FINAL

MEETING OF THE NEW JERSEY UNDER 50 MEDICARE SUPPLEMENT PROGRAM BOARD

November 10, 2015

Board Members Present:
Dotti Outland – UHC (Chair, and Market Writer Representative)
Donna Scudieri – Horizon alternate (Administering Carrier)
Crystal Wyland – Transamerica (AHIP Representative)
Tom Kowalczyk – Aetna (HMO Representative)
Ron Ouellette – Public Representative
Patricia Walsh – Public Representative
Brendan Peppard – DOBI
Mary McGeary – SHIP

Others Present:
Steve Kane – UHC alternate
Ellen DeRosa, Executive Director, IHC/SEH Programs
Rosaria Lenox, Accountant, IHC/SEH Programs
Chanell McDevitt, Deputy Executive Director, IHC/SEH Programs

This was an in-person meeting of the Board, beginning at 1:03 P.M. (Eastern), at the Department of Banking and Insurance.

I. Introductions and Purpose of the Meeting – *Changes in Administration of the Program*

Introductions were made. D. Outland explained the meeting had been called for multiple purposes. She noted first that Neil Vance, who had been shepherding the Medicare Supplement Under 50 (MSU50) Program within the Department of Banking and Insurance (DOBI) for many years had left the DOBI, making it necessary for the MSU50 Program to find a new "home" within the DOBI. She explained that, upon N. Vance's suggestion, she and S. Kane started discussions with Ellen DeRosa and staff of the Individual Health Coverage (IHC) Program and Small Employer Health Benefits (SEH) Program several months ago about the possibility that the staff might provide services to the MSU50 Program as well, because the functions of the three programs are similar.

D. Outland then noted that there are several activities the MSU50 Program needs help with, including: re-evaluating and possibly restructuring the administrative operations of the MSU50 Program; contracting for auditing services in order to appropriately reimburse Horizon for its losses; and, possibly seeking some legislative changes regarding Medicare Supplement Plan C because of changes in federal law.

Background of MSU50 Program

D. Outland provided an overview of the MSU50 Program for the benefit of new public members and alternates. Essentially:

- The New Jersey Legislature established a requirement that all carriers offering Medicare Supplement plans offer such a plan to individuals aged 50-64 who become eligible for Medicare due to disability, and requires all such carriers to participate in a pool arrangement with respect to Medicare Supplement coverage for individuals under age 50 who have Medicare due to disability.
- At least one carrier is required to offer coverage to Medicare-eligibles under age 50 (the contracting carrier), while other carriers are required to pay a portion of the losses incurred by the administering carrier.
- New Jersey statute requires that Plan C be offered to Medicare-eligibles under age 50, which is problematic because federal law essentially prohibits carriers from offering Plan C to individuals who become Medicare eligible on or after January 1, 2020.[1]
- Horizon Blue Cross Blue Shield (Horizon) has been the Contracting Carrier virtually from inception of the MSU50 Program. By law, Horizon cannot charge MSU50 clientele premiums that exceed the lowest Plan C premium rate Horizon otherwise charges in the State. Horizon is responsible for a portion of the losses incurred, but is reimbursed for the remainder by other MSU50 participant carriers, based on market share; no carrier is responsible for more than 35% of the total net losses incurred. Reported losses must be audited before any reimbursements are made.
- The MSU50 Program is overseen by this Board, which state statute requires include representation by carriers and HMOs (offering health benefits plans in New Jersey), but the specific composition of which is determined by the DOBI by regulation. The Board has the responsibility to assure that the MSU50 Program runs properly, including contracting with entities as necessary (auditors, actuaries, financial services, etc.). The operational costs of the program are borne by the participating carriers.
- Currently, the Board contracts with Pool Administrators Inc. (PAI) to establish and maintain banking and accounting services, and prepare, mail, collect and deposit assessments for both operations and losses, and pay expenses. PAI receives payment (currently, $2,625) on a quarterly basis for their services.
- Horizon has been reimbursed for losses incurred through CY2011. Horizon has reported losses for CYs 2012, 2013 and 2014, but audits have not been performed.

