



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

Date: Wednesday, February 21, 2018
Time: 5:30 PM
Location: 1225 Eye Street NW, 4th Floor, Board Conference Room
Call- in Number: 1-650-479-3208; access code: 739 620 089

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

Members Absent: Stephen Taylor, Wayne Turnage, Laura Zeilinger

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

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

Ms. Lewis announced that the order of items on the agenda would be shifted to have the public discussion and vote on the resolution earlier in the evening as a Board member needed to leave the meeting by a specified time.

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

It was moved and seconded to approve the January 10, 2018 minutes. The motion passed unanimously, with Dr. Aaron, Dr. Beers, Dr. Ku, Ms. Lewis and Mr. Pitts voting yes.

IV. Finance Committee Report, Henry Aaron, Chair

The Finance Committee met on Thursday, February 8th. Committee members Ms. Lewis, Ms. Watkins and myself participated by telephone with HBX staff.

REVIEW OF FINANCIAL REPORTS: The Committee continued its refinement of the financial reports presented by staff to Finance Committee members. The Committee will continue to tweak them until we get them right for staff and Committee members. Updated formats were circulated for our review and we'll hopefully complete that discussion at our next Finance Committee Meeting in March.

BUDGET UPDATES: The budget reports have been updated to include the HBX Board's recent action on the operating and capital reserves. Another important note is that the HBX FY 18 Budget Authority was increased to take into account the \$10 million in assessment dollars that are dedicated to IT development this year. The Finance Committee approved those funds last year. Now that grants are expired budget authority needed to be increased to authorize spending of those funds.

FY 18 FINANCE REVIEW: The Committee reviewed spending against the budget to date in FY 18 and noted all appears in order. This area is another place where are considering obtaining this information in a format that may better enable us to get value out of it. That is on the table for our March Finance Committee meeting as well.

PROCUREMENTS: Finally, HBX staff informed the Committee that it would be reviewing a number of IT procurements for ongoing IT consultant needs – for both maintenance and development work – for our March meeting. That means that the Board should expect to see a number of procurement items on the agenda for its March meeting as well.

V. Discussion Item

District of Columbia Individual Responsibility Requirement Recommendation from the HBX ACA Working Group – *Leighton Ku, Chair, ACA Working Group*

Ms. Sullivan Hare and Ms. Watkins entered the meeting via telephone during this agenda item.

Dr. Ku reported the following:

1. As a reminder, the ACA working group met last summer into fall and came forth with recommendations to increase stability and affordability of the marketplace in response to changes being made by the federal government. The key policies recommended by the group were to implement a local reinsurance program (replacing the federal program that expired) and to create an APTC-wrap – both aimed to increase affordability of coverage. The Executive Board endorsed those recommendations in November 2017. At that time, the federal individual responsibility requirement had not been repealed.

2. In late December of 2017, Congress effectively repealed the federal individual responsibility requirement through the tax bill. In response, Mayor Bowser issued the following charge:

“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. . . .”

3. HBX reconvened the ACA working group in January 2018. The ACA working group includes a broad swath of participants from community health centers, both individual market insurance carriers, a SHOP carrier, consumer advocates, broker, the DC Chamber of Commerce, small business enrolled in SHOP, the DC Hospital Association, and others. It is also key to note that we had strong participation from sister agencies – DISB, DOH, DHCF, and OCFO. And the Executive Office of the Mayor’s staff participated in each meeting as well – with Deputy Mayor for Health staff, Budget staff, federal and regional affairs staff all in attendance.
4. The group met eight times, with many meetings close to two hours. At the beginning, we heard from a group of experts:

- **Massachusetts health connector:** explained the state individual mandate which predates the ACA. Importantly, Massachusetts has many similarities to the District in that the state had high health insurance coverage prior to its health reform effort and the state has high income levels for Medicaid.
- **A former Obama Treasury official** (Jason Levitis) who is now working for the State Health and Value Strategies project funded by RWJ. He walked through the federal law and made the case for building on the federal law because it maintains consistency and would ease implementation.
- **Stan Dorn, Families USA:** one of the lead advocates helping Maryland develop its approach to implementing an alternative to the federal individual responsibility requirement.

