



**DC Health Benefit
Exchange Authority**

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

Date: Monday, March 9, 2015
Time: 5:30 PM
Location: 1225 Eye Street NW, 4th Floor, Board Conference Room
Call-in Number : 1-877-668-4493; access code: 739 329 366

Members Present: Henry Aaron (by telephone), Kate Sullivan Hare, Nancy Hicks, Leighton Ku, Kevin Lucia (by telephone), Diane Lewis, Khalid Pitts, Laura Zeilinger, LaQuandra Nesbitt (by telephone).

Members Absent: Chester McPherson, Wayne Turnage

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

Chair Diane Lewis called the meeting to order at 5:45 pm. A roll call of members present confirmed that there was a quorum with four voting members present (Dr. Aaron, Ms. Sullivan Hare, Ms. Lewis, Mr. Lucia).

II. Approval of Agenda, Diane Lewis, Chair

It was moved and seconded to revise the agenda by removing items on Salesforce in Discussion and Votes sections. The motion passed unanimously, with Dr. Aaron, Ms. Sullivan Hare, Ms. Lewis, and Mr. Lucia voting yes. It was moved and seconded to approve the revised agenda.

III. Approval of Minutes, Diane Lewis, Chair

Dr. Ku entered the meeting. The minutes from the February 9, 2015 meeting were unanimously approved, with Dr. Aaron, Ms. Sullivan Hare, Dr. Ku, Ms. Lewis, and Mr. Lucia voting yes.

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

1. WELCOME TO NEW STAFF MEMBERS:

Troy Higginbotham – human resources officer

Brittney Jordan – New to our legal team

Camille Gray – Policy Analyst for the Individual Marketplace and on a return engagement with us

2. **HEARING REPORT:** Ms. Kofman reported that she and Ms. Lewis appeared before the Health and Human Services Committee in the Council at the HBX Performance Oversight hearing, which occurred Wednesday, February 25th. She stated that several people who use DC Health Link and have our coverage testified in support of HBX, and it was very helpful.

Mr. Pitts entered the meeting.

HBX's next Council appearance will be the HBX budget oversight hearing which is currently scheduled for Tuesday, April 28th at 10 am.

Ms. Hicks and Ms. Zeilinger entered the meeting.

3. **51-100 EMPLOYER WORKING GROUP:** Ms. Kofman reported that HBX is establishing a new working group to address issues arising from the change in the definition of small employer in the ACA in 2016. Unless something changes, it moves from 50 to 100. That raises significant questions and operational issues that need to be addressed. Executive Board Member Kevin Lucia has agreed to chair the working group and Margaret Flickinger with Keller Benefits Services will Vice Chair. Jill Thorpe, a member of the Standing Advisory Board, has agreed to serve on the working group. An announcement soliciting membership for the working group will be issued within the next day or two. We encourage participation.

Some basic questions the working group would discuss include 1) whether HBX should formally support the U.S. Chamber of Commerce's position, supported by numerous groups, including advocacy groups, that would delay application of the new definition for two years; 2) if there is no delay, should HBX follow the current federal guidance that will allow 51-100 employer groups to renew early (up to October 1, 2016) and remain large group; and 3) what can we learn about the demographics of this market segment, typical benefits and coverage, support structures, etc.?

4. **ENROLLMENT UPDATE:**

Total through DC Health Link through March 8th:

21,784	Individual Marketplace
52,115	Found eligible for Medicaid
15,953	SHOP (includes Congress)

TOTAL: 89,852

5. Ms. Kofman noted that two item later on the agenda, the proposed Special Enrollment Period (SEP) and Delta Dental's willingness to offer dental coverage year-round on a voluntary basis, had been presented to the SAB and had its full support.

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

Dr. Aaron reported that the Finance Committee met for its regular monthly meeting on Thursday, March 5th. Due to the snow emergency, the meeting was by telephone and not an in person meeting.

