



Colorado Health Benefit Exchange
Board Meeting Minutes

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

November 12, 2012
8:30 AM – 11:40 AM

Board members present: Richard Betts, Susan Birch, Steve ErkenBrack, Mike Fallon, Gretchen Hammer, Robert Ruiz-Moss, Jo Donlin (representing Jim Riesberg), Arnold Salazar, Nathan Wilkes.

Staff present: John Barela, Marsha Benshoof, Cammie Blais, Jessica Dunbar, Stephanie Eng, Patty Fontneau, Caren Henderson, Lindy Hinman, Kyla Hoskins, Myung Oak Kim, Lynn Pressnall, Kelly Ryan, and Jim Sugden.

Approximately 20 people attended the meeting in person and additional people joined by phone.

I. Business Agenda

There were no additions or edits made to the October 08, 2012 Board meeting minutes.

Vote: The minutes were unanimously approved. There were seven voting members present.

There were no changes made to the agenda. Steve ErkenBrack reported a potential conflict of interest on the certification of health plans—plan participation requirement policy discussion.

II. Board Development and Operations

1. Board Chair Report

Gretchen Hammer reported that staff are working to create standing meeting times for consistent stakeholder participation in Finance, IT and Implementation, and Rules and Regulations Board Committees.

III. Exchange Development and Operations

1. Report from CEO/ED

a. New hires

Patty Fontneau announced two new hires at COHBE: Adela Flores-Brennan, Navigator Manager; Stephanie Eng, Health Plan Account Manager. She also highlighted that Marsha Benshoof would be working as a consultant, focused on business development strategy.



b. Finance and Potential Legislation Approach

Patty Fontneau reported that COHBE has hired Milliman to work on its finance strategy and anticipates bringing a summary report to the Finance Committee within the month. Patty Fontneau also reported that the Board will have an opportunity to discuss potential legislation in December.

c. IV&V Contract

Patty Fontneau reported that based on an [evaluation](#) of nine proposals and four follow-up interviews, COHBE recommends the authorization of an IV&V contract with First Data. The total budget for this contract is \$216,000.

Robert Ruiz-Moss made a motion to approve the recommendation. The motion was seconded.

No further discussion. No public comment.

Vote: The motion was unanimously approved. There were seven voting members present.

2. Finance Committee Update

a. Organizational Tax Structure

Robert Ruiz-Moss reported the [recommendation](#) from COHBE auditors and legal counsel to withdraw the articles of incorporation with the Secretary of State and simultaneously submit a clarification of COHBE's tax-exempt status with the IRS. Through this recommendation, COHBE will operate under SB11-200 as a nonprofit unincorporated entity, with both a Section 115 (governmental or quasi-governmental entity) and 501(c)(3) (non-profit entity) status in the eyes of the IRS. Adding the 501(c)(3) status enables the organization opportunities regarding potential grant funding in the future and adds an additional layer of accountability (i.e. Federal 990 Tax Return).

Robert Ruiz-Moss made a motion to approve the recommendation. The motion was seconded.

No further Board discussion.

i. Public Comment

Cindy Sovine-Miller, political consultant and COHBE SHOP Advisory Group co-chair, commented in support of the recommended approach and its importance for collaboration with navigator entities.

Vote: The motion was unanimously approved. There were seven voting members present.



Quarterly Financial Statements

Robert Ruiz-Moss reported on COHBE's [grant budget summary](#) and second [financial statement](#) as of September 2012.

The Board has reviewed the quarterly financial statements.

3. Policy and Process

a. Certification—Participation Requirements

i. Report from Health Plan Advisory Group:

John Barela reported on the Health Plan Advisory Group's plan certification participation requirement [recommendations](#). Colorado law requires that carriers who leave an entire market segment (individual, small group, or large group) cannot reenter that market segment for 5 years. The Advisory Group felt strongly that COHBE should provide a process for a carrier that is involuntarily ineligible to participate in COHBE prior to that waiting period expiring.

