



**Connecticut Health Insurance Exchange  
Health Plan Benefits and Qualifications Advisory Committee  
(HPBQ AC) Special Meeting**

Remote Meeting

Wednesday, March 18, 2020  
**Draft Meeting Minutes**

**Members Present:** Grant Ritter (Chair); Neil Kelsey, Tu Nguyen; Jill Zorn; Paul Lombardo

**Other Participants:** Access Health CT (AHCT) Staff: James Michel; Ann Lopes; Charmaine Lawson; Ellen Kelleher; Susan Rich-Bye; Margo Lachowicz; Joshua Booth  
Wakely Consulting: Julie Andrews; Brad Haywood  
Cecelia Woods

**A. Call to Order and Introductions**

Chair Grant Ritter called the meeting to order at 4:02 p.m.

**B. Public Comment**

No public comment.

**C. Vote**

Chair Ritter requested a motion to approve the February 20, 2020 Health Plan Benefits and Qualifications Advisory Committee Special Meeting Minutes. Motion was made by Neil Kelsey and seconded by Jill Zorn. A roll call was requested for all voting matters by Neil Kelsey. This request was granted. Roll call vote was taken. ***Motion passed unanimously.***

**D. And E. AHCT Vision, Mission and Values/Follow-Ups from Prior Meeting**

Ann Lopes, Carrier Product Manager, reviewed the Access Health CT (AHCT) Vision, Mission and Values. Ms. Lopes noted that during the previous meeting it was mentioned that when making changes to any of the certification requirements, including standardized plan designs, what needs to be taken into account is what is best for the Exchange's customers and also ensure that any changes align with the AHCT

Vision & Mission. In addition, during the Committee meeting in February there was discussion regarding the results of AHCT's efforts in supporting the various components of the Mission Statement. Ms. Lopes briefly spoke about AHCT Values in Action and the focus at AHCT on a set of values and associated behaviors that were established to remind the organization of its responsibility to customers and to help the Exchange achieve its goals.

Ms. Lopes pointed out that during the last Committee meeting, the Plan Management Team (PMT) received a request to review the state legislation pertaining to cost sharing maximums on certain diabetes medications and equipment to determine what the impact would be on the standardized plans if that legislation passed. Julie Andrews of Wakely Consulting has included information on this in the presentation for this meeting.

Ms. Lopes added that during the presentation last month, Ms. Andrews reviewed several exhibits that outlined estimated cost and utilization information based on data housed within the federal Actuarial Value Calculator. These are included as the last three exhibits of the resource materials section of this presentation.

Ms. Lopes stated that a number of new exhibits were provided related to enrollment and plan costs at last month's meeting. Robert Blundo, AHCT's Director of Technical Operations and Analytics reviewed some of this material. The PMT asked Committee members to review the remaining exhibits in advance of this meeting and bring back any comments or questions on those or the material that Mr. Blundo reviewed for discussion. There were no questions posed or comments on any of those exhibits.

#### **F. Certification Requirements**

Ms. Lopes continued with providing information discussed in previous meetings on the Certification Requirements, as well as the timing that needs to occur to get recommendations for changes to those requirements for the Board for the next meeting scheduled for April 16<sup>th</sup>. Board approval at that time is a key milestone, as AHCT needs to communicate requirements to carriers that are interested in participating with the Exchange for 2021 with sufficient advance notice so that they can develop rate and form filings to the Connecticut Insurance Department by the July 6<sup>th</sup> submission deadline. Ms. Lopes noted that this communication occurs via the annual Solicitation documents, which are generally released once final federal guidance is available and subsequent to the Board approval of any changes. Ms. Lopes summarized that since there has been no discussion on topics other than changes for the standardized plan designs for plan year 2021, the focus will only be on this element of the certification requirements for next year.

#### **G. 2021 Individual Market Standard Plan Designs**

Julie Andrews of Wakely Consulting reviewed the agenda items and outlined regulation changes for 2021. The proposed Notice of Benefit and Payment Parameters (NBPP) regulation is not final so we do not know the maximum out-of-pocket limit for 2021 and are using the proposed amount

of \$8550 as well as the CSR limits. Ms. Andrews noted that the 2021 Federal Actuarial Value Calculator (AVC) was finalized and the Department of Health and Human Services made no changes to the calculator methodology or underlying data from the draft version, so the actuarial values of the plans discussed to this point remain unchanged. Ms. Andrews added that the Federal High Deductible Health Plans (HDHP) minimum deductible and Maximum Out-of-Pocket (MOOP) limits are not available for 2021 yet so we are using the 2020 limit as a guide, which is \$6900 for the out-of-pocket. Ms. Andrews went on to summarize the 2021 Actuarial Value calculations for the AHCT standard Gold, Silver, Bronze, Bronze HSA as well as the CSR Plan Variations in the Silver tier for the individual market. Ms. Andrews stressed that two plans, Bronze and Bronze HSA fell outside of compliance with the AV range necessitating a modification to the plan designs. The Gold and 87% CSR plans are highlighted in yellow because only Wakely's analysis determined they fell outside the minimum AV requirements.

