

## APPROVED

**MINUTES OF THE MEETING OF THE  
NEW JERSEY SMALL EMPLOYER HEALTH BENEFITS PROGRAM BOARD  
AT THE OFFICES OF THE  
NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE  
TRENTON, NEW JERSEY  
October 16, 1996**

**Members present:** Larry Glover, *Chair*; Leon Moskowitz, *Vice Chair* (DOBI)[arrived at 9:55 a.m.]; Pam Dickson (DOHSS); James Donnellan (Prudential); Justin Fiedler (BCBSNJ); Charlotte Furman (Anthem Health and Life); Eileen Gallagher (NYLCare); Linda Ilkowitz (Guardian); Amy Mansue (HIP of New Jersey)[arrived at 9:55 a.m.]; Brian Markowitz (NJBIA) [arrived at 10:15 a.m.]; Eric Wilmer (Celtic Life); Dutch Vanderhoof.

**Others present:** Kevin O'Leary, Executive Director; Ellen DeRosa, IHC Program Assistant Director; DAG Josh Lichtblau (DOL).

### **I. Call to Order**

L. Glover called the meeting to order at approximately 9:45 a.m. K. O'Leary announced that notice of the meeting had been published in three newspapers and posted at the Department of Banking and Insurance ("DOBI") and the Office of the Secretary of State in accordance with the Open Public Meetings Act. A quorum was present.

### **II. Public Comments**

No public comments were offered.

### **III. Minutes**

*\* J. Fiedler made a motion to approve the draft executive session minutes of the August 7, 1996 Board meeting. L. Ilkowitz seconded the motion, and the motion was approved by voice vote, with E. Gallagher abstaining.*

*\* C. Furman made a motion to approve the draft minutes of the September 18, 1996 meeting. E. Gallagher seconded the motion, and the motion was approved by voice vote, with L. Moskowitz and F. Title abstaining.*

*\* D. Vanderhoof made a motion to approve the draft executive session minutes of the September 18, 1996 Board meeting. J. Fiedler seconded the motion, and the motion was approved by voice vote.*

#### **IV. Report of the Policy Forms Committee**

E. DeRosa reported that the Policy Forms Committee had met on October 7, 1996 to review optional benefit rider filings and other matters. She referred to the document attached hereto as Exhibit 1 regarding the recommendations of the Policy Forms Committee, and described the riders submitted.

*\* J. Donnellan made a motion to accept the recommendation of the Policy Forms Committee with respect to the optional benefit rider filing rider 1 from American Preferred Provider Plan, Inc., listed on Exhibit 1, to find the filing complete and in substantial compliance. J. Fiedler seconded the motion, and the motion was approved unanimously by voice vote.*

*\* J. Donnellan made a motion to accept the recommendation of the Policy Forms Committee with respect to the optional benefit rider filing rider 2 from American Preferred Provider Plan, Inc., listed on Exhibit 1, to find the filing complete and in substantial compliance. J. Fiedler seconded the motion, and the motion was approved unanimously by voice vote.*

*\* J. Donnellan made a motion to accept the recommendation of the Policy Forms Committee with respect to the optional benefit rider filing from Blue Cross and Blue Shield of New Jersey, listed on Exhibit 1, to find the filing complete and in substantial compliance. L. Ilkowitz seconded the motion, and the motion was approved unanimously by voice vote, with J. Fiedler abstaining.*

*\* J. Donnellan made a motion to accept the recommendation of the Policy Forms Committee with respect to the optional benefit rider filing rider 1 from Harmony Health Plan, listed on Exhibit 1, to find the filing complete and in substantial compliance. E. Gallagher seconded the motion, and the motion was approved unanimously by voice vote.*

*\* J. Donnellan made a motion to accept the recommendation of the Policy Forms Committee with respect to the optional benefit rider filing rider 2 from Harmony Health Plan, listed on Exhibit 1, to find the filing complete and in substantial compliance. J. Fiedler seconded the motion, and the motion was approved unanimously by voice vote with L. Moskowitz and A. Mansue abstaining. [They arrived at the meeting during the consideration of this rider.]*

*\* J. Donnellan made a motion to accept the recommendation of the Policy Forms Committee with respect to the optional benefit rider filing rider 3 from Harmony Health*

*Plan, listed on Exhibit 1, to find the filing complete and in substantial compliance. C. Furman seconded the motion, and the motion was approved unanimously by voice vote.*

*\* E. Gallagher made a motion to accept the recommendation of the Policy Forms Committee with respect to the optional benefit rider filing rider 1 from United States Life/Garden State Hospitalization Plan, listed on Exhibit 1, to find the filing complete and in substantial compliance. J. Fiedler seconded the motion, and the motion was approved unanimously by voice vote.*

