



**DC Health Benefit
Exchange Authority**

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

Date: Wednesday, December 12, 2018
Time: 5:30 PM
Location: 1225 Eye Street NW, 4th Floor, Board Conference Room
Call- in Number: 1-650-479-3208; access code: 730 768 294

Members Present: Henry Aaron, Kate Sullivan Hare (via telephone), Leighton Ku, Diane Lewis, Khalid Pitts (via telephone), Tamara Watkins (via telephone)

Members Absent: Nathaniel Beers, LaQuandra Nesbitt, 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, Ms. Sullivan Hare, Ms. Lewis, Mr. Pitts, Ms. Watkins).

II. Approval of Agenda, Diane Lewis, Chair

It was moved and seconded to approve the draft agenda. The motion carried unanimously, with Dr. Aaron, Ms. Sullivan Hare, 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 minutes of November 14, 2018. The motion carried unanimously, with Dr. Aaron, Ms. Sullivan Hare, Dr. Ku, Ms. Lewis, Mr. Pitts, and Ms. Watkins voting yes.

IV. Executive Board Meeting Schedule, Diane Lewis, Chair

Ms. Lewis said that starting in 2019, HBX is moving to every other month regular meetings, as opposed to a monthly meeting. This begins with no meeting in January, and having a meeting in February, no meeting in March, and having a meeting in April, and so on. Debbie Curtis (Senior Deputy Director) said that she would send calendar notices with a tentative hold for the off months at the same day and time, in case there is Board business that can't wait an additional month. If we need to hold a meeting on an off month, those meetings would be by conference

call only. Purvee Kempf (General Counsel and Chief Policy Advisor) said that if those additional meetings are needed, they will be scheduled and noticed.

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

OPEN ENROLLMENT DEADLINES FOR INDIVIDUAL MARKETPLACE: December 15, 2018 is the last day to enroll for coverage that starts January 1, 2019. Those who enroll by January 15, 2019 will have coverage that starts February 1, 2019. Those who enroll January 15 through January 31, 2019, will have coverage that starts March 1, 2019.

CONGRESSIONAL OPEN ENROLLMENT: Congressional open enrollment closed on Monday, December 10th. HBX staff participated in enrollment fairs in the House and Senate. In January there will be enrollment fairs in the House for all of the new Members and staff.

OPEN ENROLLMENT COMMUNICATIONS FOR INDIVIDUAL MARKETPLACE:

Email alerts to customers:

- Get help paying for coverage;
- Help is available from brokers and assisters;
- IRS consent to avoid APTC loss in 2019;
- Children are no longer eligible to remain on their parents' 2019 health plan and how children can enroll in DC Health Link coverage;
- Email to residents who lost DC Health Link coverage due to failure pay or did not qualify for a special enrollment period in 2018; and
- Ways to get help ahead of 12/15 deadline.

Notices: final eligibility notice mailed to full pay customers and customers with APTC/CSR in November. The notice included information about individual responsibility requirement in DC, plan renewal information, and deadlines for plan shopping. For APTC customers, the notice included the 2019 APTC amount. Final renewal notice will be sent after the 12/15 deadline for January 1 coverage. This notice includes a reminder to pay premiums and if we need the customer to send documents to confirm eligibility (for example, income) and deadlines for submission.

Targeted outreach: Targeted outreach (including emails, phone calls, coordination with other agencies) for populations who are at risk of losing coverage:

- Those renewed without APTC due to lack of IRS consent;
- Young adults aging off their parents' plans; and
- People potentially becoming eligible for Medicaid.

Outreach Events Highlights: DCHEALTHLINK@WORK campaign aimed at small businesses that do not offer insurance to their employees. The program is designed to reach the uninsured small business employees at their place of employment to enroll them in health insurance through the individual market. **LGTBQ ENROLLMENT WEEK:** Saturday, December 1st, World AIDS Day, DC Health Link kicked off its *LGBTQ Enrollment Week of*

Action with community partner, Whitman Walker. **FAITH IN ACTION SUNDAYS:**
Enrollment in Ward 7 and 8 churches 11/18.

