

FLORIDA HEALTH INSURANCE ADVISORY BOARD
Board of Directors Meeting Minutes
Tuesday, September 26, 2017, 2:00 PM
Via Teleconference
Tallahassee, Florida

Board Members Present:

David Altmaier, Chair
Ken Stevenson
Chris Ciano
Rick Wallace

Molly McKinstry
Christina Lake
John Matthews
Robert Muszynski

Louisa McQueeney
Brad Bentley
Mark McGowan
Chris Paterson

Others Present:

- Carol Ostapchuk, Executive Director
- Shannon Doheny, Senior Attorney, Legal Services Office, Office of Insurance Regulation (OIR)
- Amy Hardee, Administrative Assistant II to the Deputy Commissioner, OIR
- Chris Struk, Life & Health Policy Advisor, OIR
- Craig Wright, Chief Actuary & Director, Life & Health Product Review, OIR
- Amy Bogner, Director of Communications, OIR
- Caitlin Murray, Director of Government Affairs, OIR
- Will Arnold, Government Analyst I, Government Affairs Office, OIR

I. Call to Order

Commissioner and Chair David Altmaier called the meeting to order at 2:01 PM indicating the meeting was properly noticed to the public in accordance with Florida law. In order to allow for the timely progression of this meeting, the Chair asked that the general public let the Advisory Board members proceed with its discussion on matters listed on the agenda without interruption and noted that time for public comments would be allowed at the end. He also noted that comments about the legislative recommendations under consideration or any other agenda item may be provided by sending them to the FHIAB email address, which is fhiab@flor.com.

II. Roll Call

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

III. Antitrust Statement

Shannon Doheny was recognized to review the antitrust statement.

IV. Chair's Opening Remarks

The Chair welcomed all members and thanked them for their participation today.

V. Approval of Minutes – August 30, 2017

The Chair presented the minutes from the August 30, 2017, meeting for adoption, noting that members had been provided with advance copies. Molly McKinstry moved to adopt the minutes as written, with a second by Robert Muszynski, and the minutes were adopted without objection.

VI. Manager's Administrative Report

Ms. Ostapchuk noted that the Plan of Operations requires that the Board review the plan at least once each year and recommend any necessary amendments. A copy of the Amended Plan of Operations along with the Order from the Office of Insurance Regulation dated October 17, 2016, was sent to the Board on September 20 with a request to review and respond.

The Chair asked if there were any recommendations. Hearing none, he requested that any recommended changes be sent to Ms. Ostapchuk by close of business, Friday (September 29). If none are received, the Board's obligation will be considered complete.

VII. Finalize Legislative Proposals for 2018

The Chair noted that these recommendations had undergone some discussion at the prior meeting and reiterated that any recommendations being sent to the Legislature from the Board must have the unanimous consent of the Board. He also noted that any recommendations not approved by the Board can still be forwarded to the Legislature by Board members on behalf of whatever entity they represent.

The Chair then reviewed the following recommendations from Louisa McQueeney:

1. Employee Only Coverage in Small Group Plans. The recommendation is to provide 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).

Ms. McKinstry asked if the law currently prohibits this option in Florida and the answer is yes, this recommendation would provide legislative authority. Mark McGowan asked if the OIR conducted any additional research and Shannon Doheny stated that the OIR did conduct a legal analysis. Mr. McGowan asked if there were any policy concerns by the OIR on how this might erode the small group market. The Chair stated that the OIR is concerned due to the movement in Washington, D.C., with respect to what the ACA (Affordable Care Act) might look like in the future so we are concerned about dependents who may lose coverage as a result of this change. The Chair said this issue can be revisited once we receive more clarity regarding the ACA. Mr. McGowan stated that he shares OIR's concerns without further analysis of the small group market. Therefore, no vote was taken.

2. Make more Marketplace Health Insurance Plans Health Savings Account eligible. The recommendation is to tailor more marketplace plans to be HSA eligible for consumers making more than 400% of the Federal Poverty Level, giving them the option to use pre-tax dollars for their medical expenses they are responsible for until they meet their deductible.

