**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
May 13, 2003**

Members participating: Darrel Farkus (Oxford); Frank Giannattasio; Sandy Herman (Guardian); Sandi Kelly (Horizon BCBSNJ); Vicki Mangiaracina (DOBI); Mary McClure, Chair (Aetna Health); Lisa Yourman.

Others present: Ellen DeRosa, Deputy Executive Director; DAG Eleanor Heck (DOL); Wardell Sanders, Executive Director.

I. Call to Order

W. Sanders called the meeting to order at 10:02 a.m. He announced that notice of the meeting had been published in three newspapers 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. Minutes

April 8, 2003 Open Session

S. Kelly offered a motion to approve the minutes of the Open Session of the April 8, 2003 Board meeting, as amended. V. Mangiaracina seconded the motion. The Board voted in favor of the motion, with M. McClure abstaining.

III. Staff Report

Expense Report (see attached)
M. McClure offered a motion to approve the payment of the expenses specified on the May 13, 2003 expense report. F. Giannattasio seconded the motion. The Board voted unanimously in favor of approving the motion.

Board Meeting Date Change
W. Sanders noted that the June meeting, which had originally been scheduled for June 10, 2003, had been re-scheduled for June 23, 2003. The change of meeting date has been noticed as required by the Open Public Meetings Act, and a copy of the notice was included in the Board meeting materials.

Enrollment Reports
E. DeRosa noted that enrollment data for 2Q02, 3Q02 and 4Q02 was included in the Board meeting materials. She explained that due to reporting inconsistencies by some carriers, the actual total enrollment may be slightly higher or lower than the summary sheets indicate. She noted that enrollment has decreased from 80,901 in 2Q02 to 79,682 in 3Q02 to 78,698 in 4Q02.

S. Kelly asked why non-standard enrollment was not reflected on the summary sheets. E. DeRosa explained that since there was no non-standard enrollment she had been confused by the non-standard caption on the summary sheet. S. Kelly suggested that pre-reform enrollment data be specified.

Reported, Unaudited, Reimbursable losses for 2001/2002
W. Sanders distributed a spreadsheet that shows reimbursable losses as reported on Exhibit K for 2001/2002. He explained that he contacted Fortis and confirmed that its net investment income number represented its interpretation of the "inception to date" language in the Board's regulations. He said he asked the carrier to provide a loss amount calculated based on the manner in which the Board has stated net investment income losses are to be calculated, but has not received a response.

S. Herman noted that the major component of reimbursable losses for the 2001/2002 calculation period was net investment income losses. He suggested that the nature of the audit of net investment income losses would not necessarily be the same as a claims audit.

W. Sanders reported that he and E. DeRosa met with Adriana Nivia of Deloitte & Touche (D&T), who has been assigned as lead auditor to replace Scott Sanders, who died earlier this year. W. Sanders explained that the purpose of the meeting was to acquaint Ms. Nivia with the key open loss audit issues and express the Board's interest in resolving them as promptly as possible.

W. Sanders said that he would be drafting a Request for Proposal for the audits of the 2001/2002 and 2003/2004 losses. He explained that the current contract with D&T covered only the 1997/1998 and 1999/2000 audits. F. Giannattasio asked whether the current contract might have included a provision whereby it could be extended. W. Sanders agreed to check the terms of the contract.

S. Herman commented that he believed the current law, which allows for net investment income to be included in the calculation of reimbursable losses, does not serve a meaningful purpose. D. Farkus questioned at what point reimbursement to a carrier should cease. W. Sanders reminded the Board of the open issue regarding whether a carrier that has withdrawn from the market may seek reimbursement for losses. L. Yourman asked whether there could be a requirement that a carrier withdraw if the carrier consistently has no or very little business. S. Herman characterized the current mechanism for loss reimbursement as a "debt service rather than an underwriting subsidy."

Rulemaking Update
W. Sanders said the readoption extension request was submitted to the Governor's Office on May 7, 2003. A copy of the letter, signed by Commissioner Bakke and W. Sanders, was included in the Board meeting materials.

Legislative Update
W. Sanders said that P.L. 2003, c. 27, which requires a 60-day notice of a rate increase, does not apply to the individual market. He referred to a Bulletin recently released by the Department of Banking and Insurance, Advisory Bulletin 03-09.

W. Sanders said that S. 2275 would establish a mandated benefits review commission. The bill was scheduled to be heard in Committee on May 8, 2003, but the discussion was postponed.

W. Sanders said that under the Federal Trade Adjustment Assistance Act funding was available to help offset losses of high risk pools. Additionally, there may be funding available to help offset losses of other types of arrangements for individual coverage, and there was a slight chance the IHC mechanism could be eligible for some of the funding.