Because there has been much confusion, here are the key points of the Maryland proposal:

1. **Prepayment:** During open enrollment, people who owe a penalty can use that money to purchase/renew health insurance instead of paying that penalty on their taxes.
2. **Tax Time:** A person who owes the penalty and is uninsured can choose to have the MD Connector use that money to purchase health

insurance coverage for the individual mid-year **ONLY** if the cost of the health insurance (with APTC) for the remainder of the year would be less than the premium.

- 3. Down Payment:** If at tax time the penalty cannot cover the cost of health insurance coverage, the money can be held in an escrow account to be used toward health insurance in the next open enrollment period. If not used, person moves, get employer sponsored insurance, etc. the money goes to a MD health insurance stabilization fund.
5. **Another key discussion point was the need to move quickly:** health plans will be filing their rates in May and we expect them to include significant increases for the loss of the federal individual responsibility requirement if it isn't clear that the district will act to replace it. CareFirst said in one of our meetings that they expected rates to increase 10-15% solely based on repeal of the federal individual responsibility requirement. We also had our outside actuaries, Oliver Wyman, estimate the impact of the federal repeal on the district if we took no action. They estimated that approximately 15% of the residents in individual market would drop coverage and that the ACA individual market claims costs would increase by 7.2%. This is comparable in scope to a CBO analysis.
6. **The group coalesced around building on the federal law** mainly because of the timeline necessary to impact premiums for 2019. But, there were variations made for key issues:

PEOPLE WITH LOW INCOMES: IRS data from 2015 showed many low-income District residents paid the federal tax penalty, instead of applying for the federal affordability exemption. The group felt strongly that such an outcome does not meet with District values and low-income individuals should not be subject to the penalty. The recommendation is for a flat federal poverty level exemption or something based on Medicaid/CHIP eligibility levels such that a person need not apply for the exemption and it can be easily administrated by the Office of Tax and Revenue.

DC HEALTHCARE ALLIANCE: The coverage does not meet federal minimum essential coverage, but is an important program in the District that provides coverage to 16,000 people. Given this fact, the working group exempted people enrolled in the program from the penalty.

IMMIGRANT CHILDRENS PROGRAM: Is a Medicaid look-alike program for this group and should meet minimum essential coverage standards even though that is unclear under federal law.

AHPS: Group members themselves raised concerns about the pending Association Health Plan regulations and wanted to act in this context to minimize potential negative impacts in the District of young and healthy people being pulled out of the District individual and small group marketplaces risk pools. Given that, the working group decided that those AHPs that meet regulations in effect December 2017 would be allowed to continue and would meet the local

individual responsibility requirement. The working group made clear that it would endorse DISB taking further actions to limit AHPs in the District in response to final AHP regulations, but that this action is a safety net in case the District is preempted from acting based on the implementation of final rules.

NO DOUBLE PENALTIES: If the federal government reinstates the individual responsibility requirement, the District will not charge residents twice.

FUTURE IMPROVEMENTS: The group noted that the District should continue to monitor the effectiveness of the individual responsibility requirement and make changes if needed to improve it. In particular, if Maryland is able to implement its proposal, there may be lessons learned there that we could adopt in the District at a later date.

7. **CONSENSUS RECOMMENDATION:** With that, the group voted 14-0 to support this recommendation that is incorporated into the resolution before the Board today.

Jodi Kwarciany (DCFPI), vice-chair of the working group, emphasized that this recommendation for the District to implement an individual responsibility requirement builds on the earlier recommendations for affordability and stability. A local reinsurance program and an APTC-wrap program are key components that cannot be left out. If we are going to require people to maintain coverage, we need to be sure that we are providing affordable coverage options as part of that requirement. That is why it is so important the recommendations remain together as a package.

