

**DELAWARE HEALTH CARE COMMISSION
MAY 5, 2011
DELDOT ADMINISTRATION BUILDING
FARMINGTON/FELTON CONFERENCE ROOM
DOVER**

MINUTES

Commission Members Present: Bettina Riveros, Chair; Thomas J. Cook, Secretary of Finance; A. Richard Heffron; Dennis Rochford; Fred Townsend

Commission Members Absent: Theodore W. Becker, Jr.; Rita Landgraf, Secretary, Delaware Health and Social Services; and Janice E. Nevin, MD

Karen Weldin Stewart, Insurance Commissioner; Vivian Rapposelli, Secretary, Services for Children, Youth and Their Families; and Fred Townsend

Staff Attending: Paula Roy, Executive Director and Linda G. Johnson, Administrative Specialist III

CALL TO ORDER

The meeting was called to order at 9:05 a.m. by Bettina Riveros, Commission Chair.

MEETING MINUTES OF FEBRUARY 3, MARCH 3, AND APRIL 7, 2011

Action could not be taken on the February 3, March 3, and April 7, 2011 meeting minutes due to the lack of a quorum of Commissioners.

APPOINTMENT OF NEW COMMISSIONER

Governor Jack Markell has appointed Kathleen S. Matt, PhD, Dean of the University of Delaware's College of Health Sciences and head of the Health Science Alliance as the newest member of the Delaware Health Care Commission. Dean Matt will be joining the Commission at its June 2011 meeting.

CHAIRMAN'S REPORT

As was suggested at the last DHCC meeting, because the meeting minutes could not be approved, a Chairman's Report will be posted on the web site to keep interested individuals updated with information.

DHCC WEB SITE

Intern Lauren Brittingham has updated the DHCC web site to reflect health care reform information.

Input and suggestions on DHCC web site content and requests for materials the public would like to see included should be directed to the DHCC staff. Resources for constituencies are also listed.

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UNINSURED ACTION PLAN

Community Healthcare Access Program (CHAP) and Screening For Life(SFL)

Work to integrate CHAP and SFL to run more efficiently and seamlessly continues.

Community Healthcare Access Program (CHAP)

Betsy Wheeler, president of Wheeler & Associates, which manages CHAP, shared enrollment updates with the Commission for the month ended April 30, 2011.

- 423 new enrollees in April 2011
- total enrolled in CHAP since June 2001 is 29,714
- total number who in some way was rendered assistance through the program is 39,864
- number of participating VIP doctors throughout the State are 547 (about 50 percent primary care and 50 percent specialties)
- four new doctors joined the program in April 2011
- 11,498 current enrollment in the program.

Re-enrollment in CHAP started off on April 1st. Comparing April 2010 to April 2011, re-enrollments increased 63 percent. In the two weeks between mid-April, when re-enrollment letters were mailed, and April 30, 2011, 1,330 people re-enrolled.

As of February 28, 2011, about 28 percent (3,000 – 4,000) of the 11,498 enrollees would be eligible for expanded Medicaid and the remainder eligible for subsidies under Health Care Reform.

RESEARCH & POLICY DEVELOPMENT

AFFORDABLE CARE ACT - EXCHANGE PLANNING

Robin Chacon of Public Consulting Group (PCG) presented an overview of plans for Delaware's Health Benefits Exchange. This presentation will be made available for viewing on the DHCC web site: <http://dhss.delaware.gov/dhss/dhcc/presentations.html>

Ms. Chacon explained PCG will be integrating the work done by the Health Reform Workgroup with its plans for the foundation of an Exchange in the State of Delaware and the timeline agenda PCG intends to accomplish over the next few months.

