

# **FLORIDA HEALTH INSURANCE ADVISORY BOARD (FHIAB)**

## **Board of Directors Meeting Minutes Wednesday, October 19, 2016, 3:00 PM 401 Senate Building Tallahassee, Florida**

### **Board Members Present:**

David Altmaier, Chair	W. Adam Clatsoff, Vice Chair	Chris Paterson
Louisa McQueeney	Seth Phelps for Mark S. McGowan	Brad Bentley
Molly McKinstry	Ken Stevenson	Christina Lake
Bill Herrle	John Matthews	Rick Wallace
Robert Muszynski		

### **Others Present:**

- Rich Robleto, Deputy Commissioner – Life & Health, Office of Insurance Regulation (OIR)
- Chris Struk – Life & Health Policy Advisor, OIR
- Jeff Joseph, Senior Attorney, Legal Services Office, OIR
- Carol Ostapchuk, Executive Director, FHIAB

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

Commissioner and Chair David Altmaier called the meeting to order at 3:00 P.M. indicating the meeting was properly noticed to the public in accordance with Florida law. He noted that the meeting is being streamed live by the Florida Channel.

### **II. Roll Call**

Carol Ostapchuk, Executive Director, conducted a roll call, noting the presence of a quorum.

### **III. Antitrust Statement**

Jeff Joseph was recognized to review the antitrust statement.

### **IV. Chair's Opening Remarks**

The Chair announced that Joan Galletta and Maria Wells have resigned from the Board and he recognized their contribution and thanked them for their service to the Board. As a result of these resignations, the Chair introduced two new Board members. Ken Stevenson (Vice President - Employee Benefits, Earl Bacon Agency) has been appointed to serve as an agent representative. Robert Muszynski (Vice President of Finance for the Orlando Regional Realtors Association) will serve as an employer representative on the Board. The Chair welcomed all members, both new and existing.

The Chair emphasized that the health insurance market is undergoing a time of transition and it is incumbent upon the Board to be diligent in our tasks and mission, particularly as we formulate our 2017 legislative recommendations.

## **V. Approval of Minutes – July 21, 2016 – Attachment**

The Chair presented the minutes from the July 21, 2016, meeting for adoption, noting that members had been provided with advance copies. Adam Clatsoff moved to adopt the minutes as written with a second by Bill Herrle. The minutes were adopted as written without objection.

## **VI. Manager's Administrative Report**

Ms. Ostapchuk indicated the 2015 tax returns have been filed for both the Individual and Small Group programs. The Individual program had a tax due of \$10.00 and the amount has been paid.

The revised Plan of Operations that was approved by the Board at the last meeting was submitted to the Office of Insurance Regulation for approval. An order was received from the Office approving the revised Plan of Operations.

The Gross Annual Premium (GAP) Report was received on October 12, 2016, and the assessments are being prepared.

## **VII. State of the Market Annual Report Approval**

Ms. Ostapchuk presented the draft 2016 Florida Health Insurance Market Report. Ms. Ostapchuk indicated the market remains in flux due to the Affordable Care Act (ACA). She further indicated 2016 will have a continued instability due to uncertainty subsequent to the elections next month. The individual market, which had previously been a much smaller portion of the total premiums and policy count, has grown substantially. The primary reason for this growth in the individual market is that under the ACA, individual policies must be guaranteed issue and no applicant can be rejected due to their health status. Further, individually written policies in 2014 and 2015 were grandfathered policies before ACA and can be renewed indefinitely or they are transitional or temporary and will phase out by the end of December 2017.

The small group market has continued to decrease as enrollment has shifted to other types of coverage. The small group market represents 14% of the total market and decreased 8.8% in 2015 from 2014. The small group market is expected to further decrease as small employers self-insure or stop offering coverage. The large group market, on the other hand, has stabilized and the ACA has had less of an effect.

The loss ratios decreased from 2014 for both the individual and small group markets. In the individual market, the overall loss ratio decreased from 92.32% in 2014 to 90.90% in 2015. For the small group market, the overall loss ratio decreased from 76.02% in 2014 to 74.67% in 2015.

