



STATE OF CONNECTICUT  
LIEUTENANT GOVERNOR NANCY WYMAN

Connecticut Health Insurance Exchange  
Board of Directors Regular Meeting

Legislative Office Building  
Room 1D  
Hartford, CT

Thursday, January 15, 2015

**Meeting Minutes**

**Members Present:**

Lt. Governor Nancy Wyman; Secretary Benjamin Barnes, Office of Policy and Management (OPM); Commissioner Roderick Bremby, Department of Social Services (DSS); Deputy Commissioner Anne Melissa Dowling, Connecticut Insurance Department (CID); Paul Philpott; Commissioner Patricia Rehmer, Department of Mental Health and Addiction Services (DMHAS); Grant Ritter; Robert Scalettar, M.D.; Robert Tessier; Cecelia Woods

**Members Absent:** Vicki Veltri, Vice-Chair (Office of Healthcare Advocate); Maura Carley; Commissioner Jewel Mullen, Department of Public Health (DPH)

**Members Participating by Telephone:** None

**Other Participants:**

Health Insurance Exchange (HIX) Staff: James Wadleigh, Virginia Lamb, James Michel, Julie Lyons, Jason Madrak, Peter Nichol

**The Meeting of the Connecticut Health Insurance Exchange Board of Directors was called to order at 9:02 a.m.**

**A. Call to Order and Introductions**

Lt. Governor Wyman called the meeting to order at 9:02 a.m.

**B. Public Comment**

Quyen Trong, North Central Regional Mental Health Board, provided a public comment.

**C. Review and Approval of Minutes**

Lt. Governor Wyman requested a motion to approve the minutes from the December 18, 2014 Regular Meeting. Motion was made by Robert Tessier and seconded by Grant Ritter. ***Motion passed unanimously.***

**D. CEO Update**

Acting CEO James Wadleigh reviewed current Access Health CT (AHCT) activities. Open enrollment has been very strong. Four weeks remain until the February 15 open enrollment deadline. Membership continues to grow with 1,500 to 2,000 individuals enrolling per day. Dental and Small Business Health Options Program (SHOP) membership also continue to grow. AHCT continues to focus on customer service, specifically in relation to IRS Form 1095A. Access Health Analytics is proceeding toward its 2015 goals and has held planning meetings with carriers. Peter Van Loon has assumed his new role as Executive Director of Access Health Exchange Solutions where he will be responsible for pursuing business opportunities to help support Exchange sustainability.

**Secretary Barnes and Commissioner Rehmer arrived at 9:06 a.m.**

**E. Vice-Chair Election**

Lt. Governor Wyman nominated Vicki Veltri as vice-chair. Motion was made by Grant Ritter and seconded by Robert Tessier. There were no other nominations. ***Motion passed unanimously.***

**F. Policy and Procedure**

Virginia Lamb, General Counsel, presented the Procedure: Employer Appeals Process and introduced Chad Brooker, Manager Policy and Strategy who is responsible for providing legal guidance on the Advance Premium Tax Credit (APTC), the consumer's 1095A filing process and the employer appeals process. This Procedure: Employer Appeals Process is being proposed for adoption on less than 30 days of public notice (as an emergency procedure) following the requirements set forth in the Quasi-Public Agency Act. In addition the board is being asked to approve the same Procedure for notice in the *Connecticut Law Journal* and 30 days of public comment. Following public comment the Procedure will be brought back to the Board for further consideration and if the Board agrees, permanently adopted. Ms. Lamb reviewed the requirements to adopt an emergency procedure, emphasizing that the Board is required to make specific Findings that such adoption is required for the public's welfare. The earliest an emergency procedure can be effective is 10 business days after adoption; consequently the earliest this proposed Procedure will be effective is February 2, 2015. An emergency procedure can also only remain in effect for 120 days (June 2, 2014), but can be renewable once for an additional 60 days. Ms. Lamb indicated that she fully expected that before this time period expired, the Board will have adopted the Procedure: Employer Appeals Process on a permanent basis.