Ms. Andrews went on to describe the 2020 proposed Connecticut legislation, Senate Bill Number 1, An Act Concerning Diabetes and High Deductible Health Plans. The proposed bill would impact all health plans, including those offered 'On-Exchange'. It includes a \$50 cost share limit for medically necessary 30-day supply of covered insulin, a \$50 cost share limit for a medically necessary 30-day supply of covered non-insulin drugs, a \$100 cost share limit on medically necessary covered diabetes equipment and supplies. Ms. Andrews added that this legislative proposal would also limit the overall monthly out of pocket expenses to \$100 for all medically necessary items. Ms. Andrews stated that for the HSA Bronze, the proposed legislation indicates it applies to the extent permitted by Federal Law and pointed out that based on the IRS Notice released last year it would limit those services that could be provided before the deductible with cost-share limits to insulin and other glucose lowering agents and glucometers. Since the actuarial value is a component of federal law, the view is that since there was no way to design a plan that would be compliant, the conclusion was that the state law would not be applicable to the AHCT standard HSA Bronze plan. Ms. Andrews summarized the preliminary results from the carriers on actuarial value and mental health parity compliance for the 2021 standard plans should the diabetes legislation need to be included. The possibility exists that there may need to be changes upon further review by the carriers.

Jill Zorn inquired if there could be an increase in premiums for medical plans if this bill passed. Neil Kelsey responded that anything that increases medical costs by eliminating copays would lead to an increase in premium and elaborated that the 2021 premiums will be based off of the 2019 experience trended forward, so could not state whether the impact of these combined would be positive or negative. However, isolating this one item would result in an increase. Ms. Zorn asked if the reason the AV is not affected is due to a small population with diabetes. Ms. Andrews explained the AVC is a tool to measure compliance with the metal level requirements of the Affordable Care Act (ACA). Discussion ensued around cost sharing that is below that outlined in the legislation in some of the plans and is already not subject to a deductible, such as for generic drugs. Based on what is known now regarding the 2020 MOOP limit for HDHPs,

preliminary testing indicated that the standard HSA Bronze could not be modified to include the legislation and still comply with AV requirements.

Paul Lombardo stated that for the HSA plan with the rules being changed, insulin is now allowed to be covered prior to the deductible. He asked for clarification on applicability of federal rules. Mr. Lombardo added that if the bill is passed as currently written, then HSAs could have insulin prior to the deductible and could have cost sharing like it is identified in the bill and if that changes the complexion of the HSA plan. Ms. Andrews answered that the plan would be outside of the 65 percent AV, the top of the permissible range. Mr. Lombardo questioned if AHCT would be able to offer the HSA plan at all. Susan Rich-Bye, Director of Legal and Governmental Affairs observed that it is not just whether it complies with the Internal Revenue Service (IRS) rules for the HSA but also the combination of the parity and the AV. Ms. Andrews noted that the IRS regulations with regards to HSAs as well as the ACA's regulations that limit AV. Ms. Andrews continued with the summary of the 2021 Gold, Silver and Bronze Plans, including the sample plans with changes for the non-HSA and HSA Bronze plans. Ms. Andrews stated that the sample Bronze plans may need to be changed if the MOOP per the final NBPP is less than what was proposed or IRS guidance on MOOP results in an amount lower than the 2020 limit.

Ms. Andrews summarized another state legislative proposal, House Bill 5366, An Act Concerning the Cost of Prescription Drugs currently under consideration at the Connecticut General Assembly. The carriers have not evaluated the potential impact of this on the standard plans.

## **H. Possible Votes**

Ms. Lopes indicated that based on the information Ms. Andrews reviewed, AHCT submits 3 options for the Committee to consider in recommending standardized plan changes for 2021 to the Board.

Ms. Lopes remarked that the first option is to recommend changes without any consideration of the proposed state legislation on monthly cost sharing maximums for diabetes medications, equipment and supplies. Ms. Lopes noted that the risk with this option is that if the legislation is passed at a later point in time, that revised plan designs would need to be presented to this Committee for recommendation to the Board and then go to the Board for approval, which could be problematic in terms of the time line we are moving towards.

Ms. Lopes described the third option which is to recommend changes that incorporate the proposed state legislation on monthly cost sharing maximums for diabetes medications, equipment and supplies, even if the legislation does not pass. Ms. Lopes pointed out that an issue with this approach is it could potentially differ from that of the 'off-exchange' plans.

