

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
September 13, 2011

Directors present: Darrel Farkus (Oxford); Sandi Kelly (Horizon); Neil Sullivan (DOBI); Tony Taliaferro (AmeriHealth); Mary Taylor (Aetna Health, Inc).

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.

II. Annual Meeting

E. DeRosa reminded the Board members that this was their annual meeting, at which officers are elected and standing committees reconstituted.

For the position of Board *Chair*, T. Taliaferro made a motion to nominate M. Taylor, which was seconded by S. Kelly. M. Taylor affirmed her willingness to serve as Chair, and the motion carried.

For the position of Board *Vice Chair*, M. Taylor made a motion to nominate S. Kelly, which was seconded by T. Taliaferro. S. Kelly affirmed her willingness to serve as Vice Chair, and the motion carried, with S. Kelly abstaining.

E. DeRosa stated that current composition of the Board’s standing committees is:

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

T. Taliaferro made a motion, seconded by M. Taylor, to reconstitute the standing committees as is. The motion carried.

III. Minutes – July 12, 2011 (*Open Session and Executive Session*)

M. Taylor made a motion, seconded by D. Farkus, to approve the open session minutes of July 12, 2011. The motion carried.

T. Taliaferro made a motion, seconded by S. Kelly, to approve the Executive Session minutes of the meeting of July 12, 2011. The motion carried.

IV. Staff Report

Expense Report and Transfer of Funds

R. Lenox presented the Expense Report for September, with expenses totaling \$98,858.24, which included: \$66.99 for required public notices, \$4,225 for the Division of Law; \$55,178.39 for staff salaries and fringe; and \$39,387.86 for Navigant for the out-of-network reimbursement project.

S. Kelly made a motion, seconded by M. Taylor, to approve the September Expense Report. The motion carried.

E. DeRosa then requested approval for the transfer of funds to the Board's checking account for the purpose of paying for the approved expenses.

T. Taliaferro made a motion, seconded by D. Farkus, to approve the transfer of \$99,000 from the Board's Money Market to the Board's checking account for the purpose of paying September's expenses. The motion carried.

R. Lenox also suggested that the Board should transfer funds totaling approximately \$150,000 that had been collected for FY 2012 administrative expenses, currently held by the DOBI and not earning interest, to the Board's Wells Fargo Money Market account where the money would earn some interest.

M. Taylor made a motion, seconded by T. Taliaferro, to approve the transfer of \$150,000 from the funds held for the Board in the DOBI to the Board's Money Market account at Wells Fargo.

Rulemaking – Buying-up outside of open enrollment (N.J.A.C. 11:20-12.4 and new 12.4A)

E. DeRosa reported that the comment period on the proposed changes to the rule expired without comment, leaving the Board with only one outstanding issue: the operative date of the amendments and new rule. Following discussion of whether the operative date should be the same as the effective date, the Board determined it would be best to allow carriers some period for implementation. The Board agreed to a deferred operative date of November 1, 2011.

S. Kelly made a motion, seconded by M. Taylor, to adopt the proposed amendments and new rule with November 1, 2011 as the operative date. The motion carried.

Basic & Essential Waiver from ACA Compliance

E. DeRosa reported that she filed with the U.S. Department of Health and Human Services (HHS) to renew the request for a waiver of the Affordable Care Act's (ACA) minimum annual limits as they apply to the B&E plans. She told Board members that carriers have an obligation to issue the HHS-generated notices again to let people know that the B&E plans feature annual

limits different from the federal requirements. She noted that HHS is allowing an explanatory cover letter to be sent with the notice, which she will develop in an effort to forestall concerns that members who receive the notice may have. The Board suggested carriers target distribution of the letters and notices in October, so individuals who did not realize the B&E Plan's limitations will be able to purchase a more comprehensive plan during November's open enrollment period.

NJ Protect

E. DeRosa reported that NJ Protect has 740 enrolled members as of the end of August, circulated brochures among the Board, and provided a brief explanation of some of the promotional activity she has been involved in cooperation with the Centers for Medicare and Medicaid (CMS).

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

Reconciliation of administrative assessments and transfer of funds

R. Lenox explained that, with the completion of the audits (and reconciliations) for losses for the 2003/2004 and 2005/2006 calculation periods, as well as the administrative audits through 2010, the Board is in a position to reconcile the administrative assessments for 2004/2005 and 2006/2007. She reminded the Board that the administrative assessment cycle is different from the loss assessment cycle (with which Exhibit K filings are aligned), and thus, initial administrative assessments are based on the Exhibit Ks most-recently filed with the Board prior to the initial administrative assessments, and reconciliations are based on subsequently filed Exhibit Ks. She noted that the 2004/2005 initial administrative assessments were based on the 2001/2002 Exhibit Ks, but the reconciliation is based on the 2003/2004 Exhibit Ks, and the 2006/2007 initial administrative assessments were based on the 2003/2004 Exhibit Ks, but the reconciliation is based on the 2005/2006 Exhibit Ks.