GRANT MODIFICATION: Ms. Kofman alerted the Committee that she wanted to increase the grant to the Greater Washington Hispanic Chamber of Commerce (GWHCC) by \$30,000. The GWHCC is one of HBX's three business partnerships, but during open enrollment HBX had GWHCC perform a significant amount of individual outreach -- especially at events where Spanish language was needed. Given this extra work, GWHCC needs an adjustment to be able to continue engagement through the course of their year-long grant which is mainly focused on business outreach.

Ms. Kofman noted that the Fall 2014 procurement policy is silent on modifications to grants. The Finance Committee members discussed the matter and recommended that a grant modification be treated the same way a contract modification is treated. In this instance application of the same standards to grants and contract modifications would require Finance Committee Approval.

The Finance Committee approved adding \$30,000 to the existing grant for GWHCC. Ms. Kofman noted that HBX staff will amend the procurement policy to include the clarification that grants and contract modifications be treated the same way and take it to the Operations Committee for approval prior to a full board vote on the clarification.

SMART AUDIT UPDATE: The staff updated the Committee with regard to the CMS SMART Audit that is a new annual requirement from CMS. The audit has three parts: an independent financial audit, an independent programmatic audit, and an online questionnaire and document upload submission to CMS. The financial audit is done as HBX can use the city-wide CAFR audit for this purpose; the programmatic audit will be conducted by Bert Smith; and the online submission will be handled by HBX staff. The SMART Audit is due April 1.

E-LEARNING SOFTWARE: The Finance Committee and the Executive Board recently approved a multi-year contract for E-Learning software which is used to provide online training modules used by HBX. By obtaining a three year contract, HBX staff was able to reduce the price from \$25,000 annually to a three-year cost of \$50,000. Unfortunately, the rules for multi-year contracts weren't well understood by HBX staff members when they presented this recommendation to the Committee. Multi-year contracts must go to Council for approval, require active approval, and can take 45 legislative days. HBX staff was able to renegotiate the contract into a single year contract with two option years and maintain the savings with the company. Each year, there will be a fee of roughly \$88 to exercise the option year and that is the only difference. This disposition enabled HBX to have a more efficient procurement. The Executive Director updated the Finance Committee that the contract will not be a multi-year contract but a one year contract with option years.

SALESFORCE SOFTWARE LICENSE RENEWAL: Salesforce is the software product used by HBX staff, the contact center, and the IT team to track consumer cases for resolution. HBX needs to renew the annual software licenses for 2015 and need additional licenses for expanded contact center and IT staff. The

annual cost is approximately \$535,000 for this software and Ms. Kofman will distribute the exact pricing to the Committee this week so that we can consider and then bring it to the full board for consideration on an Executive Board Meeting via conference call later this week.

CBE UPDATE: Ms. Kofman informed the Committee that staff will be asking to increase contracts with “Certified Business Enterprises” or CBEs. These are the companies that provide HBX with our IT consultants for the ongoing implementation IT build. That’s just an FYI for now.

MONTHLY EXPENDITURES: The Committee briefly reviewed monthly HBX expenditures and noted nothing unusual. The Committee will do a more thorough review next month when the Committee is able to meet in person.

VI. Discussion Items

- a) New Exceptional Circumstances for Special Enrollment Periods related to losing minimum essential coverage mid-month and related to the shared responsibility payment – *Alex Alonso and Sarah Bagge, HBX Staff*

Mr. Alonso presented the following on losing minimum essential coverage mid-month:

Presently, there can be a coverage gap for individuals losing minimum essential coverage and applying for DC Health Link coverage. To address the coverage gap concern, DC Health Benefit Exchange Authority (HBX) staff is recommending a new special enrollment period (SEP).

Current federal regulations permit a SEP for an individual losing minimum essential coverage (MEC). Under that SEP, individuals can select a private DC Health Link plan up to 60 days prior to the date their old plan ends. That DC Health Link plan will become effective on the 1st day of the month following the date the old plan ends. The individual also has up to 60 days after the plan ends to select a private DC Health Link plan and that plan will be effective based on the date the plan selection is made.