The Board discussed high risk pools.

Outreach
W. Sanders reported that he spoke at a New Jersey Association of Health Underwriters meeting in Totowa on April 15, 2003 and was a speaker at a HealthSense seminar in Trenton on May 7, 2003. E. DeRosa said she spoke to a chapter of the New Jersey Association of Health Underwriters in Edison on April 24, 2003.

Press Release on the Basic and Essential Health Care Services Plan
W. Sanders said the Board issued a press release on the availability of the Basic and Essential Health Care Services plan that resulted in articles in the Asbury Park Press and the Newark Star Ledger. In addition, BestWire reported on Guardian offering the plan. W. Sanders noted that the press release would be run in the Banking and Insurance Quarterly publication.

Other
W. Sanders said that a copy of Sandy Herman's prepared remarks from the health insurance seminar that was held in April were included in the meeting materials.

W. Sanders said that the paperwork to hire an accountant had been forwarded to the Governor's office for approval.

IV. Report of the Technical Advisory Committee

S. Kelly reported that the Technical Advisory Committee considered two rate filings from Oxford and recommended that the filings be found complete.

F. Giannattasio offered a motion to accept the TAC recommendation and find the Oxford rate filings complete. L. Yourman seconded the motion. The Board voted in favor of the motion, with D. Farkus abstaining.

V. Executive Session

W. Sanders said the Board would need to enter Executive Session to receive advice from counsel and to discuss pending and anticipated litigation.

F. Giannattasio offered a motion that the Board begin Executive Session for the reasons stated by W. Sanders. S. Herman seconded the motion. The Board voted unanimously in favor of the motion.

W. Sanders said the Board would have some discussion of one of the issues in Open Session following Executive Session.

[Break: 11:12 a.m. – 11:22 a.m.]

VI. Final Business and Close of Meeting

W. Sanders reported that the Legal Committee had considered a plan being issued by United HealthCare called the Hospital Advantage Plus plan. The plan is issued through a trust located in the District of Columbia, but covers certificate holders in New Jersey. Since the plan provides some coverage on an expense-incurred basis and the dollar amount of the hospital indemnity benefit exceeds the limits in the exclusion to the definition of “health benefits plan” set forth in the IHC regulations, the Legal Committee had concluded that the plan falls within the scope of the definition of “health benefits plan” and that the carrier should be advised that the plan cannot be sold. The Board agreed with the Legal Committee’s recommendation, and requested that the matter be referred to the DOBI for enforcement with the recommendations that all consumers who have been financially harmed be made whole, that the carrier be required to issue certificates of creditable coverage to all

persons whose coverage has terminated, and that carriers in the IHC market should give pre-existing conditions credit for time covered under the plan.

L. Yourman offered a motion to refer the matter of United HealthCare issuing the Hospital Advantage Plus Plan to the DOBI for enforcement, identifying the Board's concerns. F. Giannattasio seconded the motion. The Board voted unanimously in favor of the motion.

L. Yourman offered a motion to adjourn the Board meeting. F. Giannattasio seconded the motion. The Board voted unanimously in favor of the motion. [The meeting adjourned at 12:45 p.m.]

Attachments: Expense Report
Report of TAC

DRAFT*
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 23, 2003

Members participating: Sandy Bellomo (Horizon BCBSNJ); Darrel Farkus (Oxford); Sandy Herman (Guardian); Vicki Mangiaracina (DOBI); Mary McClure, Chair (Aetna Health); Eileen Shrem.

Others present: Ellen DeRosa, Deputy Executive Director; DAG Eleanor Heck (DOL); Wardell Sanders, Executive Director.

I. Call to Order

W. Sanders called the meeting to order at 10:00 a.m. He announced that notice of the meeting had been published in three newspapers 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. Minutes

May 13, 2003 Open Session

* These draft notes and minutes of the New Jersey Individual Health Coverage (IHC) Program Board have not been reviewed or approved by the IHC Program Board. As result, the contents may not accurately reflect the actions of the Board, and this draft may be subject to change and modification. Please refer to the approved minutes, when available, for the official actions of the Board.

E. Shrem commented on the discussion that occurred during the May 13, 2003 meeting regarding high risk pools and expressed an interest in any information on risk pools Board staff might be able to provide.

V. Mangiaracina offered a motion to approve the minutes of the Open Session of the May 13, 2003 Board meeting. S. Herman seconded the motion. The Board voted in favor of the motion, with E. Shrem abstaining.

