

# Maryland Health Benefit Exchange Board Meeting Minutes

December 20, 2011  
1:00 p.m. – 5:00 p.m.  
Maryland Health Care Commission  
4160 Patterson Avenue  
Baltimore, MD 21215

The materials presented in the meeting are listed on the Maryland Health Benefit Exchange webpage: <http://dhmh.maryland.gov/healthreform/exchange/pdf/dec2011/12.20-Board-Meeting-Final.pdf>.

## **Members Present**

Joshua M. Sharfstein, M.D.  
Georges Benjamin, M.D.<sup>1</sup>  
Jennifer Goldberg, J.D., LL.M.  
Enrique Martinez-Vidal, M.P.P.  
Ben Steffen, M.A.  
Kenneth Apfel, M.P.A.  
Therese Goldsmith, J.D., M.S.  
Darrel Gaskin, Ph.D.  
Thomas Saquella, M.A.  
Rebecca Pearce, M.B.A.

## **Members Absent**

None

## **Opening, Closed Session, and General Updates**

Dr. Gaskin, Co-Chair, welcomed Exchange Board (Board) members and participants. The Board went into closed session to discuss the final report to the General Assembly.

Following the closed session, Secretary Sharfstein welcomed participants and noted the federal guidance from the U.S. Department of Health and Human Services (HHS) on essential health benefits. In addition, he noted the op-ed written by Lt. Gov Anthony Brown.<sup>2</sup> Becca Pearce, Executive Director of the Exchange, provided an update on staffing – with the Director of Operations starting on January 3, 2012.

The Board approved the minutes for the November 29<sup>th</sup> and December 12<sup>th</sup> Board meetings after some amendments.

---

<sup>1</sup> Participated in meeting through teleconference.

<sup>2</sup> <http://www.politico.com/news/stories/1211/70537.html>

### **Policy Discussion Regarding Exchange Recommendations**

The Board noted that the final review of the report will occur during their December 22<sup>nd</sup> conference call. This call will be open for public listening at the Maryland Health Care Commission (MHCC).

#### *Fraud, Waste, and Abuse*

The Board discussed and agreed with the recommendation that the Exchange should create a full-scale fraud, waste, and abuse program. The program should define a framework for internal controls, identify control cycles, conduct risk assessments, document processes, and implement controls. The recommendation includes the Exchange presenting the fraud, waste, and abuse strategy to the Board by the end of the second quarter of 2012. The Exchange Board noted that there are items within the recommendations that will require specificity. HHS' ability to investigate at any time validates the need for a comprehensive plan to combat fraud, waste, and abuse. The Board noted to begin enhancing and reviewing such a plan after 2012.

#### *Multi-State Contracting*

The Board discussed and agreed with the recommendation that the Exchange should ensure that current cross-border enrollment policies remain in place and engage with the national plans participating in the Exchange. The recommendation continues that should another state wish to adopt Maryland's policies, the Exchange may entertain contracting, but should not be obligated to or prohibited from doing so. The Board discussed certification criteria that would encourage cross border enrollment; that is, allowing Maryland to be open to minor modifications of its certification criteria.

#### *Participation Thresholds*

The Board discussed and agreed with the recommendation that a participation threshold should be set before participation in the Exchange is required. The Board agreed that the small group level be set at \$20 million and individual level be set at \$10 million in premiums collected. The Board also agreed to the recommendation that participation should be defined at the parent company level, with all subsidiaries being required to participate in the Exchange. It was noted that the recommendation is flexible and can be modified by the Maryland Insurance Administration (MIA). The Board noted collaboration would continue between the Exchange and the MIA on this issue.

#### *Care Transitions*

The Board discussed and agreed to the recommendations that the Exchange should require transition of care language in contracts as a component of qualified health plan (QHP) certification. In addition, the recommendation includes the Exchange working with Medicaid to promote reciprocal care transition provisions in the contracts for managed care organizations (MCOs). The Board discussed whether the MIA had the authority to promulgate this recommendation. It noted that the Exchange will identify which recommendations require legislative authority.

#### *Essential Health Benefits*

The Board discussed the timeline for addressing the essential health benefits package. It agreed that a process must be put into place to define the essential health benefits package by October

31, 2012. The Board noted a good starting point for the Exchange is continued collaboration with the MIA, MHCC, and the Governor's Office of Health Care Reform.

#### *Navigator Licensure*

The Board discussed and agreed with the recommendations concerning Navigator licensure, including that the Exchange develop and implement a certification program, approved by the MIA, for individuals to perform key Navigator functions. The certification program should focus on areas essential to ensure consumer protection. The Board discussed the timeline of Navigator training in preparation for open enrollment in October 2013. It agreed with the recommendation that Navigators earning certification should be excluded from licensure requirements. Lastly, the Board agreed with the recommendation that the Exchange should work with the MIA and Medicaid to develop an enforcement model for Navigator misconduct. It noted that an enforcement scheme to ensure that Navigators are fulfilling their roles would require a statutory change.

#### *Financing*

The Board agreed that the Exchange should be funded as broadly as possible. Specifically, some portion of the costs could be transferred to transaction fees. However, because of the uncertainty in the initial years of Exchange operations, such a mechanism should not be initiated until a later date. The Board discussed how this uncertainty makes it difficult to estimate fixed and variable costs of the Exchange. It was suggested that a committee or group be formed to continue and complete the discussion before the 2013 session of the General Assembly.

#### *Other Clarifications*

Ms. Pearce went over last points in finalizing the legislative report. The Board agreed that the Continuity pathway should be kept separate and not integrated into other pieces of discussion. Regarding health plan certification criteria, the Board agreed to maintain flexibility to add extra criteria in 2014. The Board discussed the nuances of the Exchange having flexibility and regulatory authority. Regarding association plans, the Board noted that the Exchange can only look at plans that can be regulated by the MIA for QHP certification. The Board discussed the employee-choice model within the Small Business Health Options Program (SHOP) Exchange, which means either (1) choosing one metal level<sup>3</sup> (with issuers offering that one level to all employees), (2) having one carrier offering all metals to one employer (which reflects the current marketplace), or (3) employees can only have one metal from one carrier.

The Board concluded with logistical discussion. It noted that the Board conference call on December 22<sup>nd</sup> would involve substantive questions in preparation for the submittal of the legislative report to the General Assembly on December 23<sup>rd</sup>. The Board conference call is open for public hearing at MHCC.

---

<sup>3</sup> QHPs are certified at the bronze, gold, silver, and platinum levels.