



Health Benefit Exchange Authority Executive Board Meeting
FINAL MINUTES

Date: Wednesday, September 13, 2017
Time: 5:30 PM
Location: 1225 Eye Street, NW, 4th Floor, Board Conference Room
Call- in Number: 1-650-479-3208; access code: 735 605 019

Members Present: Henry Aaron, Nathaniel Beers, Kate Sullivan Hare, Leighton Ku, Diane Lewis, LaQuandra Nesbitt (via telephone), Khalid Pitts, Stephen Taylor, Wayne Turnage (via telephone), Tamara Watkins (via telephone)

Members Absent: Laura Zeilinger

I. Welcome, Opening Remarks and Roll Call, Diane Lewis, Chair

A roll call of members confirmed that there was a quorum with six voting members present (Dr. Aaron, Dr. Beers, Dr. Ku, Ms. Lewis, Mr. Pitts and Ms. Watkins).

II. Approval of Agenda, Diane Lewis, Chair

Ms. Lewis requested that the Executive Session be stricken from the agenda as it is no longer needed. It was moved and seconded to approve the amended draft agenda. The motion passed unanimously, with Dr. Aaron, Dr. Beers, Dr. Ku, Ms. Lewis, Mr. Pitts and Ms. Watkins voting yes.

III. Approval of Minutes, Diane Lewis, Chair

It was moved and seconded to approve the July 12, 2017 minutes. The motion passed unanimously, with Dr. Aaron, Dr. Beers, Dr. Ku, Ms. Lewis, Mr. Pitts and Ms. Watkins voting yes.

Ms. Lewis noted that on June 14th, the Executive Session was not adjourned. The Board is hereby notified that the meeting is considered adjourned as of the conclusion of that executive session on June 14.

IV. **Annual Board Officer Election Date**, *Purvee Kempf, General Counsel/Chief Policy Adviser*

Based on a vote at the July 12th Board meeting, today is the date of the annual officer board elections.

The bylaws allow for voting and non-voting board members to make nominations of voting board members for board officer positions of Chair, Vice-chair, and Secretary/Treasurer. Voting board members may nominate themselves as well.

In order to be considered for the vote, a nominated member must accept the nomination. Once all nominations and declinations for a position are complete, there will be vote for each position. Elections for each officer shall be made by majority vote. Abstentions are not permitted.

Ms. Kempf asked if there were any nominations for Chair. Dr. Aaron nominated Ms. Lewis, noting the excellent work she has done as Chair. Ms. Lewis accepted the nomination. The motion passed unanimously, with Dr. Aaron, Dr. Beers, Dr. Ku, Ms. Lewis, Mr. Pitts and Ms. Watkins voting yes.

Ms. Sullivan Hare entered the meeting.

Ms. Kempf asked for nominations for Vice-Chair. Mr. Pitts nominated Dr. Aaron. Ms. Lewis seconded the motion, noting that Dr. Aaron has been a strong advocate for the exchange. Dr. Aaron accepted the nomination. The motion passed unanimously, with Dr. Aaron, Dr. Beers, Ms. Sullivan Hare, Dr. Ku, Ms. Lewis, Mr. Pitts and Ms. Watkins voting yes.

Ms. Kempf asked for nominations for Secretary/Treasurer. Dr. Ku nominated Mr. Pitts, stating that he had done good work in the position. The motion passed unanimously, with Dr. Aaron, Dr. Beers, Ms. Sullivan Hare, Dr. Ku, Ms. Lewis, Mr. Pitts and Ms. Watkins voting yes.

V. **Executive Director Report**, *Mila Kofman, Executive Director*

ACA LEGISLATIVE UPDATE: The Senate Parliamentarian has ruled that the Reconciliation instruction that would permit ACA legislation to move forward with 50 votes will expire at the end of September. The Graham/Cassidy repeal bill language was released earlier today. This is viewed as the last effort by some to get enough votes for a repeal before the reconciliation instruction expires.

CHIP: Dr. Aaron asked about CHIP reauthorization. Mr. Turnage said the impact would be significant on the District if CHIP was not reauthorized. Due to the ACA, the District's CHIP program has been 100% federally-funded. Prior to the ACA, the federal match was 79%. The assumption is that the CHIP program will get reauthorized, but federal match will decrease from 100% and go back to the pre-ACA match over time. If

the reduction was immediate, the District would be short about \$14 million. But if it is phased in, that would be manageable from a budgetary standpoint.

The timing of reauthorization is an issue. The District will run out of CHIP money shortly after the start of the new fiscal year.

