



## Maryland Health Benefit Exchange Board of Trustees

March 18, 2014  
1:00 PM – 4:00 PM  
Maryland Health Care Commission  
4160 Patterson Avenue  
Baltimore, MD 21215

### **Members Present**

Joshua M. Sharfstein, M.D.  
Darrell Gaskin, Ph.D.  
Thomas Saquella, M.A.  
Georges Benjamin, M.D. (by phone)  
Ben Steffen, M.A.

Kenneth Apfel, M.P.A. (by phone)  
Jennifer Goldberg, J.D., LL.M.  
Therese Goldsmith, J.D., M.S.  
Enrique Martinez-Vidal, M.P.P.

Also in attendance: Carolyn Quattrocki, Interim Executive Director at the Maryland Health Benefit Exchange (MHBE);<sup>1</sup>

### **Opening and General Updates**

Chairman Sharfstein welcomed everyone and explained that the Board will begin to examine issues in preparation for the next open enrollment period. He explained that the Board continues to undergo several contract changes since designating Optum/QSSI as the primary vendor.

Chairman Sharfstein explained that the MHBE website has a link to Board meeting minutes, listed by month. Board minutes can be located at <http://marylandhbe.com/board-minutes/>.

### **Approve Meeting Minutes**

Commissioner Goldsmith provided two clarifying edits to the February 18<sup>th</sup> Board meeting minutes related to draft web-based modules and producer appointment procedures. Chairman Sharfstein provided one clarifying edit to the February 23<sup>rd</sup> Board meeting minutes related to the topic of the closed session, which was to discuss the Optum/QSSI and Noridian contracts. The Board approved the minutes as amended.

### **Standing Advisory Committee Update**

Ms. Quattrocki provided an update on the standing MHBE advisory committee. The Board received roughly 85 solicitations. Due to peaked interest, Ms. Quattrocki explained that the process for creating the standing advisory committee is taking longer than expected. She noted that following Board members are volunteering to assist in forming the standing advisory committee: Mr. Martinez-Vidal, Ms. Goldberg, and Dr. Benjamin. Ms. Quattrocki explained that the MHBE will post the standing advisory committee members on March 24<sup>th</sup>. In addition, the MHBE will be appointing individuals to a separate appeals and grievances committee.

### **Enrollment Fairs**

Ms. Quattrocki discussed the success of the enrollment fairs. She commended the work of Navigators and connector entities (CEs) for their work during these fairs. Ms. Quattrocki explained that the MHBE remains on track to launch the Small Business Health Options Program (SHOP) direct enrollment program on April 1<sup>st</sup>. She commended the MHBE staff for their continued efforts. Chairman Sharfstein emphasized that there was a lot of interest at the enrollment fairs, including individuals obtaining coverage through the Maryland Health Connection (MHC).

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<sup>1</sup> Benjamin Stutz, Deputy Chief of Staff for Lieutenant Governor Anthony Brown, also attended by phone.

### **Closed Session**<sup>2</sup>

Chairman Sharfstein discussed that the purpose of the closed session was to obtain legal advice on (1) procurement, (2) strategies related to the independent verification and validation (IV&V) services, (3) changes under the Optum/QSSI contract related to obtaining 834 data, (4) software licenses and contract modifications from Optum on information technology (IT) support and development, (5) how to align the Weber Shandwick contract with MHBE funding. In addition, the Board would consult with staff during the closed session. Ms. Goldberg motioned to move into closed session, which was seconded by Dr. Gaskin. The Board voted unanimously to move into closed session. For topics discussed and actions taken, please see Statement for Closing a Meeting, dated March 18, 2014.<sup>3</sup>

### **Finance Update**

Allan Pack, Chief Financial Officer at the MHBE, provided a financial update. He discussed that general fund balances, especially in major IT, remain at lower levels. Mr. Pack explained that the MHBE continues to pay bills on time through the liquidation of encumbrances.

