



Health Benefit Exchange Authority Executive Board Meeting

MINUTES

Date: Wednesday, January 10, 2018
Time: 5:30 PM
Location: 1225 Eye Street NW, 4th Floor, Board Conference Room
Call- in Number: 1-650-479-3208; access code: 852 200 175

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

Members Absent: Wayne Turnage, 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 six voting members present (Dr. Aaron, Dr. Beers, Ms. Sullivan Hare, Dr. Ku, Ms. Lewis and Mr. Pitts)

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

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

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

It was moved and seconded to approve the December 6, 2017 minutes. The motion passed unanimously, with Dr. Aaron, Dr. Beers, Ms. Sullivan Hare, Dr. Ku, Ms. Lewis and Mr. Pitts voting yes.

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

OPEN ENROLLMENT UPDATE: deadline reminders: January 15th for 2/1 coverage. January 31 (end of open enrollment) for March 1 coverage. The Mayor and Councilmembers are helping us through social media, newsletters, canvassing and ward activities.

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

EMAIL OUTREACH TO CUSTOMERS: As of January 4th, 2018, using the EMMA tool, we have sent out 27 emails to a total of approximately 15,000 current and former customers. Our average open rate is 50% and average click-through rate is 8%. Our email campaigns continue to perform very well.

MEDIA/OUTREACH EVENTS: VIDEO Available [here](#). (Go to Audio Recording of Meeting for January 10, 2018; the video starts at 15:55.)

APTC ENROLLMENT UPDATE: We have significantly improved our renewals for people who obtained APTC in the previous years through IT improvements as well as monthly reconciliation with Medicaid/APTC enrollees. As a result, we have more people active for APTC beginning in January. January 1, 2017 we had 691 enrollees. As of January 1, 2018, we have **1045**.

- 92% of APTC customers were renewed with APTC this year, as compared to 47% this time last year.
- New APTC enrollments are up 55% from the same time last year.

1095 UPDATE: We plan to start generating 1095As mid-January. We have 19,930 forms that will be mailed. As always, the form will also be available in a secure tool through our website. In addition, we will use the EMMA email communication tool to remind customers that they will need the 1095A forms for their federal taxes.

TAX BILL: The tax bill passed Congress and was signed into law by the President. A key provision for us is the ending of the individual responsibility requirement, for which the penalty of not having insurance is \$0 beginning January 1, 2019. So, 2018 is the last year that has a federal fine for being uninsured. CBO estimates that this provision will cost some 13 million people to lose health coverage in the next decade and that it will increase premiums in the individual market.

Upon passage of the tax bill, Mayor Bowser issued a statement opposing the bill – including the repeal of the individual mandate. She said: *“the repeal of the Affordable Care Act Individual Mandate will lead to an increase in premiums and loss of coverage for millions of Americans. In the coming weeks, we will reconvene the Healthcare Benefit Exchange Affordable Care Act Working Group, made up of DC stakeholders and nationally-renowned local health policy experts, to formulate recommendations for our city and ensure that Washingtonians continue to have access to affordable, high-quality health care.”*

MAYORAL CHARGE: Today, we received a charge from the Mayor. It says:

Mayoral Charge to HBX Board

The repeal of the Affordable Care Act (ACA) individual mandate will lead to an increase in premiums and loss of coverage for millions across the country and thousands here in the District. While I continue to call on the federal government to expand access to health care coverage, it is clear that the current Congress and administration refuses to show leadership on this issue. I ask that the Health Benefit Exchange Authority Board reconvene the Affordable Care Act (ACA) Working Group, with the charge of recommending actions the

District government should take to protect coverage gains and ensure affordable health care coverage for individuals and small businesses. I am requesting that the Working Group consider whether there are actions the District of Columbia should take in light of the repeal of the individual mandate.

We will now work to reconvene the working group quickly and begin the work to develop a consensus policy on District action in the wake of federal repeal of this key ACA provision. As a reminder, if there are local policy interventions here, timing is important because the federal change will negatively impact proposed 2019 rates when carriers file late spring.