Ms. Lopes also described that the second option is to recommend changes to the Board without incorporating the proposed state legislation on monthly cost sharing maximums for diabetes medications, equipment and supplies into the standardized plans needing to be revised for 2021

to be compliant with AV and/or MHP requirements. This would be adopting the sample plans outlined in Option 1. Ms. Lopes noted however, in the event the diabetes legislation does pass, we would like to add a contingency requesting approval to replace all the plans except the HSA Bronze with designs that do include the diabetes legislation and this would mean that the standard Gold and Silver plans, including the CSR variants, would be adjusted for those copay maximums, as well as the non-HSA Bronze Sample Plan 2. If the diabetes legislation does not pass, the changes would not be made to those plans. Ms. Lopes reminded the Committee that as Ms. Andrews mentioned, the HSA Bronze cannot be compliant with federal requirements and still incorporate the diabetes cost sharing maximums, so that plan is not part of the contingency portion of this option. Ms. Lopes outlined that AHCT believes that Option 2 should be the way to go given the timing to get this in front of the Board at the April 16<sup>th</sup> meeting, and not have to go back to the Board if at a later point the diabetes legislation gets passed. James Michel, Chief Executive Officer, stated that AHCT recommends Option 2 and asked if there were any questions on this.

Neil Kelsey stated he was not in favor of Option 2 or Option 3. Mr. Kelsey indicated that with Option 2, there are too many unknowns in terms of the possible proposed legislation. Mr. Kelsey noted that there is no certainty that the carriers will sign onto those plans if the legislation becomes the law. The carriers already started evaluating the impact of this legislative proposal on their own business and added that if the legislation passes, the carriers would have to scramble not only for Access Health, but also for their own direct plans to put products in the market that will comply with the new legislation. Mr. Kelsey suggested, based on what we know right now of the current environment, to put Option 1 in front of the Board, and if they have to have a Special Meeting for anything else that might change over the next six weeks, that will just have to happen. Tu Nguyen agreed with Mr. Kelsey. Jill Zorn inquired whether AHCT accepts they would be able to scramble. Mr. Michel stated that AHCT serves at the pleasure of the Board and customers and would do whatever we have to get this done. Our concern is everyone else that would have to get things done, including the carriers and CID. Mr. Michel added that a Special Meeting of the Board may take place if needed by teleconference. Mr. Michel indicated that the timeframe for approval of the plans is narrow due to numerous parties being involved in the approval process. We have a hard date in September in order to get the plans onto the Exchange in time for the 2021 open enrollment. The timeline is driving the recommendation – this is opening up the system on November 1 of 2020. Mr. Kelsey stated there have been instances in the past where plans were close to approval by CID but a change in federal guidance came along and revisions had to be made quickly.

Mr. Kelsey made a motion to recommend the cost sharing adjustments as outlined in Option 1 to the Board of Directors, which is cost sharing adjustments only for the two plans (Bronze and HSA Bronze) that will no longer be compliant for 2021 due to changes in the AV calculator tool. Motion was seconded by Tu Nguyen. Discussion followed. Dr. Ritter pointed out that there could be two different parts to this option. The Committee is voting to accept changes to meet the AV requirements for the Bronze plans which is not controversial and needs to be done. Dr. Ritter

inquired whether in case of the Connecticut General Assembly moving forward with the diabetes cap, if the plan would need to be approved again by the Committee or if it could be placed directly in front of the Board of Directors. Ms. Rich-Bye answered that the normal process is for the advisory committee is to vet plans and recommend them to the Board. Discussion followed regarding the current situation, and the potential for popular bills not to be able to get through. Roll call vote was taken. **Motion passed unanimously.**

Ms. Lopes presented a potential contingency plan option recommendation to the AHCT Board of Directors in the event federal regulations and guidance differ from what was proposed or assumed. Ms. Lopes indicated that the next possible vote for consideration is to skip the step of having to reconvene this Committee to review and then recommend another set of plans to the Board that incorporate changes in federal guidance related to:

--A lower maximum out-of-pocket that becomes final vs what was proposed in the NBPP released on January 31<sup>st</sup>. Ms. Lopes stated that this could theoretically apply for the Silver plans including the CSR variants, as well as both the non-HSA and the HSA Bronze plans.

--And/or a maximum out-of-pocket released in IRS guidance that is less than the value used for the standardized HSA Bronze plan (Sample Plan 1 in the Wakely presentation).

Ms. Lopes noted that there were a number of public comments on the proposed NBPP suggesting HHS revise the calculation of the MOOP to follow the approach used for the 2019 plan year. Ms. Lopes commented that, in theory, if these suggestions are taken into account, the possibility would exist that the MOOP included in the Silver, Silver CSR and Bronze standardized plans would now exceed the allowable amount.

