



**DC Health Benefit
Exchange Authority**

Health Benefit Exchange Authority Executive Board Meeting

MINUTES

Date: Wednesday, November 13, 2019
Time: 5:30 PM
Location: 1225 Eye Street NW, 4th Floor Board Conference Room or by Conference Call
Call- in Number: 1-650-479-3208; access code: 730 599 017

Members Present: Henry Aaron, Leighton Ku, Diane Lewis, Khalid Pitts (via telephone), Stephen Taylor (via telephone)

Members Absent: LaQuandra Nesbitt, 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 four voting members present (Dr. Aaron, Dr. Ku, Ms. Lewis, Mr. Pitts).

II. Approval of Agenda, Diane Lewis, Chair

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

III. Approval of Minutes, Diane Lewis, Chair

It was moved and seconded to approve the minutes of September 11th, 2019. The motion carried unanimously, with Dr. Aaron, Dr. Ku, Ms. Lewis, and Mr. Pitts voting yes.

IV. Executive Director Report, Mila Kofman, Executive Director

OPEN ENROLLMENT

Open enrollment for individuals and families started November 1 and ends January 31. Our call center is open extended hours Monday-Friday 8 am to 8 pm and Saturdays 10 am to 5 pm. Important Reminders on Dates: enroll by 12/15 for 1/1 coverage; enroll by 1/15 for 2/1 coverage; enroll by 1/31 for 3/1 coverage.

- **CONGRESSIONAL OPEN ENROLLMENT:** This also occurs during our individual market open enrollment period. This year's dates are Monday, November 11 through Monday, December 9th. We did our prep meeting with House and Senate administrative offices in mid-October. And, we are holding a number of in-person assistance events in the House and the Senate during their open enrollment period.
- **SHOP open enrollment:** During open enrollment for SHOP, the participation (2/3 of eligible employees) and contribution (50% of premium) rules do not apply. Employers can enroll without contributing to the premium. There are 40 current business customers with less than a 50% contribution rate.
 - Here are the deadlines: employer application must be completed by December 1, employee open enrollment must begin by December 1 and end by December 10, first premium payment must be received by December 12.
- **SHOP:** Our largest renewal month for SHOP customers is December. We have more than 1,100 employers that renew for December 1, with more than 21,000 employees. We also have nearly 600 employers renewing coverage for January 1 with more than 17,000 employees.

KICK OFF ACTIVITIES:

COMMUNITY DAY (Nov 2) POSTPONED: Our annual Community Day to kick off Open Enrollment with Mayor Bowser was postponed (it conflicted with the Nationals parade). We are working with the Mayor's team on new dates for this event sometime in January as a final push for enrollment. On November 2, we had DC Health Link assisters at Woodridge Library to help people who came not realizing the event was postponed. Three people signed up for private health insurance and 10 for Medicaid. One person was referred to ESA for Alliance coverage.

ONE TOUCH ENROLLMENT EVENTS AT CARLOS ROSARIO -- every Thursday 5 pm to 8 pm and Saturdays 9 am to 12 pm at Carlos Rosario (Harvard St NW). Assisters, a broker, HBX staff and ESA staff are at Carlos Rosario to help residents enroll in private health insurance, Medicaid, and the Alliance. This year we also partnered with immigration lawyers funded by the Mayor to be at Carlos Rosario to provide advice on the Public Charge Rule.

PUBLIC CHARGE: As a reminder, we are trying to combat the chilling effect of the public charge rule (even though it is under temporary injunction -- more details below). We have immigration attorneys and interpreters at all one touch enrollment events at the Carlos Rosario International Public Charter School. There are two attorneys at all times. We currently have interpreters for Spanish and Amharic, and we will be adding French in lieu of the Spanish interpreters (the attorneys speak Spanish). We are also monitoring to assess if we need Mandarin, Cantonese, and other language interpreters.

DMV: Last year we developed a partnership with the Department of Motor Vehicles that allowed us to be in several sites around the city. We are continuing this partnership and have in-

person assisters at the DMV services at Rhode Island Avenue and Benning Ridge, as well as at the DMV adjudication office at L'Enfant Plaza.

