

FLORIDA HEALTH INSURANCE ADVISORY BOARD
Board of Directors Meeting Minutes
August 30, 2017, 9:00 AM
Senate Office Building – Room 401
Tallahassee, Florida

Board Members Present:

David Altmaier, Chair	W. Adam Clatsoff, Vice Chair	Christina Lake
Louisa McQueeney	Brad Bentley	Bill Herrle
Molly McKinstry	Mark McGowan	Ken Stevenson
John Matthews	Robert Muszynski	Rick Wallace
Brooke Flaherty Tiner for Christopher Ciano		

Others Present:

- Carol Ostapchuk, Executive Director
- Anoush Brangaccio, General Counsel, Legal Services Office, Office of Insurance Regulation (OIR)
- Craig Wright, Chief Actuary & Director, Life & Health Product Review, OIR
- Chris Struk, Life & Health Policy Advisor, OIR

I. Call to Order

Commissioner and Chair David Altmaier called the meeting to order at 9:00 A.M. indicating the meeting was properly noticed to the public in accordance with Florida law.

II. Roll Call

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

III. Antitrust Statement

Anoush Brangaccio, General Counsel for the Office of Insurance Regulation, was recognized to review the antitrust statement.

IV. Chair's Opening Remarks

Commissioner Altmaier welcomed all members and thanked them for their participation today, specifically noting that the members represent a broad spectrum of parties involved in the insurance arena ranging from insurance companies, state agencies, and consumers. The Commissioner reiterated his gratitude and emphasized that the members provide their efforts and time in a voluntary capacity.

Commissioner Altmaier advised that as of June 22, 2017, nine companies had submitted rate filings for their individual plans, with six of those being plans on the Federal Exchange. The average rate increase was 17.8%. With regard to the small group plans, fourteen companies have submitted rate filings with an average rate increase of 9.2%.

He went on to say that in early August, the Office requested that companies submit amended rate filings for their Silver on-Exchange plans that would account for the possible elimination of the federal cost-sharing reduction payments. These filings did not affect the companies' Bronze, Gold, or Platinum plans. The Office is still in the process of reviewing those filings and anticipates completion prior to the September 20 deadline. He does anticipate that Florida consumers will have available options in all 67 counties this year.

V. Approval of Minutes – December 16, 2016

The Chair presented the minutes from the December 16, 2016, meeting for adoption, noting that members had been provided with advance copies. Rick Wallace moved to adopt the minutes, with a second by Molly McKinstry, and the minutes were adopted as written without objection.

VI. Manager's Administrative Report

1. **Assessments** – Carol Ostapchuk reported that all of the 2016 Assessments had been collected as of May 31, 2017. The total Assessment approved by the Board was \$60,000, with the Small Employer portion of the Assessments being \$49,800 and of that, \$49,789 was collected in full. The amount of the Individual Assessments was \$10,200 and of that, \$10,182 was collected in full. The slight differences are attributed to rounding.
2. **Review of Plan of Operations** – Ms. Ostapchuk noted that the Plan of Operations (The Plan) states that the Board will review the Plan of Operations once each year and submit proposed amendments, if any, to the Commissioner for approval. The Plan was reviewed last year with the assistance of the Office of Insurance Regulation's Legal team and some minor amendments were proposed and approved by the Board at the July 21, 2016, meeting to bring the plan into compliance with federal language. The Order approving the Revised Plan of Operations was issued and filed by the Office of Insurance Regulation on October 17, 2016.

Subsequent to this meeting, the members will be provided with the current Plan of Operations and are asked to review and provide Ms. Ostapchuk with any proposed amendments. No changes have been made thus far at the federal level that would necessitate any changes at this time.

3. **2017 Budget – Approved vs. Actual** – A copy of the 2017 Approved Budget and the expenditures as of July 31, 2017, was provided and reviewed by the Members.
4. **Fictitious Name Renewal** – Ms. Ostapchuk noted that the Fictitious Name Renewal Registration for the Florida Health Insurance Advisory Board was due to expire in 2017. It has been renewed with the Florida Division of Corporations as of March 1, 2017, and it will remain in effect until December 22, 2022. The cost was \$60.