SENATE: There is a bipartisan Senate HELP Committee effort. Hearings have been held, and governors and insurance commissioners testified last week. Topics have included reimbursement of CSRs, more state flexibility around 1332 waivers, and a federal reinsurance program. This week experts will testify, including Tammy Tomczyk (our external actuary) from Oliver Wyman.

LETTER TO HELP COMMITTEE FROM SBMs: Executive Directors from state-based marketplaces and state marketplaces using the federal platform sent a letter to Senators Alexander and Murray in advance of the HELP hearings. Ms. Kofman had shared the letter earlier, and it is also posted on our website. Sen. Franken referenced our letter last week at the hearing – highlighting the need for a federal reinsurance program.

TRUMP ADMINISTRATION ACTIONS: CSRs were paid in August. No commitment on future payments was made.

The Administration announced that it is significantly scaling back enrollment and outreach activities. For advertising, it will spend no more than \$10 million on advertising as compared to \$100 million allocated to advertising by President Obama in the last open enrollment. The funding for navigator groups is reduced to approximately \$36 million compared to \$63 million the previous year.

Ms. Kofman expects that the changes will have a negative effect on our marketplace. Many of our customers get to us through healthcare.gov. In addition, the Obama administration received a lot of earned media, which helped us as well. Dr. Ku asked about television advertising. Ms. Kofman said that while all media coverage is good, the main sources of our customers are healthcare.gov, newspaper stories, and radio stories. HBX is taking steps to mitigate any negative effects.

Ms. Sullivan Hare noted that both Virginia and Maryland are going with the shortened open enrollment period, while we are going with the full 12 weeks. Ms. Kofman said nationally, the states are all over the map on the time period. She did note that with the District having a lengthened period, there may be confusion over the issue.

Ms. Sullivan Hare asked if the bulk of our customers enroll during the first six weeks of open enrollment. Rob Shriver (HBX staff) said there are two spikes in enrollment: the last few days before December 15, for 1/1 coverage; and the last days of open enrollment, for 3/1 coverage.

HBX ACA WORKING GROUP: HBX has an ACA Working Group, which is looking at both Trump administration activities and legislative activities. Dr. Ku chairs the group and will report later in the meeting.

DISB RATE REVIEW PUBLIC HEARING: The Department of Insurance, Securities and Banking (DISB) held a public hearing in August on 2018 proposed rates. The hearing was very successful. Thirty-two people signed up to testify. Others came, and Commissioner Taylor allowed them to testify also. Most people were DC Health Link customers with individual coverage; at least one small business and two brokers testified. DC Fiscal Policy Institute, the DC Chamber of Commerce, and the Greater Washington Hispanic Chamber of Commerce also testified. Ms. Kofman testified advocating for the lowest possible rates (testimony has been shared and posted on our web page). Each person who testified had a compelling story and fear about their rates increasing. Most customers were with CareFirst. Ms. Kofman noted that CareFirst refiled its rates prior to the hearing. The initial rate request was an average 39.6% increase for the HMO and an average 19.7% rate increase for the PPO. Refiled rates were 24.1% for the HMO and PPO. We advocated for DISB to deny the requested increase and to approve a “substantially lower rate.” We provided an example of 16.4% and also advocated for a phase-in.

DISB Commissioner Stephen Taylor provided an update on status of rate review and approval. He thanked Director Kofman for HBX’s help in advertising the rate hearing. DISB is still working through the process, and will consider HBX’ recommendation. He noted that over 900 written comments were submitted to DISB. He also noted that CareFirst had reversed its decision and would now pay commissions in the individual market.

OPEN ENROLLMENT (OE): Ms. Kofman said she had received a commitment from the Mayor’s office that the Mayor will assist with increasing participation by her team and to help us with earned media. We participated in a kick off for Hispanic Heritage Month, and Jackie Reyes (Director of the Mayor’s Office for Latino Affairs) included our talking points in her remarks at the event. We are participating in other events for more visibility.

We are doing a refresh of our materials and will have information from focus groups to guide our messages. We are strategizing with all our partners, and with the Marketing and Consumer Outreach Committee, on how to find new customers and retain existing customers.

We held our OE5 strategic planning summit on July 28, 2017. More than 65 assisters, community leaders, and DC Government agency representatives participated. The goal of the summit was to develop the framework for a hyper-local marketing strategy and outreach strategy for OE5 and to identify and plan for increased pre-enrollment activities.

Dr. Beers asked about social media outreach. Ms. Kofman said HBX has an active and aggressive outreach campaign on social media. We also use paid digital, as it is an effective outreach expenditure.