STATE ACTIONS: Several states are having discussions about a state individual mandate. Press accounts have included California, New York, and Connecticut as considering a state requirement. This week, there was a press conference in Maryland with state legislators and activists calling for enactment of a form of an individual mandate. Washington State is also considering but because they do not have an income tax, it would be difficult to implement.

AHP REGULATION: On January 4, 2018, the Trump Administration issued regulations on Association Health Plans (AHPs) (following up on his executive order from late last year). These regulations are likely to result in the ACA and private small group and individual markets collapsing. Because of preemption, states would not be able to save their private markets. Under this rule, AHPs would be allowed to sell to individuals and small businesses and could exist for the sole purpose of selling health insurance and would be subject to almost no standards. Essentially AHPs would be unregulated insurance companies. They could have the result of decimating the small group and individual markets.

In addition, the proposed rule opens the door to fraud and scams. The proposal creates new ambiguity on whether and to what extent AHPs can continue to be subject to oversight of state insurance regulators. State efforts would be severely hampered and perhaps foreclosed because of ERISA preemption.

There is a 60 day comment period (comments due March 6). We are organizing and leading the effort to mitigate this attempt by the Administration to destroy private health insurance markets and to protect small businesses and self-employed people from being scammed.)

HHS ASPE REQUEST FOR COMMENTS: On December 26, 2017, the Office of the Assistant Secretary for Planning and Evaluation (ASPE) issued a Request for Information (RFI) pursuant to Executive Order 13813. The RFI seeks to collect information on what laws may be reducing or restricting competition and choice in the health care markets or promoting anticompetitive behavior in these markets. ASPE is specifically seeking information on what state or federal laws, regulations, policies, or grants or other funding mechanisms may be restricting competition. Comments are due by January 25, 2018. HBX is unlikely to comment.

CAFR AUDIT: As chair of the Finance Committee, Dr. Aaron will report on this later in the meeting, but wanted to note that it is completed and there were no findings.

CHIP REAUTHORIZATION UPDATE: As part of the end of the year Continuing Resolution, CHIP is funded through March 31, 2018. Senator Hatch, as part of his retirement announcement, has said that the full reauthorization will be completed this month.

MASSACHUSETTE UPDATE: Thanks to our partnership with the Massachusetts Health Connector, small businesses in Massachusetts now have the option of offering choice to their employees. This functionality went into effect for small businesses with plan years starting on 1/1/18. We are pleased that Massachusetts signed up many new businesses for coverage starting 1/1 and that a substantial number of them decided to offer choice to their employees.

STANDARD PLANS WORKING GROUP: We need to reconvene this working group. We have asked Dania Palanker, who has served as the Vice Chair with Dr. Ku since the working group's creation. She has graciously agreed to take on that role. That work will start imminently.

Ms. Sullivan Hare volunteered to serve as a member of the working group.

Dr. Ku asked about state exchanges and an individual mandate. He noted that any state could impose an individual responsibility requirement, and perhaps some FFM states would do so.

V. Finance Committee Report, Henry Aaron, Chair

The Finance Committee met on Thursday, January 4th. Committee members Ms. Lewis, Ms. Watkins and I participated by telephone with HBX staff.

CAFR AUDIT PRESENTATION: Each year each District agency participates in the Comprehensive Annual Financial Report – an audit. The Committee was briefed by the auditor at our meeting. The audit covered our financial processes as well as IT. The Committee was informed that HBX received a clean audit with no findings. This is a real feat and congratulations are due to our Financial Team (OCFO) and our HBX IT Team for a job well done on this front. The audit will be posted on the HBX website as soon as it is publicly available through the city.

FY 17 BUDGET REVIEW: Staff provided the Committee with a final budget from FY 17 for our review. It is worth noting that we were able to remain under budget in FY 17 because of the ongoing ability to utilize federal grant dollars for IT development work. I will reiterate again that those funds have expired and federal dollars are no longer available for IT development or any other purpose for us. FY 2018 will be our first year living solely on our own finances.