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Health Benefit Exchange Project
– Plan Overview & Stakeholder Outreach

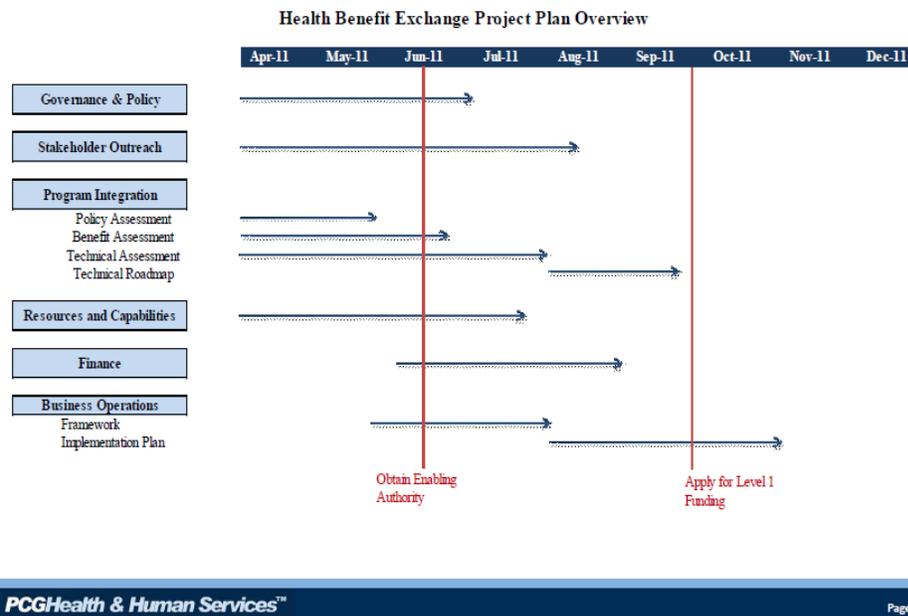
Delaware Department of Health
and Social Services
May 5, 2011



Health Benefits Exchange | Agenda

Health Benefits Exchange | Agenda

- Overview of Project Plan & Milestones
- Stakeholder Outreach Approach
- Topics for Public Forums
- Next Steps



Health Benefits Exchange | Stakeholder Outreach Approach

- Continued Targeted Outreach
 - *Objective*
 - To complete outreach to community partners and stakeholders to engage in discussions regarding the Exchange
 - *Groups/Organizations*
 - Non-profit Organizations
 - Special Interest/Advocacy Groups
 - Commercial Carriers
 - Providers
- Small Business Survey



Health Benefits Exchange | Stakeholder Outreach Approach

- Public Forums
 - *Objectives*
 - To educate the public on various topics important to the administration and operation of a Health Benefits Exchange
 - To elicit input from the public regarding the plan, design and operations of a Health Benefits Exchange in Delaware
 - *Topic-specific*
 - Issue Briefs will be distributed in advance
 - *Flexible attendance options when possible*
 - Specified locations around the state
 - Web-Ex internet conference options

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Health Benefits Exchange | Topics for Public Forums

- 1) The Small Business Exchange
 - Overview of SHOP Exchange
 - Options for Delaware
 - One Exchange Serving Both Individuals and Small Employers
 - Separate Exchange for Small Employers and Individuals
 - Merging the Markets – Small Groups and Individuals
 - Premium Subsidies for Eligible Small Employers
 - Expanding the Small Group Market to Groups of 100
 - Role of Brokers
 - Key Question -- How Can the Exchange Best Serve Small Employers?

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Health Benefits Exchange | Topics for Public Forums

- 2) General Overview of the Health Insurance Exchange
 - What is a Health Insurance Exchange
 - Key Features and Services
 - Options for Delaware in Structuring an Exchange
 - Governance and Administration
 - Availability of Plans/Carriers
 - Financing
 - Key Question -- What Will Make an Exchange Successful for Delawareans?
- 3) The Exchange and the Commercial Market
 - Changes Coming in 2014
 - Elimination of Medical Underwriting
 - Limits on Cost Sharing
 - "Essential Health Benefits" Requirements
 - Premium Subsidies for Small Groups through the Exchange
 - Key Question -- How Does the Exchange Fit into the Existing Market?