D. Outland noted that the DOBI has found it difficult in recent years to fill MSU50 Program Board positions, so the DOBI has been doing more of the administrative work, and seeking validation from Board members, with most correspondence being by email. One of the goals of this meeting is to try to get more carriers involved.

---

[1] The Medicare Access and CHIP Reauthorization Act of 2015 (MACRA), as of January 1, 2020, prohibits new issue of Medicare supplement plans that provide coverage of the Medicare Part B deductible, and states that references to Plan C and Plan F shall be to Plans D and G, respectively, unless HHS specifies otherwise. An NAIC workgroup currently is attempting to bring the Medicare Supplement plans authorized by federal law into compliance with MACRA.

Background of IHC/SEH Programs; Treasury Cooperative Purchasing

E. DeRosa provided a brief explanation of the IHC and SEH Programs. She noted that the programs were similar to one another, both programs operate through a Board of Directors, and are funded by the carriers in the markets, although the formulae for funding the programs differ. She stated that the IHC Program had a loss reimbursement mechanism up until 2008, when the Legislature eliminated it.

E. DeRosa continued by stating that the IHC and SEH Boards currently contract with an audit firm using a Scope of Work issued to a list of audit firms awarded a contract through the New Jersey Department of Treasury's Cooperative Purchasing program. She noted that Treasury maintains a list of auditors that bid on an initial three-year contract to provide financial auditing services to state and local agencies using the Treasury-contracted rates by providing a quote in response to an agency's Scope of Work. She explained that, in the last few contract cycles, Treasury has had a least a couple of audit firms on its list that have experience with claims and premium audits, so the Boards have been able to avoid the more cumbersome full state bid process even for audits of reported losses in the IHC Program.

Administrative Issues and Suggested Changes

She suggested that the first project for the MSU50 Program Board is to contract with an auditor, and bring the audits current, so that Horizon can be reimbursed for its outstanding losses, and the MSU50 Program can become as current as possible on audits, assessments and reconciliations. She stated that she believed the Board should be assessing for each year based on carrier market share at the time of the loss. She noted that PAI appears to have been assessing based on carrier market at the time invoices are issued, which is inconsistent with the rules for the Program.

She suggested the Board establish a standing Audit Committee, which would review the Board's budgets, financial statements, and meet with the audit firm before each audit begins, at each audit's conclusion, and in-between as necessary. She explained the Board would also need to establish an Evaluation Committee to comply with the requirements of Executive Order 122 (McGreevey), but that the Evaluation Committee meets only to evaluate the quote(s) presented by the audit firm(s), and make a selection recommendation to the Audit Committee.

The question arose whether there should be an audit of PAI. E DeRosa stated that there should be an administrative audit, but suggested waiting until there is a better sense of how PAI has been operating with respect to the Program. She noted she was not certain it would be worthwhile to audit PAI for past years. She suggested that the Board establish an Operations Committee, which could be the same as the Audit Committee, to evaluate the relationship of the Program/Board and PAI, and how PAI has been implementing administrative procedures for the Program. She explained that in going through the available papers, it appears that PAI has been doing several things inconsistently with the statute or rules:

1. As previously noted, PAI uses time periods for determining market share that may not always be appropriate in relationship to the losses incurred;
2. PAI appears to have limited carriers' administrative assessment liabilities using the 35% cap applicable to carriers' loss reimbursement liabilities;
3. PAI relies on self-reported carrier data without cross-checking with other, objective sources, such as annual financial statements;

4. PAI appears to be combining affiliated carriers when determining market share, although market share should be evaluated for each affiliate separately, in most cases.

E. DeRosa suggested that the Board provide PAI with revised instructions for handling assessments going forward, noting that PAI will continue to make assessments for the Board until such time as the Board may end the contract, which requires six months' notice.