Amelia Whitman (Office of Deputy Mayor for Health) expressed the appreciation of the Mayor and Deputy Mayor for all the hard work done by the working group, and the thoughtful recommendations that are the result of the process.

Dr. Aaron asked how we proceed to effectuate the recommendations, once adopted by the Board. Ms. Kofman said HBX is working closely with people in the Deputy Mayor's office on moving forward. Ms. Whitman said there were ongoing talks among the various District agencies, and there are several moving parts. It is part of the overall discussion of the District budget, which the Mayor will drop on March 21. Dr. Ku added that the working group moved so quickly due to the timing issues involved; for example, OTR needs time to make any form changes, tax software companies need time to adjust their software, and carriers need information before rates for plan year 2019 are finalized.

Dr. Beers noted that the timing is bad due to the timing of the budget. He does not think it will be possible to have legislative language before the budget drops. He was thankful that the working group took the time to consider the effects of federal actions on District residents.

Ms. Sullivan Hare asked about exemptions for uninsured people below a certain income threshold. Ms. Kofman said the working group is recommending a blanket exemption for anyone less than 200% FPL and anyone eligible for Medicaid. Also exempt are persons under the income threshold for filing a tax return, including those with a lot of nontaxable income.

There was further discussion regarding implementation issues. Ms. Lewis said that questions of that nature would need to be discussed among the various agencies as the proposal moves forward. Ms. Sullivan Hare volunteered to assist as needed with respect to tax issues.

Mr. Pitts thanked Dr. Ku for leading the effort.

VI. **Public Comment**

Kris Hathaway, America's Health Insurance Plans (AHIP), a member of the working group, encouraged the Board to vote yes on the recommendation. She said that the package overall is a step forward in assisting consumers.

VII. **Vote**

Resolution -- District of Columbia Individual Responsibility Requirement

It was moved and seconded to approve the Resolution, "To make further recommendations to the District for local policy interventions to protect and enhance market stability in the District's health insurance marketplace." The motion passed unanimously, with Dr. Aaron, Dr. Beers, Ms. Sullivan Hare, Ms. Lewis, Mr. Pitts and Ms. Watkins voting yes.

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

OPEN ENROLLMENT UPDATE: HBX extended open enrollment through February 5th, 2018. We had terrific social media support from Councilmembers and the Mayor pushing people to our enrollment events in those final days. Mayor Bowser invited us to join her at a bill signing ceremony for the Defending Access to Women's Health Care Services Amendment Authorization Act of 2018 on January 31st and she publicly announced our February 5th, 2018 extension at that event – which garnered extra media and social media coverage.

Impact of the Shortened Federal Open Enrollment Period: I pulled data about the timeline for enrollments during this open enrollment period compared to last year. In the past, we've had more than 50% of our sign ups occur after December 15th. This year, 30% of our enrollments was after 12/15. Clearly, the federal message of a shortened open enrollment period was heard loud and clear – even though the Administration cut federal funding on media. There was significant earned media coverage on the date change and that created confusion for some residents.

Feb 5th Extension data: 341 additional people made plan selections during that extension. Those are people who may well have been prevented from obtaining affordable coverage for 2018 (unless they had a qualifying life event) without that extension.

Migration to SHOP: Another interesting observation from our data is that we have about 1000 customers who switched from individual to SHOP coverage. There are probably a number of reasons for that. But, we know that one is that our rates are lower in

SHOP and we know brokers have been educating clients who are self-employed, that if they have an employee, they could change to small group coverage, and offer coverage for their employees, while saving on premiums and paying them with pre-tax dollars.

ENROLLMENT DATA: available [here](#).

SHOP CAMPAIGN: We launched *“Plan Choice: You Can Have it All”* SHOP campaign in July 2017. The campaign is designed to inform small business owners about the wide array of plan choices offered through DC Health Link and to encourage the owners to offer multiple plans to their employees. The campaign messaging informs owners that by offering multiple plans, they can save money, provide better employee benefits and pay only one monthly bill through an easy, online hassle-free enrollment process for both employer and employees. You’ll start seeing paid media like metro bus ads focused on SHOP.