III. Staff Report

Expense Report (see attached)
M. McClure offered a motion to approve the payment of the expenses specified on the June 23, 2003 expense report. V. Mangiaracina seconded the motion. The Board voted unanimously in favor of approving the motion.

Board Meeting Date Change
W. Sanders noted that the July meeting, which had originally been scheduled for July 31, 2003, had been re-scheduled for August 8, 2003 at 10:00 a.m. The change of meeting date has been noticed as required by the Open Public Meetings Act, and a copy of the notice was included in the Board meeting materials.

Rulemaking Update
W. Sanders said the readoption extension request was submitted to the Governor's Office on May 7, 2003. W. Sanders reported that the Governor had filed the requested extension with OAL. The extension grants the Board 270 days following the decision of the Supreme Court in the CIGNA matter regarding the Board's 1998 readoption of N.J.A.C. 11:20 in which to file a proposed readoption.

Legislative Update

W. Sanders said that S. 2275 would establish a mandated benefits review

commission. The bill passed in the Senate and is expected to be heard in the

Assembly during the week of June 23, 2003.

W. Sanders said that S. 2073 would expand state continuation. The bill was reported out of the Senate Commerce Committee, with amendments, on June 12, 2003. There is no Assembly companion bill.

Governor's Conference on Healthcare
V. Mangiaracina reported that the Governor held a conference on healthcare on June 10, 2003. She said the conference was successful in bringing together "stakeholders." She said the Department of Banking and Insurance was forming workgroups to discuss issues that were raised and would be issuing a white paper.

Withdrawal Filing
W. Sanders said Fortis filed to withdraw from the individual market. He reported that the filing contained a number of deficiencies. For example, it failed to include the most recent loss ratio report and enrollment report, and the notices to consumers and producers were inadequate. E. DeRosa said that the filing seems to

seek to non-renew a John Alden plan that Fortis is administering, and she noted that in order to non-renew a John Alden plan, John Alden would have to make a separate filing to withdraw from the market.

M. McClure offered a motion to find the Fortis withdrawal filing incomplete. S. Herman seconded the motion. The Board voted unanimously in favor of the motion.

Outreach
W. Sanders reported that he spoke at AmeriPAC on June 16, 2003 and was a speaker at a HealthSense seminar in Trenton on May 7, 2003.

W. Sanders said that a copy of the DOBI Quarterly newsletter was included in Board materials, which included a piece on the basic and essential health care services plan.

Other
W. Sanders said that the paperwork to hire an accountant was being considered by the Governor's office. He said he has stressed the importance of being able to fill the accountant position.

W. Sanders said that during a prior Board meeting there was discussion of modified community rating. He said he made copies of some of the materials that were considered when the Board previously reviewed the issue and included them in the Board materials.

W. Sanders noted the article in the Wall Street Journal that addressed the individual market. He said he wrote a reply but it has not yet been published.

Report of the Operations Committee

M. McClure said the Committee considered audit status updates provided by Deloitte & Touche (D&T). She said neither UICI nor Protective Life had been able to provide the data D&T requested.

M. McClure said the Committee discussed a new request for proposal (RFP) for loss audits and how the loss audits should be structured. A draft RFP would be provided to the Board at a subsequent meeting.

M. McClure said the audits of Celtic for the 1997/1998 and 1999/2000 periods were completed. Although the audits have been completed the Board cannot provide the balance of the loss amounts due since some money is not available for distribution due to litigation.

S. Herman offered a motion to approve the Celtic reimbursable loss audits for 1997/1998 and 1999/2000. V. Mangiaracina seconded the motion. The Board voted unanimously in favor of the motion.

Executive Session A

W. Sanders said the Board needed to seek advice from Counsel and discuss pending or anticipated litigation.

E. Shrem offered a motion to begin Executive Session. M. McClure seconded the motion. The Board voted unanimously in favor of the motion.

[Executive Session: 10:43 a.m. – 11:32 a.m.]

[Break: 11:32 a.m. – 11:40 a.m.]

VI. Report of the Technical Advisory Committee

E. DeRosa reported that the Technical Advisory Committee considered rate filings from Aetna, Oxford, CIGNA and Horizon, and recommended that the filings from Aetna and Oxford be found complete and that the filings from CIGNA and Horizon (two filings – 1 for its HMO and the other for its pre-reform plans) be found incomplete.

V. Mangiaracina offered a motion to accept the TAC recommendation to find the Aetna rate filing complete. D. Farkus seconded the motion. The Board voted in favor of the motion with M. McClure abstaining.

S. Herman offered a motion to accept the TAC recommendation to find the Oxford rate filing complete. E. Shrem seconded the motion. The Board voted in favor of the motion, with D. Farkus abstaining.

