009/2010 Exhibit K's, and allocated based on straight marketshare, subject to a $5.00 de minimus.

M. Taylor made a motion, seconded by T. Taliaferro, to approve invoicing for the FY2012 and FY2013 administrative assessment totaling $649,279.98. By roll call vote, the motion carried.

Financial Statements

R. Lenox presented the financial statements for the third quarter ended March 31, 2011, which the OAC had reviewed, including a: Statement of Net Assets; Statement of Changes in Net Assets; Statement of Changes in Assets and Liabilities – Loss Assessment Fund; Statement of Cash Flows; and, Comparison of Budget and Actual Expenditures. She stated that, because the losses for the 1993 through 1996 calculation periods had been finalized, there had been substantial cash decrease this fiscal year, between reconciliation activity, refunds and payment of loss reimbursements, with approximately $11 million having been paid to carriers. She noted that the Board continues to owe approximately $4 million to carriers for periods awaiting reconciliation, which include the reimbursable losses for the 1997/1998, 1999/2000 and 2001/2002 calculation periods. R. Lenox reported that expenditures for administration totaled about $203,421 as of March 31st, with approximately $115,186 being the amount of revenue in excess of expenditures.

Protective Life Insurance

R. Lenox reported that the OAC had discussed and then recommended issuing payments to Protective Life Insurance (Protective) totaling $78,565.81 for the 1997/1998 and 1999/2000 calculation periods to make payments to Protective consistent with those made to the remaining carriers awaiting the final reconciliation for the 1997/1998 and 1999/2000 periods. E. DeRosa explained that, when the Board issued partial refunds on September 19, 2008 following the change to the adjusted net earned premium methodology which resulted in the December 18, 2006 interim reconciliation, the Board withheld payment from Protective because Protective had not returned to the Board amounts that the Board previously advanced to Protective toward Protective's reported net paid losses for the 1997/1998 calculation period. She reminded Board members that litigation between Protective and the Board regarding the audit of Protective's losses had since been resolved in the Board's favor, and Protective had returned the disputed funds. R. Lenox reported that the payment to the carriers for the 1997/1998 period had been 85.26% of the total refund due, which totals $73,754.32 for Protective, and the payment for the 1999/2000 period had been 99.53% of the total refund due, which totals $224.48 for Protective (the percentages being based on the total amount of funds available when payments were made in 2008). It was noted that, in addition, Protective should be paid $4,587 with respect to the reconciliation of the 1993-1999 administrative expenses. E. DeRosa further explained that the sums to be paid to Protective would come from the $200,000 amount the Board approved for transfer earlier in the meeting.

N. Sullivan made a motion, seconded by M. Taylor, to issue refunds to Protective for administrative assessments for 1993 through 1999, plus the loss assessment for 1997/1998 and 1999/2000 based upon the interim reconciliation of December 18, 2006, using the

payment formula established in September 2008, totaling $78,565.81. By roll call vote, the motion carried.

NJ Protect Audit

E. DeRosa explained that Withum Smith + Brown (WSB) presented its opinion to the OAC regarding the audit of NJ Protect for calendar year 2010. She noted that the opinion was unqualified, and that, while WSB suggested some modest procedural changes for the IHC staff, which staff have already implemented, WSB had found no material or significant weaknesses in operations either at the State or Horizon. She stated that the report had been sent to the U.S. Department of Health and Human Services (HHS) electronically by June 30, 2011, and a hard copy was sent several days later. E. DeRosa noted that only the audit report was sent to HHS, and that HHS had not requested a SAS 115 or any other ancillary documents.

IV. Technical Advisory Committee (TAC)

Budget and Administrative Assessments

S. Kelly reported that TAC had also reviewed the budget for FY2012 and FY2013, and had recommended adoption of the budget, as well as the administrative assessment for the two fiscal year budget period.

Basic & Essential Plans

S. Kelly reported that TAC had reviewed the Basic & Essential quarterly reports for the first quarter of 2011 from AmeriHealth, Oxford and Horizon, and would continue to monitor the data.