The question arose whether Horizon could receive some partial payment for the losses incurred, and it was noted this is a possibility and has been done in the past; however, only after an assessment had been made and collected, which has not happened as yet. D. Outland stated that in March 2015, companies were assessed for 2011 losses, and that losses have traditionally been reported, audited, and assessed over two-year periods, but that this could be changed to a one-year period in order for the Program to get caught-up. After some discussion, it was agreed that D. Scudieri would let the Board know whether Horizon preferred to have the audits done for an annual period, or bi-annually, with reimbursements of losses paid accordingly.

The Board agreed to establish an Audit Committee, as follows:

AHIP (C. Wyland)
Aetna (T. Kowalczyk)
DOBI (B. Peppard or designee)

The Board agreed to establish an Evaluation Committee, as follows:

AHIP (C. Wyland)
Aetna (T. Kowalczyk)
Public Member (P. Walsh)

E. DeRosa reported that she is receiving some bank statements for the Program now, and that the charges from the bank seem excessive, and for possibly unnecessary services: for example, charges for performing an analysis on accounts that have virtually no activity. She noted that the fees on the account, which has $300,000 in it, exceed the interest earned on the account. She said the Board's account is held in a bank in Connecticut, but that the Plan of Operation for the MSU50 Program states the account should be in a bank in New Jersey. D. Outland suggested that PAI set the account up in a Connecticut bank probably because PAI is located in Connecticut. She said she believed that the $300,000 has been accrued for payment of audits not yet performed. It was noted that the Board should establish a budget to help account for the monies it holds, and the expenses the funds are intended to cover.

The Board agreed to use the New Jersey Treasury Department's Cooperative Purchasing Agreement for Auditing Services, and issue to Treasury's contracted audit firms the Scope of Work previously prepared and distributed for consideration to Board members. The Board agreed the Scope of Work should be revised to address the number of audits sought based on how Horizon determined it preferred; that is, annual or biannual.

It was also agreed that some information regarding the revisions to the assessment process would be posted online with the reporting form (due March 1), to provide carriers some notice of the changes.

E. DeRosa and D. Outland summarized the tasks that the Board would need to accomplish in the coming months, and highlighted several others:

1. Select an audit firm

2. Review the contract with PAI, and PAI's performance, to determine whether to continue with PAI, or seek alternative services
3. Review the contract with Horizon, and update it if necessary
4. Review the Plan of Operations, and update it as necessary
5. Select a Chair (pursuant to the current Plan of Operations, the Chair should be elected annually)
6. Review audits, determine assessments (assume assessments and distribution of reimbursements will occur in late Spring for CYs 2012, 2013 and 2014, with the assessment for CY 2015 losses occurring in late Summer)
7. Encourage participation on the Board of additional carriers.

E. DeRosa suggested scheduling some meetings of the Board in advance for 2016. **It was agreed to schedule meetings on the third Tuesday of every other month, beginning in January, in the afternoon (1:30 P.M.), until further discussion.** Accordingly, the meetings of the MSU50 Board in 2016 tentatively are as follows:

January 19

March 15

May 17

July 19

September 20

November 15

II. Additional Questions

The question arose whether individuals remain in the MSU50 pool after they turn 50 years old. D. Outland responded that they do remain in the pool at this time. She noted that the policies are guaranteed renewable, and so the Board previously took the position that the losses should remain in the pool as long as the individual remained on a plan originally issued through the MSU50 Program. She stated that she believed this could be changed, but would require discussion.

The question arose as to how Horizon rates its MSU50 Program. It was noted that the Administering Carrier is limited by law in how it rates the MSU50 Program plan: the rates cannot be more than the lowest rate the carrier applies to the same plan for the 65-year old population.

The question arose as to how loss is defined. It was noted that it is net earned premium plus investment income less claims and reasonable administrative expenses, the latter of which are limited by regulation.

III. Close of Meeting/Next Meeting

The meeting closed at 2:40 P.M. The next meeting will be January 19, 2016.