

Colorado Health Benefit Exchange
Board Meeting Minutes

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

June 25, 2012
8:30 AM – 11:05 AM

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

Staff present: Patty Fontneau, Jessica Dunbar, John Barela, Myung Kim, Amy Berenbaum, Adele Work, Matt Benson

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

I. Board Agenda

There were no additions or edits made to the June 11th Board meeting [minutes](#).

Vote: The minutes from the June 11th Board meeting were unanimously approved by the Board with five 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 Supreme Court is expected to announce its ruling on the Patient Protection and Affordable Care Act on June 28th.

Gretchen Hammer requested nominations for Board officer positions, which will be voted on at the July 9th Board meeting. Nominations can also be made at that meeting. Gretchen Hammer and Richard Betts both indicated that they would be willing to continue serving in their current positions. Steve ErkenBrack nominated the current officers to continue in their present roles (Gretchen Hammer as Board Chair, Richard Betts as Vice Chair, and Arnold Salazar as Secretary).

III. Exchange Development and Operations

1. Report from CEO/ED

Patty Fontneau reported that COHBE is working with the Advisory Groups on a number of the policy and process topics that will be voted on at upcoming Board meetings. COHBE staff has also been spending a significant amount of time working with CGI and its business partners on

requirements verification related to the technology solution; over 500 system requirements have been identified.

Patty Fontneau reported that an Essential Health Benefits webinar is scheduled for 10:00am on Friday, June 29th. In addition to answering common questions about the process, the webinar will provide an introductory overview of a chart that details Colorado's options for an EHB benchmark plan. There will also be public meetings scheduled throughout July. COHBE is continuing to work closely with DOI, the Governor's office, and the public in an effort to reach consensus about Essential Health Benefits.

2. Rules and Regulations Review Committee Report

a. Risk Adjustment Comment Letter

There was no formal recommendation from the Rules and Regulations Review Committee regarding the [Risk Adjustment Comment Letter](#) because the only Board members present at the meeting were Gretchen Hammer and Jim Riesberg. John Barela explained that the letter requests that interim risk adjustment results be released by HHS so that carriers have enough information to establish reserves for risk adjustment for the upcoming year. The letter would be submitted to HHS' risk adjustment methodology website.

Robert Ruiz-Moss expressed his support for the letter, saying that it would add some reporting requirements, but that getting the additional information would be to everyone's benefit. Steve ErkenBrack agreed.

Eric Grossman asked what the implication would be for COHBE if that additional information was made available. Patty Fontneau explained that it's about what actions the carriers would take; if there are going to be financial adjustments that are backward-looking, it would be almost essential to have more information in order to set reserves appropriately. Jim Riesberg added that DOI would relay information to COHBE about concerns regarding a company's reserves and solvency.

Steve ErkenBrack asked if the Colorado Association of Health Plans (CAHP) participated in the discussion and Gretchen Hammer said that they did. Marc Reece, from CAHP, explained that, although CAHP does not have an official position, the letter essentially made the same recommendations as their actuarial work group. CAHP supports the letter.

Robert Ruiz-Moss motioned to approve the letter and submit it to HHS. Nathan Wilkes then motioned to table it until after DOI's presentation on risk adjustment.

Note: The Board unanimously voted to put off voting on whether to submit the letter until after DOI's presentation on risk adjustment. There were seven voting members present.

b. Plan Certification (first set of items)

There was no formal recommendation from the Rules and Regulations Review Committee regarding the first set of [Plan Certification](#) items because the only Board members present at the meeting were Gretchen Hammer and Jim Riesberg. However, the recommendations include input from stakeholders who participated in the meeting.

i. Accreditation

The recommendation was made to adopt existing accreditation standards and that the transition period be two years for plans to become accredited. The Exchange will work with new health plans to establish milestones along the two-year accreditation process. This recommendation aligns with the discussion from the health plan panel.