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Health Benefits Exchange | Topics for Public Forums

- 4) Consumer Information/Engagement
 - What Types of Information do Consumers Need/Want
 - Should Benefits be Standardized
 - Platinum, Gold, Silver, Bronze
 - Role of Customer Service to Facilitate Enrollment
 - Outreach to the Uninsured and the Role of Navigators
 - The Role of Brokers
 - Key Question -- How Can the Exchange Best Serve Delaware Consumers?
- 5) The Exchange and Medicaid/CHIP
 - Single Point of Access to All Health Coverage Programs
 - Medicaid Eligibility Expansion up to 133% FPL in 2014
 - Premium Subsidies and Reduced Cost Sharing Through the Exchange
 - Key Question -- How Can the State Establish a "Continuum of Coverage" Across Various Medical Assistance Programs?

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Health Benefits Exchange | Stakeholder Outreach

6) Next Steps for Stakeholder Outreach

- *Summarize responses from Small Business Survey*
- *Small Business Forum - Lewes Chamber of Commerce – May 12, 2011*
- *Schedule Small Business Public Forums*
 - Sussex County Chamber of Commerce
 - Kent County Chamber of Commerce
 - New Castle County Chamber of Commerce
- Schedule other Public Forums and publish schedule
 - General Overview of Health Exchange
- Schedule Targeted Outreach Meetings

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Whenever possible, WebEx's of public forums will allow participation by people who cannot attend the meetings to dial in through an Internet session. Afterwards, the WebEx will also be posted on the DHCC website for viewing.

Another outreach vehicle is a small business survey, which was distributed yesterday, to solicit from small businesses in the State information about their organizations; their questions and concerns, and what is most important to them, leading into a public forum PCG will be facilitating.

Public forums are topic focused discussions which will be an open invitation for anyone to attend who is interested in learning about each of the topics.

The objective first is to educate the public on administration and operation of the Health Benefits Exchange – what does it mean, as well as to elicit input from the public during the planning, design and operation of the Exchange in Delaware.

Because there is no Sussex County Chamber of Commerce, a combined Southern Delaware forum will be held.

Commissioner Rich Heffron, who is Senior Vice President of Governmental Affairs of the Delaware State Chamber of Commerce, plans to distribute the small business survey to its members.

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EXCHANGE ENABLING GOVERNING AUTHORITY

Bettina Riveros informed everyone that a draft of the governing authority has been developed by the Governance and Policy Sub-Committee of the Health Care Reform Steering Committee, led by Delaware Health and Social Services Cabinet Secretary Rita Landgraf.

It was recently learned through the U.S. Health and Human Services that the governing authority for an Exchange could be established through a governor's Executive Order, rather than pursuing legislation.

Health Exchange Proposal

Paula Roy presented the governance proposal through a PowerPoint presentation. Ms. Roy shared key points of the draft proposal for the Exchange governing authority with Commissioners. This presentation will be made available on the DHCC web site:

<http://dhss.delaware.gov/dhss/dhcc/presentations.html>.

Purpose

- Present option for Exchange governance and authority for DHCC discussion and approval
- Based on
 - Stakeholder feedback
 - Analysis of other state activity
 - Consultation with PCG

Organizational Structure

- Quasi-state public instrumentality with independent board of directors
 - Maximum flexibility to include public and private expertise
 - Assures public accountability
 - Affords agility to respond to market conditions

Purposes of Exchange

- Facilitate purchase and sale of qualified health plans in individual market
- Assist qualified small employers and facilitate enrollment and purchase of coverage and application for tax credits
- Reduce number of uninsured
- Transparent marketplace for health insurance, consumer education
- Assist Delawareans with access to programs, tax credits, subsidies

A draft of the Exchange governing authority has been developed by the Governance and Policy Sub-Committee of the Health Care Reform Steering Committee

Activities of Exchange

- Create and administer state-based health insurance exchange
- Assist small employers in facilitating enrollment of employees in health plans
- Make qualified health plans available to individuals and small businesses
- Ensure confidentiality and privacy of patient health care information
- Perform all duties required in the Affordable Care Act, unless the ACA is repealed, held to be unconstitutional or otherwise invalid.