Ms. McKinstry asked if this was a legislative recommendation or a request to encourage insurers. Craig Wright noted that the current individual market consists of 28 HSA eligible plans for 2018 (as opposed to 31 in 2017). The Chair confirmed that there does not appear to be any legislative barriers. Ken Stevenson noted that consumers typically want first dollar, low co-pay plans and co-pays can't be mixed in with qualified high-deductible plans per the IRS (Internal Revenue Service). The Chair also noted that the OIR is willing to meet with insurers interested in offering HSA eligible plans; therefore, no vote was taken.

3. Make annual deductibles portable. The recommendation is to make annual deductibles portable if consumer is required to apply to a new carrier due to a geographic change.

Chris Ciano asked Ms. McQueeney to verify if she was talking about Exchanges in the Individual Market only and she said it's for all plans which are not currently portable to another geographic area. Chris Paterson said he was concerned about the complex operational mechanisms needed to accomplish this. Mr. Ciano said he was concerned about employer-sponsored plans with different deductibles and Mr. Paterson concurred. No vote was taken.

4. Publish prescription drug prices in insurance plan's medication guide (formulary). The recommendation is to publish negotiated prices in the medication guide.

Mr. McGowan stated that Florida Blue has a tool on their website that allows current prices to be seen and the reason this tool is online rather than in print is because prices do not remain constant throughout the year as insurers do not contract with pharmacies and drug companies. Therefore, he was concerned about a requirement to publish a written document once a year. Ms. McQueeney stated that it can be very frustrating for drug prices to change throughout the plan year. Mr. McGowan asked if it would be helpful to have a workshop for everyone to understand the nuances. Mr. Muszynski (who formerly managed a state university health facility with a pharmacy) noted a variety of plans and agreed that this would be hard to put in print for 1 year so that an online tool would be more beneficial. He also suggested that insureds just call their pharmacist. The Chair suggested that this could be handled outside the legislative process by working with carriers to understand the nuances of drug price changes and getting this information to consumers in a more effective manner. This recommendation can be revisited next year if this is still an issue. No vote was taken.

5. Protect Consumers from prescription drug formulary changes during a policy year. The recommendation is that insurance carriers not be allowed to amend or remove a covered prescription drug during the policy year other than at the time of renewal.

Mr. McGowan stated that his comments to the previous recommendation [#4, Publish prescription drug prices in insurance plan's medication guide (formulary)] also apply to this one. Mr. Muszynski agreed. The Chair asked Ms. Ostapchuk to include this along with the related recommendation to look for ways outside of the legislative process to resolve this concern. No vote was taken.

6. Direct the Florida Office of Insurance Regulation to develop standards of network adequacy for all group and individual health plans. The recommendation is for inadequate narrow networks to treat out-of-network care as in-network care and/or at a minimum apply the cost of the care to the accumulators, such as the deductible.

Ms. McKinstry had Ms. Ostapchuk distribute information this morning regarding Commercial Managed Care Network Adequacy Requirements. She is willing to give a presentation on this issue at a future meeting if desired. The Chair suggested that the Board may benefit from this presentation prior to voting on it so this will be scheduled with Ms. McKinstry. John Matthews suggested including the NAIC Network Adequacy Model as part of the discussion and the Chair agreed that was appropriate. No vote was taken.

7. Prohibit balance billing for emergency medical transportation. The recommendation is to apply the balance bill rules under HB221, signed into law by Governor Scott, to include emergency transportation. The Chair reminded the Board that Wences Troncoso (General Counsel and Vice President of the Florida Association of Health Plans) gave a presentation on this issue at the August 30 meeting.

Mr. McGowan recommended that the Insurance Consumer Advocate's Emergency Medical Transportation (EMT) Working Group be given more time to finalize their white paper before voting on this recommendation. Mr. Matthews noted that the Working Group is scheduled to conclude their business prior to the upcoming legislative session and noted his preference that the Board approve this recommendation. Mr. McGowan stated he was concerned about areas where there is only one medical transport company with regard to usual and customary charges. Mr. Matthews moved that the Board make this recommendation, with a second by Mr. Stevenson. Ms. McKinstry noted that the EMT Working Group was established because this is a complex issue so she would like to see their analysis and asked about the timing. Chris Struk noted that the last meeting was cancelled and has not yet been rescheduled. Ms. McKinstry is concerned about balance billing issues but noted that seeing the Working Group's White Paper seems prudent and suggested that a vote would be premature. Mr. McGowan asked about timing and asked if yes votes could be added later; however, the Chair noted that we are on a pretty short timeline. The motion passed unanimously with four members abstaining (these abstentions are based on a desire for more information from the Working Group rather than being opposed to the recommendation).