CIGNA Rate Filing

E. DeRosa explained that the CIGNA filing included rates for both standard plans and the basic and essential health care services plan. She said the certification that accompanied the filing failed to address the specific elements required in a certification of a basic and essential health care service plan rate filing and therefore the filing was found to be incomplete. She noted that the rates were submitted for a January 1, 2004 effective date.

E. Shrem offered a motion to accept the TAC recommendation to find the CIGNA rate filing incomplete. V. Mangiaracina seconded the motion. The Board voted unanimously in favor of the motion.

[S. Bellamo from Horizon left the Board table and sat with the audience for the following discussion and votes on the Horizon rate filings.]

Horizon HMO Rate Filing

E. DeRosa explained that the Horizon HMO rate filing included information the actuary used to be able to certify that the rates were expected to produce at least a 75% loss ratio. E. DeRosa said that a critical component of that information was the trend assumption. The rate filing used a 13.5% trend assumption. Based on a response to an inquiry in connection with the most recent prior Horizon HMO rate filing, she said TAC understood that the 13.5% trend assumption was based on national data and therefore was neither New Jersey specific nor individual market specific. E. DeRosa reminded the Board that TAC had recommended that the prior rate filing be found complete subject to Horizon providing information to support use of a 13.5% trend assumption. In response to the prior filing, Horizon only pointed to national data and did not explain why that national data was appropriate to use for the New Jersey individual HMO business.

Neil Vance, DOBI Chief Actuary Life and Health, further explained that the rate filing showed a loss ratio for 2002 of 68.7% and that no experience or explanation was provided to support the 13.5% trend assumption. However, he said TAC had asked for experience on the previous rate filing. That experience indicated a 2 year trend of 10.7%, which was adjusted to 11.7% based on shifts in benefit choices. E.

DeRosa said TAC unanimously recommended that the current filing be found incomplete. She explained that TAC determined that without justification for the use of a 13.5% trend assumption, the filing failed to contain information necessary to demonstrate that the rates satisfy the required loss ratio of at least 75%.

E. Shrem offered a motion to find the Horizon HMO rate filing incomplete. V. Mangiaracina seconded the motion. The Board voted in favor of the motion, with S. Herman and D. Farkus abstaining.

Horizon Pre-Reform Rate Filing

E. DeRosa explained that the Horizon pre-reform rate filing included information the actuary used to certify that the rates were expected to produce at least a 75% loss ratio. E. DeRosa said that a critical component of that information was the trend assumption. The rate filing used a 26.2% trend assumption. Neil Vance explained that the filing demonstrated that Horizon used its own most recent experience with pre-reform plans as the basis for the trend assumption. He said that use of such data needs to be supported. He further noted that based on the information in the rate filing, the 2002 loss experience showed a loss ratio of 71.6%. Unlike the standard plans that are subject to a refund requirement if the loss ratio is below 75%, the pre-reform plans are not subject to a refund requirement. He noted that for the prior increase that was effective May 1, 2003, the trend assumption was 22.1%, and the loss ratio for the most recent loss period was less than 75%.

V. Mangiaracina offered a motion to find the Horizon HMO rate filing incomplete. E. Shrem seconded the motion. The Board voted unanimously in favor of the motion.

E. DeRosa reported that TAC considered a refund plan as submitted by Mega Life/Mid-West National for 2001, where the refund would be $8,104. She said TAC recommended that the refund plan be approved.

V. Mangiaracina offered a motion to approve the 2001 refund plan for Mega Life/Mid-West National. E. Shrem seconded the motion. The Board voted unanimously in favor of the motion.

Report of the Legal Committee

HealthNet Request

W. Sanders reported that the Legal Committee considered a letter that Buchanan Ingersoll, attorneys for HealthNet, sent to the Board on May 15, 2003. W. Sanders explained that the letter requested that the Board immediately return disputed funds in the amount of $2,334,000 to HealthNet and pointed to the Appellate Division regarding the Board's 1998 Readoption decision as requiring such a refund payment. W. Sanders said the Legal Committee reviewed the decision from the Appellate Division and found nothing in that decision that would require the Board to refund the assessment payment to HealthNet. Further, while the letter from Buchanan Ingersoll stated that the decision determined the assessments to be "confiscatory," the Legal Committee found no such finding in the decision. W. Sanders said the HealthNet letter stated that the assessment HealthNet paid resulted in unjust enrichment to HealthNet's competitors. He said the Legal Committee disagreed with that contention and noted that the amount in dispute is being held in an interest

bearing account. He said the Legal Committee believes the Board is not required to refund the amount HealthNet requested.