Powers Granted To The Exchange

- Enter into contracts with
 - Sufficient third parties
 - Local governments
 - Government agencies
- Employ non-state employees – exempt from Merit rules, procurement rules and rules governing the disposal of state owned material
- Establish non-appropriated special fund to receive gifts, donations, grants and other sources of funding
- Establish reasonable fees or charges for providing its services

Exchange Board Composition

- 11 members
- 5 members appointed by Governor
- 1 member appointed by President Pro Tempore of Senate
- 1 member appointed by Speaker of the House of Representatives
- 4 ex-officio members (voting – members by virtue of position in State government)
 - Secretary, Health & Social Services
 - Director, Office of Management and Budget
 - Insurance Commissioner
 - Controller General

Exchange Board Qualifications

- 1 or more of the following:
 - Expertise in individual or small group market
 - Expertise in health care administration, health care financing or health information technology
 - Expertise in administration of health care delivery systems
 - Experience as a consumer who would benefit from Exchange
 - Experience in small business

Appointing Authorities Consider

- Areas of expertise collectively represented on Board
- Represent a range of skills, knowledge, experience, geographic and stakeholder perspectives

Other Requirements

- May not hold elective office or be state or municipal employee (except ex-officios)
- No affiliation with health insurer (employee, consultant, member of the board, ownership interest)

Exchange Board Operations

- Elect Chair and vice-chair – 1 year terms with option for re-election
- Board terms – 3 years
- Vacancies filled by same appointing authority
- Meet at least once per quarter – more often if necessary
- No voting by proxy
- Authority to appoint subcommittees and advisory committees on relevant issues within scope of board

Board Requirements

- Adopt by-laws
- Written fiscal and operational report to Governor and General Assembly June 30 and Dec 31 each year
- Public report by December 31 annually summarizing activities and contributions of Exchange to Delawareans
- Annual audit functions and operations
- Submit all reports required by federal law
- Define “qualified health plan” for Delaware if federal law repealed, held unconstitutional or otherwise invalid

Board Authority

- Adopt regulations to carry out powers of Exchange
- Prepare special reports concerning Exchange to Governor and General Assembly
- Contract for professional, technical and operational services

Other Board Activities

- Appoint Executive Director
- Is responsible to Board
- Have experience in administration of health care or health insurance
- Executive Director may appoint other staff—exempt from merit rules

Other Activities

- With DHSS ensure Exchange coordinates with Medicaid, CHIP and any other applicable state or local public program – create single point of entry
- DHSS, Insurance Department and any other relevant state agency work with Exchange, provide support to Exchange, including entering into inter-agency agreements
- Authority to enter into agreement with other states for shared operational support

Role of Exchange and Department of Insurance

- Clarify that no Exchange action is construed to preempt or supersede authority of the Insurance Commissioner.

Comments

Dennis Rochford asked if the State is going to solicit carriers to sell health plans through the Exchange. Ms. Riveros answered that the State Exchange governing authority would have to *'certify'* plans as qualified to be sold on the Exchange. Insurance is still purchased from the health plan carrier and promoted in the Exchange. Plans will be made available when people search for individual or business coverage. The Exchange governing authority will have to determine if the Exchange will have an array of plans or limit them.

Ms. Roy added that one of the requirements of the Affordable Care Act is that an Exchange certifies that a plan is qualified to be offered.