FY 18 FINANCE REVIEW: We reviewed spending against the budget to date in FY 18 and noted all appears in order.

FINANCIAL RESERVES AND RECOMMENDATIONS: At the December Board Meeting, I updated you that the Committee would be coming forward with recommendations regarding funding of the HBX reserves pursuant to our Board-Approved Reserve Policy. As a reminder,

that policy calls for HBX to maintain six-nine (6-9) months of the previous year's Council-approved budget as an operating reserve. Once that is fully funded, we move to fund the capital reserves in an amount not to exceed \$20 million.

Presently, our operational reserves stand at \$14.5 million, which is below the full nine (9) month standard, and we have nothing in the capital reserve.

HBX staff presented the Finance Committee with a recommendation for funding the operating reserve fully to the nine (9) month standard as well as putting funds into the capital reserve.

The Finance Committee agrees with the staff recommendations and voted at this meeting to bring forth these recommendations to the full Board for consideration this evening. Dr. Aaron said he would stop there because we will go into the details of those recommendations later on the agenda.

CONTRACT APPROVAL: HBX staff brought forth a request to provide a new contract for Networking for the Future (NFF) – a CBE that provides IT staffing resources for HBX that are involved in HBX IT operations and development, and development work with the Massachusetts Connector project. HBX has been able to negotiate lower rates with this vendor than some other CBEs and so HBX has used it more heavily as a result. The effect of the reduced rate is that spending is reaching the contract ceiling far ahead of the contract expiration. NFF is also on the DC Supply Schedule which is a contracting vehicle already approved by Council and pre-competes. Dr. Aaron said that the Board will get additional detail later in the agenda so he would not go through all of it now, but he wanted to be clear as part of his report that the Finance Committee approved this contract.

VI. Discussion Items

a. Reserve Funding Amounts – Henry Aaron, Finance Committee Chair

On April 6, 2016 the Board approved a Financial Reserve Policy. In that policy, we agreed to set up an Operating Reserve Fund. The goal is for this fund to equal six to nine (6-9) months of the previous year's Council-approved budget. We agreed to set up a Capital Reserve Fund to contain up to \$20 million. We also agreed that before we put anything into the capital reserve fund we would fund the Operating Reserve Fund fully.

Once monies are put into these funds, there are formal processes to remove them. There must be a written request from the Executive Director that goes first to the Finance Committee for consideration; then the Finance Committee considers it; and that recommendation goes along with the Executive Director request to the Board for a vote.

FIRST TIME WE PUT MONEY INTO RESERVES: On October 19, 2016, the HBX Executive Board voted to dedicate \$14.5 M to fund the operating reserve. We could not do more

because additional funds were not available to top off the Operating Reserve. And since we had not yet filled that reserve, our rules barred making any deposits in the Capital Reserve.

NOW: Now that we have closed Fiscal Year 2017, we are able to consider additional commitments to our reserves. Today, sufficient funds are available to meet the Reserve Policy's target for the Operating Reserve and to begin funding the Capital Reserve. That is what the Finance Committee recommends to the Board.

DC Health Benefit Exchange Authority Available Fund Balance:	\$23,387,320
Increasing Operating Reserve to 9 months	\$11,390,949
Capital Reserve Funding	\$5,000,000
Remaining Fund Balance	<u>\$6,996,371</u>

The HBX Executive Board Finance Committee recommends putting an additional \$11,390,949 into the operating reserve. That will bring the balance to \$25,890,949 -- the full nine (9) month-reserve target set in the HBX Reserve Fund Policy, based on the HBX FY 17 Council-approved budget. The HBX Executive Board Finance Committee also recommends putting \$5 million into the Capital Reserve Fund.

The decision to place \$5 million in the capital reserve fund is more a judgment call than fully funding the operating reserve. The Finance Committee conferred with HBX staff and we all reached a consensus perspective that it did not make sense to put all of the remaining fund balance into the capital reserve fund now.

