

## Utah Defined Contribution Risk Adjuster Board Minutes

Capital Board Room

*Approved*

August 10, 2009

**Attendees:** Nancy Askerlund, UID; Tanji Northrup, UID; Mark Brown, Select Health; Earl Hurst, Humana; Norm Thurston, DOH; Dan Schuyler, OCHS; Steve Neeleman, Health Equity; Stephanie Jensen, PEHP; Dennis Kunimura, PEHP; Dave Jackson, First West; Michelle Rigby, Milliman; Perri Babalis, Utah Attorney General; Sallie Hansen, Regence; Chet Loftis, Regence; Cathy Dupont, OLRGC; Ray Seaver, bSwift (via telephone); Jim Pinkerton, Regence (via telephone); Frank Kyle, Altius (via telephone); Jodi Schultz, Humana (via telephone)

- Mark Brown called the meeting to order at 1:07 PM and welcomed the group
- Mark asked if there were any questions or concerns regarding the minutes from the July 29, 2009 Board Meeting
  - Dave questioned the use of only the first name. Mark pointed out the full name is listed in the attendee list. Norm stated as long as the name was clear from the attendee list, the use of first name only is fine. Perri stated there is no requirement for use of both first and last name
  - Mark pointed out some areas of concern with the minutes from the July 29<sup>th</sup> meeting
    - On the first page, rather than stating *Dennis made the motion to make the above noted changes in Articles IV and XI*, Mark feels the phrase should be *Dennis made the motion to accept the Articles of Organization as submitted with the above noted changes in Articles IV and XI*
    - On the first page, rather than stating *Dennis made the motion to make the above four changes in the Bylaws*, Mark feels the phrase should be *Dennis made the motion to accept the Bylaws as submitted with the above four changes*
    - On the second page, Mark would like to use the word *asked* rather than *addressed*
    - On the third page, Earl would like the sentence *Earl stated he would not participate in the portal if OCHS set a high PEPM* to instead state *Earl suggested the PEPM needs to be competitive with the existing market*
  - Norm made the motion to accept the July 29, 2009 minutes with the above noted changes. Dennis seconded the motion. All were in favor
- A Health Reform Summit is scheduled on August 27<sup>th</sup>, of which many Risk Adjuster Board members will attend. The August 27, 2009 meeting was rescheduled for August 25, 2009 at 1:00 PM in the Capital Board Room
- UAHU is hosting a Defined Contribution Seminar on September 9<sup>th</sup>, of which many Risk Adjuster Board members will attend. The September 9, 2009 meeting was rescheduled for September 8, 2009 at 1:00 PM in the Capital Board Room
- Earl stated the first Underwriting Subcommittee will be held on August 14, 2009 at 9:00 AM. All subcommittee members have confirmed their attendance at the meeting except for the appointed member at United HealthCare. Earl will send notification to all board members with the call in information if they wish to sit in on the meeting. Mark has already provided Earl with a list of items that need to be covered. Earl will be creating an agenda. If any members wish for additional topics, he would like to be contacted prior to the evening of August 13<sup>th</sup>