Ms. Riveros said if the Affordable Care Act is repealed, held to be unconstitutional or otherwise invalid, the Exchange will continue to have the authority to certify *'qualified health plans.'*

Any money spent on planning and implementing the Exchange will be through Federal grants until 2015. Beginning January 2015, the Exchange has to be financially self-sustaining. A plan must be developed. It could include fees from health plans or other entities.

Other Requirements in the presentation indicated Exchange Board members may not hold elective office or be state or municipal employee (except ex-officio members) and have no affiliation in any way with a health insurer (as an employee, consultant, member of the board, or hold an ownership interest). Mr. Rochford stated he agreed with the first point but was unsure how the Exchange could gain needed expertise without having representation from the industry. He concluded, however that

expertise could be gained through contracts or former insurance professionals.

Exchange Board Operations includes 'no voting by proxy' and Mr. Rochford believes that on that proxy issue, serious consideration be given to allowing ex-officios to designate a proxy; Tom Cook agreed. Mr. Cook added that the people holding those ex-officio positions would only send proxies who would be voting with their concurrence. Given the schedules of those ex-officios, it would be very difficult for them to attend every meeting. Fred Townsend and Rich Heffron were in accord.

Mr. Rochford asked who would be legal counsel to the Exchange Board – would it be a Deputy Attorney General?

Ms. Roy replied that point had been discussed and research is needed to see if the Exchange Board could access the services of the Delaware Attorney General or if it should be allowed to utilize independent counsel.

Ms. Riveros added one thought the Committee discussed was to allow the Exchange Board to take advantage of the Deputy Attorney General but have the authority to hire outside counsel. PCG confirmed that the Federal grants do allow the Exchange funds to be spent on legal fees. The Exchange Board should be given that latitude. The Commissioners in attendance agreed.

Mr. Cook believes the Executive Director of the Exchange should be empowered to select and manage its staff but the Board of Directors should approve the staffing plan.

Because of each state's differing insurance regulations, it would be difficult to have a true regional Exchange. However there may be opportunities for states to come together to share operational expenses and Delaware's Exchange Board will need to have the authority to enter into those agreements.

Ms. Riveros suggested that the Exchange may want to coordinate with the DHIN at some point. Of the expressly named agencies the Exchange coordinates with, the DHIN should be added, along with DHSS and the Department of Insurance.

Public Comment

Dr. Ray Sukumar attended a meeting over the weekend in Washington, DC. Dr. Sukumar wanted to comment on issues which arose about Exchanges being formed. Some states are already forming Exchange sub-committees and he would like to recommend that Delaware form a utilization review committee, which is going to be a very big issue in managing the Exchange.

Dr. Sukumar said he did not see members of the Medical Society or the Hospital Association on the Exchange Board. Ms. Riveros said the Board would be based on experience rather than stakeholder groups would certainly qualify under experience.

Jim Lafferty commented that Exchange Board meetings are extremely important to Delaware. He is concerned about proxies attending and thinks place holders need to be at those meetings – it is an important organization. Attending Exchange Board meetings DHCC meetings be a very high priority in terms of State efficiency.

Joann Hasse, representing the League of Women Voters, asked if the Delaware Exchange Board would be covered by the Freedom of Information Act and Ms. Roy said it would.

Ms. Riveros asked the Commissioners in attendance if they would individually recommend pursuing the governance authority, the conduit for it and getting the authority through an Executive Order rather than through legislation and all were in agreement.

Rich Heffron asked what the timetable is and was told it would have to be done by 2013.

Insurance Updates

Linda Nemes, from the Department of Insurance (DOI), addressed the Consumer Information Grant. An Ombudsman has been hired and will start May 9. Ms. Nemes asked Consumer Services how many calls have been received related to Ombudsman type activities and there have been six so far. It is anticipated the Department of Insurance will apply for a no cost extension for the Ombudsman grant to extend beyond October to allow time for DOI to assess the Ombudsman program, and determine how useful it is and if it is beneficial cost wise.