Navigant Project

E. DeRosa reported that Navigant is encountering delays in its effort to produce the data and reports the Board requested. She explained that Navigant received claims data from Horizon and more recently from AmeriHealth, but that Oxford/United had already indicated it would not be able to get the data to Navigant until the end of July, and Aetna has not yet submitted claims data and continues to push the delivery date back. She stated that Navigant has also not been able to get all of the pricing modules from FAIR Health New York, although still in discussions with that organization, and as a result, Navigant's anticipated delivery of report(s) in August, was becoming increasingly unlikely.

D. Farkus confirmed that the delivery date for Oxford's data was firm. M. Taylor stated that she believed Aetna's requested claims data had been sent to Navigant on July 8. The Board determined, however, that Navigant should include the Oxford data in its cohort, since it could not complete the report until all of the FAIR Health modules were available.

The Board discussed what alternatives would be available if it appeared that delivery of the report may be delayed for more than several months. E. DeRosa noted that the rule requiring carriers to pay at the 80th percentile of the most recent PHCS profile was still on the books, and she knew that at least some carriers were using the most recent PHCS modules produced by Ingenix.

AFLAC – hospital confinement indemnity coverage

E. DeRosa reminded Board members that representatives of American Family Life Assurance Company (AFLAC) had requested in January that the Board consider amending, or preferably, deleting, the Board's definition of hospital confinement indemnity plan, and that the Board had requested additional information from AFLAC regarding its products offered in other states. She stated that AFLAC had submitted more information on July 11, and she had distributed it to Board members, but had received notice from multiple Board members prior to the meeting that they were not prepared to take any action on the matter.

Ed Donahue, from AFLAC, acknowledged that he had not expected any action at the July meeting, but primarily wanted the Board to be aware that AFLAC was still interested in the matter. He reiterated that AFLAC would be able to accommodate a requirement that hospital confinement indemnity policies only be issued to individuals who certify they have a health benefits plan (a rule that the DOBI would have to promulgate) in exchange for the removal of the limiting definition in the IHC rules.

The Board determined that the matter should first be considered by a committee, and requested that AFLAC provide more information about what product(s) it would like to offer in New Jersey (for instance, the dollar amounts and services that trigger benefit payments). E. DeRosa requested that AFLAC submit the information to her by mid-August, if it would like for the Board to add the issue to its September agenda.

V. Request to Discuss Multi-State Sales

D. Farkus asked whether the Board might want to discuss sales of coverage across state lines during a future meeting. E. DeRosa asked that Board members advise her of interest in such a discussion.

M. Taylor made a motion, seconded by S. Kelly, to move the meeting into executive session for the purpose of discussing potential litigation and receiving advice from counsel. By roll call vote, the motion carried.

[E. DeRosa indicated that the Board was not expected to take any further action following the close of executive session. The Board moved into executive session from 11:00 A.M. until 11:15 A.M.]

VI. B&E Waiver Update

In response to an inquiry from a Board member, E. DeRosa reported that HHS had recently issued information indicating that they will now extend existing waivers until 2014 using a process that is less onerous than that required for the original waiver, but to request an extension, the State must file for it no later than September 22, 2011. She reminded the Board that, prior to the announcement of the new process, the Board had been considering whether the waiver for the $600 annual limit for preventive services is necessary and appropriate. She stated that TAC had had not been able to fully review the matter yet, although some work had occurred. The Board noted that, if the waiver were extended as is, rather than modified, consumers would still have multiple rider options that remove the preventive services caps for purchase from multiple carriers, and that if the B&E policies remained unchanged, then any concerns about cost increases because of the added benefit would be null. E. DeRosa said she would file for an

extension of the waiver with respect to the three limits contained in the B&E Plan, thus preserving the $500 annual limit for out-of-hospital diagnostic testing, $600 annual limit for preventive care, and $700 annual limit for physician visits.

VII. Close of Meeting

M. Taylor made a motion, seconded by D. Farkus, to close the meeting of the Board. By roll call vote, the motion carried.

[The meeting adjourned at 11:25 A.M.]