However, this means that for individuals losing coverage in the middle of a month, even if they pick the DC Health Link plan prior to their loss of coverage, they will experience a gap in coverage. For example, if the individual loses MEC on June 5, and selects a DC Health Link plan on May 20th, the DC Health Link plan would not start until July 1.

HBX staff recommended (supported by the SAB) the establishment of a new SEP as follows:

If an individual is losing minimum essential coverage, as defined by 26 U.S.C. §5000A(f), on a date other than the last day of a month. The triggering event shall be the date of the loss of coverage and the length of the special enrollment period shall be sixty (60) days before the day of the loss of coverage. The effective date shall be the first day of the month where the prior coverage is

terminating. This special enrollment period shall not be available to individuals seeking advance payments of premium tax credits.

This “exceptional circumstance” builds on the spirit of the federal SEP in the following ways:

- 1) Ensuring there is not APTC paid for a month when an individual is also enrolled in MEC by limiting to customers not seeking APTC.
- 2) Minimizing overlap in coverage by setting the effective date at the 1st of the month where the prior coverage is terminating.
- 3) Requiring the individual to complete plan selection prior to the loss of coverage if she/he wants to have continuous coverage.

The projected need for this SEP is low given that there are limited circumstances where coverage ends on a date other than the end of a month; most employers maintain an employee’s coverage for the whole month even if that employee terminates mid-month.

Once this new SEP is implemented, in order to ensure there is no gap in coverage, the individual would need to select the DC Health Link plan in the calendar month prior to the calendar month where their old plan will terminate. If a customer does not select a DC Health Link plan prior to the loss of coverage, the federal SEP will still apply and affords a 60-day period after the loss of coverage to select a DC Health Link plan. That right is unaffected by this proposed SEP. However, the individual will experience a gap in coverage.

Ms. Sullivan Hare asked if the premium would be pro-rated. Ms. Kofman said no, the consumer has double coverage in the hypothetical for five days. Ms. Sullivan Hare noted that it is not unusual for part-time and hourly employees to lose coverage the day after their last paycheck.

Mr. Lucia said the SEP should be approved and commended staff and the SAB for proposing it. Five days of not losing coverage is critical for a cancer patient, for example. Mr. Lucia asked for clarification on the APTC issue. If someone wanted to pay full premium, they could. That person could then re-apply for APTC for the following month. Ms. Kofman answered that was correct.

Dr. Ku stressed the importance of counselors probing with their customers to determine exactly when the employer coverage ends. Most people think it stops on the day following the last day of employment. Rob Shriver, HBX staff, stated Dr. Ku’s point would be incorporated into the Contact Center’s various scripts.

Ms. Bagge reported on the proposed SEP regarding the shared responsibility requirement. The federal marketplace and ten states have announced that they would be providing a SEP to consumers who have to pay a tax penalty for the first time in 2014. There are two primary variations: one is the start date, February (minority) or March 15 (majority plus federal marketplace); the second is to whom it extends – those who paid a penalty, and those who did not but became aware of the penalty for the first time as they prepared tax filings in 2015. The resolution and the staff recommendation is for the SEP to

be March 15- April 30, and consumers who attest they paid the penalty for 2014, or those who attest that they were not aware of the penalty until they prepared their taxes and open enrollment had ended.

The resolution extends the SEP to those who file an extension to file their taxes, with an October 15 deadline.

Ms. Kofman said that obviously the SEP does not have any effect on what the consumer pays to the IRS. The SEP allows consumers to reduce the 2015 penalty when they file taxes pursuant to an extension.

Ms. Hicks thought the SEP was good public policy because surveys show a surprising number of people are not aware of the tax penalty.

Ms. Sullivan Hare asked if the SAB discussed adverse selection. She was also concerned about how close the October deadline was to open enrollment. Mr. Alonso said no one at SAB raised adverse selection, but arguably, these people are not adverse selectors – they are buying insurance because they want to avoid the penalty, not because they really want health insurance. Ms. Kofman noted that the SEP is time-limited for 2015 only.