DENTAL CARRIER WITHDRAWALS FOR 2018: Two dental carriers will no longer offer dental coverage in plan year 2018. MetLife currently has 317 enrollees in SHOP dental. Delta Dental currently has 278 enrollees in SHOP dental. Federal regulations do not allow us to auto-enroll enrollees into other dental products. We will have an extensive outreach effort working with brokers to help people switch to other dental plans. For 2018, there are two dental insurers in SHOP and four dental insurers for individuals. CareFirst and Dominion will offer dental in SHOP. The individual marketplace will have Delta Dental, CareFirst, BestLife, and Dominion.

SHOP PLAN MATCH: We have deployed our successful Plan Match tool in beta for the SHOP marketplace. This tool will allow employees to get an out-of-pocket cost estimate for each of the

health plans their employer offers. Phase one will allow brokers to show employees the information; phase two will be to allow the employees themselves to access the information.

MASSACHUSETTE UPDATE: Massachusetts SHOP powered by DC Health Link technology opened on time and on budget on August 15. The next phase with almost all of their carriers is scheduled to go live in November. This is on time and on budget.

ENROLLMENT DATA: available [here](#).

VI. Finance Committee Report, Henry Aaron, Chair

Dr. Aaron reported that the Finance Committee met Friday, September 8th. All committee members – Ms. Lewis, Ms. Watkins, and himself -- participated by phone with HBX staff.

TWO PROCUREMENTS WERE CONSIDERED:

Consumer Checkbook/Center for Study of Change: This is the contract for our DC Health Link Plan Match consumer decision tools. When the Executive Board originally approved it as a base year contract with four option years, the Executive Board requested that the Finance Committee review the performance of the vendor each year prior to the implementation of a new option year. Rob Shriver (HBX staff) provided us with that update at our meeting. It is clear that the Plan Match Tools – which include the doctor directory, prescription drug formulary finder, and a sophisticated out-of-pocket cost comparison – are being increasingly used by our customers. It was also interesting to learn that HBX is increasing that usage via email alerts to customers reminding them of the importance of comparison shopping during open enrollment.

In addition to the annual review, HBX staff was seeking Finance Committee approval to increase the contract amount for Option Year 3 by \$90,000 to accommodate an increased scope of work in the form of a nationwide doctor directory for SHOP and the individual marketplace. This is an update to what the Board reviewed last November 2016 when we approved the FY 18 HBX Budget as staff included these expenses in the budget. The nationwide doctor directory is developed and ready for implementation – and the Finance Committee approved this contract ceiling increase of \$90,000, which takes this contract from \$800,000 for Option Year 3 to \$890,000.

Pipeline Temporary Staff Augmentation Contract: Staff presented the need for temporary staff augmentation services for the pending open enrollment period due to the confluence of significant workload requirements during that same window. Beyond DC Health Link Open Enrollment and Congressional open enrollment, our largest group of small businesses renew in this window, and the Massachusetts work has significant deadlines. The request is to utilize a procurement methodology through OCTO – the District’s IT agency. These positions require significant IT experience, and this existing city-wide contract for use by District agencies is designed for IT staff augmentation. HBX planned for this need in the FY 18 budget and has the funds available. It is for up to \$350,000 for staff augmentation through temporary positions.

Finance Committee approved this request, and there will be more specifics later in the agenda, as this will come to a vote for the full board this evening.

ASSESSMENT UPDATE: Each summer we conduct the assessment on carriers that provides the operating budget for HBX. That process is ongoing now. Payment was due on August 21st and appeals were due by August 24th. Staff informed us that most of the assessment has been received (\$31.7 million out of the \$32.5 million that was assessed); and that 13 appeals were filed by the deadline with a total amount in dispute of \$1,840,042.23. To date, refunds have totaled \$3,540.72. Staff will continue to update us.

CAFR AUDIT: Each year HBX participates in the city-wide audit that goes by the acronym CAFR (Comprehensive Annual Financial Review). This year's process started last month with HBX staff meeting with the auditors for a kick-off meeting. The auditors are from the same firm that has done the audits the last couple of years.

MASSACHUSETTS PROJECT UPDATE: HBX staff updated the Committee on the Massachusetts (MA) budget and additional functionality for the MA marketplace. The project remains on track and on budget. In addition, a decision was made to create a new monthly MA budget report similar to the monthly HBX budget report. That will provide another monitoring mechanism for HBX staff and the Finance Committee.

FINANCIAL REVIEWS: The Finance Committee reviewed both the monthly budget report and the monthly expenditures report and noted nothing out of the ordinary.