The recommendations before the Board is that 1) COHBE should provide a waiting period and the number of years for the waiting period should be determined by the Board, and 2) COHBE should allow a carrier that is subject to a waiting period to request permission to participate prior to that waiting period expiring.

The majority of Board members wanted to understand if there were different participation requirements for market entry in 2014 and post-2014. Board members also agreed that any decision should balance strict participation requirements with choice for consumers. Members commented that there was an initial spike in utilization when the federal and state high risk pools opened, but claims leveled out over time. This experience may indicate that a two year waiting period makes the most sense for the exchange market.

Steve ErckenBrack declared a conflict of interest.

Nathan Wilkes commented that the intent of Colorado's five-year law is to create stability in the market. Mr. Wilkes advocated that COHBE apply the same intent in the Exchange market and set a standard that if a carrier does not participate in the first year (2014) that carrier will have to wait two years before re-entering the market. For example, if the carrier does not participate in 2014, then the carrier would not be able to enter the exchange market until 2017.

Arnold Salazar asked if there is an appeals process at the Division of Insurance for market re-entry. Jo Donlin responded that the Commissioner has some discretion within the five-year time period to make adjustments.

Arnold Salazar made a motion to adopt a two-year waiting period for carriers that voluntarily leave the market or do not enter the exchange market in 2014. The motion also recommends the Board take up discussion and recommendations on the appeal process at a later time. The motion was seconded.



ii. Public Comment

Kim Oberg, Kaiser Permanente, commented that the Advisory Group decided on a one-year waiting period due to information received from the Division of Insurance that there is a chance there could be legislative changes to current state law.

Marc Reece, Colorado Association of Health Plans, commented that because of the uncertainty and tight timelines, the Colorado Association of Health Plans advises separate Board votes on initial market entry and renewal waiting periods. Mr. Reece also commented that the Advisory Group had discussed and some members were more inclined to support an approach where carriers were offered incentives rather than penalties for market participation.

Further Board Discussion

Gretchen Hammer commented that the proposed incentive structure may go against SB-200 in creating a competitive marketplace. Mike Fallon added that if COHBE does not set an entry level waiting period, they would be incentivizing carriers in the wrong direction.

Arnold Salazar requested to move on a recommendation to postpone this decision to the November 26, 2012 Board meeting after staff provide additional research and background information. The motion was seconded.

No further discussion.

Vote: The motion was unanimously approved. There were seven voting members present.

b. Employer/Employee Choice—Contribution & Participation

i. Presentation:

Jim Sugden reported that in July 2012 the COHBE Board voted on and approved segments of the employer and employee choice model. COHBE staff also recommended COHBE set a minimum employer contribution and employee participation requirement in line with market conditions. The Board tabled discussions on contribution and participation to allow the SHOP and Health Plan Advisory Groups to garner feedback from stakeholders and provide the Board with detailed considerations and options to facilitate informed decision-making. Background material on employer contribution and employee participation can be accessed [here](#).

ii. Report from SHOP Advisory Group: Cindy Sovine Miller

SHOP Advisory Group co-chair, Cindy Sovine-Miller, summarized the advisory group's recommendations as:

1. COHBE should set a minimum contribution requirement in line with market conditions.
2. COHBE should set a minimum participation requirement in line with market conditions.
3. COHBE should explore the allowance of a defined contribution and create a system for defined contributions unless disallowed by state and federal law. The Exchange will allow employers to set either a defined amount or a defined percent of a reference plan.



She highlighted that it is important that COHBE provides tools to employers to help facilitate their contribution model.

iii. Report from Health Plan Advisory Group: Marc Reece

Marc Reece, Health Plan Advisory Group co-chair, reported the Health Plan Advisory group [recommendations](#) are in line with the SHOP's, but do propose a small change in language. The advisory group recommends substituting 'emulate' for 'in line with' in recommendations 1 and 2.