Dr. Ku asked if we had any idea how many people would take advantage of the SEP. Ms. Bagge said no customer had asked about it yet.

b) Standard Plans Working Group Updated Bronze Plan Resolution – Leighton Ku, Chair

Dr. Ku reported that at last month's meeting, a revised standard Bronze plan had been approved by the Board. The change was necessitated by CCIIO issuing a new actuarial value (A/V) calculator for plan year 2016. However, due to an oversight, a resolution memorializing the Board's decision had not been approved. A resolution for the Board's approval would be voted on later during the meeting.

c) HBX Compliance Policy – *Diane Lewis, Chair of the Executive Board Operations Committee and Jenny Libster, HBX Staff*

Ms. Lewis reported that the Executive Board Operations Working Committee unanimously voted to approve the Compliance Policies and Procedures on March 4, 2015. The HBX Compliance Policies and Procedures would establish a plan for HBX compliance with applicable District and federal laws. These Policies would apply to HBX staff and set forth a clear compliance structure, including the designation of a compliance team, reporting requirements, and processes for investigations and imposing sanctions. The Policies and Procedures would also clarify a requirement for HBX to provide education and training on compliance matters to staff and Executive Board members.

Jenny Libster, HBX Associate Counsel will walk us through the policies. A vote will follow after public comment.

Ms. Libster added the policy and procedure is to memorialize compliance policies that apply to HBX staff and clarifies that HBX staff have a duty to comply with District and federal laws. The compliance structure outlines existing staff in roles and positions that comprise the compliance team, which includes the Compliance Officer, the FOIA Officer, and the Privacy and Security Officer. The team is charged with working with HBX leadership and managers in order to create and maintain a compliance program that will include training for HBX staff and Executive Board members. It sets forth requirements to report any suspected act of noncompliance. It also sets forth a clear reporting structure. Regarding the Executive Board, the Executive Director shall report to the Board or Board Operations Committee, at her discretion, any confirmed act of noncompliance. There also a role for investigation by the Compliance Team. It also sets forth applicable sanctions, which can include up to terminations.

Dr. Ku asked if the Compliance Team roles could be the same individual. Ms. Libster says the policy states clearly that the Compliance Officer cannot be the same individual as the Privacy and Security Officer. Otherwise an individual can serve in multiple roles. Dr. Ku assumed that two people who cannot serve in these roles are the Executive Director and the General Counsel. Ms. Libster stated that was not clear under the policy. Ms. Kofman stated that clarification can be added by amendment.

VII. Presentation

- a) Proposal for Year Round Open Enrollment for Delta Dental – *Jeff Album, Delta Dental of CA, NY, PA & Affiliates*

Mr. Album thanked the Board for the opportunity to discuss dental benefits. Delta Dental of Washington, DC is part of a holding company that has 30 million members throughout the country. The Delta Dental enterprise of companies participates on 40 exchanges. They cover about 400,000 in standalone dental plans (SADPs). About 92% are adults, not children. It seems there is a pent-up need for dental benefits in the individual marketplaces.

Mr. Album met with Ms. Kofman and expressed his frustration that on the vast majority of exchanges it is impossible to buy only a dental plan; dental benefits are available only after a purchase of a QHP. To compound the issue, when a consumer goes into an exchange in year two and change the medical selection, the dental plan is automatically terminated. However, neither is the case in the District. CCIIO agrees, however, it is on a list of fixes. CCIIO will design SHOP to keep the two coverages unlinked.

Ms. Kofman added that DC Health Link has lots of customers with SADPs only.

Mr. Album stated that the next step in his discussion with Ms. Kofman was if people only want dental coverage (for example, Medicare beneficiaries) why is signup limited to the open enrollment period? And, it is contracting each year. It is mostly adults buying the coverage. The Delta Dental plan filed in the District, according to its underwriters, has enough safeguards so as to prevent bad financial consequences for the company.