The Chair then reviewed the following recommendations from Ken Stevenson:

1. 30-Hour Rule. The Florida small group full-time definition for an employee continues to conflict with the federal standard of 30 hours. Florida defines eligible employee under small group as those working at least 25 hours. We recommend applying consistency to help small business owners manage eligibility. Those that hover around 50 employees find themselves constantly needing to perform multiple calculations based on federal definitions and state definitions, based on number of hours to determine who is eligible under both sets of rules. Florida should adopt the Federal eligibility criteria. This will ease the compliance burden on small businesses. It would still allow those employers that wish to offer coverage to those working less than 30 hours per week to do so.

The Chair said he had the same issue related to dependents that if we raise the bar for coverage in Florida and the ACA changes, it might put a limitation on Floridians who are able to get coverage. Ms. McQueeney agreed. No vote was taken.

2. Dependents to Age 30. Currently Florida allows dependents to stay on group plans until age 30, provided that they meet certain criteria as defined in the law. This statute was passed when coverage was difficult to obtain by dependents with medical problems coming off their parent's policies. With coverage now available on a guarantee issue basis, there is no longer a need to keep this rule in place. This increases costs of employer plans by allowing dependents to stay on the plan after age 26. It is also confusing to employers and employees, since dependents living outside of Florida are not eligible to remain on the parent's policy. It could be seen as discriminatory to those residing in other states.

Ms. McQueeney stated that she has the same concerns as recommendations #1 (30-Hour Rule) and #2 (Dependents to Age 30) above so she opposes. No vote was taken.

3. 1332 Waiver. A waiver would give the State the ability to set its own parameters of a health care plan versus the ACA mandates. Since Congress cannot seem to agree on a solution, Florida should at least consider this as an option to bringing some control back to local ground. Several states including, Alaska, Iowa, Texas, and Michigan are looking at using the 1332 waiver to establish their own mandated health benefits and other rules relating to health plans. This would be a proactive move, instead of waiting for Congress to act. It would be prudent to convene a panel to determine if this is the right course for Florida.

Mr. Stevenson noted that he is not recommending that we apply for a waiver but rather that a Working Group be established to see what other states are doing so we can be prepared to act if/when necessary as we have an issue here in Florida where many counties only have 1 carrier. The Chair noted that this is probably actually a 2-step process, both of which could be pursued at the same time: (1) applying for a 1332 waiver and determining what that waiver would consist of and what things we would ask to be waived is an issue that is outside the scope of this Board and while this Board would probably love to be involved in that process, we would need to involve a lot of other stakeholders and policyholders; and (2) if that group were to decide to apply for a waiver, we would need to request statutory authority. Ms. McQueeney opposes. No vote was taken.

4. Ambulance. The State has already convened an air ambulance task force, however out of pocket costs for non-network ambulance services are a problem that is growing quickly. These services and balance billings are more common and impacting consumers statewide. With Florida now only having one health carrier for individual plans in most counties, there may not be an in-network ambulance service in many counties, particularly those in rural areas such as Leon County. It's easy for a consumer to face a surprise ambulance bill, sometimes in the thousands of dollars.

This issue is related to Ms. McQueeney's recommendation #7 (Prohibit balance billing for emergency medical transportation).

5. Balance Billing. In 2016 the Legislature passed legislation preventing balance billing in an in-network facility for emergencies. We would like to see this extended to non-emergencies as well, or at least require disclosure to consumers in advance. Texas proposed legislation that would require such disclosure to the patient, those providers failing to do so would forfeit their ability to seek collection remedies from consumers. Too many consumers don't find out they have been seen by an out of network provider until they receive a bill in the mail. They should have the right to choose their provider in a non-emergency situation and be protected in the event they are not notified.

This issue is related to Ms. McQueeney's recommendation #7 (Prohibit balance billing for emergency medical transportation).

VIII. Other Business

The Chair 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

The Chair asked if there were any members of the public who would like to comment. There being none, the Commissioner moved to the next agenda item.

X. Adjourn

The Commissioner thanked everyone for participating. Having no further business, the meeting was adjourned at 2:55 PM.


David Altmaier, Chair


Date