1095 UPDATE: We sent 17,797 Form 1095As. Forms are also accessible to customers in a secure manner through DCHealthLink.com. Six customers requested corrections.

CHIP REAUTHORIZATION UPDATE: In January, as part of a continuing resolution to fund the federal government, Congress passed a six-year extension of CHIP funding through 2023. Then, as part of the more recent Bipartisan Budget Act which keeps the federal government open through March 23, 2018, they included four additional years for CHIP. So, CHIP is now authorized through 2027.

MASSACHUSETTE UPDATE: Our platform has been live in production for six months now. Massachusetts Health Connector staff came to D.C. last Monday and Tuesday for meetings on customer service and operational processes. April is the busiest month for renewals in Massachusetts so we wanted to make sure we had a good strategy in place for success.

STATE BASED MARKETPLACE MEETING: Directors and staff from State Based Marketplaces are meeting on April 5th and 6th in Denver. Ms. Kofman said she and several senior staff will be attending. These meetings provide an important opportunity to for us to share experiences with our colleagues in other states and we have found them very productive in the past – and expect the same this year.

UPCOMING COUNCIL PERFORMANCE OVERSIGHT & BUDGET OVERSIGHT HEARINGS: Our annual performance oversight hearing is on Friday, February 23rd at 10 am before the Council’s Health Committee. Our annual Budget Oversight Hearing has also been scheduled by the Health Committee. It is scheduled for Thursday, April 19th, 2018 at 10 am.

STANDARD PLANS WORKING GROUP: The Standard Plans Working Group, chaired by Dania Palanker and vice-chaired by Kate Sullivan Hare, has begun its work on updating the standard plans for plan year 2019. The working group expects to make its recommendations to the Board at the next Board meeting on March 14.

FOLLOW UP ON HSA ENROLLMENTS IN RESPONSE TO INQUIRY AT THE JANUARY MEETING: At the last meeting, Ms. Sullivan Hare inquired about enrollments in HSA plans in the individual market and SHOP.

A large carrier had dropped HSA options in the individual market, but through the Standard Plan Working Group last year, we took action to require HSA compatible plans to be offered at the bronze level in 2018 and going forward. The carrier also voluntarily agreed to provide HSA compatible plans at the gold level.

In 2017, 609 people were enrolled in HSA plans in the individual market (only offered by Kaiser that year).

In 2018, 2,705 people in the individual market are currently enrolled in HSA plans. Breakdown of HSA metal levels is:

Gold	468
Silver	233
Bronze	2004

On the SHOP side, we have 14,197 people covered through HSA plans currently. Of those, 350 employers offer single plan coverage to their employees that is only an HSA option and there are 4,739 people covered by those employers. That is approximately 7% of employers in SHOP who offer only an HSA compatible plan option for coverage. In addition, 2,783 employers offer choice to their employees. Of these, 2,604 employers include an HSA option.

BROKER IT WORKING GROUP: Our first working group was with brokers on IT development back in 2013. Now, several years later and after many changes to our website over that time period, we are reconvening a Broker IT Working Group to provide us with the feedback and expertise needed to ensure that we are doing all we can to make DCHealthLink.com work well for our broker partners.

PROPOSED REGULATION FOR SHORT TERM DURATION POLICIES: On February 20th, the Administration proposed a regulation to change and expand what qualifies as limited duration policies exempt from the ACA. Under the Obama Administration these products were limited to no more than three months in duration because they do not meet the ACA consumer protections and can leave people without needed coverage. The proposed new standards will allow short term policies to be as long as 364 days (up to one year). The proposed rule does not preempt states from having more consumer protective standards. We are reviewing the proposal and will be submitting comments. We will also work with DISB to find ways to continue to protect District residents.

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

The meeting was adjourned at 6:43 p.m.