Ms. Sullivan Hare inquired about orthodontia coverage. Mr. Album replied that Delta Dental plans only cover medically necessary orthodontia for children up to 19. To cover adult orthodontia would render the price unattractive, as would covering pediatric cosmetic orthodontia.

Mr. Lucia asked for further explanation. Mr. Album stated that no benchmark plans across the country cover cosmetic pediatric orthodontia. The definition of medically necessary orthodontia used by Delta Dental comes from the California Medicaid dental program, a standard used in many state dental programs. That definition is a malocclusion that comes to 26 on the HVL index. That is an objective, measurable standard. Mr. Album also stated that the out-of-pocket maximum (MOOP) in a pediatric SADP is \$350, while embedded pediatric dental benefits in a medical plan comes with a sometimes high MOOP.

Mr. Album stated the District could be the first in the country to have year-round open enrollment for dental benefits.

Mr. Lucia inquired about any waiting periods. For adults, there is a 12 month waiting period for major restorative services. That is the only benefit subject to a waiting period. Mr. Album said he has seen three year waiting periods for orthodontia in medical plans with embedded dental benefits.

Ms. Kofman said she is very pleased with Delta Dental's decision to extend open enrollment to year-round. One, there is a technology aspect to opening the portal for that piece only. The second point is when HBX executed passive renewals for medical coverage, it also did it for dental coverage. Also, HBX is still working on the SHOP side to have dental benefits available, hopefully later in the year.

Dr. Ku said Delta Dental would be offering family plans, not adult-only plans. Mr. Album said a family plan must have pediatric dental EHB under federal regulations. Delta Dental plans are priced per person participating in the plan, with the same price per person, with no differentiation between adults and children.

Ms. Sullivan asked about coordination of benefits. Mr. Album stated that is required under federal law. When there is embedded dental coverage, Delta Dental is the secondary payer, in accordance with the NAIC model law.

Mr. Lucia asked about preventing unnecessary coverage when coordination of benefits is involved, since in his experience often the secondary payer pays nothing. Mr. Album agreed. He thinks notice to the parents is necessary. Before a transaction is completed, a pop-up window could appear informing the parent that the child has embedded dental benefits in the medical policy, and do they want to continue to purchase the SADP. Mr. Album added that the secondary payer SADP will always act to the benefit of the covered child.

Ms. Hicks was curious about the percentage of children that require the medically necessary orthodontia. Mr. Album thought it was a small number, since it was a high standard. The child's malocclusion had to interfere with speaking, chewing, etc. It is physically very obvious.

Ms. Kofman stated that she welcomed all other dental carriers to follow Delta Dental's example and offer year-round coverage.

Ms. Lewis asked if Board approval were required. Ms. Kofman stated no, the item was FYI. If the Board would say it was the wrong direction, staff would stop, but a vote was not necessary.

VIII. Public Comment

No public comment was proffered.

IX. Votes

a) Resolution on New Exceptional Circumstances for Special Enrollment Periods

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

b) Resolution on Standard Plans Working Group Updated Bronze Plan

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

c) HBX Compliance Policy

It was moved and seconded to approve the policy as amended. The motion passed unanimously, with Dr. Aaron, Ms. Sullivan Hare, Ms. Hicks, Dr. Ku, Ms. Lewis, Mr. Lucia and Mr. Pitts voting yes.

X. Closing Remarks and Move to Executive Session

Pursuant to DC Codes Sections 2-575(b)(2) and (4) and Section 3171.11, it was moved and seconded for the Board to move a closed session to discuss contracting and litigation. It was moved and seconded to move to closed session. The motion passed unanimously, with Ms. Sullivan Hare, Ms. Hicks, Dr. Ku, Ms. Lewis, Mr. Lucia and Mr. Pitts voting yes.

The Board moved to closed session at 7:07 p.m.