V. Mangiaracina offered a motion that the Board send a letter to HealthNet stating that the Board does not agree that the Appellate Division decision requires the Board to refund amounts carriers have already paid in the assessment process and therefore the Board is not going to return the $2,334,000 payment to HealthNet. The letter should also state that the payment of the assessment did not result in any unjust enrichment of competitors and should also state that the amount is being held in an interest bearing account. M. McClure seconded the motion. The Board voted in favor of the motion, with S. Herman abstaining.

Eligibility for Reimbursement

W. Sanders explained that the Legal Committee considered whether carriers that discontinue issuing individual plans should be eligible to seek loss reimbursement. He said the Legal Committee would consider "issue" as broadly as possible such that it would encompass renewals of inforce plans. He said the Legal Committee recommended that the Board interpret the existing law and the Board's regulations as providing that carriers with no premium during the calculation period to be ineligible to seek reimbursement for losses during that calculation period.

Bulletin to Address HIPAA Alternative Mechanism Filing

W. Sanders said the Legal Committee reviewed a draft bulletin that addresses issues raised by CMS in the review of the New Jersey alternative mechanism. He said the issues are:

1. The definition of "creditable coverage" currently does not exactly track the definition in HIPAA. Several words were omitted in the New Jersey law and the regulations promulgated pursuant to law.
2. The identification of persons who qualify as federally defined eligible individuals.
3. The 6-month residency requirement for residency in New Jersey.

W. Sanders said the draft Bulletin would be reviewed by the Attorney General's

Office.

S. Herman offered a motion to issue the Bulletin, subject to advice from the Attorney General's Office. E. Shrem seconded the motion. The Board voted unanimously in favor of the motion.

VII. Executive Session B

W. Sanders said the Board would need to enter Executive Session to discuss a settlement option, receive advice from counsel, to discuss pending and anticipated litigation, and review executive session minutes.

E. Shrem offered a motion that the Board begin Executive Session for the reasons stated by W. Sanders. M. McClure seconded the motion. The Board voted unanimously in favor of the motion.

W. Sanders said the Board would not have discussion in Open Session following Executive Session.
[Executive Session: 12:50 p.m. - 1:50 p.m.

IX. Close of Meeting

S. Bellamo offered a motion to adjourn the Board meeting. E. Shrem seconded the motion. The Board voted unanimously in favor of the motion.
[The meeting adjourned at 1:50 p.m.]

Attachments: Expense Report
Report of TAC

DRAFT*
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 28, 2003

Members participating from 10th floor conference room: Frank Giannattasio**;** Vicki Mangiaracina (DOBI).

Members participating by phone from other locations: Sandi Kelly (Horizon BCBSNJ); Darrel Farkus (Oxford); Sandy Herman (Guardian); Mary McClure, Chair (Aetna Health); Eileen Shrem, Lisa Yourman (joined the call at 9:55 a.m.).

Others present: Ellen DeRosa, Deputy Executive Director; DAG Eleanor Heck (DOL); Wardell Sanders, Executive Director; Neil Vance, Chief Actuary Life and Health (DOBI).

I. Call to Order

W. Sanders called the meeting to order at 9:50 a.m. He announced that notice of the meeting had been published in three newspapers 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. Roll call was taken. A quorum was present.

Due to participation by telephone, W. Sanders asked that all persons identify themselves when speaking.

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Executive Session

W. Sanders asked for a motion to begin Executive Session for the purpose of receiving advice from counsel.

F. Giannattasio offered a motion to begin Executive Session. S. Herman seconded the motion. By roll call vote the Board voted unanimously in favor of beginning Executive Session.

[Executive Session: 9:52 a.m. – 10:05 a.m.]

Report of the Technical Advisory Committee

E. DeRosa reminded the Board that during the meeting on June 23, 2003, the Board voted to find two rate filings submitted by Horizon to be incomplete. The Board had agreed that if Horizon were to provide responses and TAC were to review the responses and be in a position to recommend that the filings be found complete, the Board would meet prior to the next scheduled Board meeting to consider the rate filings. E. DeRosa said Horizon responded on June 30, 2003 to the issues raised in connection with both filings. E. DeRosa said the earliest date TAC could meet to consider the filings was July 11, 2003.

HMO Plan Rate Filing

E. DeRosa said she provided all Board members (except Horizon) with background information as well as copies of the Board's letters and Horizon responses.

E. DeRosa briefly reviewed the basis on which the Board found the Horizon HMO rate filing incomplete during the June 23, 2003 meting. The Board's letter finding that filing incomplete requested that Horizon provide information to support the appropriateness of the use of a 13.5% trend assumption. She said that TAC reviewed the exhibit provided in the June 30, 2003 response from Horizon that illustrates 10.9% annual trend and that two TAC members believed that Horizon adequately responded to the Board's request. She said that of the three TAC members who participated in the discussion, two believed that the filing should be found complete and one member abstained from the vote.