VII. Discussion of Legislative Proposals for 2018

The Chair noted that several of the recommendations had undergone some discussion during the December 16, 2016, meeting but that all recommendations would be fully discussed today and finalized by action at the next meeting which will be held by conference call at a date yet to be determined. He reiterated that any recommendations being sent to the Legislature from the Board must have the full support of the Board. Commissioner Altmaier noted that the objective of the meeting today is to provide the members the opportunity to discuss their proposals in detail and receive input from the entire Board. He asked that any member who would definitely oppose a recommendation voice their opposition today, but stressed that they would also have that opportunity at the next meeting.

He indicated that Louisa McQueeney had submitted several recommendations for consideration by the Board and asked her to discuss her recommendations:

1. Ms. McQueeney discussed her first recommendation dealing with what is referred to as the "family glitch" wherein employers subsidize the employee's coverage but do not subsidize coverage for dependents or spouse. This prevents them from qualifying for subsidies for coverage in the marketplace, and therefore, insurance becomes unaffordable for the family. Her recommendation is that there be a clear legislative directive whereby small group employers are 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.

Ms. McKinstry asked if federal law requires spousal coverage and Chris Struk of the OIR noted that spousal coverage is not required for small group policies by federal law. The Commissioner noted that some additional research and/or discussion is required before any action is taken. This item is deferred to the next meeting.

2. Ms. McQueeney's second recommendation was that insurers be required or incentivized somehow to tailor more marketplace policies to be Health Savings Account (HSA)-eligible so that people making over 400% of the poverty level can get pre-tax benefits since they cannot get a subsidy. This would benefit those consumers by providing the option to use pre-tax dollars until they meet their deductible.

John Matthews expressed concern that this would result in an additional mandate, which there is little appetite for in the current health care arena, and also raised the issue of compliance with the Internal Revenue Code. Bill Herrle stated that he would not support such a requirement. Brad Bentley noted that the perceived lack of HSA-eligible plans is a market driven issue and the demand simply does not exist. He also noted that it is impossible to create an HSA-eligible plan in the Silver, Gold, and Platinum Plans. It is even difficult, at best, in the Bronze Plans due, for the most part, to constraints under the federal law. Mr. Matthews reiterated that he believes a consumer can get an HSA-eligible plan but such a mandate may reduce the insurers' willingness to issue HSA-eligible plans at all. The Commissioner asked if any member would object to this recommendation. Adam Clatsoff advised that he would object, but would withhold his objection until the conference call.

3. Ms. McQueeney recommended that annual deductibles be made portable. While she would like this to apply in every case, her recommendation would be that the deductible become portable for those individuals that have relocated from one area of the state to another where different plans and insurers may be operating. If an insured has to go to another company for a policy, the new insurer should be required to pro-rate the annual deductible.

Mr. Matthews asked for clarification on whether the insured would stay with the same company or change companies. Ms. McQueeney responded that there are different insurers offering plans in different areas of the state so it would probably be a new company.

4. Ms. McQueeney noted that a great area of concern in the health care arena is pricing. She is recommending that insurers be required to publish a medication guide that discloses the negotiated prices for prescription drugs in their formulary so consumers can compare pricing.

Mark McGowan commented that Florida Blue does have a tool on its website for its members that allows the policyholder to utilize a price calculator tool and he will provide the link for the use of any Board members that happen to be covered by Florida Blue.

Ms. McKinstry pointed out that the Agency for Health Care Administration (AHCA), along with the Attorney General's Office, supports a Florida Prescription Drug Price website that was expanded this past session to include pricing for 300 of the most frequently prescribed drugs, as opposed to 150 previously. While the pricing information is not by plan but rather by pharmacy, it does provide the consumer with a useful tool to compare pricing of prescription drugs. In addition, Ms. McKinstry advised that AHCA is in the process of implementing a multi-payer claims database that will improve transparency for non-emergency services provided by hospitals and ambulatory surgical centers.

5. Ms. McQueeney recommended that insurers should be prohibited from making changes in the formulary during the contract year. She stated that this prohibition would include not only changes in pricing but also changing drugs from one tier to another and/or the removal of a drug from the formulary entirely.

Several members noted that drug prices can change weekly, monthly, or quarterly and that there are several reasons for drug price fluctuations and formulary changes throughout the year, and these decisions are generally made by an independent outside committee comprised of clinical Pharmacists and other medical professionals. It was also noted that a prohibition in a formulary change during a contract year could also harm the consumer by not allowing the introduction of a lower-priced generic alternative.