Richard Betts made the motion to adopt the SHOP Advisory Group recommendations with the removal of 'in line with' in recommendation 1 and 2, and the insertion of the word 'emulate'. The motion was seconded.

Nathan Wilkes asked whether an employer can change their contribution structure mid-year. Jim Sugden responded that an employer will be able to change their contribution structure once per year.

iv. Public Comment

Mark Reece, Colorado Association of Health Plans, commented that COHBE must ensure that the premiums going out of the SHOP are age-banded even if the employer and employee see them as composite. Mr. Reece emphasized that the defined contribution tools ensure that there is no added lift for health plans and that the SHOP acts as the interface between employers and carriers.

No further Board discussion.

Note: The motion to adopt the recommendation passed with a vote 5-1 with one member not voting. There were seven board members present. (Richard Betts, Gretchen Hammer, Robert Ruiz-Moss, and Steve ErkenBrack voted yes. Arnold Salazar voted no and Nathan Wilkes abstained.)

c. Protection against Fraud, Waste & Abuse—Health Plans

i. False Claims Report

At the October 8, 2012 Board meeting, Board members asked COHBE staff to assess the differences between the State and Federal False Claims Act. Cammie Blais reported that the State False Claims Act applies specifically to Medicaid payments. Should there be a change in that law COHBE will evaluate and change language to abide by State regulations. COHBE [recommends](#) 1) the inclusion of specific contract language to address fraud, waste, and abuse with carriers that explains compliance is a condition of participation and a requirement for certification for those carriers that offer QHPs in the exchange, 2) the inclusion of specific contract language to ensure that carriers have written policies and processes for their internal training and management of activities that relate to the False Claims Act, and 3) that compliance testing and measurement is performed at least annually.



Arnold Salazar requested to move on the recommendation. The motion was seconded.

No further discussion. No public comment.

Vote: The motion was unanimously approved. There were seven voting members present.

d. Protection against Fraud, Waste & Abuse—Technology

i. Introduction

COHBE staff are [identifying the framework](#) to be developed to ensure proper internal controls, training, testing, and that notifications are in place to prevent Fraud, Waste & Abuse (FWA) during the development of the Exchange technology solution. Patty Fontneau reported that COHBE will first run these recommendations through the IT and Implementation Committee and then bring recommendations to the Board for a vote either November 26 or in December.

e. Protection against Fraud, Waste & Abuse—Privacy & Security

i. Introduction

COHBE staff are [identifying the framework](#) to be established to appropriately protect the confidentiality, integrity, availability, and privacy of the COHBE information assets. Similar to the aforementioned topic, COHBE will first run these recommendations through the IT and Implementation Committee and then bring recommendations to the Board for a vote either November 26 or in December.

4. Other Reports

a. Metal Tier Naming

i. Report from Outreach & Communications Advisory Group

Larry Hanan, Outreach & Communication Advisory Group co-chair, reported on the stakeholder feedback regarding how best to present the [cost-sharing metal tiers to consumers](#) shopping in the Exchange. The stakeholder discussion focused on what the metal tiers represent and how they can or cannot help consumers understand their health plan choices. The group overwhelmingly voted to use the metal tier labels; but highlighted the need for COHBE to provide clear explanations, show that the tiers do not measure quality, explain financial risk, and use symbols and visual aids as much as possible.

Arnold Salazar commented that the cost-sharing metal tiers do not reflect quantity or quality.

b. Tribal Update

Myung Oak Kim, COHBE Director of Communications, provided an [update](#) on COHBE's tribal consultation process, and introduced Ernest House Jr., Executive Secretary at Colorado Commission of Indian Affairs. Colorado has two federally recognized American Indian tribes: Ute Mountain Ute and Southern Ute. In addition to the two Tribes, about 50,000 Native



Americans live in Colorado, the majority residing in the Denver metro area. COHBE has to comply with federal provisions for Native Americans and is working with Tribal leaders to help the Tribes utilize the Exchange to help members enhance access to health care.

Meeting adjourned: at 11:40 p.m.