

Colorado Health Benefit Exchange
Board Meeting Minutes

Mile High Room
COPIC
7351 E. Lowry Blvd.
Denver, CO 80230

April 23, 2012
8:30 AM – 12:45 PM

Board members present: Jim Riesberg, Nathan Wilkes, Steve ErkenBrack, Gretchen Hammer, Sue Birch, Arnold Salazar, Richard Betts, Beth Soberg, Eric Grossman, Robert Ruiz-Moss, Mike Fallon

Staff present: Patty Fontneau, Jessica Dunbar, Myung Kim, Gary Schneider, John Barela, Amy Berenbaum

Approximately fifty people attended the meeting in person and additional people joined by phone.

I. Board Agenda

The Board noted that the April 9th Board meeting minutes should specify that Richard Betts' motion to not aggregate premiums in the Individual Exchange (which was amended by Rob Ruiz-Moss) was withdrawn and no formal action was taken on the issue of premium aggregation.

Vote: The minutes from the April 9th board meetings, with amendments, were unanimously approved by the board with nine voting members present.

There were no additions made to the agenda. No board members reported conflicts of interest.

II. Board Development and Operations

1. Board Chair report

Gretchen Hammer reported that the second Board meeting in May falls on Memorial Day, so a Doodle poll was sent out to the Board to find another date to meet later in May.

2. Report from CEO/ED

Patty Fontneau reported that the team completed the service and technology vendor evaluation. The Board and select staff will go into executive session to talk with the attorney about negotiations. COHBE has expanded its communication channels and is now tweeting, blogging, and sending emails to an extensive distribution list. COHBE will be moving on May 1st to Ptarmigan Place. The new address and new staff phone numbers will be posted on the website.

3. Rules and Regulations Review Committee Report

Steve ErkenBrack reported that the Rules and Regulations Review Committee met on April 17th to follow up on the Actuarial Value and Cost Sharing Bulletin and Interim Final Rules released by HHS. The committee decided not to weigh in on the Interim Final Rules because they already afford states a significant amount of discretion and authority. COHBE already submitted a letter to HHS addressing one point of disagreement with the DOI's letter regarding the Actuarial Value and Cost Sharing Bulletin and after much discussion the committee decided that it was not necessary to weigh in on other aspects. Arnold Salazar noted that the most important part of the discussion was that it was not important to weigh in because there was no issue regarding creating a competitive advantage for one plan. Gretchen Hammer commented that she appreciated the prudent use of COHBE's resources.

Public comment: Marc Reece, from the Colorado Association of Health Plans, expressed his agreement with the committee's recommendation.

Vote: The board unanimously approved the Rules and Regulations Review Committee's recommendation not to submit addition comment to HHS with nine voting members present.

4. Discussion about Advisory Groups

Gretchen explained that the process of creating advisory groups is about stakeholder engagement. COHBE had a conference call with stakeholders on this topic that was very useful. There were some divergent opinions, but there was basic agreement about the importance of creating advisory groups and the need for broad engagement. Some of the themes included: a diverse and balanced membership will be important; in order to have the most impact each group should have a core set of members with defined leadership; the groups should have clear charters and their work should have a connection to process and policy recommendations.

There will be four Advisory Groups: a Health Plan Advisory Group, a SHOP Advisory Group, an Individual Experience Advisory Group, and the existing Communications and Outreach Advisory Group. COHBE will work to ensure that each Advisory Group has a diverse membership which includes rural representation. COHBE might create additional advisory groups in the future. There will not be a separate Essential Health Benefits Advisory Group because that is a larger, statewide issue. COHBE will continue to participate in the broader conversation about EHBs. COHBE staff will be engaged with the Advisory Groups and the Advisory Groups will help to inform the recommendations that staff provide to the Board. There might be times when the Advisory Groups disagree with staff, but this input and discussion will supplement the current process. In situations where there is no consensus, different perspectives will be highlighted. COHBE staff will own the deliverables.

There were four specific areas of Board discussion: 1) how co-chairs should be appointed, 2) whether there should be sub-groups, 3) what the staff's role should be in their interaction with the Advisory Groups, and 4) whether the Advisory Groups should have a minimum and maximum number of members.

Arnold Salazar expressed the opinion that the COHBE Board should appoint the co-chairs of the Advisory Groups because it is an opportunity for the Board to create balance and structure. Eric Grossman agreed. Nathan Wilkes also raised the point that the co-chairs will probably have more work, so it would make sense to ask on the nomination form if the nominee would be willing to serve as a co-chair.

Patty Fontneau explained the Communications and Outreach Advisory Group is different from the others because it already exists and is working well. The primary focus now is forming the other three Advisory Groups. The staff would like to work independently with members of the Board to create diverse, robust groups. The staff would then formally recommend Advisory Group members to the Board. Patty also recommended that the Board appoint the co-chairs of the Advisory Groups.

The general feeling of the Board regarding a potential minimum and maximum number of members in each Advisory Group was that some flexibility should be retained. The groups should have a sufficient number of members so that their work is worthwhile, but they should also be reasonably sized. 15-25 was thrown out as a target number of members for each Advisory Group.

