Defined Contribution Risk Adjuster Board Minutes

Rampton Board Room

Approved

September 22, 2009

Attendees: Mark Brown, Select Health; Nancy Askerlund, UID; Bob Wilcox, UID; Perri Babalis, Utah Attorney General; Nathan Romero, Health Equity; John Sweeney, Health Equity; Dan Schuyler, OCHS; Norm Thurston, DOH; Steve Neeleman, Health Equity; Stephanie Jensen, PEHP; Dennis Kunimura, PEHP; Dave Jackson, First West; Jim Pinkerton, Regence; Hasan Imam, PEHP; Sally Hansen, Regence; Ray Seaver, bSwift (via telephone); Frank Kyle, Altius (via telephone); Jan O'Brien, bSwift (via telephone); Jodi Schultz, Humana (via telephone)

- Mark Brown unofficially welcomed the group at 1:08 PM. Too few board members are in attendance, there is no quorum today
- Mark asked for any questions or concerns regarding the minutes from the September 8, 2009 minutes
    - Dennis made note that *statue* should be replaced with *statute* on the bottom of the third page
    - Stephanie was asked to make this change. Minutes cannot be approved without the quorum; they will be voted on at the following committee meeting
- Mark reported to the group the Risk Adjuster Subcommittee decided a non-disclosure agreement (NDA) was a good idea. He explained if a carrier has a group, this carrier will have more information than what is submitted on their application. The next carrier will not have the full information on this applicant and will not assign the same risk score as the knowledgeable carrier. Additionally, the mediator's risk score will not be one that will support the applicant's true risk
    - Mark asked what the underwriter's felt need to be covered by the NDA
    - Perri asked how someone's health information is proprietary
        - Mark replied the carrier can only make decisions based on the information gained through the application. If the carrier does not have the applicant's initial informational, it would have to be obtained through the underwriting process, not from prior knowledge. Hence he is not sure how the NDA plays a role
        - Dave is not sure a NDA is needed to share data with underwriting
        - Mark stated timing is the issue. Applications will be coming in on 9/28/09, so if a NDA is needed, it needs to be drafted quickly. If the NDA is not necessary, Mark asked if there are rules of operation and participation that carriers have to follow
            - Perri answered nothing is written yet, then asked if the business plan addresses this issue
        - Dave asked if the applicant did not disclose their health issue(s), if the underwriter's hands are tied with asking for more information
            - Hasan stated he as an underwriter will do what he can, based on the information that was provided on the application. He can note a discrepancy, but he has to use the information stated in the application. He also mentioned underwriting would like an agreement to be able to share data between the participating carriers

        - Jim asked how sharing data between participating carriers is different than the carrier reporting to the Medical Insurance Bureau (MIB)
            - Mark stated there is no difference, it is a matter of competitive risk
        - Dave asked if it is legal to use information that was not provided. The individual's application and the MIB are sources of information, but is there another source?
        - Bob asked if a broker could communicate with the underwriter that the applicant did not submit all information
            - Dave replied he would not disclose any information to the underwriter because he would not submit the application knowing that an individual is lying
        - Dennis explained underwriters use discretion when determining rates; they either load them or come off the rates a little. He then asked if the NDA is based solely on proprietary notion
            - Mark answered he does not see how the NDA is appropriate
            - Dennis believes the NDA is only appropriate for health information or issues. The underwriter has to take what has been disclosed and then determine if they should load the rates or come off them. They can know conditions are coming through even though they are not being disclosed on the applications. He then asked if HIPAA allows for information to be disclosed to other carriers
        - Mark stated Select Health and PEHP are okay with not requiring a NDA
        - Jodi would like to consult legal before she decides if Humana requires a NDA
            - Mark asked to receive Humana's opinion on the NDA by the end of this week
        - Dennis stated PEHP is okay with not having a NDA, but if there is one, liability needs to be stated clearly; does liability fall upon the Risk Adjuster Board or with the participating carriers?
- Mark addressed risk factors and communication between underwriters. If the primary underwriter assigns a score of 1.5 and the secondary underwriter assigns a 1.1, do these two underwriters communicate? Does the mediating underwriter ask why the other two scores are far apart?
    - Dave would like for the underwriters to communicate with one another and explain their reasoning for assigning the given risk score
    - Mark next asked if follow up information was provided to the primary underwriter, if it would be passed along to the secondary underwriter, or if the secondary underwriter is required to ask all the same questions. He asked if follow up information can be stored
        - According to Jan, they can only store information in the ticket tracker; this is the only secure environment. The mediator would be able to see what the other two underwriters entered and their communication back and forth
- Mark reported on the underwriting subcommittee. They will determine a maximum range for an individual's risk score and submit this to Mark by the end of the week. Mark asked Ray if this range could be entered into their system and if a carrier entered a value above the maximum, if their system would recognize this error
    - Jan answered the incorrect input would be displayed, there is no way for the system to flag the error
    - Mark asked if a monthly audit would be performed to see if any rates were higher than the maximum