Steve ErkenBrack asked if the CAHP membership was comfortable with this recommendation, especially those smaller members like San Luis Valley HMO for whom accreditation would be a larger burden. Marc Reece responded that he had not spoken with Cindy Palmer recently, but health plans realize that some form of national accreditation will be necessary and plans just need time to get accredited. The two-year time frame is in line with NCQA and URAC's recommendation of at least 18 months. Patty Fontneau added that Mike Huotari's comments during the discussion led to the inclusion of the second sentence of the recommendation (regarding milestones). Gretchen Hammer pointed out that carriers indicated they would appreciate it if NCQA and URAC were the standards because they are known and it would be harder for carriers to deal with something new. Jim Riesberg added that NCQA and URAC are the two standards that have been authorized for Exchanges by HHS.

Robert Ruiz-Moss asked why the recommendation says that "The Exchange will work with *new* health plans." Patty Fontneau responded that there was no intent to only work with new health plans, so the word "new" would be removed from the recommendation.

ii. Complaint Processes

The recommendation was made that COHBE develop a new complaint process relating to enrollment through the Exchange and eligibility determinations for subsidies. COHBE will leverage existing infrastructure, including internal carrier and DOI complaint processes for operations that are not affected by the Exchange. COHBE will also receive and post complaint data.

Nathan Wiles asked how the Exchange would handle complaints it receives about carriers. Patty Fontneau responded that we're separating process from policy. If complaints belong to DOI, they will be passed to DOI. COHBE cannot duplicate DOI's activities. Jim Riesberg added that the Exchange will be involved up to the point of enrollment; after enrollment, complaints are directed to DOI. DOI receives roughly 2,000 calls per month.

iii. Claims Payment Data Disclosures

The recommendation was made that COHBE develop a system that collects plain language claims payment policy disclosures and data on claim payment denials and makes these disclosures available on the website.

Jim Riesberg pointed out that DOI already publishes an annual complaint report, which it is required to do by statute. If reports have to be more frequent, that would have to be resolved. Gretchen Hammer noted that much of the data COHBE would require already exists in different data sources; it just needs to be packaged in a way that is meaningful for consumers.

iv. Financial Disclosures

The recommendation was made that COHBE develop a system that collects plain language financial disclosures and makes these disclosures available on the website.

Jim Riesberg pointed out that DOI also already publishes an annual cost report. The difficulty is that the data is a minimum of 12 months behind because of the lag in reporting.

v. Formulary Requirements

The recommendation was made to add formulary information to the search criteria for QHPs. This activity would be added to the roadmap for future system design and would be targeted for inclusion in the initial release.

Eric Grossman expressed his concern that no one has been able to put together a formulary or provider directory and keep it up to date. It's much harder to create the technology to allow consumers to search QHPs based on formulary rather than searching on price and then checking the formulary. Eric would recommend the latter even though, as a consumer, he would prefer the former. Mike Fallon agreed and added that formulary information changes so quickly that it might be impossible to keep the information up to date.

John Barela agreed that searching QHPs by formulary is a big lift, but commented that he still thinks it will be very important to consumers. COHBE's goal is to work toward it and see if we can get it done in the first year. Something similar exists with Medicare.gov and COHBE has been working with their people.

Nathan Wilkes commented that a lot of the certification recommendations seem to have no teeth to them and he is concerned that they are too soft. Patty Fontneau responded that there are eighteen aspects to certification. Some are simply reporting requirements. The concept is that these are required in order to be certified. There are no penalties aside from not being certified to participate in the Exchange. These aspects of certification are just the baseline. There are six other aspects of certification, including discriminatory benefit design, that fall into a whole separate category and still need to be tackled.

vi. Licensure

The recommendation was made that COHBE work with DOI to develop a system for validating licensure of carriers offering products on the Exchange. There was no further discussion.

vii. MLR

The recommendation was made that the Exchange work with carriers, state, and federal resources to gather MLR information for carriers. There was no further discussion.

viii. Network Adequacy

The recommendation was made that COHBE use the existing network adequacy framework for general network adequacy with an additional provision including the Colorado Department of Public Health and Environment's (CDPHE) oversight of HMOs. If DOI or CDPHE finds that a carrier's network is inadequate, the carrier will have a defined time period to update the carrier's provider network to meet the network adequacy standards or the plan would become decertified for that area. A separate policy will cover the validation of an adequate number of Essential Community Health Providers in a provider network. There was no further discussion.

ix. Out-of-Network Payment Disclosures

The recommendation was made that COHBE develop a system to collect plain language out-of-network payment disclosures and make these disclosures available on the website.