Ms. Lopes further added that, even if the MOOP calculation does not change, it's possible the \$8550 limit proposed could be reduced per the final NBPP, which could result in the need to adjust only the non-HSA and HSA Bronze plans and as in every year, the IRS guidance regarding the minimum deductible and maximum out-of-pocket for High Deductible Health Plans (HDHPs) is not expected to be released until later this year. Ms. Lopes stated that the IRS released Bulletin No. 2019-22 on May 28, 2019, and this is when the information on HDHP limits for 2020 became known.

Ms. Lopes conveyed that AHCT is looking for a recommendation of this Committee to the Board to permit the AHCT PM team & its Actuarial Consultant to work directly with the carriers to modify the standardized plans for 2021 if this federal guidance results in any of the plans no longer being compliant with AV and MHP and make revisions without needing to review the results with this Committee, which would mean not voting to recommend changes to the Board, and also requesting the Board to allow the changes without review and additional approval. This would mean that based on the vote for Option 1 a short while ago, that the non-HSA and the HSA Bronze plans could need an adjustment. If, as an example, the final MOOP is \$100 less than proposed, that would likely mean that the plan deductible would need to increase, and possibly other features changed. So, the suggestion is that Wakely Consulting and AHCT would work

directly with the carriers to make minimal changes to these plans if this happens, and in the remote situation where the MOOP calculation reverts back to the 2019 methodology and that impacts any of the Silver plans, to allow the same flexibility to modify those plans with minimal changes as well. This flexibility would mean that this Committee would not need to review those changes and recommend them to the Board, and the Board would not need to approve them either.

Chair Grant Ritter asked for a motion to accept the recommendation. Mr. Kelsey made a motion to move forward consistent with the information outlined on slide 26 and put that recommendation in front of the Board

The motion was seconded by Tu Nguyen. Dr. Ritter expressed concern about this, and whether by the time it reaches the Board, they want to keep the phrase 'and the Board'. It may be split, and they may want to have a special meeting to review. Dr. Ritter proposed a friendly amendment but asked for confirmation that this would be limited to a change in the MOOP. Ms. Lopes indicated that changes to MOOP as outlined in the NBPP and IRS guidance on MOOP for HDHPs that is expected later this year. Dr. Ritter expressed that he thinks that a limit could be given and indicated that if more than a \$300 change in MOOP is made, there needs to be a sign off from the Board of Directors. Mr. Kelsey noted that he understands Dr. Ritter's point of view and by-passing this Committee may be uncomfortable but is not opposed to making the enhancement recommended, and only send it back to the Committee if the difference in MOOP is more than \$300. Mr. Kelsey indicated that if that happened, the first thing to do would be to work with Wakely on designs that both carriers can agree to, and that could be a very quick meeting with plan designs worked on in advance to get them back in front of the Board.

Chair Grant Ritter requested a motion to approve the amendment that if the MOOP published in the final HHS rule is less than the value used in the sample plans, but within \$300 then the following holds...as long as a change is not more than \$300, then the rest of it holds.

***(Ann Lopes added that the IRS guidance as well as the final NBPP needs to be included in the vote language).*** Ms. Rich-Bye asked if the amendment was clear to everyone and received confirmation.

Motion was made by Grant Ritter and seconded by Jill Zorn. Roll call was taken. **Motion passed unanimously.**

Following the amendment offered by Grant Ritter, the Chair requested a vote to approve Neil Kelsey's motion as amended. Roll call vote was taken. **Motion passed unanimously.**

#### **I. Meeting Schedule for 2021 Plan Year Certification Review**

Ms. Lopes requested discussion on removing the Committee meeting scheduled for the second week of April from the calendar with the caveat that a regroup may be needed depending on the actions of the Connecticut General Assembly regarding the diabetes legislation. Ms. Zorn suggested that if there is a big change in MOOP, that would be another reason to hold a meeting.

Ms. Lopes agreed but added that based on past history the final NBPP seems to get released just before CMS holds their annual carrier conference, this year scheduled for April 21 and multiple days the following week through May 1. Ms. Lopes expressed hope that the final NBPP will be released just before the CMS conference, which would be after the April Board of Directors meeting. Ms. Lopes indicated that if there are any changes to the MOOP per the final NBPP, the Committee will regroup and will make any necessary modifications as long as MOOP is not reduced by more than \$300. Dr. Ritter and Ms. Zorn agreed that at this time the April meeting is not needed.

#### **J. Next Steps**

Ms. Lopes stated that the next steps are the presentation to the Board on April 16 for Option 1 vote as well as the MOOP contingency vote. Ms. Lopes announced that the next item we would be waiting on is the final NBPP to determine if there are any MOOP issues as well as IRS guidance on HDHPs and also on legislation that could be passed by the Connecticut General Assembly.

#### **K. Adjournment**

Chair Grant Ritter requested a motion to adjourn. Motion was made by Jill Zorn and seconded by Neil Kelsey. Roll call vote was taken. **Motion passed unanimously.** Meeting adjourned at 5:24 p.m.