Medical Loss Ratio Waiver – Commissioner Stewart sent a letter to HHS Secretary Sebelius asking for a deferment of the medical loss ratio until 2014 for the individual market. After careful review by DOI actuaries, and talking to carriers, it was decided to request the deferment.

Ms. Roy explained what that means is that under the Affordable Care Act, insurance plans are required to spend 80 percent of their money on medical services and 20 percent on administrative services for large groups, and for small groups 85 percent on medical services and 15 percent on administrative costs. That is higher than the current practice, and states were given the opportunity to request a waiver from that requirement if, in the

States judgment, it would have an adverse effect on people's ability to acquire insurance. Maine has applied and has been approved. The new 80–20 and 85–15 requirements will be in place for all plans beginning in 2014.

Ms. Nemes said if approved, the percentages in Delaware would remain at 65 and 35 percents.

Dr. Robert Frelick attended a meeting wherein a speaker from Washington, DC, who pointed out that we should be coordinating health prevention within the State.

Dr. Joann Fields asked if the public can get a copy of Insurance Commissioner Stewart's application for the Medical Loss Ratio Waiver to Secretary Sebelius? Dr. Fields considers the waiver a very unfortunate departure from the intent of the Affordable Care Act.

Linda Nemes answered that she will have to check with the DOI legal department.

Dr. Sukumar would like an explanation of why Delaware is requesting 65 percent when the other states are getting 80 percent. Only 3 states have higher coverage – is that because the carriers are so powerful?

Linda Nemes said Delaware is a small state with a few insurance carriers. If those carriers choose not to sell insurance in Delaware they cannot be forced to do so and then there will be no coverage. Ms. Nemes will follow up with Drs. Fields and Sukumar.

OTHER BUSINESS

The Delaware Rural Health Initiative has a Rural Health Conference annually in May. This year the event is May 24 at the Atlantic Sands in Rehoboth. This year's focus is on mental health and mental health care. If anyone is interested, contact Paula Roy or Betsy Wheeler.

Within two days of sending out a 'save the date,' Barbara DiBastiani said 60 people responded so if anyone is interested, slots are filling fast.

Ms. Riveros announced that the June DHCC meeting will start focusing on accountable care organizations.

NEXT MEETING

The next meeting of the Delaware Health Care Commission is June 2, 2011, at the Department of Transportation Administration Building, First Floor, Farmington /Felton Conference Room, 800 Bay Road, Dover.

ADJOURN

The meeting adjourned at 11:25 a.m.

**NEXT
MEETING**

The next meeting of the Delaware Health Care Commission is June 2, 2011, at the Department of Transportation Administration Building, First Floor, Farmington /Felton Conference Room, 800 Bay Road, Dover.

GUESTS

Thomas G. Bastholm, OD	Delaware Optometric Association
Bob Carey	Public Consulting Group
Robin Chacon	Public Consulting Group
Jeanne Chiquone	American Cancer Society
Barbara DeBastiani	Wheeler and Associates
Dr. JoAnn Fields	Family Practice Physician
Dr. Robert Frelich	Medical Society of Delaware
Steve Groff	DHSS/Division of Medicaid and Medical Assistance
Joann Hasse	League of Women Voters
Cheryl Heiks	Cozen O'Connor
Alicia Holmes	Public Consulting Group
James Lafferty	Mental Health Association in Delaware
Travis M. Lehman	
Lolita Lopez	Westside Family Health
Michael McDonough	Public Consulting Group
Linda Nemes	Department of Insurance
George Meldrum	Nemours
Sheila Nutter	Hewlett Packard
Brian Olson	La Red Health Center
Rosa Rivera	Henrietta Johnson Medical Center
Jill Rogers	DHSS/Division of Public Health
Wayne Smith	Delaware Healthcare Association
Kay Wasno	Hewlett Packard
Betsy Wheeler	Wheeler and Associates