- Mark asked Perri for an update on the Anti-Trust research. Perri's office would like her to speak with the anti-trust lawyer prior to reporting to the Board members. This lawyer has not been in the office, but Perri will try to contact him prior to the next committee meeting
- Mark asked Perri what permissions the Risk Adjuster Board (RAB) has compared to the Office of Consumer Health Services (OCHS) regarding Commissions Authority. According to Perri, the RAB has a lot of power. Any decisions made by the RAB will go to the Plan of Operation, upon which the Commissioner of insurance enacts the plan to become a rule. The Commissioner does not have the power to enact a rule before the Plan of Operation. The OCHS authority is very specific with regards to rates. According to Norm, OCHS can collect performance fees with reference to contractors or banking vendors (i.e. bSwift), but they have no other monetary power
  - Mark asked about marketing and stated he thinks it is the task of OCHS to market
  - Norm stated there is no problem with spending money for outreach, but OCHS is not able to pay for commissions
  - Cathy stated OCHS should not have the authority to have a finder's fee
  - Tanji stated the board could put something together for a finder's fee and then have OCHS administer the fee since OCHS has control over the portal
  - Earl stated the role of the RAB is to make the decision that compensation to the broker is based on PEPM, but not to set the actual commission. If it is the responsibility of RAB, then the board will do it, but he was under the impression it was not the responsibility of the RAB
  - Dan feels OCHS should not have the authority to dictate what happens with the commissions
  - Mark asked the participating carriers to bring their recommendation to the RAB on what they feel is a fair compensation level. The RAB will then look for a consistent level of compensation and put this in the business plan
  - Dave stated the participating carriers will submit their numbers on August 11, 2009. They met on August 7, 2009 to discuss the PEPM and decided to submit a compensation level
  - Jim reminded the board that the carriers are not paying the commissions, but simply providing recommendations
  - Dave stated if anyone has authority to determine the commission level, the rules would come from the RAB. He feels the rules can be defined later but they at least need to be established by January 1, 2010
  - Earl asked if the rules would be transparent. In other words, if each carrier would be able to see what percent of the PEPM each of the other carriers are paying
  - Mark reminded the group that Bob has suggested that we need a contract with the broker relative to commissions; either the carrier can have the broker sign an agreement, or the broker will sign an agreement in training. Mark then asked how newcomers to the portal would be handled once the benchmark for commissions was set. The board needs to consider if it would be allowed for newcomers to have a level lower than the benchmark. They also need to consider what would happen if the employer did not want to pay the broker
  - Dave believes the number that comes out for commissions by the participating carriers will be lower than the average. Plus, there will be no incentives or overrides
  - Norm reminded the board the statute lists what the broker has to disclose
    - Mark asked Dave to bring the commission recommendations to the next meeting. Norm stated there would be marketing and political feedback by the end of this week

- Ray asked when the RAB would be comfortable with committing to letting brokers know the compensation level, given the portal will be going live on August 19<sup>th</sup>
- Norm would like to report commissions as being based on PEPM with an average level of compensation. They will know the commission level by August 12<sup>th</sup>
- Ray asked Dan if these rates will be displayed prior to going live
  - Mark stated the only way the rates can be published prior to going live is for the RAB to take a vote prior to publishing them
  - Dave stated it is important to show the brokers the rates in the beginning, but this is only possible if all the participating carriers submit a rate similar to all other carrier's rates. If this is the case, then the committee can vote prior to Dan's cutoff date to get them posted by August 19<sup>th</sup>
    - Conference call to discuss the rates will be on August 17, 2009 at 11:00 AM. Mark will provide the meeting invite with the phone number
- Jim questioned why the board should not have a relationship with the brokers if the board will be setting commissions
  - Mark responded that brokers will know what the RAB felt was reasonable for the rate. The brokers cannot participate if they are unwilling to accept that rate
  - Norm made the motion to establish a producer compensation advisory subcommittee and to allow the chair to appoint members. Earl seconded this motion. All were in favor. Mark asked Dave to head this subcommittee. Dave agreed
- Mark addressed the Life Event Rules and questioned what should happen if there was a birth or a term in the middle of the month. He questioned if the premiums should be prorated or paid in full at the first of the month. Mark suggested the first of the month. Dave asked what should take place if the Life Event occurred on the 29<sup>th</sup> day of the month. He then suggested dates up through the 15<sup>th</sup> would go to the first of the month; events occurring after the 15<sup>th</sup> would then fall into the next month.
  - Humana prorates to the day of the event, based on a calendar month
  - Jim believes they have the 15<sup>th</sup> of the month policy, but he needs to verify
  - Mark added this to the August 17<sup>th</sup> Conference Call, he would like a decision to be made during this call
- Mark addressed the Billing and Premium Workflow and Timing. He asked how retro terms and adds should be dealt with in the market. Steve went through the workflow. He explained there will be an EFT on the 15<sup>th</sup> of the month and there will be a fee for non-EFT to discourage this behavior. Steve continued to explain there will be notification by the bank on the 18<sup>th</sup> if there is an EFT failure and an attempt will be made to have the funds remitted. By the 28<sup>th</sup> of the month, payment to the carriers will be distributed and carriers will be notified of non-payments.
- The next Risk Adjuster Board Subcommittee meeting will take place on August 18, 2009 at 1:00 PM at Select Health. Mark asked Ray and Steve to have someone from their offices attend
- The next committee meeting will be August 25, 2009 at 1:00 PM in the Capital Board Room
- Norm made the motion to adjourn. Earl seconded the motion. All were in favor. Meeting adjourned at 2:56PM