GRANTS: The federal grant extensions awarded to HBX for ongoing development work expire in December 2017.

Dr. Ku asked if the assessment rate was likely to be adequate for future years. Ms. Kofman responded that the assessment brings in dollars that are a bit over the budget, and that with the excess HBX is growing reserves in accordance with the Board-approved reserves policy.

VII. ACA Advisory Working Group Update, *Leighton Ku, Chair*

The working group has 20 members – crossing the spectrum of carriers, brokers, hospitals, customers, consumer advocates and small business representatives. We have had three meetings so far, and two more planned this month.

Now that full-scale repeal appears off the table for the time being, the working group is focused on steps that the District could take to protect the District's gains in coverage if the federal government begins to roll back federal regulations and enforcement. If repeal comes back into play, there would be more work to do.

To that end, we have so far focused on these topics:

- A fallback CSR program in case the Feds fail to pay
- A fallback District individual mandate
- Prohibiting carriers from forcing applicants during open enrollment or a SEP from being forced to pay back premiums due to termination prior to enrolling.

We hope to have votes starting at our meeting on the 22nd and then to finalize the working group by the end of the month, with the hope that we can provide a set of consensus recommendations to the Board by the October Board meeting.

Dr. Aaron asked if reinsurance was discussed. Dr. Ku said it would be discussed at a future meeting.

Dr. Aaron asked about enforcement of the individual mandate. It strikes him that there is no obstacle (assuming the Council and Mayor agree) to the District having a backstop enforcement of the mandate, requiring individuals who do not pay the federal penalty to pay the District. Dr. Ku said the working group has been discussing that idea. He also said there were non-trivial implementation issues. The OCFO office has been very helpful in this discussion.

VIII. Insurance Committee Report, Henry Aaron, Chair

Proposed rates for 2018 plans sold through DC Health Link were filed by May 1, 2017. This year, as has become customary, HBX hired a nationally-respected actuarial firm to analyze the factors that enter into the determination of rates. We do so in order to provide recommendations to DISB on behalf of our customers.

The Committee met in late June and mid-August with Tammy Tomczyk of Oliver Wyman and reviewed the filings.

Dr. Aaron stressed that these matters involve a lot of numbers and technical analyses. We will post a full slide deck on the HBX website for those who want to wade into the weeds. HBX Executive Director Mila Kofman provided additional detail.

Overall, for Aetna (SHOP) and Kaiser (individual and SHOP), the rates were fine as filed. For United (SHOP), HBX’s recommendation is 1% lower than the rate as presently filed. The largest issues were with CareFirst and GHMSI’s individual market rates.

Filed Increases vs. Oliver Wyman Independent Analysis

	Initially Filed Rate Changes		Currently Filed Rate Changes		OW Analysis	
	Individual	SHOP	Individual	SHOP	Individual	SHOP
CareFirst	39.6%	9.5%	24.1%	7.2%	16.4%*	5.3%

GHMSI	19.7%	15.3%	24.1%	15.5%	16.4%*	13.9%
Kaiser	13.0%	5.0%	13.0%	5.0%	13.0%	5.0%
Aetna Health	N/A	9.4%\$	N/A	9.4%	N/A	9.4%
Aetna Life	N/A	7.4%	N/A	7.4%	N/A	7.4%
United - UHIC	N/A	9.5%	N/A	5.6%	N/A	4.6%
United - Optimum	N/A	9.5%	N/A	5.6%	N/A	4.6%
United – Mid-Atlantic	N/A	9.5%	N/A	5.6%	N/A	4.6%

*It is important to note that the rates for CareFirst and GHMSI as re-filed, 24.1% increases, are actuarially justified. However, they are large – 24.1% -- on top of large rate increases last year in the individual market. As a matter of public policy, Executive Director Kofman testified at the DISB Rate Hearing, the large increase should be denied, and a lesser amount should be approved in combination with a phase-in. The policy concern is that large rate increases threaten market stability: healthy people are more likely to drop coverage than sick people; and a sicker pool means higher prices for everyone and instability due to a potential death spiral.

HBX has provided its recommendations to DISB. The HBX Insurance Committee remains concerned about the impact the CareFirst and GMHSI rate increases will have on our customers.

IX. Discussion Items

- a.** HBX Policies and Procedures for Federal Immigration Contacts – *Diane Lewis, Chair, Board Operations Committee & Purvee Kempf, HBX General Counsel*

Ms. Kempf said this was a policy and procedure for any immigration inquiry from the federal government. Such an inquiry can come from a host of different federal agencies. We want a policy in place as to how we respond. We sought input from the Office of the Attorney General (OAG) and the Mayor’s General Counsel. The policy puts forth basic principles and actual contacts step by step. The policy was developed after a contact from a federal agency occurred.