W. Sanders explained that if there were going to be any discussion of this recommendation that S. Kelly would have to recuse herself from participating.

[S. Kelly recused herself from the discussion.]

E. Shrem questioned the increase in the 10.9% experience to 13.5%. S. Herman questioned if the 13.5% trend assumption applied to all individual plans Horizon issues or just the HMO plans. N. Vance explained it was specific to the individual HMO plans. He further explained that TAC reviewed the information and the majority determined that the actuary explained the 13.5% assumption. V. Mangiaracina asked for an explanation of the abstention. N. Vance explained that one TAC member believed his or her opinion could go in two directions as to whether the explanation was sufficiently complete.

S. Herman and N. Vance discussed the fact that the HMO block is a relatively stable block of business with fairly stable enrollment. S. Herman asked what trend assumptions other HMOs have been using. TAC has not gathered such data, but N.

Vance indicated it is something TAC or Board staff could put together if it were important. He noted, however, that if TAC and the Board look at how the assumptions in the rate filing have been arrived at, it would not be important to know what other carriers use. He said the question before TAC, and now the Board, is how complete is the explanation for the use of a 13.5% trend.

L. Yourman expressed discomfort questioning rates, wondering why the Board has been told in the past that there is nothing that can be done to require carriers to charge lower rates. E. DeRosa explained that the question Board members have raised in the past regarding high rates and wondering if there is a mechanism to stop a carrier from charging them, is different from the Board determining whether the rate filing is complete. E. DeRosa explained that the question the Board asked of Horizon was to provide supporting data.

S. Herman said he viewed an increase from 10.9% to 13.5% as reasonable.

S. Herman offered a motion to find the HMO filing from Horizon complete. L. Yourman seconded the motion. By roll call vote, the Board voted in favor of the motion with V. Mangiaracina and E. Shrem abstaining. S. Kelly was recused from the discussion and did not cast a vote.

Pre-Reform Plan Rate Filing

E. DeRosa briefly reviewed the basis on which the Board found the Horizon pre-reform rate filing incomplete during the June 23, 2003 meting. The letter notifying Horizon that the Board had found that filing incomplete requested that Horizon provide information to support the appropriateness of the use of a 26.2% trend assumption and asked Horizon to address use of its own experience given the fact that the block is a declining block of business. She said TAC reviewed the exhibit provided in the June 30, 2003 response from Horizon that indicated a 26.2% composite trend and two TAC members believed that Horizon adequately responded to the Board's request. She said that of the three TAC members who participated in the discussion, two believed that the filing should be found complete and one member believed the Board should continue to find the filing incomplete.

N. Vance noted that while the law requires pre-reform rate filings to anticipate a 75% loss ratio, there is no refund requirement in the event the minimum loss ratio is not met. S. Herman noted that if there is no refund protection for the consumer, he would like to know what the loss experience has been in prior years. N. Vance noted that information contained in some recent rate filings allowed the calculation of loss ratios for experience periods back to July 2001. For the period beginning July 2001 the loss ratio was 71.8%, for the period beginning October 2001 the loss ratio was 69%, and for the period beginning January 2002, which is the period used in the current rate filing, the loss ratio was 71.6%. S. Herman noted that recent past experience consistently below 75% does not seem to support use of 26.2% trend.

M. McClure asked why the data in the filing fails to support the 26.2% trend assumption. N. Vance explained that Horizon's filing did not select data from comparable periods for comparable plans. He questioned whether using experience with the standard plans was an appropriate indicator for the pre-reform block. He noted that the universe of potential data that could have been used to calculate trend was far broader than the data Horizon chose to use.

In response to an inquiry regarding how many contracts and lives are covered under the pre-reform plans, E. DeRosa said that as of the end of 4Q02 there were 955 contracts and 1172 lives.

F. Giannattasio offered a motion to find the Horizon pre-reform rate filing complete. E. Shrem seconded the motion. By roll call vote, the Board voted to find the filing complete, with V. Mangiaracina and M. McClure opposed and S. Herman and L. Yourman abstaining. S. Kelly was recused from the discussion and did not vote.

Close of Meeting

V. Mangiaracina offered a motion to adjourn the meeting. E. Shrem seconded the motion. By roll call vote the Board voted unanimously in favor of the motion. The meeting adjourned at 11:05 a.m.

