

**FLORIDA HEALTH INSURANCE ADVISORY BOARD**  
**Board of Directors Meeting Minutes**  
**Friday, December 16, 2016, 9:30 AM**  
**Via Teleconference**  
**Tallahassee, Florida**

**Board Members Present:**

David Altmaier, Chair  
Louisa McQueeney  
Molly McKinstry  
John Matthews

W. Adam Clatsoff, Vice Chair  
Brad Bentley  
Ken Stevenson  
Robert Muszynski

Chris Paterson  
Bill Herrle  
Rick Wallace

**Others Present:**

- Carol Ostapchuk, Executive Director
- Jeff Joseph, Assistant General Counsel, Legal Services Office, Office of Insurance Regulation (OIR)
- Rich Robleto, Deputy Commissioner – Life & Health, OIR
- Chris Struk, Life & Health Policy Advisor, OIR
- Eric Johnson, Chief Actuary & Director, Life & Health Product Review, OIR

**I. Call to Order**

Commissioner and Chair David Altmaier called the meeting to order at 9:30 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**

Jeff Joseph was recognized to review the antitrust statement.

**IV. Chair's Opening Remarks**

Commissioner Altmaier welcomed all members and thanked them for their participation today. He noted that there had previously been a discussion of possible 2017 legislative recommendations at the last meeting on October 19, 2016, and that the goal of this meeting is to complete the review of those recommendations and reach consensus on the 2017 legislative recommendations, if any.

He reminded the Board that in order to move forward on any recommendations we must have unanimous approval of the Board.

The second primary goal is to review and approve the 2017 Budget.

## **V. Approval of Minutes – October 19, 2016 – Attachment**

The Chair presented the minutes from the October 19, 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 Rick Wallace, and the minutes were adopted as written without objection.

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

Carol Ostapchuk, Executive Director, reported that the approved 2016 Assessments of \$60,000 were calculated based upon the 2015 Gross Annual Premium Report and billed to the carriers in November, with \$49,800 allocated to the small group carriers and \$10,200 to the individual carriers. At December 15, of this amount, approximately \$10,000 had been collected from the small group carriers and \$1,700 from the individual carriers. Second notices will be sent in 30 days.

The proposed 2017 Budget was presented by Ms. Ostapchuk and after some discussion regarding a possible increase in the management fee for the Executive Director, suggested by Adam Clatsoff, as well as how that would affect the overall budget, the Chair directed Ms. Ostapchuk to research the historical compensation amounts paid for reconsideration in the future. Rick Wallace moved approval of the 2017 Budget with a second by Robert Muszynski. The Budget was approved with one negative vote.

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

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 full support of the Board. He indicated that Louisa McQueeney had several recommendations to present to the Board and asked her to discuss her recommendations.

1. Employee Only coverage in Small Group Plans. This issue deals 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, which prevents them from qualifying for subsidies for coverage in the marketplace, at which point 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.

The Chair recognized Deputy Commissioner Rich Robleto who clarified that federal law does not require spousal coverage. Federal law requires the offer of coverage for other dependents but only for large employers, not for small employers. He went on to explain that the Florida Statute specifies that if a small employer carrier offers coverage, they must offer coverage to all eligible employees and their dependents. The key issue is the application of the word "eligible" and does that modifier cover dependents as well as employees. Deputy Commissioner Robleto also noted that a bill to clarify this was drafted and heard in the House last year but was never addressed in the Senate.

Adam Clatsoff moved that the Board make this recommendation, and with a second by Louisa McQueeney, the motion passed unanimously

2. Make more Marketplace Health Insurance Plans Health Savings Account eligible. Ms. McQueeney recommends that insurers be required or encouraged somehow to tailor more marketplace policies to be HSA eligible so that people making over 400% of poverty level can get pretax benefits since they cannot get a subsidy, which would benefit those consumers by providing the option to use pretax dollars until they meet their deductible.

