



**Health Benefit Exchange Authority Executive Board Meeting  
MINUTES**

**Date:** Wednesday, October 11, 2017  
**Time:** 5:30 PM  
**Location:** 1225 Eye Street, NW, 4<sup>th</sup> Floor, Board Conference Room  
**Call- in Number:** 1-650-479-3208; access code: 731 777 117

**Members Present:** Henry Aaron, Nathaniel Beers (via telephone), Kate Sullivan Hare (via telephone), Diane Lewis, Wayne Turnage (via telephone)

**Members Absent:** Leighton Ku, LaQuandra Nesbitt, Khalid Pitts, Stephen Taylor, Tamara Watkins, Laura Zeilinger

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

A roll call of members confirmed that there was a quorum with four voting members present (Dr. Aaron, Dr. Beers, Ms. Sullivan Hare and Ms. Lewis).

**II. Approval of Agenda, *Diane Lewis, Chair***

Ms. Lewis said Commissioner Taylor was unable to join the meeting, so she asked that the discussion item on 2018 rates be stricken from the agenda. She also asked that the telework policy and vote be moved to the beginning of the agenda. It was moved and seconded to approve the amended draft agenda. The motion passed unanimously, with Dr. Aaron, Dr. Beers, Ms. Sullivan Hare and Ms. Lewis voting yes.

**III. Approval of Minutes, *Diane Lewis, Chair***

It was moved and seconded to approve the September 13, 2017 minutes. The motion passed unanimously, with Dr. Aaron, Dr. Beers, Ms. Sullivan Hare and Ms. Lewis voting yes.

**IV. Discussion Item**

Update to HBX Telecommuting Policies and Procedures – *Diane Lewis, Executive Board Operations Committee Chair and Purvee Kempf, HBX General Counsel*

Purvee Kempf (General Counsel and Chief Policy Advisor) noted that [proposed updates](#) to “DISTRICT OF COLUMBIA HEALTH BENEFIT EXCHANGE AUTHORITY TELECOMMUTING POLICIES AND PROCEDURES” were posted on the website. The updates focus on privacy and security policies around telecommuting, and a provision for emergency telecommuting. Telecommuters must use an HBX-issued laptop or an approved personal computer with an approved VPN (remote access directly to our system), and other types of approved devices.

The emergency telecommuting provisions give the Executive Director authority to approve emergency telecommuting when there is an event of some sort that disrupts normal office operations. For example, every four years during the Inauguration, the streets around the office are closed, and people may not be able to get to the office.

## V. Public Comment

No public comment was proffered.

## VI. Votes

### a. Telecommuting Policies and Procedures

It was moved and seconded to approve the Telecommuting Policies and Procedures. The motion passed, with Dr. Aaron, Dr. Beers, Ms. Sullivan Hare and Ms. Lewis voting yes.

## VII. Executive Director Report, *Mila Kofman, Executive Director*

**CHIP REAUTHORIZATION UPDATE:** Mr. Turnage reported that CHIP has not been reauthorized. He reported that a bill has been drafted in both the House and the Senate that would extend CHIP for another five years. Both proposals would phase down the enhanced match, now 23%, to 11.5% in 2020, and eliminate it entirely in 2021. Other provisions would delay disproportionate share payments and provide additional funds to Puerto Rico and the Virgin Islands. There is no true sense of when this might get voted on. As it stands now, CHIP funds will run out in the District by the end of November. With potential reallocation of unspent funds, we would be okay through December, but would not be able to make full payment to the carriers for January coverage.

### **ACA UPDATE:**

**CASSIDY/GRAHAM OUTCOME:** The bill was not voted on by the Senate. Several important letters were sent: most stakeholders opposed it, including health insurers, physicians, consumer advocates, and bipartisan governors. In addition, letters were sent by state-based marketplaces (SBMs), current and former insurance commissioners; and the National Conference of Mayors (signed by Mayor Bowser). The CBO has confirmed that it is still planning to score this bill, which is good news because Cassidy and Graham appear committed to continuing to pursue repeal of the ACA and dismantling of traditional Medicaid.

**END OF RECONCILIATION (51 vote rule):** It expired on September 30, 2017. The Senate Budget Resolution for the new budget does not include instructions that would permit reconciliation on a major health bill.

**FEDERAL CSR PAYMENTS:** They were paid September, but no commitment going forward has been made.

**THREAT OF EXECUTIVE ORDER ON SELLING ACROSS STATE LINES THROUGH ASSOCIATIONS:** An executive order is expected that would allow the sale of insurance across state lines via Association Health Plans (AHPs). Regulations must be promulgated to implement the order. Severe market disruption could result if AHPs are allowed to cherry pick healthy customers.