DRAFT*
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
August 8, 2003

Members participating Frank Giannattasio (arrived at 11:30 a.m.); Sandy Kelly (Horizon BCBSNJ); Darrel Farkus (Oxford); Sandy Herman (Guardian); Vicki Mangiaracina (DOBI); Mary McClure, Chair (Aetna Health); Eileen Shrem.

Others present: Ellen DeRosa, Deputy Executive Director; DAG Eleanor Heck (DOL); Rosaria Lenox, Program Accountant; Wardell Sanders, Executive Director.

I. Call to Order

W. Sanders called the meeting to order at 10:00 a.m. He announced that notice of the meeting had been published in three newspapers 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.

Program Accountant

W. Sanders introduced Rosaria Lenox, a CPA, who was recently hired to serve as Program Accountant for both the IHC and SEH Program Boards. R. Lenox briefly described her extensive experience in accounting.

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Minutes

The Board discussed the open session minutes from the June 23, 2003 and July 28, 2003 Board meetings. The Board agreed to defer voting on the minutes until the September meeting.

Report of Staff

Staffing
W. Sanders reported that Joanne Petto would be working for the Boards on an hourly basis to assist with phone calls and other tasks.

Expense Report (see attached)
W. Sanders noted that the expense for Deloitte & Touche was an unusual expense. He explained that the $172,426 amount represented charges for both audits and agreed upon procedures for the 1997/1998 and 1999/2000 loss periods. The amount includes fees as well as expenses for June 30, 2002 through March 8, 2003. W. Sanders noted that carriers are responsible for 50% of the cost of the audit or agreed upon procedures. He commented that it was not clear how the 50% cost could be recovered in the event an audit or agreed-upon procedure could not be completed resulting in no reimbursement being paid to a carrier.

S. Kelly offered a motion to approve the payment of the expenses specified on the June 23, 2003 expense report. V. Mangiaracina seconded the motion. The Board voted unanimously in favor of approving the motion.

Board member Election
W. Sanders reported that the Board seat currently held by Guardian was up for election. Nominations were being accepted for a foreign health insurance company authorized to do business in the state.

Legislative Update

W. Sanders said that S. 2275 would establish a mandated benefits review commission. E. Shrem asked for information on a bill that would allow individuals to secure coverage through an alliance. W. Sanders said he would provide her with a copy of the bill.

Outreach
W. Sanders reported that he participated in a Forum Institute discussion. E. DeRosa said she taught a continuing education class on disability extension options to a fairly large group of producers in northern New Jersey.

W. Sanders said that he, V. Mangiaracina and E. DeRosa were interviewed by the Center for State Health Policy regarding the New Jersey individual market.

Hearing Dates
DAG E. Heck reported that the matter to be heard in the Office of Administrative Law concerning Horizon Blue Cross Blue Shield of New Jersey and losses for 1993 and 1994 was postponed. The first hearing date will be October 20, 2003, with the next hearing dates being January 7 and 8, 2004.

Withdrawal Filing
E. DeRosa reported that National Health Insurance Company submitted a withdrawal filing. She noted that the filing clearly set forth the information N.J.A.C. 11:20-18.5 requires to be included in a withdrawal filing. E. DeRosa recommended that the filing be approved.

M. McClure offered a motion to approve the withdrawal filing submitted by National Health Insurance Company. D. Farkus seconded the motion. The Board voted unanimously in favor of the motion.

Other
W. Sanders said Board packets also include:
- a copy of an advertisement by the Coalition Against Guaranteed issue;
- a letter published in the New York Times requesting association-sponsored group plans;
- a copy of an Order on Motion that was filed by HealthNet seeking to supplement the record. The motion was denied.
- a letter to Ivan Punchatz, outside counsel for HealthNet, addressing HealthNet's request for reimbursement of disputed payments; and
- a copy of the brief DAG E. Heck filed in connection with the CIGNA appeal of the Board's 1998 readoption, with amendments.

V. Report of the Legal Committee

W. Sanders said the Legal Committee met and discussed several issues.
HIPAA Bulletin
W. Sanders said that in connection with its review of the New Jersey alternative mechanism filing, CMS requires that carriers be able to determine whether an applicant qualifies as a federally defined eligible individual. CMS expressed concern that persons entitled to a gap of 63 days may not be properly identified and given the opportunity to have a gap of up to 63 days. The draft bulletin the Legal Committee reviewed advised carriers that they must be proactive in seeking persons who are eligible for a gap of up to 63 days. W. Sanders said the bulletin also addresses the definition of "creditable coverage" which currently does not exactly track the definition in HIPAA. Several words were omitted in the New Jersey law and the regulations promulgated pursuant to law.