R. Lenox reported that the OAC had reviewed the reconciliations for both administrative assessment periods (2004/2005 and 2006/2007), and recommended the Board approve collections and refunds as indicated. She noted one difference between the reconciliations for 2004/2005 and 2006/2007 involved the *de minimus*: there was none in the regulation in effect for the 2004/2005 period; however, beginning with the 2006/2007 period, the Board had a \$20 *de minimus* in its rules. She also explained that one of the reasons for the substantial refunds is that budgeted litigation expenses had not occurred. She stated that the reconciliations include interest through September 15, 2011.

T. Taliaferro made a motion, seconded by M. Taylor, to approve the reconciliation of the administrative assessments for the 2004/2005 and 2006/2007 final budget years by issuing bills and refunds to carriers as set forth in the reconciliation spreadsheets presented by staff. The motion carried.

R. Lenox requested that the Board approve the transfer of the IHC Board's administrative funds held in Treasury and the DOBI to the Board's checking account, so that approved refunds can be made.

M. Taylor made a motion, seconded by T. Taliaferro, to transfer \$498,684.07 from the funds held in Treasury and \$470,000 from the funds held in the DOBI to the IHC Board's Wells Fargo Checking Account for a total of \$968,684.07 for the purpose of issuing refunds to carriers based on the final administrative assessments for the fiscal years ended June 30, 2004, 2005, 2006 and 2007. The motion carried.

Management Discussion and Analysis (MD&A) for FY2011 and end-of-year financials

R. Lenox discussed the MD&A for the fiscal year ended June 30, 2011 with the Board, explaining that it is an overview of the IHC Program's financial performance and activities for the period in question. She noted that in FY2011, the Board had invoiced carriers an additional \$400,000 to cover the cost of the contract with Navigant. She explained that the IHC Program's assets were about \$11,000,000 less than the prior fiscal year, primarily due to refunds for loss assessment reconciliations for the 1993, 1994, 1995 and 1996 calculation periods and payment of operating expenses. R. Lenox also noted that total liabilities had decreased by about \$10,500,000 for the same reason. She explained that the MD&A will become part of the audit report.

R. Lenox noted that the Program's expenses came in about \$61,000 under budget, primarily because anticipated legal fees had not been incurred. She explained that the amount over budget would be refunded to carriers after the audit for FY2011 is complete, and noted that the auditors are scheduled to begin the audit in October.

It was noted that reconciliations for the loss assessments for the 1997/1998, 1999/2000, 2001/2002 and 2007/2008 calculation periods remain outstanding, but that, upon completion of the audit of Celtic Life Insurance, the 2007/2008 calculation period can be reconciled and closed. It was further noted that, although audits of Aegon/UICI are nearing completion for 1997/1998 and 1999/2000 (staff received draft audit reports), those calculation periods will remain open, as will the 2001/2002 calculation period, until the Time audits are completed.

VI. Technical Advisory Committee (TAC)

Reconciliations of administrative assessments

S. Kelly reported that TAC had also reviewed the reconciliation spreadsheets for the administrative assessments for 2004/2005 and 2006/2007, and had recommended approval.

Basic & Essential Plans

S. Kelly reported that TAC reviewed the Basic & Essential quarterly reports for the second quarter of 2011, and would continue to monitor the data.

Navigant Project

S. Kelly reported that Navigant has received all of the claims data from the four carriers, but not the HCPCS module from FAIR Health, which has delayed release of the data and has no projected delivery date for the module. She said that Navigant suggested a work-around using other data, which should not have an adverse impact on the validity of findings or recommendations because HCPCS-related claims are a small percent of all claims in frequency

and dollars. S. Kelly reported TAC asked Navigant to proceed with the work, and currently expected a draft report in October.

While expressing some concerns with the delays, the Board noted its expectation that the report will provide comparisons of multiple potential reimbursement methods and the impact on claims, which will give the Board information with which to make an informed decision on what to propose as a standard for the processing of out-of-network claims.

VII. Health Insurance Exchange (HIX) Update

There was discussion of the stakeholder activities facilitated by the Rutgers Center for State Health Policy (RCSHP) under the DOBI HIX planning grant, and the four reports that RCSHP posted to its website, three addressing input from stakeholders (a summary of the in-person forums, a summary of responses to an online survey, and an appendix providing more details of responses to both), and one projecting health insurance status in New Jersey after implementation of the ACA. Board members noted that RCSHP predicted substantial movement of people into Medicaid following eligibility expansions and the individual market based on assumptions about employer coverage and the availability of the advance premium tax credit.

When asked what he understood Governor Christie's position to be on the HIX, N. Sullivan stated that the governor does not support the ACA, but while it is the law of the land, the governor's goal is to implement the ACA in a manner that is in the best interests of the citizens of New Jersey, and that it is believed that a HIX run by the State of New Jersey rather than the federal government is in the best interest of the state citizenry, which is why the governor is supportive of research regarding the establishment of a HIX for New Jersey.

VIII. Ethics Training

E. DeRosa advised Board members that the State Ethics Commission had scheduled training sessions during the first hour of the SEH Board's September meeting and the IHC Board's November meeting. She clarified that Board members may attend either session, but must attend one.

IX. Close of Meeting

M. Taylor made a motion, seconded by D. Farkus, to close the meeting of the Board. The motion carried.

[The meeting adjourned at 11:35 A.M.]