**REGULATORY ACTIONS ON BIRTH CONTROL COVERAGE:** A tri-agency interim final regulation has come out that discriminates against women by allowing employers to claim a religious or moral objection to providing birth control as part of its health plan. It impacts all coverage. HBX staff is reviewing the details. Lawsuits have already been filed.

**HBX ACA WORKING GROUP:** Jodi Kwarciany, DCFPI and Vice-Chair of the ACA Working Group will provide an update on the progress of the working group. (See ACA Working Group Report below.)

**2018 HEALTH INSURANCE RATES:** Commissioner Taylor has said he intends to approve rates by the end of the week.

**FY 19 BUDGET PROCESS:** HBX staff has been working on the FY19 budget. The Finance Committee will review it first. Then, as in previous years, we will receive input from the Standing Advisory Board and stakeholders. We will finalize staff recommendations for the November Board Meeting for approval by the HBX Board. Then proposed budget will go through the Mayor's budget process.

**AWS:** Amazon Web Services selected us for a case study. We successfully implemented enhanced security in our cloud environment and over time have leveraged AWS to deploy technology. AWS will be doing a video clip of me talking about our experience and there will be a written case study.

#### **OPEN ENROLLMENT:**

- **HEALTHCARE.GOV OPEN ENROLLMENT SUNDAY SHUTDOWNS:** During the federal open enrollment period (Nov 1 – December 15), the Federal Government is shutting down healthcare.gov for maintenance every Saturday from Midnight until noon on Sundays -- except the weekend prior to the end of the Federal Open Enrollment Period (Sunday, December 10).
- **FEDERAL HUB AND ACCESS TO TRUSTED DATA SOURCES (E.G. IRS, SSA, HOMELAND, ETC):** We do not have a schedule on when trusted data services will be unavailable due to scheduled maintenance. When these are not working, we cannot verify required information. This situation creates outstanding verifications for APTC customers and notices are sent. The situation also creates additional administrative work for HBX staff to clear verifications manually once customers provide additional information. We

may lose some customers who do not want to go through the hassle of providing documentation. This is not an issue with full pay because the cloud-based system was built to automatically check/recheck the federal HUB for 24 hours to avoid “false positives” that create avoidable verification requests.

**FOCUS GROUPS:** To help us with a refresh of our DC Health Link material and to help us with retention and new customers, we organized two focus groups: one of SHOP customers and decision makers for them (i.e. brokers); and the second of individual market customers and some uninsured people. The Marketing Committee is reviewing the results in depth.

**OPEN ENROLLMENT (OE) ACTIVITIES:** A list of already occurred and upcoming outreach and community events leading up to and throughout the upcoming open enrollment period was circulated. I want to highlight that we are having an Open Enrollment kick-off event on Saturday, November 4<sup>th</sup> from 11-2 at the Watha T. Daniel Library in Shaw, located at 1630 7<sup>th</sup> Street, NW. Mayor Bowser and Congresswoman Norton are confirmed as speakers. The kick-off events will have lots of activities in addition to enrollment, e.g. Zumba, music, cooking demo, etc.

**NEW IT FUNCTIONALITY FOR OPEN ENROLLMENT:** A new mobile app will be available for open enrollment. Full pay customers can complete their shopping and enrollment using a mobile app during open enrollment.

**MASSACHUSETTE UPDATE:** On track for full rollout November 1.

**ENROLLMENT DATA:** Available [here](#).

## **VIII. Finance Committee Report, Henry Aaron, Chair**

The Finance Committee met Thursday, October 5th. Committee members Ms. Lewis and I participated by telephone with HBX staff.

**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 21<sup>st</sup> and appeals were due by August 24<sup>th</sup>. 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 there are 13 appeals that were filed by the deadline with a total amount in dispute of \$1.8 million. To date, refunds have totaled \$292,000. Staff will continue to update us.

**BUDGET DEVELOPMENT:** Ms. Kofman reported that budget development for Fiscal Year 2019 is in process at the staff level. She will take it through the usual process of Finance Committee and Standing Advisory Board input before finalizing the staff recommendations and bringing them to this Board.

**FINANCIAL STATEMENTS:** We reviewed the *Financial Statements For the Nine Months Ended June 30, 2017 and 2016*. We discussed several topics within the statements, including reporting cash received from employers and sent to carriers separately. We also noted that we are

still spending on IT development against the grants, and we are on track to spend the grant money before the grant expires.