Mr. Pack reviewed the recommendations that were made by the Maryland Department of Legislative Services (DLS) during the budget hearings:

- Require the MHBE to submit quarterly budget reports within 15 days of the end of each quarter that detail actual and proposed spending in a format to be agreed upon between MHBE and DLS.
- Require the Maryland Department of Information Technology (DoIT) to submit bi-monthly reports within 15 days of the end of each bi-monthly period on the progress of remediating/replacing the Health Insurance Exchange (HIX).
- Add language to the Budget Reconciliation and Financing Act of 2014 (BIRFA) that grants the Secretary of DoIT the authority to designate any MHBE IT project as a major IT development project, subject to the standard state procurement rules and DoIT oversight.
- Reduce federal grant funding that can be back-filled by existing grant funds made available by not making awards under the Connector Performance Incentive Program. Mr. Pack explained that the incentives under this program would not be reached, given current enrollment data.

### **Open Enrollment Deadline**

Jonathan Kromm, Acting Deputy Director at the MHBE provided a review of the May 1<sup>st</sup> Coverage Campaign. He explained that this campaign would assist consumers who attempted to enroll before the end of open enrollment (March 31<sup>st</sup>) but experienced a technical issue in the process. He then explained that this campaign is a targeted outreach with a dedicated hotline for consumers to call in for registration.

Dr. Kromm emphasized that this program would only be for consumers who initiated an application before the end of open enrollment. Customer service representatives will call consumers to provide assistance in completing their enrollment and plan selection. May 15<sup>th</sup> remains the final day for consumers to make a payment to their selected carrier for coverage to be effective on April 1<sup>st</sup>.

- Mr. Saquella asked if estimates are available for the number of individuals who will be enrolled by the campaign's efforts. Dr. Kromm said that the MHBE has seen an increase in daily enrollment numbers. He emphasized that it would be difficult to predict a final estimate under the campaign.

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<sup>2</sup> State Government Article 10-508(a)(7) – to consult with counsel to obtain legal advice; (8) to consult with staff, consultants, or other individuals about pending or potential litigation; and (14) before a contract is awarded or bids are opened, discuss a matter directly related to negotiating strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process.

<sup>3</sup> Statement for Closing a Meeting, 3/18/2014. Available at: <http://marylandhbe.com/wp-content/uploads/2014/04/BdStatement031814.pdf>.

- Dr. Gaskin asked about the difference between the call center and the dedicated hotline. Chairman Sharfstein noted that the hotline is for more discrete issues an applicant will encounter during the process. He explained that the call center's chief function is for individuals to begin the application process. Chairman Sharfstein added that connector entities (CEs) will have a list of applicants who had issues with their applications up to March 31<sup>st</sup>.
- Mr. Martinez-Vidal asked whether the MHBE can track an individual and any issues encountered during the application process. Dr. Kromm stated that the communications team is working on a pop-up message that will allow the MHBE to begin tracking applicants who encounter issues. He emphasized that the messaging is an added measure of security.
- Dr. Gaskin asked for clarification on the function of the hotline. Chairman Sharfstein explained that the hotline will be one of various mechanisms for enrolling individuals before the end of open enrollment. He emphasized that the hotline would not interfere with individuals receiving technical assistance with the website.

Dr. Gaskin motioned to adopt the policy of allowing individuals who could not finish their applications before open enrollment ended because of technical issues to receive an extension to complete their application and enroll into coverage after March 31<sup>st</sup>. Ms. Goldberg seconded the motion. The Board voted unanimously to approve this policy.

### **2015 Plan Certification Standards**

Ms. Quattrocki provided a review of the public comments and related MHBE staff recommendations on the proposed 2015 plan certification standards. She announced that the MHBE posted the federal proposed standards, released February 4<sup>th</sup>, for public comment. All public comments were due by March 14<sup>th</sup>. The MHBE received comments from medical carriers, Maryland Community Health System (a network of federally qualified health centers [FQHCs]), National Association of Health Services Executives (NAHSE), Health Education and Advocacy Unit of the Office of the Attorney General (HEAU), and the Maryland Women's Coalition for Health Care Reform.