Patty Fontneau commented that sub-groups might be helpful to address specific, smaller issues within an Advisory Group, but COHBE's staff does not have time to actually staff multiple sub-groups within each Advisory Group. Board members had differing opinions about allowing for the formation of subgroups, but this was not prohibited and staff will raise the idea of forming a subgroup with the board if the need arises.

Gretchen Hammer then suggested a motion to (1) create Advisory Groups as defined in the staff's memo, (2) have charters for each Advisory Group defined by the COHBE Board and staff, (3) have roughly 15-20 members in each Advisory Group, (4) have the Board appoint the Advisory Groups' co-chairs, and (4) make an addition to the nomination form asking if the nominee is interested in serving as a co-chair. Richard Betts made the motion and Nathan Wilkes seconded it.

Public comment:

Dan Anglin, from Rocky Mountain Employers Health Alliance, commented that in his experience as a staffer sub-groups help move the conversation because some people have expertise and want to address a specific issue. He stressed that sub-groups can be helpful to inform the larger group about topics on which only a few people have expertise. What he's looking for is primarily to have the opportunity to engage in substantive discussion.

Diane Dunn, an independent health IT consultant, commented that she was fine with Advisory Groups as long as there could be sub-groups. She said that the Advisory Groups should be able to bring in subject matter experts and that this technical expertise should reach the whole group, not just a sub-group.

Debra Judy, from CCHI, and George Lyford, CCLP commented that sub-groups might be a concern in terms of the additional staff time they would require and in terms of being public and open. They recommended that there should not be sub-groups at this point so as not to dilute the discussion.

Katie Jacobson, from CCHN, commented that there should be a rural perspective represented on each Advisory Group. That would be better than having a stand-alone group since rural concerns are relevant to every policy decision. She also said that she would prefer there not be sub-groups so that non-profits would not have to monitor sub-groups in addition to monitoring the Advisory Groups.

Joel Rosenbum, CSAHU, commented his group would bring a lot of value to the Individual Experience Advisory Group.

Marc Reece, CAHP, commented that the Essential Health Benefits conversation should start as soon as possible. However, he agrees that the conversation is larger than the Exchange so it makes sense that EHBs are not specifically part of an Advisory Group's charter.

Vote: The board unanimously voted to approve the motion to (1) create Advisory Groups as defined in the staff's memo, (2) have charters for each Advisory Group defined by the COHBE Board and staff, (3) have roughly 15-20 members in each Advisory Group, (4) have the Board appoint the Advisory Groups' co-chairs, and (4) make an addition to the nomination form asking if the nominee is interested in serving as a co-chair. There were nine voting members present.

5. Presentation from Rocky Mountain Employer Health Alliance

Dan Anglin, from the Rocky Mountain Employer Health Alliance, gave a [presentation](#) on the results of a survey his organization conducted. Only surveys from employers with 50 or fewer employees were included in the results. Common themes were the importance of cost, choice, and access to brokers. In addition, the survey found that in general employers were not very knowledgeable about: COHBE, the availability of tax credits, or the nuances of new laws affecting health insurance.

III. Exchange Development and Operations

a. Policy Issues

a. Small Group Market Size

COHBE staff made the following recommendation: "Effective 1/1/2016, enacted law requires the small group market to move to 100 employees. We recommend (that the Board recommend to the Division of Insurance) keeping the current definition of the small group market in 2014 and 2015 to minimize market disruption and implementation risk." Rob Ruiz-Moss motioned to accept the staff recommendation based on prior discussion and info. Arnold Salazar seconded the motion.

Nathan Wilkes questioned whether raising the limit to 100 employees would actually be a disruption and suggested that there's a possibility it would reduce market volatility. Jim Riesberg responded that, since larger groups have the option to self-fund, moving to community rating would likely cause groups that are healthier to start self-funding, which would cause more market volatility. He said that it's clear that self-funding will be a problem, but it is unclear how big of a problem it will be. Patty commented that research shows that moving the limit to 100 employees would not stabilize the market, but instead likely do the opposite. Nathan then asked if there is data about how employers would respond if the size of the small group market was increased. Rob Ruiz-Moss responded that any such data would be based on a tremendous amount of speculation. Beth Soberg added that the disruption would most likely outweigh the value.

Public comment: None

Note: The Board voted 8-1 (Nathan Wilkes dissented) to accept the staff's recommendation to recommend to DOI to limit the size of the small group market to 50 employees in 2014 and 2015.

b. Premium Aggregation and Payment Options in SHOP

COHBE staff recommends that, in SHOP, COHBE should only provide premium aggregation initially and conduct a study later to determine if COHBE should also offer the option for employers to pay directly to carriers. Premium aggregation is required in SHOP, therefore, the staff made the recommendation to follow federal law now and reassess in the future if SHOP should provide additional payment options. Gretchen Hammer emphasized that technical questions about how implementation will work are for a separate discussion.

Some Board members felt it would limit the attractiveness of the Exchange if employers were not given the option to pay a carrier directly. Sue Birch raised the issue of the impact on employee benefits liability and Beth Soberg said that she would anticipate that would need to be addressed. Steve ErkenBrack then recused himself from voting on the issue.