Marketing for 1/1 coverage: Paid advertising including radio ads to air before 12/15 deadline for 1/1 coverage.

Dental Insurance (follow up to last Board meeting discussion): HBX staff developed an outreach plan. Paid advertising and collateral for dental was not budgeted for FY2019 budget. We will leverage existing budget and also restructure the existing budget for some paid advertising.

LEGISLATIVE UPDATE: The Health Insurance Marketplace Improvement Act of 2018 Emergency Bill is pending the Mayor's signature by December 10 (today). The temporary version passed its second reading on December 4 and will be transmitted to the Mayor for signature. And, the permanent version of the legislation passed its first reading on December 4 as well. An additional legislative day has been announced for December 18. The second vote on the permanent bill should occur on that day. This legislation was developed by DISB and HBX to ensure that consumer protections applicable to short term limited duration plans and association health plans are codified to protect District residents from these junk plans.

Dr. Ku asked if other states had similar legislation. Ms. Kofman replied that MD passed legislation this past session. CA banned short term, limited duration plans. MA and NY had some law on the books already regarding AHPs.

PUBLIC CHARGE PROPOSED RULE COMMENTS: HBX submitted comments on this dangerous rule that threatens to deter enrollment in health coverage for immigrants and their family members. We coordinated with DHCF on our comments as this rule is particularly harmful to affected individuals who apply for or accept Medicaid benefits. However, it also endangers legal immigrants who obtain APTC benefits to make private health insurance coverage more affordable. HBX's comments are posted on our website (hbx.dc.gov).

NEW FEDERAL ACTIONS:

Section 1557 of the ACA (nondiscrimination provisions): On November 15, 2018, the U.S. Department of Health and Human Services (HHS) published its semi-annual regulatory agenda. The agenda includes proposed regulations on section 1557 and indicates that these proposed regulations would be deregulatory in nature. HBX will monitor and provide updates when these proposed regulations are issued.

1332 Waiver Guidance: On November 29, 2018 the Centers for Medicare & Medicaid Services (CMS) published a discussion paper titled "Section 1332 State Relief and Empowerment Waiver Concepts." This document sets forth four concepts for state waiver programs, based on the October 24, 2018 guidance, which dramatically reinterpret the 1332 guardrails. Included in this new paper are proposals to make subsidies available for plans that do not meet the coverage and cost sharing requirements that apply to qualified health plans (QHPs). HBX plans to submit

comments on the October 24, 2018 guidance on the 1332 waiver program. We are opposed to any erosion of the current guardrails that preserve meaningful coverage. Additionally, we had our actuaries, OliverWyman, conduct an analysis that showed if only 100 people who needed meaningful coverage moved here from a state that enacted a waiver and therefore did not have access to meaningful coverage, that would increase claims costs by 8 percent. If that number of people moving rose to 800, the claims cost increase would be 20 to 25 percent.

STAFF UPDATE: I am pleased to report that Marjorie Edmonds, who was our acting CFO, is now our new CFO.

FOLLOW UP FROM LAST MTG: Related to discussion of Trump Administration final rules on religious and moral objections, Hank asked if the District can do something about that. The District has a law allowing for a religious exemption. It applies to fewer types of employers than the federal rule and it contains a mandatory accommodation process for certain employers. Since the federal rule is clear that state law is not preempted, the District's law prevails and the District's current protections continue to apply.

Open Enrollment Data: Data is available [here](#).

The Board engaged in a discussion on the growth in the District's population, the slight decline in DC Health Link's individual market numbers, the Trump Administration's various policies and spending decline on outreach, and the possible reasons for the individual market's slight decline in covered people. Data did show that there was some shift from the individual market to SHOP.

