FLORIDA HEALTH INSURANCE ADVISORY BOARD
Board of Directors Meeting Minutes
Tuesday January 14, 2014
2:00 P.M.
Via Conference Call
Tallahassee, Florida

Board Members Present:

Kevin McCarty, Chair	William "Bill" Herrle	Rick Wallace
W. Adam Clatsoff, Vice Chair	Mark LaBorde	Maria S. Wells
Leah Barber-Heinz	Mark S. McGowan	
Joan L. Galletta	Tamara Meyerson	

Others Present:

Michelle Newell, Executive Director
Jeffrey Joseph, Counsel, Office of Insurance Regulation
Wences Troncoso, Deputy Insurance Commissioner, Office of Insurance Regulation
Jack McDermott, Director, OIR Life & Health Product Review

I. Call to Order

Commissioner Kevin McCarty called the meeting to order at 2:00 p.m. noting the meeting had been properly noticed to the public.

II. Roll Call

Michelle Newell conducted a roll call, noting the presence of a quorum, and welcomed participants.

III. Antitrust Statement

Jeffrey Joseph was recognized to review the antitrust statement.

IV. Legislative Input Workshop

Commissioner McCarty opened the meeting by advising members that the purpose of the meeting was to review member input collected over the course of the year on issues related to implementation of the Affordable Care Act and conformance to Florida Statues and where there was consensus of the board, recommendations to the legislature would be rendered. He noted that a compilation document was included in the board materials which organized the member input into subject groupings to facilitate discussion. Members were asked to address their input items and provide background for discussion by group. Following a lengthy discussion of the inputs, consensus was reached on two issues to further as Legislative Recommendations. Ms. Newell was directed to draft transmittal letters to the Legislative leadership with the details of the recommendations. The current condition and recommendations are detailed as follows:

1. Employee Only Coverage in Group Plans

Current Marketplace Issue: In the small group market, under most employer-sponsored group health plans, employers subsidize the employee's premium but spouse/dependent coverage are offered under the plan completely at the employee's expense, with no employer contribution. In the new environment, it would be advantageous to have the option of not offering spouse/dependent coverage in small group, because the offer of coverage to a spouse and dependents, regardless of the affordability of that coverage, negates the ability of the spouse and dependents to qualify for subsidized coverage in the Marketplace (Exchange)[1]. The Affordable Care Act (ACA) does not require that small groups offer spouse or "dependent" coverage. However, in the small group market, carriers have never given small groups the option of not offering spouse/dependent coverage. The option of offering "employee only" coverage is required for carriers participating in the Small Business Health Options Program (SHOP) Marketplace (Exchange).

Recommendation: The Board is recommending that small group employers be specifically allowed the option to offer "employee only" coverage in the open market as is permitted in the Marketplace (Exchange). This will allow consistency between the Marketplace (Exchange) and open markets and allow spouses and dependents to obtain coverage in the Marketplace (Exchange) where they may qualify for a subsidy, since their coverage is not subsidized by employers in most cases.

Motion made by Joan Galletta and seconded by W. Adam Clatsoff.

2. Group Participation Requirements –Individual Coverage as a "Valid Waiver"

Current Marketplace Issue: Carriers require that a minimum percentage of eligible employees elect coverage under the employer's group plan in order to issue or renew the group's plan. This is called "meeting participation". The percentage of participation varies by carrier, but on average, 70% of the eligible employees must enroll in the group's plan or have other valid coverage. Employees opting out of the employer's coverage do not count against the group's participation calculation if the employee has other acceptable coverage, recognized by the carriers as a "valid waiver". Coverages recognized as "valid waivers" are Medicare, Medicaid, TRICARE, and other group coverage, all of which are guaranteed-issue products. Historically, individual policies were not considered "valid waivers" because they were underwritten, had fewer mandated coverages, were relatively less expensive and therefore, theoretically, attracted "better risk". Healthier individuals sought to purchase individual policies for these reasons if they could pass the underwriting requirements and less healthy individuals who could not pass underwriting had to choose the group's guaranteed-issue coverage. To recognize individual coverage as a "valid waiver" under those circumstances would have created adverse selection in the group market. These market dynamics have changed. Individual policies are now guaranteed-issue as well, and the reasons an employee would choose an individual policy over their employer's group plan are strictly economic. Many employees will be drawn to individual coverage through the Marketplace (Exchange) due to subsidized premiums, so failing to recognize individual policies as "valid waivers" will impair a group's ability to meet participation. Some carriers have announced that they will recognize individual policies as "valid waivers". Some have said they will only recognize their own individual policies as "valid waivers", and others have said they are still not going to recognize individual coverage as a "valid waiver". This will create disruption in the group market and make it difficult for employer groups to meet participation requirements and will restrict the ability of a group to move from one carrier to another. Recognizing individual coverage as a "valid waiver" is particularly important for small groups that wish to stay in-force when more modestly paid

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[1] *The Patient Protection and Affordable Care Act (PPACA) established "Exchanges"; however, the U.S. Department of Health and Human Services changed them to "Marketplaces" for marketing purposes.*

employees opt for subsidized coverage in the Marketplace (Exchange). It is in the best interest of the small group market and consumers that a uniform policy of acceptance of individual coverage as a "valid waiver" be established.

Recommendation: The Board is recommending that all carriers recognize all qualified individual plans as "valid waivers", whether issued by that carrier or another authorized carrier. This is imperative for small groups trying to meet participation requirements when modestly paid employees opt for subsidized coverage through the Marketplace (Exchange).

Motion made by Joan Galletta and seconded by W. Adam Clatsoff.

IX. Adjournment

Upon completion of the agenda and there being no further business before the Board, a motion was made by Mr. Clatsoff and seconded by Ms. Galletta to adjourn the meeting. Hearing no objection, the Chair adjourned the meeting at 3:04 p.m.

Kevin M. McCarty, Chair

Aug. 26, 2014
Date