Patty Fontneau encouraged the Board to keep COHBE's deadlines and time constraints in mind. She encouraged the Board to follow the staff's recommendation because offering additional options will only create additional complexity. The recommendation minimizes implementation risk while still leaving the door open for offering more options in the future.

Arnold Salazar motioned to approve the staff's recommendation. Nathan Wilkes seconded the motion. Rob Ruiz-Moss offered an amendment to the motion as follows: (1) the default payment option would be premium aggregation but employers would also have the option to pay directly to carriers and (2) employers would have to select a payment method for a plan year.

Public comment (on amendment only):

Debra Judy, CCHI, and George Lyford, CCLP, asked Board members to clarify any conflicts of interest they have and the process for identifying conflicts of interest.

Cindy Sovine-Miller, a political consultant, suggested asking an attorney about conflicts of interest since it would set an interesting precedent if Board members had differing views about the issue

Steve ErkenBrack responded that, as an attorney, he thought there would not be a precedent set because conflicts of interest are handled on a case by case basis and board members just need to be candid about their reasoning. Nathan Wilkes agreed, saying that it is a self-assessment and self-disclosure process based on financial impact. Any individual can confer with a lawyer if they feel the need.

Vote: Arnold Salazar asked for a roll call vote on the amendment: (1) the default payment option would be premium aggregation but employers would also have the option to pay directly to carriers and (2) employers would have to select a payment method for a plan year. Mike Fallon, Eric Grossman, Beth Soberg, and Gretchen Hammer voted in favor of the amendment. Nathan Wilkes, Arnold Salazar, Rob Ruiz-Moss, and Richard Betts vote against the amendment. Steve ErkenBrack abstained. With a tied vote, the amendment did not pass.

The Board then voted on the original motion to approve the staff's recommendation. In a 6-2-1 vote (Eric Grossman and Beth Soberg dissented and Steve ErkenBrack abstained), the board approved the motion with nine voting members present.

c. Premium Aggregation and Payment Options in the Individual Exchange

COHBE staff made the recommendation that the Individual Exchange not initially accept payments or conduct billing since the Exchange is required to allow individuals to pay directly to carriers. A study should be conducted at a later time to reassess this approach. COHBE will help facilitate payment and own the customer experience. COHBE will handle eligibility and enrollment and, through its portal, COHBE would facilitate the billing done by carriers. This would reduce the amount of testing required before the Exchange can go live. The inconvenience to households would be small and would be cheaper for COHBE. The staff provided use cases to help illustrate the work flow.

Some board members discussed whether or not it would be beneficial to aggregate for families since this functionality would be built into the SHOP exchange. The Board also discussed how websites like Expedia and Travelocity handle payments.

Patty Fontneau emphasized that COHBE would work to make the payment process as seamless as possible. She reminded the Board that every single carrier on the carrier panel said that COHBE should not conduct premium aggregation initially. There is risk to individuals if COHBE's premium aggregation process does not work flawlessly.

Arnold Salazar motioned to approve the staff's recommendation. Eric Grossman seconded the motion. Beth Soberg pulled her recusal from a past Board meeting, saying

that at the time she wasn't sure if her company was building out IT, but now she did not think that there would be any financial impact on her company.

Public comment: Diane Dunn, an independent health IT consultant, commented that she thought the Board should consider establishing guiding principles. She thought the Board would benefit by having a common vision and identify who its primary customers are going to be in 2013 and beyond. Arnold Salazar responded that most organizations would have those discussions away from the public. The COHBE Board, however, does not have the option to have that discussion privately.

Nathan Wilkes proposed an amendment to default to premium aggregation with the option to pass through to carriers. Mike Fallon asked why COHBE should do that when the Board just voted to not give employers additional payment options at this time. There was no second to the amendment.

Vote: The Board voted 8-1 (Nathan Wilkes dissented) to approve the staff's recommendation with nine voting members present.

b. Executive Session

At 11:50am Beth Soberg read the following script for the board to enter into Executive Session.

“The RFP Committee is in the process of preliminary negotiation with several bidders on the Service and Technology RFP regarding key terms of the MSA and the Scope of Work provisions of it. Legal guidance is needed before the Committee can complete these preliminary negotiations and make a vendor recommendation to the Board. The Board is allowed to confer with its attorney for this matter in an executive session pursuant to Colorado Revised Statutes Section 24-6-402(3)(a)(II).”

She motioned for the board to enter into executive session and Arnold Salazar seconded the motion. The board unanimously approved the motion with nine voting members present. The board entered into executive session at 11:50am. The executive session is authorized by Colorado Revised Statutes Section 24-6-402(3)(a)(II).

When the Board returned, Beth Soberg motioned to authorize COHBE staff to proceed with negotiations related to the service and technology contract. The motion was seconded by Arnold Salazar.

Public comment: None

Vote: The Board unanimously voted to approve the motion with nine voting members present.

Gretchen Hammer announced there was no further business to conduct by the Board. She told the public to check the COHBE website in the next week for an announcement about when the second meeting in May will be scheduled.

Meeting adjourned: 12:45pm