VI. Finance Committee Report, Henry Aaron, Chair

The Finance Committee held its regular Finance Meeting with HBX Staff on December 6th. Ms. Lewis and I participated. The Finance Committee also had several additional other meetings with HBX staff with regard to FY 19 IT development and a broader three-year plan for IT development priorities.

I shall start with the IT development plan's financial implications. First, by way of a reminder, some background:

As you well know, HBX derives most of its funding from an assessment on health insurance carriers doing business in the District. HBX receives smaller sums from its partnership with the Massachusetts Connector to operate its SHOP marketplace, interest, and from the sale of vision health insurance through a link on DCHealthLink.com.

Because most funding comes from insurance carriers – who may pass those costs through to their customers in premiums – HBX budgets very conservatively.

To set its annual budget, HBX receives an estimate of total anticipated health insurance premiums for the budget year from the Department of Insurance, Securities and Banking. That estimate forms the basis of the assessment rate that HBX uses to formulate the budget.

As part of the federal requirements to maintain a state based marketplace, HBX also maintains financial reserves. The HBX Board Approved reserve policy calls for nine-months operating reserves, which it has set at \$20 million and capital reserves, which it has set at \$5 million. These funds are invested in Treasury bills and notes.

We also have an unrestricted fund balance, a cash balance outside of the operating and capital reserves and the current fiscal year budget.

Because we were transitioning off grants at the end of 2017 and understood that we would be financially independent for the first time in FY 2018, we decided for a number of important reasons to keep a sizeable balance in an unrestricted account:

First, the unrestricted fund balance provides protection against unanticipated drops in revenues or increases in expenses. For example, the HBX assessment is set based on an estimate of premiums that will be generated a year hence. There is always a chance that actual premiums may be lower than projected. That would leave a problematic shortfall for the budget. As a second example, not all assessed premiums are collected. Some receive refunds on appeal. Others are uncollectable. In addition, HBX and DHCF share expenses in several areas including all costs for the contact center, certain software licenses, and DC Health Link website expenses. The federal government reviews and approves cost allocation formula after budgets are approved. When cost allocation changed from 93% Medicaid and 7% HBX to 74% Medicaid and 26% HBX, HBX had to pay more than budgeted. These expenses are predictable and we budget for them, but what is unpredictable are changes in cost allocation.

Second, since the Trump Administration came into power, state-based marketplaces have faced a barrage of changes in regulations, guidance, and laws that have necessitated fast work by HBX to maintain compliance. It would be rash for HBX to ignore the risk that such changes will continue and that they may boost costs above our budget. There is no way to plan for these contingencies.

Third, as you know, HBX initially had substantial federal grants that supported IT development as well as other investments. Those ended in September 2017. FY 19 will be only our second year operating without those supplemental funds. The HBX IT system is fully developed and widely admired. But IT systems need constant development. Historically, HBX has not included IT development expenses in its annual budgets. In FY 18, the first year without federal grants, HBX transferred \$10 million from the unrestricted fund balance to fund IT development.

These IT needs continue. IT Committee Chair Leighton Ku reported at the last Board meeting, HBX staff briefed the IT Committee on IT development needs for FY 19. Many of these priorities are development projects that have already started and need small investments to complete. As a reminder, these projects fit into three main categories: improving customer

experience, compliance with federal laws, and projects that deliver a significant return on investment for HBX.

After the IT Committee met to review these priorities last month, the Finance Committee also met with HBX staff regarding the cost implications of these IT developments. We approved \$3,082,500 for IT development needs for FY 19 and preliminary approval for \$4.7 million in FY 20 and \$540,000 in FY 21. These priorities will be reviewed by both the IT and Finance Committees in advance of each fiscal year as priorities can change and refinement may be needed.

By maintaining significant funds in the unrestricted fund balance, HBX has been able to fund IT development in FY 18 and 19 while still lowering our assessment from 1% of health insurance premiums sold in the District to .9% of those premiums.

After removing funds for FY 19 IT development, the current unrestricted fund balance is just under \$8 million.