WHY DID WE DECIDE TO LEAVE APPROXIMATELY \$7 M IN THE AVAILABLE FUND BALANCE?

1. **FEDERAL GRANTS ARE EXPIRED:** This fiscal year (FY 18) will be the first time that HBX has not had access to federal grant funds for ongoing IT Development work. That previous ability to utilize that funding enabled HBX to save some money off our annual Council-approved budgets to date and use those funds to build our reserves. But, it also means that we do not have flexibility that we have been used to with previous Council-approved budgets.
2. **ACA WORKING GROUP RECOMMENDATIONS AND INDIVIDUAL MANDATE REPEAL/POTENTIAL DISTRICT ACTION:** The ACA Working Group made recommendations for policies to stabilize the market and improve affordability. In addition, repeal of the federal individual mandate occurred after formulation of the FY 18 HBX Budget. If new policies are implemented, there will be IT development costs for HBX that were not anticipated in the FY 18 Budget.
3. **MEDICAID COST ALLOCATION FORMULA CHANGES:** The FY 18 HBX Budget presumed a 94% Medicaid/6% HBX cost allocation for our contact center expenses. In September 2017 (after formulation of the HBX FY 18 Budget) that amount

was changed to 74% Medicaid/26% HBX which results in higher contact center costs for HBX.

4. **MAYORAL COST OF LIVING ADJUSTMENT FOR FY 18 PAYROLL:** The Mayor just announced, and Council is expected to approve, a 3% cost of living adjustment for District employees for FY 18 that will apply to HBX employees, but was not budgeted.

Based on these four significant factors, the Finance Committee agreed with the staff recommendation that it made sense to leave approximately \$7 million in the available fund balance to prevent roadblocks for the very real potential need in the coming months for funds that exceed the FY 18 Council-approved budget. Once the FY 18 books have closed next winter, the Finance Committee and Executive Board will review available balances and make a new recommendation on reserve funding if appropriate at that time.

Dr. Ku said the fact that we have a balance now is because we were able to use federal funds. Do we expect that for example, a year from now, that the situation will be different? Will we have to go back and take some money back from the reserves?

Dr. Aaron said HBX has budgeted with a measure of protection. If we are not hit by very serious adverse shocks, we should come to the end of the year breaking even. Ms. Kofman agreed.

Ms. Kofman said the risk of changes to cost-sharing allocation is hard to predict. There will always be some unknowns. In the future, should we need to dip into reserves for operational expenses, staff would come back to the Board for approval.

- b. NFF contract approval – *Mila Kofman, Executive Director*

Ms. Kofman had no further comment than what was already provided by Dr. Aaron in the Finance Committee report. In order to maintain continuity of operations with a key portion of the IT development and operations team, HBX recommends and requests the approval of a procurement using the DC Supply Schedule in an amount not to exceed \$4,500,000 with NFF for the period of January 17, 2018 through May 5, 2018. Of this amount, \$391,815 will be reimbursed by the Massachusetts Connector.

VII. Public Comment

No public comment was proffered.

VIII. Votes

- a. Reserve Funding Amounts

It was moved and seconded to approve the Reserve Funding Amounts as approved and recommended by the Finance Committee. The motion passed unanimously, with Dr. Aaron, Dr. Beers, Ms. Sullivan Hare, Dr. Ku, Ms. Lewis and Mr. Pitts voting yes.

b. NFF Contract Approval

It was moved and seconded to approve the NFF contract as approved by the Finance Committee. The motion passed unanimously, with Dr. Aaron, Dr. Beers, Ms. Sullivan Hare, Dr. Ku, Ms. Lewis and Mr. Pitts voting yes.

IX. Closing Remarks and Move to Executive Session, *Diane Lewis, Chair*

Pursuant to DC Codes Section 2-575 (b)(2), (b)(10) and 31-3171.11 the Board moved to closed session to discuss personnel and contracting.