        - Jan stated there would be a monthly audit. She does not feel this function could be fixed before the end of limited launch, so the audit would have to be performed manually
    - Mark asked if there will be a quality check on inputs to make sure alpha characters are not entered where the value should be numeric
        - Jan answered there would also be a quality check
    - Mark asked when the maximum and minimum range could be entered into the system
        - Jan will look into this and get back to Mark
- Mark reported almost every group has been underwritten on a primary and secondary basis. There are a few groups in need of mediation and a few groups with missing information. Mark suggested in the future, there should be a time frame for how long someone is allowed to submit their information
    - Jim suggested five working days. He then questioned where the responsibility lies in pursuing the missing information. Before the application is released for the carrier to look at, it should be complete so the carrier does not waste their time
        - Mark stated the carrier can request more information, but from there, it is up to the producer and employer to submit the required documents
    - Dan questioned if the documents are reconciled and resubmitted, if the group would be allowed back into the portal
        - Jan reported 40 groups were declined. Most were missing the quarterly wage and tax form, some failed to attach a census and a few withdrew their application. Additionally, a few groups had more than 50 employees. 94 groups were accepted
        - Mark stated a window can be provided to submit missing documentation, but the window will be small so that they can adhere to the timeline
            - Norm commented if we allow more time for resubmission, this reduces the time allowed for the next step
            - Dan stated he will submit all missing information to bSwift by the morning of 9/25/09. He will contact the producers and employers
                - Mark needs to check with his staff to ensure they have enough underwriting coverage that day
                - Dave mentioned the purpose behind the limited launch is flexibility
                - Jodi stated she needs 2-3 business days if they know ahead of time they will be receiving more applications. Underwriting will not be complete until 9/29/09 or 9/30/09 if they are not notified until 9/25/09 that they will be receiving more applications
                - Dan suggested a deadline of 5:00PM on 9/24/09 to obtain all missing information, giving underwriters through 9/29/09 to underwrite
                - Jan will contact all the groups with missing information
- Mark reported seasonal employee was agreed upon and defined by the RA & PA Subcommittee. Employees are eligible to participate in the portal if they work 30 or more hours a week for 48 weeks
- Norm provided an update on premiums and taxation. The primary employer subtracts their premium, assigning the rest to the employee. Miscellaneous payment is taxed, which creates a full tax benefit and puts the responsibility on the employee to obtain money from their

secondary contributor. This provides no benefit to the secondary employer and creates an opportunity for a married couple to file separately. Additionally, this could increase social security income, depending on how the employee sets up their contributions. Finally, this eliminates communication between the primary and secondary employers

  - Norm will communicate this concept to the Oversight Committee on September 29th to ensure the RAB is on the right track

- John provided an update on Health Equity's timeline. They added a few pieces related to notifications during the grace period and the case in which there is a non-payment. On the 5th, they will communicate that money will be pulled on the 8th. Between the 11th and 18th, Health Equity will reach out and contact the employer, via phone and email, to work with them to schedule another pull or a late payment via a cashier's check or another form of payment. By the 18th, Health Equity will pull a second time for those who had a non-payment. If Health Equity receives more payments between the 20th and 28th, they will submit another payment to the carrier. If there is non-payment, then weekly emails will be sent. By the 20th of the following month, if there is another failure of payment, Health Equity will look to the carrier to send a notification of termination; the grace period ends on the 30th of that month
  - Dave asked how a penalty will be enforced
    - John stated they will look at capping the penalty
  - John pointed out if someone wishes to make a payment in the last 10 days of the termination notification, the payment will go to Health Equity, not the carrier
    - Steve asked if there is a standard termination notice each of the carriers will have
    - Mark commented as a legal standpoint, notification of actual termination has to be sent to the employee at the end of the month
- Mark next discussed letters that will be sent by the Utah Health Exchange. He suggested on the 4th paragraph of the letter, the group does not need to know how the carriers are assigning the factors; this section should be removed from the letter. There should be a reminder instead that all groups must have at least 75% participation to be eligible for coverage in the portal
  - Dave suggested the letter should also state the groups need to select a default plan
  - Norm feels instead of listing a specific date, the 5th paragraph should instead be along the lines of *Open enrollment will be available no later than November 7th*
  - Jan mentioned there is nothing in the system summarizing how many employees in a given group have signed up. Enrollment would have to be manually tracked in order to know if the whole employer is enrolled. Additionally, the employer needs to be notified if they want a broker to have access to their sight, they need to contact bSwift so they can allow access for the broker to view. This cannot be done without the employer's permission
    - Dave feels broker access should be written into the plan of operation
    - Mark suggested an audit plan also be written in addition to the business plan to ensure all proper controls are in place. The system, vendors etc. need to be audited
      - Bob suggested the audit plan be created in the near future, after seeing how difficult this process is in the beginning
  - On the declination letter, Mark pointed out there are many reasons for declining an application
    - Norm suggested the employer make contact immediately to resolve any issues associated with the decline

- Jim provided an update on the business plan. He has made some progress, but this is a long process. Jim would like if Dave has someone he could pull in to start working on the business plan
    - Dave stated he can come up with the basic content
    - Mark suggested they come up with something and then start floating these ideas along
    - Jim stated there are a lot of topics he feels the board needs to decide on; the non-highlighted areas are the topics in which the board has already made a decision
- The next committee meeting will take place on October 6, 2009 in the State Office Building
- Meeting adjourned at 3:26PM