

Utah Defined Contribution Risk Adjuster Board Minutes

Capital Board Room

Approved

July 29, 2009

Amended August 13, 2009

Attendees: John Sweeney, Health Equity; Dave Jackson, First West; Jim Pinkerton, Regence; Bryce Pettey, Utah Attorney General; Jayson Chatelain, Altius; Frank Kyle, Altius; Bob Wilcox, UID; Nancy Askerlund, UID; Mark Brown, Select Health; Earl Hurst, Humana; Pam Gold, United HealthCare; Dennis Kunimura, PEHP; Stephanie Jensen, PEHP; Jake Logan, United HealthCare; Cathy Dupont, OLRGC; Shelly Tevscher, Humana; Sallie Hansen, Regence; Ray Seaver, bSwift (via telephone); Jan O'Brien, bSwift (via telephone); George Korean, United HealthCare (via telephone); Jesse Adriaens, United HealthCare (via telephone); Jodi Schultz, Humana (via telephone); Norm Thurston, DOH (via telephone)

- Mark Brown called the meeting to order at 1:06 PM
- Earl made the motion to accept the Electronic Meeting Resolution. Dave seconded the motion. All were in favor
- Dave made the motion to approve the minutes for the July 14, 2009 Board Meeting. Dennis seconded the motion. All were in favor
- Discussion of the Bylaws & Articles of Organization. Per Dennis, the following items are in need of correction
 - Articles of Organization, Article IV. Purpose: replace the word *devined* to *defined* to read *...insurers participating in the Internet portal defined contribution market...*
 - Articles of Organization, Article XI. Duration and Limitations: add the word *repealed* to read *...UDC Risk Adjuster shall exist until the legislation that created it is repealed.*
 - Dennis made the motion to accept the Articles of Organization as submitted with the above noted changes in Articles IV and XI. Dave seconded the motion. All were in favor
 - Bylaws Article I Section 2a: add another *t* to the word *committed* to read *...that are participating or have committed to participate...*
 - Bylaws Article III Section 1c: add a space between the words *committee* and *may* to read *Vacancies in the membership of any committee may be filled...*
 - Bylaws Article IV Section 3a: change the word *forecase* to *forecast* to read *A budget forecast of the operation of the UDC...*
 - Bylaws Article IV Section 5: add a *period* after the word *accounts* to read *...complete books and records of all accounts. Written minutes...*
 - Dennis made the motion to accept the Bylaws as submitted with the above four changes. Jim seconded the motion. All were in favor
- Dave explained the Life Event Rules handout. This handout consists of the Rules most common in today's practice
 - There were no objections or areas of concern with these rules. Dave motioned we accept these life rules. Earl seconded the motion. All were in favor
- Mark presented to the group the subcommittee's recommendation to have a non-calendar policy year. The November open enrollment and January 1, 2010 effective date for the policy year will still take place, but the portal will then allow employers to join any time of the year.

Premium allocation needs to be adjusted on a monthly basis, which allows for open enrollment year-round.

- Frank suggested there be an opt-in for non-participating carriers. He is concerned about going from a onetime enrollment to a continuous enrollment
 - According to Mark, this might be possible after Utah legislature makes the change, but as the law stands now, this is not an option
- Mark asked bSwift if they can handle product changes offered to new business mid-year
 - bSwift confirmed that carriers would be able to add or remove products in the portal mid-year
- Earl asked if the number of iterations, or plan designs, will be limited
 - According to Norm, no rules have been adopted yet. There is a need for variety, but with a reasonable number of plans per carrier
 - Ray explained there will be a vertical listing of plans on the limited launch with five options. Consumers can filter by carrier, copay, deductible, price etc. The goal is to have a competitive exchange. The portal should not be restrictive, but consumers also have to digest all information in the portal
 - Earl is concerned the consumer will have too many questions, which will be directed to the broker if the design is not consumer friendly. Continual questioning may dissuade the broker from support of the portal
 - Dave believes a couple of questions can narrow the plan down significantly. Additionally, brokers need to realize their business in the portal needs to be handled differently than their business in the market
 - Jim believes the portal should not be limited too much. The portal will be starting small, but will expand in the future to larger groups
- Dave made the motion to accommodate non-calendar year effective dates as allowed by legislation.
 - Cathy stated a couple of features in the motion need to be clarified. She asked if employer groups join at any time of year, if they will have a short year
 - Legislation can allow for short years, but the preference from the subcommittee is to accommodate the full non-calendar year
 - Cathy questioned if the board wants to prohibit a surcharge for switching mid plan-year
 - Per Mark, this topic has not been addressed at this time, but will be discussed at the next subcommittee meeting
- Earl made a substitute motion to make accommodation of entry and renewal of non-calendar year effective dates and benefit years once the Defined Contribution portal is fully operational, based on the employer's entry date into the portal and consistent with what is allowed by statute. Dave seconded the motion. All were in favor
- Mark discussed the workflows. The recommendation from the subcommittee is to accept these as the working documents and to allow for any changes that need to be made
 - Earl is concerned with carriers sharing public health information. He asked if there would be a need for a business associates agreement
 - Per Mark, anti-trust has been examined by Perri Babalis, but we should also look at HIPAA to address this concern
 - Earl suggested the State supply an agreement that all carriers can adopt, rather than selecting one of the participating carriers business associates agreement

