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 9, 2013

Directors present: Darrel Farkus (Oxford); Sandi Kelly (Horizon); Christine Stearns; Neil Sullivan (DOBI); Tony Taliaferro (AmeriHealth); Mary Taylor (Aetna)

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

I. Call to Order

E. DeRosa called the meeting to order at 10:05 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, the Office of the Secretary of State and submitted to the State House Press Corp, in accordance with the Open Public Meetings Act. A quorum was present.

II. Minutes – *June 11, 2013*

D. Farkus made a motion, seconded by T. Taliaferro, to approve the minutes of June 11, 2013. The motion carried.

III. Staff Report

Expense Report

E. DeRosa presented the expense report for July, with expenses totaling $16,497.56. She explained that expenses are primarily for the IHC Board's share of staff salaries and fringe, and also professional services provided by JTM Solutions for Business to update the Great Plains accounting suite following the installation of both a new computer and new software by the DOBI. E. DeRosa indicated that, in order to pay the expenses if approved, the Board also would need to approve a transfer $16,400 from the Board's money market account to its checking account.

S. Kelly made a motion, seconded by M. Taylor, to approve the expenses on the July 2013 report, and the transfer of funds in the amount of $16,400 from the Board's Wells Fargo Money Market account to the Board's Wells Fargo checking account for the purpose of paying the approved expenses. The motion carried.

Transition to 2014 standards – Notice to Consumers

E. DeRosa opened discussion about the draft letter she prepared for Basic & Essential (B&E) plan consumers, which she had revised to reflect concerns and suggestions made by Board members at the June meeting. Board members generally approved of the shorter length of the letter, and suggested some revisions in format and language style in an effort to further clarify certain points. Similar discussion occurred with respect to a letter for standard individual health benefits plan policyholders.

The Board determined that the revised letters should be sent out to carriers without further Board action, attached to a bulletin explaining how to use the letters. It was agreed that, to the extent that a carrier has pre-1993 reform plans, the carrier can send such policyholders the same letter intended for standard plan

policyholders. It was also agreed that carriers can send the letters again with renewal notices, if the carrier so chooses.

Good Faith Marketing
E. DeRosa reminded Board members that in June, the good faith marketing reports for all carriers other than CIGNA had been approved. She stated that evidence of a rate filing from CIGNA that had been missing has now been received, making the company's good faith marketing submission complete, and acceptable.

M. Taylor made a motion, seconded by D. Farkus, to accept the good faith marketing report submitted by CIGNA with respect to its offerings in the individual health coverage program. The motion carried.

Optional benefits riders

T. Taliaferro recused himself from the discussion and action to be taken on the optional benefits riders submitted by AmeriHealth Insurance Company because of the interest of his employer in the outcome of the Board's actions.

E. DeRosa explained that four optional benefits riders had been filed: two are designed to provide enrollees 19 years old and older with vision coverage (one for Amerihealth's EPO and POS plans and one for its HMO plans), one permits enrollees covered under the EPO and POS plans access to national providers using the MultiPlan PHCS network; and, the fourth allows the 20% coinsurance plan to be offered as a 10% coinsurance plan.

S. Kelly made a motion, seconded by D. Farkus, to find the AmeriHealth optional rider filings complete. The motion carried.

VI. Report of the Legal Committee

E. DeRosa stated that the Legal Committee met and primarily discussed questions raised by the Technical Advisory Committee, specifically: (1) whether there are tools that the IHC Board can use to reduce the potential for adverse selection in a guaranteed issue environment given that the IHC Program's preexisting condition limitation provision will be impermissible in 2014; (2) whether the special enrollment period requirements applicable to the Marketplace also apply outside of the Marketplace; (3) whether the Board may continue to restrict how replacement of individual policies occurs; and (4) whether the Board may continue to restrict the purchase of individual plans by someone who is eligible for or covered under group coverage. She noted the conclusions of the Legal Committee were as follows:

- The methodology for providing open enrollment has always been a prerogative of the Board in accordance with N.J.S.A. 17B:27A-2; consequently, the Board could limit open enrollment to particular times and/or events, and be in compliance with both State and Federal law.
- The federal rules at 45 C.F.R. 147.104, which specify that individual plans are subject to an open enrollment period and special enrollment periods (as set forth at 45 C.F.R. 155.420), apply to individual plans offered both inside and outside of the Marketplace; thus, at a minimum, the IHC rules should comply with 45 C.F.R. 147.104 and consequently, 45 C.F.R. 155.420.
- N.J.S.A. 17B:27A-11h authorizes the Board to establish guidelines for replacing one individual plan with another.