Louisa McQueeney asked what an ACA Off-Exchange policy is. Deputy Commissioner Rich Robleto indicated these are the same kind of policies that are sold On-Exchange; however, some carriers do not want to sell on the Exchange but they still have them available for sale. Also, if a carrier offers a policy On-Exchange, they must also offer it Off-Exchange. The loss ratio is much higher Off-Exchange than On-Exchange.

Deputy Commissioner Robleto indicated people go to the Exchange for purposes of obtaining subsidies which indicates a different population of people having varying characteristics but there are different motivations for purchasing the coverage.

Ms. McQueeney raised the concern about the loss ratio and why the company would be willing to pay more out in claims than they collect in premiums. Deputy Commissioner Robleto indicated the rates proposed and approved are all designed to make money; however, anti-selection issues can make claims exceed target loss ratio. He went on to state that the Office reviews rates for adequacy and that the role of the OIR is to make sure rates are not excessive, but that they are also adequate. While the small group (2-50 members) loss ratio of 74.27% seems high, representatives from the OIR indicated most are not ACA and are not subject to the loss ratio restrictions.

OIR Staff were asked if they believed the current loss ratio of 84.48% will decrease. Deputy Commissioner Robleto indicated that OIR anticipates that rates will be adequate to insure that companies can meet the requirements but will not operate in a deficit. Thus far, there have been substantial rate increases this year because of higher loss ratios.

OIR Staff indicated that in 47 counties there will only be one carrier available. They noted that there are no Preferred Provider Organizations (PPOs) selling On-Exchange at this time. The Chair indicated that an average 19% increase was approved for the individual market.

With no further discussion, the Chair indicated he would entertain a motion to accept the Report. A motion to approve the Report was made by Rick Wallace, seconded by Mr. Stevenson, and adopted with no objections.

## **VIII. Discussion of Legislative Proposals for 2017**

The Chair noted that any recommendations being sent to the Legislature must have the full support of the board. The Chair indicated that Ms. McQueeney had several recommendations to present to the Board and asked her to discuss her recommendations.

### **1. Employee Only Coverage in Small Group Plans**

Currently, employers subsidize the employee's coverage but do not subsidize coverage for dependents or spouses, which prevents them from qualifying for subsidies for coverage in the Marketplace, causing insurance to become unaffordable for the family. Ms. McQueeney recommended that there be a clear legislative directive whereby small group employers be specifically allowed the option to offer "employee only" coverage in the open market as is permitted in the Marketplace (Exchange) so family members are eligible for subsidies in the Marketplace. Deputy Commissioner Robleto clarified that the statute states that employers must offer coverage to all eligible employees and their dependents; however, the employer determines if employees or dependents are eligible. Ms. McQueeney expressed the need for clarification on the statute if it cannot be fixed because it is causing a great deal of hardship.

Deputy Secretary Molly McKinstry questioned whether it is possible for rules to be written to clarify statutes. Deputy Commissioner Robleto indicated Section 627.6699, Florida Statute (F.S.), the small group section of code, provides some rulemaking authority, but he believes the statute is relatively clear. He noted that rules cannot be created to interpret statutes, but rather to enforce statutes. Mr. Stevenson noted the statute governs carriers, not employers and that this is an employer issue.

The Chair indicated this recommendation needs research and clarification on what the solution might be and asked Deputy Commissioner Robleto to work with Ms. McQueeney on the questions.

## **2. Make more Marketplace Health Insurance Plans Health Savings Account (HSA) eligible**

This recommendation relates to HSA accounts and the fact that those with higher incomes are forced to go to the individual market because there are very few high-deductible plans available in the Marketplace.

The Chair restated the recommendation to be: Tailor more marketplace policies to be HSA-eligible so that people making over 400% of the poverty level can get pretax benefits since they cannot get a subsidy. This would benefit those consumers by providing the option to use pretax dollars until they meet their deductible.