PAID MEDIA: Paid media focus again is using bus ads with real DC Health Link customers in these ads; radio; cable, and newspaper print ads.

PRE-OPEN ENROLLMENT ACTIVITIES

Window Shopping: We deployed a new feature -- “window shopping” for 2020 plans. Residents were able to preview prices and coverage options for 2020 even before open enrollment started. We deployed mid-October. We used a social media campaign to help educate residents. Our social media was amplified by councilmembers. Window shopping is a popular feature in the federal marketplace and several states have done in previous years and based on their positive experiences with it, we wanted to offer it to District residents. During the window shopping period usage averaged 225 users per day with a peak of over 900 on its first day. For a point of comparison, since the start of open enrollment plan match has had an average of 330 users per day with a peak of more than 600 on Day 1.

Assister Training: We held a two-day in-person training at HBX offices on October 2 and 3 and a makeup session on October 29.

Council Constituent Services Briefing: On October 24, we did our annual Council Constituent Services Open Enrollment Prep meeting. Annually we meet with Council staff handling constituent issues. We provide updates on what's new and reinforce how to get in touch with us for constituent issues.

MOCR Briefing: We also did a similar briefing on October 25 for the Mayor's Office of Community Relations and Services which handles casework for the Mayor.

Email Outreach to Customers: Email communications included multiple emails to customers who need to provide IRS consent to have APTC in 2020; emails to all customers about window shopping in October; and several emails reminding customers about open enrollment. Window shopping email went to 12,062 people (customers and brokers with emails) and had an open rate of 44%. The November 1 (start of open enrollment) email went to 11,639 customers and had an open rate of 37%.

KEY NEW MESSAGES AND FOCUS FOR OPEN ENROLLMENT EDUCATION/PAID MEDIA

STANDARD PLANS: The goal is to educate residents about standard plans covering many medical services without a deductible including primary care, specialists, mental health and substance abuse, urgent care and generic prescriptions drugs.

INDIVIDUAL RESPONSIBILITY REQUIREMENT: Our outreach materials include a reminder that the District requires residents to be covered.

HRA WEBSITE TOOLS: We have two new online tools to help DC Health Link Customers figure out if an individual coverage HRA offered by their employer might be a good option.

The Trump Administration has created a new individual coverage health reimbursement arrangement (ICHRA) that enables employers to set up an ICHRA for employees to be reimbursed tax-free for individual market health insurance premiums. For employers that do not offer health benefits, this is a new way they could help their employees afford individual health insurance.

EMPLOYEE TOOL: We now have a new tool on DC Health Link to help employees to make a more informed decision whether they should accept an ICHRA their employer offers. You can view it on our website here: <https://hra.dchealthlink.com/#/home>. As a reminder, this tool was developed with the support the Robert Wood Johnson Foundation – Princeton technical assistance program for states. Several state-based marketplaces provided input on design. It was designed to be customizable by each marketplace.

EMPLOYER TOOL: We also are working with Consumers' Checkbook on a tool to help employers decide whether offering an ICHRA could help their employees who are District residents to afford individual health insurance.

SHOP UPDATES

SHOP AUTO PAY USAGE: Nearly 1000 of our 5000 small business have already signed up for the autopay feature we deployed this summer.

PLAN CHOICE: We have updated the DCHealthLink.com website with a page promoting the offer of plan choice. <https://www.dchealthlink.com/employee-plan-choice>. We've also added a Spanish version of the video.

OTHER LOCAL UPDATES

DCAS: As I reported at the last meeting, DHCF merged two CURAM platforms into one the weekend of September 13th.

2020 PLAN PREMIUMS: On September 20, DISB approved premiums for 2020. In its press release, DISB indicated an average of 7.6% increase for individual market premiums and 8.4% for the small group market.