**MASSACHUSETTS PROJECT UPDATE:** HBX staff updated the Committee on the Massachusetts budget and additional functionality for the MA marketplace. The project remains on track and on budget.

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

**IX. ACA Working Group Update, Jodi Kwarciany, Vice Chair**

Over the summer, HBX convened the Affordable Care Act Working Group. It is chaired by HBX Board Member Leighton Ku and I am the vice chair. In Leighton's absence, I am here to provide an update on the working group's progress.

As a reminder the ACA stakeholder working group was charged with:

1. Identifying local policy options to strengthen the ACA protections assuming that the ACA is not repealed (or replaced). The ongoing Administration actions are jeopardizing the stability of our health insurance marketplace, e.g. not enforcing the individual responsibility requirement, no commitment to reimburse cost sharing reductions. The focus here is affordability, consumer protections, and market stability.
2. If the ACA is repealed: identifying local policy options. The focus primarily is private health insurance (small group and individual marketplace) – affordability, consumer protections, and market stability.

The working group is comprised of 20 various stakeholders including representatives from consumer advocacy groups, insurance carriers, brokers, individual and small business customers, provider representatives, a health actuary, and others.

The group began meetings early August and has met six times over the last few months. During this time, the working group has gone into detailed discussions on four topics and here is where potential recommendations stand as of today:

1. **DISTRICT INDIVIDUAL RESPONSIBILITY FALLBACK POLICY** where the District would implement and collect an individual responsibility requirement penalty for taxpayers where the federal government fails to enforce the federal Affordable Care Act individual responsibility requirement and the taxpayer owes a federal penalty under the ACA. If the ACA penalty is paid at the federal level, no penalty is assessed on District taxes.

Also to clarify, this is not implementing an individual mandate in the District, this is a fallback to the extent there is a federal individual responsibility requirement and it is not enforced. If the federal individual responsibility requirement were eliminated, this does not create one in the district. That would be a broader question for the Council to consider given a totality of federal law changes.

Any funds received through the local individual responsibility fallback will be placed in a new HBX-managed fund to be used for the sole purpose of insurance market stabilization.

2. **DISTRICT FALLBACK POLICY TO PAY COST-SHARING REDUCTION PAYMENTS TO THE CARRIERS IF THE FEDERAL GOVERNMENT FAILS TO MAKE SUCH PAYMENTS** where the District would pay carriers the equivalent of the Cost Sharing Reduction payments due to carriers by the Federal Government under the Affordable Care Act where the Federal Government fails to make such payments. Working group members discussed that this policy should be implemented in a manner that minimizes the operational costs for carriers and the District government. Note that each month thus far, the Trump administration has made the CSR payments, but has made no commitment to continue making these payments in the future.

3. **LOCAL REINSURANCE PROGRAM** where the District would implement a local reinsurance program beginning in the 2019 plan year based on carriers' claim costs. The program will take into account the availability of federal reinsurance. This recommendation is a general one, recognizing that decisions related to how much the District would spend on this program would be made by city leaders that would need to identify a funding source. But as background, and projected on a 2018 plan year cost basis:

<u>Estimated Funding Required to Reduce Claims Costs*</u>	
10% Claims Reduction	\$7.4 million to \$8.8 million
20% Claims Reduction	\$14.8 million to \$17.7 million
and	
<u>Historical Federal Reinsurance Payment to Individual Market Carriers</u>	
2016	\$4,238,057
2015	\$6,049,699
2014	\$4,288,060

4. **LOCAL DISTRICT SUBSIDY IN ADDITION TO FEDERAL APTC PAYMENTS.** The group has not concluded its discussion related to implementing a local District subsidy. The current discussion is to have a subsidy that would make premiums more affordable for those under 400% of the federal poverty level, providing greater assistance to those just above Medicaid levels phasing out at the same assistance level as the federal tax credits. Similar to the reinsurance program, if something is put forward, it is expected to be a general recommendation recognizing that decisions related to how much the

District would spend on this program would be made by city leaders that would need to identify a funding source.

The group is expected to have at least two more meetings. No votes have taken place yet and we are expecting to hold one vote on the full package of market stability recommendations at the last meeting. Thus, we hope to have consensus recommendations to the HBX Board in the next few weeks.

**X. Closing Remarks and Adjourn, *Diane Lewis, Chair***

The public meeting was adjourned at 6:28 p.m.