- Dennis offered PEHP's agreement for reference and/or adoption
 - Jim made the motion to accept these workflows as the initial framework. Earl seconded the motion. All were in favor
 - Mark reviewed the subcommittee's discussion on broker compensation. The subcommittee recommends to the board that broker commission will be based on PEPM, with the same PEPM across all premium tiers as defined and approved in the prior committee meeting (EE, EE + spouse, EE + child(ren), EE + family), that this PEPM be differentiated by group size (2-24 and 25+), and the carriers provide a recommended range but compensation level will be determined by the Office of Consumer Health Services, not the Risk Adjuster Board
 - Norm would like broker compensation to be defined in more detail to avoid argument that the compensation level is too high or too low
 - Mark stressed that the Risk Adjuster Board should not set the commission
 - Dave mentioned it is possible to violate anti-trust if the carriers define the rate. He is unsure if the Risk Adjuster Board (RAB) or the Office of Consumer Health Services (OCHS) should define the rates
 - Earl suggested the PEPM needs to be competitive with the existing market
 - Dave argued the portal will not get off the ground if the PEPM is too low
 - Mark said the RAB can provide some direction, but he believes the conversation about commission levels should be between the carriers and OCHS
 - Jim suggested the commission be discussed between the employer and the broker. When registering in the portal, the employer can set the commission they wish to pay
 - Dave agreed this could be a long term goal (within 3-5 years), but if the portal is started in this manner, it will be a stumbling block for the brokers, who feel they need to be compensated
 - Earl asked if there would be any overrides or trip incentives
 - Norm stated it is difficult to prevent a carrier from making an agreement with a broker behind the scene
 - Mark pointed out the violation would be revealed through the market conduct exam
 - Cathy would like an assessment from Perri regarding a separation of commission from the premium and how this would affect the process politically. OCHS has language in the statute stating they do not have the authority to regulate or establish commissions without a change to the statute. Cathy is unsure if the RAB can set commissions
 - Jayson questioned how the portal will handle a group switching mid-year
 - Initial enrollment premiums would be maintained and reevaluated at renewal
 - Earl made the motion to recommend to the board that broker commission will be based on PEPM, with the same PEPM across all premium tiers as defined and approved in the prior committee meeting (EE, EE + spouse, EE + child(ren), EE + family), that PEPM could be differentiated between group sizes, and there will be no overrides or trip incentives. Jim seconded the motion. All were in favor
 - Dave made a substitute motion that base premium rates submitted to the portal will be net of commission and portal fees, banking vendors will add on appropriate amounts. Jim seconded the motion. All were in favor

- The subcommittee also recommends to the board that an Underwriting Subcommittee be convened
 - Earl made the motion to establish an underwriting rules subcommittee. Jim seconded this motion. All were in favor
 - Earl offered to head this subcommittee
- Mark next addressed the business plan, which needs to be submitted by January 1, 2010. He suggested a draft be created prior to this date and asked for a volunteer to put the business plan together. Jim volunteered to start putting this business plan together; Dave volunteered to be his backup.
- The next subcommittee meeting has yet to be determined
- The next board meeting will take place on August 10, 2009 at 1:00PM
- Dave made the motion to adjourn. Jim seconded the motion. All were in favor. Meeting adjourned at 3:09PM