DISTRICT AGENCIES CONSUMER SATISFACTION REPORT FROM THE DC AUDITOR: On November 4, the DC Auditor released a report showing results of a survey of residents rating satisfaction with city services and ranking services in order of importance to

residents. <http://dcauditor.org/report/residents-give-district-high-marks-for-city-services/> The report included DC Health Link; residents were asked about quality of services and the importance of “providing health insurance through DC’s health exchange.”

CAFRA AUDIT: This annual audit of city agencies is on-going. HBX operations, IT, and financial teams are working with outside auditors. Once complete, the Finance committee will be briefed by the auditors.

INDIVIDUAL RESPONSIBILITY REQUIREMENT PROPOSED REGULATIONS

ISSUED: On October 18, 2019, HBX, the DC Office of Tax and Revenue (OTR) and DISB issued a notice in the *District Register* of proposed regulations to implement the District’s Individual Responsibility Requirement. These regulations are similar to the federal ones. Comments on the proposed regulations are due on November 17, 2019. The agencies expect to implement final regulations before the end of the year for the filing season for tax year 2019.

COUNCIL HEARINGS: Performance oversight hearing for HBX is scheduled for January 15. Budget oversight hearing for HBX is scheduled for March 23.

FEDERAL

CMS SMART AUDIT FOR PLAN YEAR 2018: On September 30, 2019 CMS issued a clean letter to HBX. This is the annual programmatic and financial audit required of all state-based marketplaces.

HBX COMMENTS SUBMITTED:

Presidential Proclamation: On October 4, 2019 (to be effective on November 3, 2019), the President issued a [proclamation](#) that will suspend entry of immigrants into the United States unless a person can provide proof of health insurance within 30 days or possesses the financial resources to pay for reasonably foreseeable medical costs. People with APTC specifically are excluded from meeting the standards in the proclamation. There was a two-day public comment period on October 30 and 31. HBX and many state-based marketplaces submitted comments in strong opposition to the policy and process. Leighton Ku and other scholars submitted comments in addition to advocates all opposing the policy and process used.

- On November 2, 2019, the U.S. District Court for Oregon issued a 28-day temporary restraining order prohibiting the State Department from implementing the Presidential Proclamation.

State Department Public Charge Interim Final Rule: Published on October 11, it is an Interim Final Rule with a 30-day comment period and adopts the standards used by the Department of Homeland Security (DHS) in their August 14, 2019 Final Rule. The difference here is that the DHS rule applies to U.S. Citizenship and Immigration Services once people are in the country while the State Department rule applies to people applying at consul’s offices outside

the United States. HBX submitted comments on November 12, 2019 opposing the interim final rule on similar grounds as the DHS public charge rule.

- In October several federal district courts issued preliminary injunctions blocking implementation of the DHS Public Charge Final Rule. The courts found that the Rule violated the Immigration and Naturalization Act and lacked the necessary analysis required under the Administrative Procedure Act to support such a fundamental change in policy. There were other legal grounds for issuing preliminary injunctions. NOTE: Even without the rule in force, the chilling effect remains. Also, if the courts ultimately allow the rule to go into effect, it is not known if the effective date will be the original implementation date of October 15, 2019 or a later date such as the date of final court order.

PROPOSED REGULATIONS & OTHER ACTIONS:

Wellness Demonstration Program: On Sept 30, 2019, CMS issued a bulletin to announce a demonstration program for up to 10 states to allow insurers to charge people with individual market policies different premiums based on wellness programs. Depending on how implemented, this could endanger protections for people with preexisting conditions. We will continue to monitor.

New 1332 Guidance: [CMS issued](#) additional guidance seeking to further loosen protections for people with preexisting conditions by allowing states to subsidize short term limited duration plans, catastrophic plans, or other non-comprehensive low value plans. Guidance also loosens single risk pool requirements to allow states to segregate people with expensive medical conditions into separate risk pools (in the past these were known as high risk pools).