Ms. Lamb outlined why the immediate adoption by the Board of this Procedure was necessary for public welfare and provided context of how this Procedure fit within the statutory requirements of the Affordable Care Act (ACA). The ACA's goal was to ensure that underinsured and uninsured legal U.S. residents had access to affordable health coverage that met certain value standards. The law's intent was to supplement not supplant existing health coverage. Because the ACA was designed to fill in the gaps in health coverage, legal US residents are first required to look to existing health coverage programs such as Medicaid, CHIP and Medicare or to their employer sponsored health coverage. If that coverage meets minimum value standards and is affordable, the individual is not entitled to a tax credit to help pay their health insurance premiums on the Exchange. Large employers, defined by the federal government as those with 50 or more full-time equivalent employees, are required to pay an "employer shared responsibility payment" (i.e. a penalty), if they fail to offer their employee minimum value (defined as health coverage that has an actuarial value of at least 60 percent and covers the identified Essential Health Benefits), affordable coverage. "Affordable" for employer penalty purposes is defined as an employee premium not more than 9.56% of the employee's household income. Small employers are not

required to offer their employees health coverage and are not subject to this penalty. While the penalty for large employers is \$2,000 per employee, the ACA sets out a process for how this penalty is to be applied that exempts a certain number of the employer's employees from the penalty count. Under the ACA, the employer can successfully appeal imposition of the penalty, if they can demonstrate that they offered their employee minimum value, affordable coverage.

Ms. Lamb explained that whenever an employed individual comes on the Exchange and is awarded a tax credit, the Exchange is required by law to send their employer a notice informing the employer that the employee has obtained coverage through the Exchange with a tax subsidy (APTC). The Exchange has sent out these notices since October 2013. This notice reminds the employer of their responsibility to offer minimum value, affordable coverage. In late 2013, however, President Obama announced that the imposition of the employer penalty would be postponed to 2015 for employers with 100 or more full time equivalent employees and to 2016 for employers with between 50 and 99 full time equivalent employees. Because the penalty was postponed, when AHCT sent out employer shared responsibility notices for the 2014 coverage year, employers had little interest in appealing. Since the penalty will be imposed for the 2015 coverage year, many employers are now contacting AHCT with questions asking how they can appeal.

The Exchange is allowed to either provide its own employer appeals process in compliance with federal regulations or to defer to the U.S. Department of Health and Human Services' (HHS) appeal process. Last fall, the Exchange's plan was to defer to HHS's employer appeal process. But, since the federal government has yet to publish its employer appeals process, Exchange staff has re-visited its decision, given that the lack of a timely employer appeals process is proving problematic for Connecticut businesses and individuals.

Businesses require timely guidance on whether the coverage they offer meets ACA standards, so they can plan their budgets. This is not possible if they must wait until April 15, 2016, when their taxes for 2015 are filed with the IRS, to find that they are at risk for unexpected employer shared responsibility tax penalties. Waiting until April 2016 also puts individuals at risk for an unexpected tax liability, since individuals who receive the advance premium tax credit in 2015, when they are not entitled to the credit will be required to repay some or all of the credit to the IRS, when they file their taxes in 2016. This additional tax liability could be financially disastrous to individuals with limited incomes. Despite warnings on the web-site and in our literature that the subsidy is a tax credit and must be reconciled with the IRS, the Exchange has found many consumers confused by the process. Consumers are especially confused about how affordability is being defined by the ACA.

Commissioner Rehmer asked how many employers this process would affect. Ms. Lamb replied that there are currently at least 163 employers interested in filing an appeal and the number grows each day. Commissioner Barnes inquired about funding and the potential impact on the state budget. Mr. Wadleigh indicated that funding was available in the current operations budget. Dr. Scalettar asked about the Exchange's authority and inquired about what will happen if the employer disagrees with the decision on appeal. Ms. Lamb replied that the final arbiter is the IRS. However, since the IRS does not make its decision until tax filings are due, the IRS's determination may be too late for many Connecticut residents and businesses. AHCT's decision is strong intermediary guidance. Commissioner Bremby asked how the process will be structured. Ms. Lamb stated that it will be mostly a paper review process. Commissioner Bremby noted that there may be a need to utilize the hearing officers in the MAGI Appeals Unit operated by DSS and raised a concern about added workload. Ms. Lamb stated that as currently planned by AHCT, the appeals process would be handled within AHCT. However, the distribution of workload for the proposed employer appeals process has not yet been reviewed by DSS legal. Commissioner Barnes expressed concern that the outcome of the appeal may be that an individual will be without coverage and asked whether certain steps can be taken without Board action, including ensuring that enrollees are given clear notice about the impact of accepting APTCs when their employer offers affordable coverage. Mr. Brooker pointed out that AHCT's marketing materials and website already address these issues.