*\* J. Donnellan made a motion to accept the recommendation of the Policy Forms Committee with respect to the optional benefit rider filing rider 2 from United States Life/Garden State Hospitalization Plan, listed on Exhibit 1, to find the filing complete and in substantial compliance. C. Furman seconded the motion, and the motion was approved unanimously by voice vote.*

*\* J. Donnellan made a motion to accept the recommendation of the Policy Forms Committee with respect to the optional benefit rider filing rider 3 from United States Life/Garden State Hospitalization Plan, listed on Exhibit 1, to find the filing complete and in substantial compliance. C. Furman seconded the motion, and the motion was approved unanimously by voice vote.*

*\* D. Vanderhoof made a motion to accept the recommendation of the Policy Forms Committee with respect to the optional benefit rider filing rider 4 from United States Life/Garden State Hospitalization Plan, listed on Exhibit 1, to find the filing complete and in substantial compliance. C. Furman seconded the motion, and the motion was approved unanimously by voice vote. [Note: Exhibit 1 incorrectly identified Plans A through E as being amended by this rider. This rider actually amends only Plans B through E.]*

E. DeRosa reported that the Committee considered a carrier's question concerning the application of a copayment to **non-prescription supplies** in the standard HMO contract. The Committee requested staff to survey the carriers that market the standard HMO plan to determine how the supplies are currently being covered. Once the Committee reviews the results of the survey it will be in a position to make a recommendation to the Board concerning possible clarification of the application of a copayment to non-prescription supplies in the HMO contract.

E. DeRosa reported that the Committee identified no new information in support of the inclusion of coverage for **acupuncture services** in the material provided by Strategic Relations, Inc. The Committee recommended that any further consideration of acupuncture services be deferred until the next review of the policy forms. J. Donnellan noted that a carrier may file an optional benefit rider to include coverage for acupuncture services. To date, no such rider has been filed. Staff was directed to respond to the letter from Strategic Relations, Inc. and advise them that the Board would consider coverage

for acupuncture during the next review of the policy forms, and the letter should also note that no data other than data the Board previously considered was offered with the most recent letter from Strategic Relations, Inc.

E. DeRosa advised the Board that the IHC Board had proposed amendments to standard plans C and D to accommodate the plan design of a *medical savings account plan (MSA)*. While the SEH Board had released a Bulletin to address the potential of an optional benefit rider filing to produce a plan that could qualify as an MSA plan, such decreasing rider filing would require more carrier effort than would be required of an IHC carrier. The draft MSA materials provided to Board members outlined modifications to the SEH plans which could accommodate an MSA plan.

After discussion of the draft language, the Board concluded that if a carrier wanted to offer a plan that could qualify as an MSA plan, that carrier should file an optional benefit rider. The Department of Banking and Insurance, in conjunction with the SEH Board, should prepare and release a bulletin to carriers that would provide a model rider, based on the material E. DeRosa prepared. Carriers would be advised that a rider structured as the model rider would be considered promptly and favorably. Other methods to achieve an MSA plan design would be subject to the regular review process.

The Bulletin should recommend that carriers provide disclosure to customers concerning the limited availability of MSAs as part of the demonstration project. Further, since regulations are not expected until April, 1997, there is no certainty that the plan, as structured, will comply with the requirements of an MSA plan.

E. DeRosa presented a carrier inquiry concerning the use of the *PHCS profile* in the event the actual charge is less than the allowance under the 80th percentile of PHCS. The Board agreed that a carrier would only use the 80th percentile of PHCS if the actual charges exceeded the allowance under PHCS. If the actual charge is less than the allowance under PHCS, the carrier should pay benefits on the actual charge.

#### V. Report of the Legal Committee

K. O'Leary reported that the Legal Committee met via teleconference on October 3, 1996.

The Committee considered whether the Board intended carriers to use the *PHCS profile* for both medical and hospital charges. He noted that the question was initiated by an IHC consumer complaint. While the IHC regulations discussion of PHCS refers specifically to medical charges, the SEH regulations refers to the use of PHCS for all covered charges. Since there was no SEH complaint at this time, the Committee recommended that nothing be done until the issue arises.

L. Moskowitz suggested that the SEH Board should analyze the issue. He said that the IHC and SEH Boards should be consistent in the matter of the application of PHCS to charges. He expressed concern that the IHC resolution of the issue may conflict with the position the SEH Board may adopt unless the Boards jointly consider the issue.

K. O'Leary reported that the Committee considered whether the continuity provision would apply to a *late enrollee*. The Committee said it would.

D. Vanderhoof asked if the exceptions to a late enrollee would apply in the situation of an employee's spouse voluntarily losing coverage under the spouse's plan, then enrolling for coverage under the employee's plan. He asked if there must be a "qualifying event" in order for the rules that define exceptions to late enrollees to apply. The Legal Committee was asked to consider the language concerning a qualifying event.

K. O'Leary asked if the Board believed it appropriate to require carriers to *collect tax information* in order to verify eligibility. A. Mansue said carriers were already expected to secure a Certification. She thought requiring the collection of tax information would be burdensome and unnecessary.