6. Ms. McQueeney expressed concern that the lack of network providers in certain areas was increasing and that, in those instances, an out-of-network provider should be considered as if in-network with no additional out-of-pocket cost to the consumer.

Mr. Matthews noted that AHCA is responsible for monitoring network adequacy and noted that EPOs and HMOs are currently stringently regulated by AHCA. Ms. McKinstry responded that she would send the Executive Director a link to share with the Members that addresses the network adequacy standards and noted that Medicaid plans have different adequacy standards. She went on to explain that if a provider removes itself from a network, that does not necessarily make the network inadequate, but if that does result, AHCA would require that the plan in question replace that departure with another provider.

7. Ms. McQueeney's final recommendation was a prohibition of balance billing for emergency medical transportation and to expand and apply the current balance billing prohibitions in statute to emergency medical transportation, both air and ground.

After an initial discussion, Mr. Matthews was recognized and he noted that the Florida Association of Health Plans (FAHP) has a wealth of knowledge and research on this subject and requested that the Chair recognize Wences Troncoso (General Counsel and Vice President of FAHP) to provide the members with some background and research on the subject. After being recognized by the Chair, Mr. Troncoso began by noting that this is an important consumer issue and that pursuant to HB221, EPO and PPO products now enjoy the same protections as HMOs and FAHP fully supports removing the consumer from the equation with regard to payment for both air and ground emergency transportation. He noted that he serves on the Consumer Advocate's Emergency Medical Transportation Working Group which is examining this issue. While three meetings have been held, further meetings will determine the outcome of the working group.

Mr. Troncoso emphasized that these services are the least competitive market in the service of the health care industry, and in many cases, contracts do not exist, leading to the problem of balance billing. With regard to ground transportation, he noted that the consumer generally has no choice in an emergency situation and ground transportation has different rules from air transportation. In contrast, he also noted that air transportation is the least competitive with less than 50 providers in the State of Florida resulting in inordinately high costs.

Several examples of the costs associated with both ground and air emergency transportation in actual situations were provided by Mr. Troncoso, many of which were in the hundreds of thousands of dollars. Mr. Troncoso believes that this has gone from a situation of overpricing to price-gouging and the situation is not sustainable on a long term basis. Ms. McQueeney inquired as to water transportation versus air or ground and who determines the best alternative for the method of transportation. Mr. Troncoso responded that the EMTs on the scene make the decision regarding the method of transportation. Ms. McKinstry inquired about the timeline of the working group, whether the working group includes transportation providers, and when a recommendation is expected to be made. Mr. Troncoso responded that yes, there are transportation providers on the group, and there is to be a fourth meeting, yet to be determined.

Ken Stevenson was then recognized to discuss his proposed recommendations:

1. Mr. Stevenson indicated that he is resubmitting his previous recommendation that the required hours worked in the statute be changed from 30 hours of employment per week to 25 hours to comply with the federal law.
2. Mr. Stevenson presented his recommendation that the Florida Statutes be amended to change the age for adult children covered under their parents' plan to age 26 to comply with the federal law. 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 and he contends that it places an additional burden on employers and results in additional costs.
3. Mr. Stevenson suggested that Florida should pursue a 1332 Waiver under the ACA that allows a state to establish its own health plan. He indicated that a number of states have already taken advantage of this waiver. Ms. McQueeney would like further discussion at the next meeting. The Commissioner responded that this would be a high level activity.
4. Mr. Stevenson echoed the recommendation and previous discussion on the subject of balance billing for emergency transportation and suggested that any action needed to go even farther to address ground and air transportation for non-emergency transportation as well.

Mr. Matthews noted that HB221 already addresses the situation where a consumer goes to an in-network facility and if a network provider is not available and the consumer is treated by a non-network provider, the consumer cannot be balance-billed for that service. Ms. McKinstry noted that AHCA currently tracks balance billing complaints and violations and she may be able to provide more insight into the issue at the next meeting.

VIII. Other Business

Commissioner Altmaier asked if there was any other business to be brought before the Board. There being none, the Commissioner moved to the next agenda item.

IX. Public Comment

Commissioner Altmaier asked if any member of the public wished to speak. There being none, the Commissioner moved to adjournment.

X. Adjourn

The Commissioner thanked everyone for attending. Having no further business, the meeting was adjourned at 10:10 A.M.


David Altmaier, Chair


Date