Mr. Philpot emphasized the importance to the business community and to individuals of having a timely employer appeals process available.

Ms. Lamb reminded the Board that all voting Board members must vote in favor of the Findings. Lt. Governor Wyman proposed moving forward with a vote and requested a motion to adopt the written Findings of Need (as outlined below) to institute an Employer Appeals Procedure with less than 30 days' notice pursuant to Conn. Gen. Stat. Section 1-121(b) based on the imminent peril to public welfare, if the procedure is not adopted on an emergency basis.

Findings of Need to Institute an Employer Appeals Procedure with less than 30 days' public notice:

Section 1-121 of the Connecticut General Statutes permits a quasi-public agency to adopt a procedure upon fewer than thirty (30) days' notice if the agency finds that imminent peril to public health, safety or welfare requires such adoption. The Exchange finds that it must adopt an employer appeals process on fewer than thirty (30) days' notice because without such adoption, employers and employees are left in limbo with respect to significant financial risks.

The Exchange is required to send a notice through its Integrated Eligibility System to any employer when their employee has been deemed eligible for Premium Tax Credits (PTC) and or Cost Sharing Reductions (CSR). Employers and employees have rights to appeal under federal law, but the federal government has yet to adopt any appeal procedures. Without the additional certainty that an appeal can provide, employers cannot plan for the financial impact of significant penalties and employees will not know if their premium tax credits are in jeopardy and their household budgets subject to a substantial additional expense. It is critical to get this information into the hands of employers and consumers as soon as possible.

For the 2015 Plan Year, the Exchange has received 163 calls from employers asking for information on how they should proceed or challenging their potential penalty in response to the notice they received. The Exchange expects this number will increase as additional notices are sent to employers during the 2015 Plan Year. The Employee's eligibility for PTCs and/or CSRs may change due to the Employer's Appeal finding. As a result, a significant number of employers and employees are immediately affected by this situation. Since the appeal process can take up to 180 days to complete, it is critical to start the appeals process as soon as possible so that the Exchange can provide much-needed answers to Connecticut businesses and citizens.

Motion to adopt the Findings was made by Commissioner Barnes and seconded by Mr. Ritter. ***Motion passed unanimously.***

Lt. Governor Wyman requested a motion to adopt the Employer Appeals Procedure as presented by Exchange staff pursuant to Conn. Gen. Stat. Section 1-121(b). Motion was made by Mr. Tessier and seconded by Mr. Philpott. ***Motion passed unanimously.***

Lt. Governor Wyman requested a motion to approve the Employer Appeals Procedure as presented by Exchange staff for publication in the *Connecticut Law Journal* and 30 days of public comment. Motion was made by Mr. Philpott and seconded by Commissioner Bremby. ***Motion passed unanimously.***

## **G. Open Enrollment Update**

Jason Madrak, Chief Marketing Officer, provided an open enrollment (OE) update. Thirty days remain before the February 15 OE deadline. Membership across all plans and programs stands at 471,881 individuals as of February 9; including 24,287 new qualified health plan (QHP) customers and 83,749 new Medicaid customers. Mr. Philpott asked if the new QHP members include any individuals that were re-determined no longer eligible for Medicaid. Mr. Wadleigh responded that 2,500 new members had lost coverage as a result of a Medicaid redetermination. The number of QHP members that were newly eligible for Medicaid is not known. Mr. Madrak reported that the majority of both new and renewing QHP enrollees continue to choose silver level coverage.

Data indicates increased deadline driven QHP enrollment activity. More than 2,800 visitors have visited a Community Enrollment Partner (CEP) location. This year's strategic use of CEPs with set hours (instead of the mobile enrollment fairs that were held last year) has resulted in a 50% increase in visitors and a 50% increase in enrollments. Storefront activity continues to build heading into the end of OE. More than 6,200 people have visited the storefronts since November 15 and 3,540 enrollments have resulted. There has been a 19% increase in visitors and a 40% increase in enrollments over last year's storefront OE.