As you can see from our plans to spend more than \$5 million on IT development in FY 20 and 21, we plan gradually to spend down the unrestricted fund balance. We do not intend to maintain significant funds in the unrestricted account. Putting those funds to the Capital Reserve was one option. We believe that it makes more sense to spend them down on IT development, which will serve our customers and our carrier partners and to maintain the reduced assessment we implemented last year, rather than including the cost of those IT investments in our budget and paying for them with assessment funds.

In other areas, HBX staff updated the Finance Committee on a revised tracking mechanism for IT development projects that will be deployed for both HBX and Massachusetts development work. Ms. Kofman will receive these updates bi-weekly and the Finance Committee will review the tracker at our Finance Committee meeting each month.

Last, for the final time, we reviewed the FY 18 budget and spending report which is now final. HBX ended the year \$2.5 million under budget. We also reviewed the FY 19 budget and spending report. As FY19 is still young, there is not much spending to date.

VII. Discussion Items

- a. Consider Creation of an Ad Hoc Executive Board Committee on HBX Legislation –
Diane Lewis, Chair

Ms. Lewis said that pursuant to the HBX Executive Board By-laws, the Executive Board by resolution may establish an Executive Board committee to make recommendations to the full Board regarding any function of the Authority. Before us today is a resolution to establish an Ad Hoc Executive Board Committee on Legislation. This committee would be time-limited for the purpose of reviewing HBX' enabling legislation for general

updating. This includes reviewing the enabling legislation for recommendations to ensure that ACA protections in HBX's enabling legislation continue in D.C. law regardless of federal actions and cleanup to reflect HBX operations.

Ms. Watkins has agreed to be the Chair of this committee with Mr. Pitts and Dr. Aaron serving as the other two committee members.

Dr. Ku asked that if part of it was to pursue cleanup that we have discussed before to maintain the ACA protections in case it is struck down. Ms. Kofman gave an example of staff and Board members are precluded from being employed by a carrier after HBX service. That provision is likely unconstitutional. It is provisions of that nature that will be reviewed.

Dr. Ku mentioned the requirement for ethics training for Board members is every year, whereas he thinks every five years is sufficient. Ms. Kofman said that other statutes besides our own place requirements on Board members. She suggested that the Resolution be passed and that Board members make suggestions for HBX staff to research.

- b. Consider Reappointments for the Standing Advisory Board from the Executive Board Business Operations Committee – *Diane Lewis, Chair*

There are three Standing Advisory Board Members whose terms are expiring and have expressed an interest in continuing to serve:

- Chile Ahaghotu - Dr. Ahaghotu is Vice President for Medical Affairs and Chief Medical Officer at Medstar Southern Hospital Center
- Laurie Kuiper - Laurie is the Senior Director of Government Relations for Kaiser Permanente's Mid-Atlantic States Region
- Dania Palanker – Dania is an Assistant Research Professor at the Center on Health Insurance Reforms at Georgetown's Health Policy Institute

This resolution moves to reappoint them through November 2022.

VIII. Public Comment

No public comment was proffered.

IX. Votes

- a. Ad Hoc Executive Board Committee on HBX Legislation

It was moved and seconded to approve the creation of an Ad Hoc Executive Board Committee on HBX Legislation. The motion passed unanimously, with Dr. Aaron, Ms. Sullivan Hare, Dr. Ku, Ms. Lewis, Mr. Pitts, and Ms. Watkins voting yes.

b. Reappointments to the Standing Advisory Board

It was moved and seconded to approve the reappointments for the Standing Advisory Board as recommended by the Executive Board Business Operations Committee. The motion passed unanimously, with Dr. Aaron, Ms. Sullivan Hare, Dr. Ku, Ms. Lewis, Mr. Pitts, and Ms. Watkins voting yes.

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

The Board moved to executive session pursuant to DC Code Section 2-575(b)(10) and 31-3171.11 to discuss personnel.

The public portion of the meeting concluded at 6:22 p.m.