D. Vanderhoof said that some carriers already required tax information. Employers may confirm employment status. If an employer refused to provide the required evidence, the carrier could decline to issue the plan. D. Vanderhoof asked if a carrier must consistently require tax information. He suggested a carrier could "red line" by means of which groups would be required to provide tax information.

A. Mansue suggested that the Board should wait until it has a case before it. L. Moskowitz suggested it may become a matter of market conduct if a carrier would be shown to be selecting cases on which to impose a tax information requirement.

[Break: 11:07 a.m. - 11:20 a.m.]

## **VI. Report of the Executive Director**

The Executive Director presented an expense report attached hereto as Exhibit 2.

*\* A. Mansue made a motion to accept the attached expense report. J. Donnellan seconded the motion, and the motion was approved unanimously by voice vote. [Met 2/3rds supermajority requirement.]*

K. O'Leary reported that there had been no change in the status of the audit since last month. D&T requested information from the Department of Banking and Insurance in order to reconcile the Board's account and the Department's account, and was still awaiting a response.

K. O'Leary reported that representatives of CIGNA met with Board staff and Department of Banking and Insurance personnel on October 11, 1996 to discuss a *dual contract approach to an HMO Point of Service product*. He reminded the Board that the Board created a single contract Point of Service product, but that a dual contract is also specifically permitted by the Department of Banking and Insurance. He asked if the Board favored the development of a dual contract point of service product. If yes, he asked for direction concerning timing. The Board expressed a desire to see a dual contract point of service product at some point in time.

The Policy Forms Committee was asked to consider the issue of timing. Further, the Committee must consider necessary modifications to the standard indemnity and HMO plans that would be used as the contracts in the dual contract product. J. Donnellan suggested that the dual contracts that result would mirror the single contract in terms of the mechanics of an in-network and an out-of-network structure.

K. O'Leary reported that the Commissioner had been working on recommendations as a result of the Summit that was held in July.

K. O'Leary said that A 2261 was scheduled for committee last Monday, but it was taken off the calendar, in deference to the recommendations that were anticipated from the Commissioner. He reported that Senator Bassano had a bill that would allow a discount for direct premium payment. J. Donnellan said that there is already an allowance for the time value of money. K. O'Leary said that a discount for direct payment was not a permitted factor in community rating.

K. O'Leary reported that he had reviewed the Kennedy Kassebaum legislation and he believed there were several issues the Board should consider, in addition to MSAs. For example, an employer waiting period could count toward pre-existing conditions credit, and credit could be granted whether or not the prior coverage covered the condition. He noted that many provisions refer to small employers as 2 - 50, as opposed to 2-49, as under the SEH Act. The Legal Committee should discuss the issues since many would require statutory amendment.

K. O'Leary distributed an enrollment report. He commented that about 2/3 of the market was covered by standard plans. The reporting form should be evaluated and revised to capture PPO and POS plans.

K. O'Leary completed the study on one life groups and the report was sent to the legislature.

K. O'Leary reported he spoke to the South Jersey Underwriters on September 24, 1996, and on October 10, 1996, he spoke at a conference in Washington concerning coverage for preventive care.

K. O'Leary reported that the PHS open access rider that was discussed during the September Board meeting was still under discussion. PHS granted a review extension until the November Board meeting. L. Moskowitz asked A. Mansue to set up a meeting between the HMO Association and the Department of Banking and Insurance to find out what the attitude of the HMO industry would be toward an open access product.

## **VII. Report of the Marketing Consultant**

J. Gorman reported that the SEH Program had a presence at Trenton's Small Business Week '96. SEH had an information table, and about 50 Buyers' Guides and rate comparison sheets were distributed.

On October 3, 1996, Wenzel & Company mailed a letter to 27 Atlantic County media outlets. WTHH-FM in Atlantic City has responded with a request to interview K. O'Leary.

On October 5, 1996, K. O'Leary appeared on "Portfolio" that aired on 11 FM stations throughout New Jersey.

A press release concerning the Buyers' Guide appeared in the October 3, 1996 edition of the Trenton Times and in the September 17, 1996 issue of the Trentonian. Both articles included the "800" number.

K. O'Leary advised J. Gorman that the premium survey data was due November 1, 1996. He hoped the data would be available for Wenzel & Company to use by the end of November.

J. Gorman was asked to prepare a press release on the increased enrollment.

[J. Donnellan left the meeting.]

*\* L. Moskowitz made a motion to move into executive session. D. Vanderhoof seconded the motion, and the motion was approved unanimously by voice vote.*

## **VIII. Close of Meeting**

*\* L. Moskowitz made a motion to close the meeting. D. Vanderhoof seconded the motion, and the motion was approved unanimously by voice vote. [The meeting concluded at 12:58 p.m.]*