Eric Grossman asked if there was any reason why the phrase “plain language” was included and if that specification would require more work. John Barela responded that that language comes from the text of the federal regulations, but we do anticipate receiving more guidance about what that would look like in practice.

Nathan Wilkes commented that he would like to see a reflection of the timeliness standards. Gretchen Hammer responded that, right now, the aim is to give carriers an idea of what the guardrails are moving forward.

x. Provider Directory

The recommendation was made to add provider information to the search criteria for QHPs. This activity would be added to the roadmap for future system design and would be targeted for inclusion in the initial release.

Nathan Wilkes commented that he thinks this falls in the same category as Formulary Requirements. Patty Fontneau reiterated that COHBE’s first goal is to implement the Exchange on time. Adding provider information to the search criteria for QHPs matters immensely because many people have indicated they pick a plan based on a provider.

Robert Ruiz-Moss suggested changing the wording of the recommendation to say that plans will need to disclose their provider directories to the Exchange. COHBE will work to develop the details of the information sharing process.

Nathan Wilkes said that, in his opinion, it would be fine to include Provider Directory in today’s certification decisions as long as the language is altered based on the discussion.

xi. Rate Review

The recommendation was made that COHBE work with DOI to ensure that the appropriate rate justification notice is included in the rate filing and can be passed to the Exchange. There was no further discussion.

xii. Solvency Requirements

The recommendation was made that COHBE work with DOI to make sure that COHBE is informed if a QHP issuer enters a new solvency state. COHBE will work with DOI to determine if a carrier may face excess capital strain and provide limits on the number of participants that a carrier may enroll in the Exchange. COHBE will also work with DOI whenever they believe a carrier’s participation in the Exchange causes a risk to the solvency of the carrier.

Richard Betts asked how often solvency tests are performed. Jim Riesberg responded that, in some cases, quarterly, but there are annual financial disclosures and once every five years there is a full examination.

Eric Grossman asked how certification will be reevaluated if solvency changes. John Barela responded that, if a plan becomes insolvent, the Exchange could give consumers a default option

and give them the ability to come back to the Exchange to pick a new plan. COHBE is continuing to work with DOI on this issue.

In summary, Gretchen Hammer suggested rewording the Formulary Requirements and Provider Directory recommendations to focus on the disclosure of information to the Exchange. Nathan Wilkes added that language about timeliness, where appropriate, should also be included. Robert Ruiz-Moss motioned to approve the first set of certification recommendations with the aforementioned changes and Steve ErkenBrack seconded the motion.

Public comment: None

Vote: The Board unanimously approved the first set of certification recommendations with the aforementioned changes. There were seven voting members present.

3. Policy Issues

a. Risk Adjustment Presentation from DOI

Tom Abel, from DOI, gave a [presentation](#) on risk adjustment. The Federal Model for risk adjustment is expected to be released in October 2012. November 2012 is the deadline for the State's proposal of an alternative risk adjustment model. According to the presentation, Wakely Consulting's analysis says that a critical issue for policymakers is the aggressive timeline required for implementation of these programs; a substantial amount of analysis and interaction with key stakeholders needs to be performed in a short period of time. Risk adjustment results must be completed by June 30th in the year following the benefit year, which means that the federal Minimum Loss Ratio deadline will likely need to be adjusted (timing issues are acknowledged in the preamble of the final rules). Wakely recommends Federal administration of risk adjustment, at least until completion of a state mandated study due December 1, 2015.

There is no Colorado legislation authorizing a risk adjustment mechanism in Colorado. DOI is currently evaluating what would be best for Colorado, including looking at what other states are doing and getting technical assistance support.