Eliminating Non-discrimination Protections in Grant Awards: In November HHS issued a proposed rule that would eliminate certain nondiscrimination protections tied to HHS grant awards. As proposed, this rule would allow grant recipients to discriminate in ways that are currently prohibited. For example, this proposed rule would permit discrimination based on sexual orientation and gender identity. We are still reviewing the proposal to determine whether HBX should file comments to oppose a policy that discriminates.

PENDING (not yet released):

Program Integrity Rule: The HHS Exchange Program Integrity Final Rule was received by OMB on October 25, 2019 and is currently under review. As proposed earlier this year, the proposal included a provision that would require insurers to send separate bills to consumers for any costs related to non-Hyde abortion services. HBX and other state-based marketplaces submitted comments strongly opposing the proposal. We will review once the final rule is issued.

Notice of Benefit and Payment Parameters: The HHS 2021 proposed rule was received by OMB on September 27, 2019 and is currently under review. HBX and all state-based marketplaces are concerned that the final notice could contain restrictions on auto-renewal and

states' using silver-loading to address concerns about CSR payment elimination. We will review once the final rule is released.

DOJ Public Charge Proposed Rule: Was received by OMB on July 3, 2019 and remains under review.

OTHER LEGAL

HHS Conscience Rule: On November 6, 2019, the U.S. District Court for the Southern District of New York issued its decision in *New York et al v. HHS*. Twenty states, including the District of Columbia, challenged the HHS final Conscience Rule, which would have permitted medical providers to discriminate against women, transgender people, the LGBTQ community and others. The District Court struck down the final rule as contrary to the Constitution and the Administrative Procedure Act.

ACA Non-Discrimination Protections (Sec 1557): On October 15, 2019, a federal district court in Texas found Section 1557 nondiscrimination regulations related to gender identity and termination of pregnancy were unlawful. The Court vacated these provisions of the rule and remanded the rule to HHS. HHS is not defending these federal regulations. The Court held that the ACLU and the River City Gender Alliance could intervene in the case to defend the regulations. As a reminder, separate from this case, the Trump Administration has issued proposed regulations reversing the Obama Administration protections under section 1557. HBX submitted comments in strong opposition.

AHPs: Three judge panel (federal court of appeals in DC) will hear oral argument on Thursday November 14. As a reminder, the US Department of Labor appealed the District Court's decision striking down the DOL AHP final regulations. HBX staff plan to attend oral argument.

ENROLLMENT DATA: Is available [here](#).

V. Finance Committee Report, *Henry Aaron, Chair*

The Finance Committee met several times since our last board meeting. On October 10th, Ms. Lewis and myself met with HBX staff via conference call for the monthly Finance Committee Meeting. There was a second meeting on October 21 where HBX staff reviewed the staff proposed FY 21 Budget with Ms. Lewis and Ms. Watkins as I was out of the country. And, we met most recently by phone on November 7th for our monthly Finance Committee meeting at which all three of us were present.

PROCUREMENTS:

- **CONSUMERS' CHECKBOOK CONTRACT MODIFICATION:** Consumers' Checkbook operates our consumer decision support tools on DC Health Link which include Plan Match, the doctor directory and the prescription drug formulary look up. It also turns out that they were capable of building the Health Reimbursement Account

(HRA) Employer Tool that Ms. Kofman described earlier in her executive director report. As building this tool is an important service for HBX to provide to District businesses, the Finance Committee approved a slight modification of \$35,000 to the contract for this year and \$8,000 to the four base option years for ongoing maintenance of the employer HRA tool. As this modification was less than \$100,000, Finance Committee approval permits that modification and no action is required by the full board.