Seth Phelps was recognized and indicated most, if not all, HSA plans fall in the bronze medal level, which requires an actuarial value of 68-72%, but on the Exchange, in order to offer on different levels, there has to be a meaningful difference in plans. It can be difficult to meet that actuarial standard and also demonstrate the meaningful difference requirement.

The Chair indicated this topic needs more discussion. Deputy Commissioner Robleto and Chris Struk will look for statistics on how many plans in the market are HSA-eligible and, if they are not prevalent, what can we do.

## **3. Make annual deductibles portable**

If an insured has to go to another company for a policy, pro-rate the annual deductible. There was some discussion on the logistical difficulties of mandating and implementing this type of requirement.

The Chair indicated there are many logistical considerations and more research and more discussion on the logistics were needed before moving forward.

## **4. Increase coverage for certain prescription and nonprescription enteral formulas**

Section 627.42395, F.S., limits to the age to 24 and a maximum limit of \$2,500 annually for inborn errors of metabolism providing no coverage for consumers requiring this type of medication who are over age 24 and the cost of such medications would exceed the current maximum in the statute. Ms. McQueeney recommended the age and amount limits be removed and/or increased.

Deputy Commissioner Robleto pointed out that any bill that is viewed as a change or increase to mandated coverage must undergo a very thorough and rigorous analysis before submission to the Legislature. Florida has long been criticized for having more mandates than any other state.

Mr. Phelps observed that if this were an essential benefit under federal law, the \$2,500 annual maximum would not apply to ACA-compliant plans as the ACA prohibits annual dollar maximums; however, they could still apply to individual grandfathered plans. Deputy Secretary McKinstry asked if there were any similar issues related to the age limit. Mr. Phelps indicated there were not; however, if this extra mandate that isn't an essential coverage was added by a state, the state passing the mandate is responsible for the additional subsidy due to the mandate.

The Chair indicated this topic needs further discussion and research.



Ms. McQueeney raised the issue of balanced billing as related to ambulance or helicopter transport. Deputy Secretary McKinstry and Deputy Commissioner Robleto indicated the Insurance Consumer Advocate has called together a working group to discuss the emergency medical transportation balance billing issue. The Working Group's next meeting will focus on ground transportation.

The Chair asked if there were any other recommendations to be brought up today for inclusion in the discussion to be held at the next meeting.

Mr. Stevenson indicated he had two recommendations.

1. Recommend that the **small group rules be revised to "require" an offer of coverage by small group carriers to employees who work 30 hours or more per week** (the current rules say 25 hours). Federal statutes indicate coverage must be provided at 30 or more hours per week.
2. This recommendation relates to **dependents staying on the parents' policy to age 30 with restrictions**. Mr. Stevenson recommended this be stricken from the statute as some carriers don't apply restrictions but some do. This mandate was put into place before the implementation of the ACA and now there is no real need because dependents can get coverage from the marketplace.

It was discussed that there are recommendations to address the individual market crisis because there are 47 counties that only have one carrier option; however, the individual market crisis isn't unique to Florida but to other states as well. There will be calls held at the national level to put forth ideas.

The Chair reminded the members that in order for a recommendation to move forward it must have full support of the board.

## IX. Other Business

The Chair indicated that there are currently two members on the Audit Committee and best practices indicate there should be three. Mr. Muszynski agreed to take on that role. The Chair noted that Mr. Muszynski would be a valuable addition with his experience and asked for a vote. There was a motion by Mr. Wallace with a second by Ms. McQueeney and the motion passed with no objections.

Deputy Commissioner Robleto stated he had clarification on the 47 county issue. There are 47 counties where consumers seeking subsidies on the Exchange will only have one option for coverage.

## X. Adjourn

The Chair thanked everyone for attending and indicated Ms. Ostapchuk would be scheduling the next meeting. With no further discussion, the meeting was adjourned at 4:16 pm.

  
David Altmaier, Chair

  
Date