Deputy Commissioner Robleto reported that there are currently eleven companies offering HSA compliant plans in Florida. Of those, five companies are currently offering their plans on the exchange. He noted that requiring companies to comply would be viewed as a new mandate, thereby possibly adding cost to the state. Molly McKinstry and John Matthews both commented that perhaps an encouragement to companies might be an approach, with John Matthews adding that this is not an opportune time to impose a new requirement. Commissioner Altmaier ended the discussion noting no agreement on the issue and perhaps the issue could be addressed in a future meeting.

3. Make annual deductibles portable. If an insured has to go to another to another company for a policy, pro-rate the annual deductible.

Deputy Commissioner Robleto reported that the Office of Insurance Regulation has looked at this issue from several perspectives and the primary problems in addition to those of logistics in administration from one company to the next include the necessity of sharing claims data, the pricing of these products does not contemplate such portability, as well as the possibility of anti-selection by the applicant. Adam Clatsoff, John Matthews and Chris Paterson echoed Deputy Commissioner Robleto's comments. The Commissioner indicated there are many logistical considerations and more research was needed and the Board would need to spend more time discussing the issue before any recommendation could be made.

4. Increase coverage for certain prescription and non-prescription 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 restriction in age or coverage limits is prohibited by the ACA and that all Florida companies, with the exception of one, are in compliance with federal law. He also noted that Florida still has a large number of grandfathered and transitional plans that are not required to comply with the ACA and removing this language in Statute would have a significant impact on the entire plan for those individuals covered by grandfathered and transitional plans. Ms. McKinstry noted that given the current uncertainty at the federal level perhaps this issue is one to consider in the future.

The Commissioner indicated this topic needs further discussion and research.

Ken Stevenson was then recognized to discuss his proposed recommendations

1. Mr. Stevenson indicated that he has withdrawn 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 Florida Statutes be amended to change the age from of coverage for adult children covered under their parents' plan to age 26 to comply with the federal law. The second 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.

Deputy Commissioner Robleto noted that there have been attempts to amend this in the past but they did not receive any legislative support. Ms. McKinstry asked how does this impact adult children between the ages of 27 and 30. Mr. Stevenson replied that in his opinion there is no difficulty for these adult children to obtain coverage in the marketplace under the ACA and the current law as written presents a burden for the employers for having to keep dependents over age 26 on their plans to age 30. Eric Johnson also stated if the adult children between the ages of 27 to 30 are employed they should not have any difficulty obtaining coverage but the cost may present an economic challenge to obtain that coverage.

Commissioner Altmaier advised that given the numerous questions surrounding this issue, we will not add this proposal to the recommendations at this time. He then directed Carol Ostapchuk to send the approved recommendation to the Senate President, Speaker of the Florida House of Representatives, and the Florida Office of Insurance Regulation for consideration during the upcoming 2017 legislative session.

### **VIII. Other Business**

Commissioner Altmaier asked if there was any other business to be brought before the Board. After being recognized, Bill Herrle expressed his concern that if in fact Congress implements a sunset type repeal provision of two years as they have discussed, this could leave Florida with only one legislative session within which to address any potential changes.

He asked that the Commissioner report to the Board any action that the Office of Insurance Regulation is taking to try and identify and consider future actions in Florida. Commissioner Altmaier responded that the Office of Insurance Regulation has been very attentive to the events in Congress and is in the process of trying to gather as much information as possible which will be reported in the near future.

The Commissioner then asked if any member of the public wished to speak. He then recognized Ms. Jill Jaynes from Vero Beach, representing the Florida State Oriental Medicine Association. She stated that the Association is seeking coverage, or incentives for the coverage, of acceptance of acupuncture modalities as they do currently for chiropractic modalities.

A discussion ensued wherein several members raised concerns about creating a new mandate as well as adding additional cost to the price of coverage. The Commissioner asked Ms. Jaynes to provide the Board with an email detailing her position and issue for future consideration.

**IX. Adjourn**

The Commissioner thanked everyone for attending. Having no further business, the meeting was adjourned at 11:32 A.M.

  
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David Altmaier, Chair

  
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Date