Lt. Governor Wyman asked about the current uninsured rate. Mr. Madrak replied that updated information is not available yet and that a member census will be needed. Commissioner Barnes asked whether the elimination of navigator funds by the federal government and the lack of those community resources are driving consumers to other channels. Mr. Madrak replied that this will be explored during an upcoming member census, but that individuals seem to be using CEP resources. Mr. Wadleigh added that the Connecticut Health Foundation awarded grants to 30 organizations to continue the efforts previously funded by the federal government.

Peter Nichol, Director of IT, summarized web and mobile application metrics for the current OE period. There have been 1.4 million unique visitors to the website. Nearly 500 QHP applications have been submitted through the mobile app. On January 13, the mobile application was enhanced to allow enrollment in subsidized plans. Mr. Ritter asked whether people are making multiple attempts to create accounts and if there is a method to determine duplicates. Mr. Nichol replied that there is currently no method, but it will be addressed.

## **H. Operations Update**

James Michel, Director of Operations, provided an operations update. Mr. Philpott asked how many QHP members that received an advance premium tax credit (APTC) have also qualified for a cost-sharing reduction. Mr. Michel indicated that information could be made available. Lt. Governor Wyman asked whether we have further information about those enrollees that did not receive an APTC. Mr. Wadleigh replied that utilization information may shed some light on the question. Mr. Madrak stated according to some research, self-employment seems to be more of a factor than pre-existing illness. Deputy Commissioner Dowling added that the next level of growth is how AHCT is competing with private exchanges and non-exchange business.

Mr. Michel summarized AHCT's plans with respect to IRS Form 1095A, including the mailing schedule, consumer education and support, and staff and call center training

## **I. Plan Management Update**

Julie Lyons, Director of Plan Management, summarized key accomplishments in 2014 for plan management including the addition of the stand-alone dental consumer shopping experience, the re-launch of the SHOP, acquisition of mapping software and outreach to essential community providers. Ms. Lyons also reviewed findings for 2015 Plan Year QHP applications and expected changes for the QHP review process for the 2016 Plan Year. Changes will focus on the QHP application, improvements to the Centers for Medicare and Medicaid Services (CMS) plan benefits template, and the schedule of benefits.

Mr. Philpott asked if, once the definition of small employer group changes from 50 to 100, will the plan for the 100 employee group be community rated. Ms. Lyons confirmed that it would be. Mary Ellen Breault, Director, Life and Health Division of CID added that once the definition of small employer group changes from 50 to 100, all small groups will be treated the same and the community rating will be the same. It will be a single market filing.

Ms. Lyons presented AHCT's 2016 Plan Year key deliverables. Numerous activities, some beyond the control of the Exchange impact the plan management schedule. The board of directors must approve its standard plans designs no later than the March Board meeting so that Exchange carriers will have adequate time to prepare their forms and rates filings with the CID. The current schedule is for the standard plan designs to be presented to the Board in February; however some tweaking may be required, after CMS releases its Final Actuarial Value Calculator in early March. The QHP application is scheduled to be published April 20, 2015. QHP certification is a lengthy process, and includes detailed review of network adequacy. Certified QHP plan data will be made available to CMS on September 16 and published in AHCT's Consumer Portal on October 1, 2015.

Ms. Lyons reported that at the start of 2014, SHOP had 103 members. Membership has now grown to 174 groups and 1,153 members. AHCT's re-launch of the SHOP includes increased marketing and communication efforts. The Exchange will be participating in Benefits Central and a new brochure has been published. Small group employer awareness efforts include direct mail outreach, a revised website, and partnering with associations that support small business. Broker awareness initiatives include broker calls; training for new brokers; events and web outreach. Mr. Philpott commented that one of the challenges for SHOP is that rates are about 15% higher than the rates for individual policies.

### **Adjournment**

Lt. Governor Wyman requested a motion to adjourn the meeting. Motion was made by Dr. Scalettar and seconded by Grant Ritter. ***Motion passed unanimously.*** Meeting adjourned at 11:13 a.m.

*The next meeting will be held on February 19, 2015 at the  
Connecticut Historical Society.*