- **IMMEDIATE MAILING SERVICES CONTRACT MODIFICATION:** This is a contract HBX has to print and mail notices required by federal law for customers. The board has already approved a contract amount not to exceed \$250,000. This year, HBX staff want to use additional services from this vendor in order to target direct mail outreach to District residents that a data source they use has identified as likely uninsured. As we all know, the District now has the second lowest uninsured population in the District so it is not easy to find the remaining ones and get them covered. Staff requested an increase in the contract of up to \$80,000 for such activities and the Finance Committee strongly supported these additional efforts to find the remaining uninsured. As this modification was less than \$100,000, Finance Committee approval permits that modification and no action is required by the full board.
- **CONTRACT FOR CERTIFIED BUSINESS ENTERPRISE (CBE) IT CONSULTANT SERVICES:** This is before the Board today so I will be brief. We approved base year contracts for three new CBEs for IT staffing services for HBX. Currently, HBX has two CBEs providing these services and adding three more will provide better prices and competition for the resources we need and ensure our ability to continue to secure necessary IT staffing resources in the future. Ms. Kofman will go through this in more detail later this evening.

ASSESSMENT UPDATE: Our CFO Marjorie Edmonds informed us that significant progress has been made collecting overdue assessments from health insurance carriers doing business in the District. More than \$1.7 million was still outstanding in September, but as of November 7th, the outstanding amount was reduced to less than \$250,000. HBX staff is continuing to work to make those final collections.

HBX FINANCIAL ACCOUNTS: Our CFO Marjorie Edmonds made recommendations to update our bank accounts so that interest can be earned via a money market account for our assessment funds and that we convert the premium account from a non-interest bearing checking account to an interest bearing checking account. We agreed with these recommendations and she is moving forward with those changes.

IT DEVELOPMENT BUDGET REVIEW: We reviewed the ongoing IT development work for FY 20 and all is proceeding as planned. One reminder is that we started this FY 20 IT development work in the previous fiscal year because the IT team was able to complete the 2019 development work more quickly than had been anticipated. When all bills are paid from FY 19,

our CFO will be transferring those remaining IT development funds into the HBX FY 20 budget so the work can continue as planned.

FINANCIAL REVIEW: HBX staff is holding FY 19 budget review until December as it will be more complete by that time. We did review the FY 20 budget and spending to date and noted that all appears to be in order. As most bills do not begin getting paid for the new fiscal year until November, there was not much to review yet.

VI. Discussion Items

a. FY 21 HBX Proposed Budget – Mila Kofman, Executive Director

Ms. Kofman walked through the staff-recommended [FY 2021 budget](#).

b. Consider Appointments for the Standing Advisory Board from the Executive Board Operations Committee – Diane Lewis, Chair

Ms. Lewis presented on behalf of the Executive Board Operations Committee.

There are five appointments to be made to the Standing Advisory Board. Two are due to resignations, and another three have expiring terms in November.

Before we move on to the new appointments, I want to recognize the people who served in these roles on the Standing Advisory Board:

- Chile Ahaghotu, MD;
- Laurie Kuiper, Kaiser Permanente;
- Billy MacCartee, broker;
- Kevin Dougherty, National Multiple Sclerosis Society;
- Jill DeGraff, exchange consumer.

Together they put in many years of service and are key contributors of the success of DC Health Link to date. We thank them for their service.

HBX staff publicly posted these positions in August and did additional outreach to encourage applicants. These candidates fill the same categories as members leaving the Standing Advisory Board, and, importantly, several of them are – or have been – DC Health Link customers as well. The Board Operations Committee has reviewed and approved these applicants and the resolution before the Board this evening would appoint these five individuals to the Standing Advisory Board as follows:

1. **Dock Winston, MD, MPH** to fulfill the term of a departed board member through November 2022. Dr. Winston fills the health professional and exchange consumer qualifications.

2. **Robert Metz, CareFirst** to fulfill the term of a departed board member through November 2022. Mr. Metz fills the commercial sector health plan qualification.
 3. **Margarita Dilone** for four-year term to expire in November 2023. Ms. Dilone fills the qualification of health insurance broker as well as exchange consumer.
 4. **Jodi Kwarciany**, National Alliance on Mental Illness, for a four-year term to expire in November 2023. Ms. Kwarciany fills the qualifications of disease and demographic specific advocacy as well as health care consumer interest advocacy.
 5. **Rebecca Barson** for a four-year term to expire in November 2023. Ms. Barson fills the qualification of exchange consumer.
- c. Contracts for Certified Business Enterprise (CBE) IT Consultant Services – *Mila Kofman, Executive Director*

Ms. Kofman reported the following:

BACKGROUND: HBX is in the fourth year of its current five-year IT consulting services CBE contracts that are used for HBX IT operations and maintenance work as well as IT development work for HBX and the Massachusetts Health Connector partnership. HBX conducted a competitive procurement to seek lower labor rates and have new CBE contracts in place for future IT needs.