Ms. Sullivan Hare asked what policies and procedures we have in place for contacts from the Metropolitan Police Department, the FBI, ATF, child abuse and neglect, etc.. Ms. Kempf replied that OAG asked us that question too. OAG suggested that we take some time to think through all implications, and then connect back to OAG.

Ms. Sullivan Hare asked if it made sense to strike ICE and put in all agencies. Ms. Kempf said no; language in the document is specific to immigration.

Ms. Sullivan Hare said it is a political issue, even though she would like to keep health care out of politics. She thought the fact that the document was specific as to ICE would draw attention.

Ms. Lewis said that we have people working for us for whom this is an issue. We have an obligation to have a policy.

Ms. Sullivan Hare asked if it was an HR/personnel issue, or whether the contact wants to get into our records. Ms. Kempf said the policy covers both aspects. If the contact is about an employee or a contractor who might have a specific immigration status, that is an HR matter but also a legal one. The policy addresses contact from an immigration agency specifically. It is guidance for our employees and contractors on how the agency will act.

Ms. Sullivan Hare asked about the policy regarding employment. Ms. Kempf said HBX follows all federal and local law regarding eligibility for employment. Ms. Sullivan Hare was still troubled that the first policy out is specific to one agency and thought the policy should be broader.

Dr. Ku asked if Ms. Sullivan Hare's issue was with other types of inquiries, such as into criminal history. Dr. Beers said there is a difference in status. He said there is timeliness associated with this policy, given what ICE has been doing. People who are in the U.S. legally have been confronted in the workplace and forced to demonstrate their legal status above and beyond what might be considered legally necessary. The difference with other agencies referred to is that those agencies show up with a warrant giving them the legal right to talk to the person in question.

Ms. Kofman said we are trying to confront a situation that has actually occurred – an ICE agent showed up at one of our offices and no one, including managers, had a proper protocol to follow. She also said that those types of visits are likely to continue. From a management perspective, there is a general fear that citizens might be included with visa holders, and we need to ensure a work environment that is as protective and secure as it can be.

Dr. Ku asked if the policy would protect us when ICE, or another agency, asked for immigration information on our customers. Ms. Kempf said enrollee information is protected under federal regulations issued pursuant to the ACA. Short of being served with a warrant, a request is just that – a request, and we do not supply information about our customers.

Dr. Aaron thought there was an immediate need to protect employees and contractors through adoption of the policy. He also thought that Ms. Sullivan Hare's legitimate concern about other agencies would be addressed as the staff developed other policies and procedures.

Ms. Sullivan Hare asked what other District agencies have in place. Ms. Kempf said the OAG had advised that the only thing out there were general principles, not specific policies on what managers should do in the situation. No other agency has a specific and relevant policy. Also, the OAG provided us with a link to a federal government website where it is stated that there is heightened scrutiny regarding H1B visa holders who work at a site other than the employer's work site. We have contractors who have that visa status.

b. Pipeline Contract – Temporary staff augmentation for open enrollment – *Mila Kofman, Executive Director*

This contract has been approved by the Finance Committee. It is seasonal staff augmentation of the IT team. It was budgeted. Pipeline is the new citywide contract regarding IT staff augmentation. It requires agencies that want to use the contract to issue purchase orders for it. We are requesting to use up to \$350,000 for Pipeline. It is a way for us to find talented staff, and to then try to convert them to full-time employees.

X. Public Comment

No public comment was proffered.

XI. Votes

a. HBX Policies and Procedures for Federal Immigration Contacts

It was moved and seconded to approve the Policies and Procedures for Federal Immigration Contacts. The motion passed, with Dr. Aaron, Dr. Beers, Dr. Ku, Ms. Lewis, Mr. Pitts and Ms. Watkins voting yes, and Ms. Sullivan Hare voting no.

b. Pipeline Contract – Temporary staff augmentation for open enrollment

It was moved and seconded to approve the Pipeline contract. The motion passed, with Dr. Aaron, Dr. Beers, Ms. Sullivan Hare, Dr. Ku, Ms. Lewis, Mr. Pitts and Ms. Watkins voting yes.

XII. Closing Remarks and Adjournment, *Diane Lewis, Chair*

Ms. Lewis reminded the Board that the August Board meeting has been canceled, and the next regularly-scheduled Board meeting is October 11, 2017.

The meeting was adjourned at 7:25 p.m.