Steve ErkenBrack commented that the challenge will be to get health plans to embrace risk, which will be very hard to do since it's never been done before.

Nathan Wilkes asked for clarification about the Exchange's role in determining a risk adjustment model for Colorado. Tom Abel responded that, because risk adjustment affects the whole market, the Exchange would not have a role in risk adjustment. Patty Fontneau commented that, as with other market topics, the Board will have the opportunity to comment as the process moves forward.

Robert Ruiz-Moss asked who will decide if Colorado wants to do state-based risk adjustment. Tom Abel responded that there is a joint meeting with the Governor's office, the DOI, and the Exchange where this topic is being discussed. However, it would make sense for DOI to be the final decision-maker since the decision would affect rates. Patty Fontneau added that the COHBE Board could provide input to DOI and the Governor's office.

Patty Fontneau reminded the Board that the current vote is only on the comment letter presented earlier in the meeting, which simply says that more information should be provided. A motion was made to approve the comment letter and submit it to HHS.

Public comment: None

Vote: The Board unanimously voted to approve the comment letter and submit it to HHS. There were seven voting members present.

b. Standard Comparative Plan Information

Ashley Wheeland, a co-chair of the Individual Experience Advisory Group, provided an update on the group's work on Standard Comparative Plan Information, which included a short presentation. The group met twice and came up with a list of recommendations for information to be included in a filtering and standard plan comparison tool.

Nathan Wilkes asked if input from other consumer groups would be sought, in addition to the input from the Individual Experience Advisory Group. Jessica Dunbar responded that the Health Plan Advisory group was also looking at the topic and, because all Advisory Group meetings are open to the public, anyone who was interested in the topic was able to provide input. There were other people present at the meetings besides Advisory Group members who made suggestions.

Robert Ruiz-Moss commented that Massachusetts learned that people were willing to spend about eight minutes shopping. Data needs to be prioritized. Ashley Wheeland responded that the Advisory Group discussed that issue. Though everyone wants the process to be streamlined, opinions vary about how best to do that.

Patty Fontneau added that the Advisory Groups got into discussions regarding design, but right now the focus is on what data components should be included. Design will come later. The Individual Experience Advisory Group will consolidate their discussions into a more formal recommendation for a vote at the next Board meeting.

Cindy Sovine-Miller, a co-chair of the SHOP Advisory Group, also provided an update on the group's work on Standard Comparative Plan Information. Though the group is making progress, they do not have a formal update at this time. There does seem to be a consensus around a recommendation, but it will be coming shortly. The Advisory Group is also making progress on the topic of Employer and Employee Choice.

4. Outreach & Communications Advisory Group Update

Myung Kim provided an update on the Outreach and Communications Advisory Group. The group has been active since June 2011 and has had thirteen meetings. Heather Hewitt, from HCPF, was the co-chair of the group, but she recently left her position at HCPF. The Advisory Group is now going through the same co-chair nomination process that the other Advisory Groups went through, so the group is currently in transition. The group has looked at topics including uninsured data, UX2014, HCPF outreach and grants, and CCLP focus groups. The group also provided feedback on COHBE's website, which launched in November 2011. The group is now focusing on small business outreach, tribal outreach, and educational pamphlets. Myung Kim will be speaking at the regional HCPF conferences this summer.

5. Policy Issues (continued)

a. Administering Premium Tax Credits & Cost Sharing Assistance

The COHBE staff does not believe there is a policy or process decision to be made pertaining to the [Advanced Premium Tax Credit and Cost Sharing Reductions](#) topic. This approach was vetted by and support was received from both the Health Plan and Individual Experience Advisory Groups. The Exchange will work with DOI to ensure that required processes regarding reviews and/or approvals are handled appropriately. How these features are presented to customers will be reviewed with the Board as the team moves through the design phase. Should any fundamental assumptions change, the Board and appropriate Advisory Groups will be notified.

Meeting adjourned: 11:05am