D. Farkus offered a motion that the Board release the bulletin, as drafted. S. Herman seconded the motion. The Board voted unanimously in favor of the motion.

Use of Two Networks

E. DeRosa explained that the Technical Advisory Committee sought guidance from the Legal Committee regarding whether a carrier could use two networks in New Jersey, one in the north and one in the south, and charge one rate for persons in the north and another rate for persons in the south. She said the members on the Technical Advisory Committee questioned whether such a distinction was permitted given the requirement that geography not be used as a rating factor. She said the Legal Committee believed that use of a rate for north New Jersey and another rate for south New Jersey would be a violation of community rating.

S. Herman asked if he could vote on the issue since it was framed as a matter of general application and not specific to Guardian. W. Sanders said he could vote.

V. Mangiaracina offered a motion to accept the recommendation of the legal Committee to determine that use of a rate for north New Jersey and a separate rate for south New Jersey violates community rating. The Board voted unanimously in favor of the motion.

Pre-Reform Rate Filings

[S. Kelly was recused from the discussion.]

W. Sanders said the Legal Committee considered whether the Board should be the agency to review pre-reform rate filings. He said that although the statute is not clear regarding who should review renewal rate filings, it has been the Board's practice to review them. The Legal Committee suggested the decision would be a policy decision, not a legal decision. The Committee said that it would not be appropriate for two state agencies to review the same filings and possibly arrive at different conclusions.

V. Mangiaracina said that as a factual matter, the Department reviewed the most recent pre-reform filing and reached a different conclusion than the Board had reached. M. McClure and S. Herman said they did not have a preference as to whether the Department or the Board would review future pre-reform rate filings.

VI. Report of the Operations Committee

M. McClure reported that Deloitte & Touche (D&T) was awaiting Board approval in order to issue five audit reports:

- Principal Life for 97/98
- Principal Life for 99/00
- Manhattan National for 97/98
- Trustmark for 97/98 and
- Washington National or 97/98.

V. Mangiaracina offered a motion to approve the five identified draft audit reports. S. Kelly seconded the motion. The Board voted unanimously in favor of the motion.

M. McClure said five additional reports are close to completion, requiring only minor changes.

M. McClure said D&T identified significant outstanding issues in connection with their work at UICI, Aegon, Protective and Fortis.

VII. Report of the Technical Advisory Committee

S. Kelly reported that the Technical Advisory Committee considered rate filings from CIGNA, Guardian (2 filings), and HealthNet, and recommended that the filings from CIGNA and HealthNet and one filing from Guardian be found complete (for the Basic and Essential plan), and that the second filing from Guardian be found incomplete (for Plans A/50-D).

S. Herman offered a motion to accept the TAC recommendation to find the CIGNA rate filing complete. E. Shrem seconded the motion. The Board voted unanimously in favor of the motion.

E. Shrem offered a motion to accept the TAC recommendation to find the Guardian Basic and Essential plan rate filing complete. D. Farkus seconded the motion. The Board voted in favor of the motion, with S. Herman abstaining.

E. Shrem offered a motion to accept the TAC recommendation to find the HealthNet rate filing complete. V. Mangiaracina seconded the motion. The Board voted in favor of the motion, with S. Herman abstaining.

E. Shrem offered a motion to accept the TAC recommendation to find the Guardian rate filing for plans A/50-D incomplete. V. Mangiaracina seconded the motion. The Board voted in favor of the motion, with S. Herman abstaining.

VIII. Executive Session

W. Sanders said the Board would need to enter Executive Session to discuss pending and anticipated litigation, and review executive session minutes.

E. Shrem offered a motion that the Board begin Executive Session for the reasons stated by W. Sanders. M. McClure seconded the motion. The Board voted unanimously in favor of the motion.

W. Sanders said the Board would have some discussion in Open Session following Executive Session.
[Executive Session: 11:25 a.m. – 12:05 p.m.

IX. Final Business and Close of Meeting

W. Sanders said the Board discussed the status of the agreed-upon-procedures D&T was conducting at UICI, Aegon and Protective. He said D&T would send draft reports

specifying the data that must be provided. W. Sanders said he will follow that D&T letter with a letter from the Board advising the carriers that failure to provide the requested information within 30 days will result in no reimbursement.

S. Herman offered a motion to proceed as stated with the agreed-upon procedures for UICI, Aegon and Protective. E. Shrem seconded the motion. The Board voted unanimously in favor of the motion.

E. Shrem offered a motion to adjourn the Board meeting. F. Giannattasio seconded the motion. The Board voted unanimously in favor of the motion.
[The meeting adjourned at 12:07 p.m.]

Attachments: Expense Report
Report of TAC