- Federal law will permit people eligible for group coverage to purchase individual policies through the Marketplace; because the open and special enrollment requirements of the federal law apply across the individual and small group markets, people eligible for group coverage must have an opportunity to purchase an individual policy inside and outside of the Marketplace during the initial enrollment period and annual open enrollment period (as well as special enrollment periods).

V. Report of the Marketing Committee

E. DeRosa presented the report of the Marketing Committee. She reminded Board members that they had asked carriers to take the June draft of a proposed update to the enrollment report back to relevant staff to determine if the elements requested can be captured for the report; she stated that the carriers participating on the Marketing Committee had indicated the information requested could be captured and reported. The remaining carriers sitting on the Board indicated a similar finding, but asked to have the timeframes for reporting lengthened from 45 days to 60 days following the close of a reporting period, since more information is being requested.

E. DeRosa noted the Marketing Committee discussed whether and how to consolidate reporting for cost sharing data, and recommended waiting until the plan designs are better known. The Board discussed whether the reports should also provide an indication of enrollment in plans with cost share reductions and dental designs. After further discussions, the Board agreed that the following work still needed to be done:

- The Marketing Committee should continue to look at the issue of cost-sharing reductions, and try to decide whether it makes sense to include tracking in the quarterly reports.
- The Marketing Committee should consider whether to report on enrollment in stand-alone dental plans versus plans with embedded pediatric dental benefits.
- Board members must try to determine whether reporting via deductibles or copayments is more important when a plan includes both, unless someone can come up with a way to report both without double counting.

VI. Report of the Operations and Audit Committee

Budget for Fiscal Years Ending June 30, 2014 and 2015

E. DeRosa presented a budget of $622,000 for the two year period covering fiscal years 2014 and 2015 combined. She explained that the amount projected for salaries has decreased because of the reduction of the amount of administrative support for which the two Boards are paying (.25 FTE), but that fringe cost is assumed to increase generally. She noted that the most significant difference between the current two-fiscal year budget and the proposed budget is the legal expenses, which staff recommends increasing.

There was some discussion as to whether current staffing would be sufficient to address phone calls as a result of the initial open enrollment period and beyond.

S. Kelly made a motion, seconded by M. Taylor, to approve the budget, noting some concerns about a possible need for additional staffing. The motion carried.

Administrative Assessment

E. DeRosa stated that, in order to fund the budget, the Board needs to assess carriers, and presented the proposed assessment report. She noted that the *de minimis* remains at $5, and there are many carriers at the *de minimis* level, albeit the total amount shifted due to the *de minimis* amount is only $47.

S. Kelly made a motion, seconded by D. Farkus, to approve the administrative assessment for fiscal years ending June 30, 2014 and 2015, and authorizing staff to invoice based on the assessment report. The motion carried.

Loss audits
E. DeRosa noted that the Committee discussed with Deloitte & Touche (D&T) the on-going net paid loss audit of Time Insurance Company for calculation periods 1997/1998 and 1999/2000.

VII. Report of the Technical Advisory Committee (TAC)
S. Kelly reported that TAC reviewed the budget and the proposed administrative assessment report, and had been in agreement with the Operations and Audit Committee. She stated that TAC also considered the rules restricting replacement of individual plans and the purchase of individual plans by people who are eligible for or covered under group plans.

VIII. Executive Session

M. Taylor made a motion, seconded by C. Stearns, to move the meeting into Executive Session to discuss anticipated litigation. The motion carried.
[The Board was in Executive Session from 11:45 A.M. until 12:00 noon.]

IX. Close of Meeting
M. Taylor made a motion, seconded by D. Farkus, to adjourn the meeting. The motion carried.

[The meeting adjourned at 12:01 P.M.]