SOLICITATION PROCESS: The RFP was issued on June 14, 2019 and closed on July 22. During that window, there were 10 amendments and two extensions provided to maximize competition. The RFP contained three contract line items:

- 1) Operations & Maintenance (O&M) services, fixed price;
- 2) Customizations and Enhancements (i.e., Software Development), labor hours or fixed price;
- 3) Specialized IT Staffing Services, labor hours or fixed price.

Fifteen CBEs submitted proposals for some or all three contract line items.

A Technical Evaluation Panel (chaired by the CIO and including four other IT staff) evaluated proposals and best and final offerors, and provided consensus recommendations to the Contracting Officer on October 20. On October 29, the Contracting Officer recommended awards.

APPROVAL: HBX staff recommend awarding Indefinite Delivery Indefinite Quantity (IDIQ) contracts covering Customizations and Enhancements and Specialized IT Staffing Service to the following CBE vendors with a performance of period of a base year and four options years. For an IDIQ contract, we are not obligated to spend anything except \$500. The ceiling for contracts are recommended to be \$7 million for each contract. We can use these vehicles for our work and MA work. The Board is only approving the

dollar values for the base year at this time. Staff will return to the board with amounts for the option years.

CBE Vendor	Base Year Minimum	Base Year Maximum	OY 1	OY 2	OY 3	OY 4
IdeaCrew	\$500	\$7,000,000	Amount TBD	Amount TBD	Amount TBD	Amount TBD
Innovation Horizons	\$500	\$7,000,000	Amount TBD	Amount TBD	Amount TBD	Amount TBD
DataNet	\$500	\$7,000,000	Amount TBD	Amount TBD	Amount TBD	Amount TBD

COUNCIL APPROVAL: These contracts will require Council approval as the maximum award could exceed \$1 million for each of them.

Dr. Ku asked that if we want something done, once this contract is set up, do we still have to compete? How does it work?

Ms Kofman said that staff would approach the various CBEs and get the best labor rates possible. New RFPs are not required.

Dr. Aaron said if there is a job to do, now HBX has a list of companies approved to do the work and can go to each one and negotiate the labor rates. There is implicit competition, even if it is not formal competition. HBX canvasses the companies.

Dr. Ku said that you do not need further authorization on each task? Ms. Kofman said that is correct.

VII. Public Comment

No public comment was proffered.

VIII. Votes

- a. FY 21 HBX Proposed Budget

It was moved and seconded to approve the FY 21 HBX Proposed Budget as set forth above. The motion carried unanimously, with Dr. Aaron. Dr. Ku, Ms. Lewis and Pr. Pitts voting yes.

b. Resolution – Appointments to the Standing Advisory Board

It was moved and seconded to approve the Resolution – Appointments to the Standing Advisory Board as set forth above. The motion carried unanimously, with Dr. Aaron. Dr. Ku, Ms. Lewis and Mr. Pitts voting yes.

c. Contracts for CBE IT Consultant Services

It was moved and seconded to approve the Contracts for CBE IT Consultant Services as set forth above: IdeaCrew, Innovation Horizons, and DataNet each for up to \$7 million for a base year and four option years. If approved today, these contracts still need to go to Council for approval. Option year amounts will need to come back to the Board if over \$100,000 and Council if over \$1 million. The motion carried unanimously, with Dr. Aaron, Dr. Ku, Ms. Lewis and Mr. Pitts voting yes.

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

Pursuant to DC Code Section 2-575(b)(4) and (10) and 3171.11 the Board moved into Executive Session to discuss personnel.

The public portion of the meeting ended at 7:37 p.m.