### **Qualified Health Plan (QHP) Certification Process (Proposed Standards 1-5)**

Ms. Quattrocki discussed the following proposals related to QHP certification: (1) require issuers to submit a complete QHP application, including for plans that were certified as QHPs for the 2014 benefit year; (2) ensure that the timeline for stand-alone dental plan applications will be the same as for medical plans; (3) initiate two rounds of correction notices to allow for plan adjustments; and (4) require issuers to adhere to limitations set by the MHBE Board with regard to the number of plans an issuer may offer on the Maryland Health Connection (MHC). Ms. Quattrocki stated that the MHBE staff recommendation is to defer on these proposals until the April 15<sup>th</sup> Board meeting. This would still give enough time for plans to be certified by the MHBE for sale through the MHC (June 1<sup>st</sup>).

- Commissioner Goldsmith asked for clarification on the QHP application. Lena Hershkovitz, Manager of Plan Services at the MHBE, discussed how the MHBE is still deciding on the application form and emphasized that what is due will, if approved, authorize the carrier to offer certified QHPs through the MHC. This process does not encompass plan certification.

### **Service Area (Proposed Standards 5-7)**

Ms. Quattrocki discussed the following proposals related to service area: (5) issuers may serve areas smaller than one county if they demonstrate boundaries are not designed to discriminate against individuals excluded from service area; (6) the MHBE would permit service area changes after initial data submission by petition for limited reasons (e.g., issuer's inability to secure enough providers); and (7) the MHBE would not allow service area changes after final data submission. Ms. Quattrocki explained that the MHBE staff recommendation would be to adopt service area proposals with modifications to #7 to permit changes after final data submission if such change constitutes expansion rather than contraction of service area.

- Mr. Martinez-Vidal asked whether these proposals reflect recent federal guidance. Ms. Quattrocki explained that the proposals do not reflect recent federal guidance on the 2015 plan certification standards.

#### Network Adequacy (Proposed Standards 8-10)

Ms Quattrocki discussed the following proposals related to network adequacy: (8) require plans to submit complete provider lists that include all in-network providers and facilities for all plans for which QHP certification will be submitted; (9) the MHBE would evaluate whether network will provide access to services for all enrollees without unreasonable delay; and (10) the MHBE would ensure all enrollees would have “reasonable access” to the following areas: hospital systems, mental health providers, oncology, and primary care providers. Ms. Quattrocki explained that the MHBE staff recommendation would be to work with The Hilltop Institute to conduct necessary analyses of the 2014 experience, seek input from the standing advisory committee, and develop recommended metrics for network adequacy standards to be adopted for plans offered through the MHC in 2016.

- Chairman Sharfstein discussed how many state-based Exchanges do not possess robust provider directories. He emphasized that network adequacy can be one of the initial issues to be examined by the standing MHBE advisory committee.
- Ms. Goldberg asked for clarification with regard to network adequacy metrics for 2015 and whether to wholly incorporate federal guidance. Ms. Quattrocki explained that the MHBE would maintain the current network adequacy policy going into 2015. She noted that the goal would be to have a new network adequacy policy in 2016. Ms. Goldberg emphasized that network adequacy is important to low-income populations and asked that the MHBE review information currently available to determine whether this policy could be made more robust for 2015.
- Ms. Quattrocki emphasized that the MHBE continues to work with the Chesapeake Regional Information System for our Patients (CRISP) to ensure the data are accurate and complete.

#### Essential Community Providers (Proposed Standards 11-13)

Ms. Quattrocki discussed the following proposals related to essential community providers: (11) require plans to have 30 percent of essential community providers (ECPs) in each plan’s service area in their networks; (12) require plans to offer at least one contract to each type of ECP in each county in service area; and (13) require plans not meeting standard to demonstrate how network provides adequate service for low-income and medically underserved individuals, and how they intend to increase ECP participation. Ms. Quattrocki explained that the MHBE staff recommendation is to work with The Hilltop Institute to conduct necessary analyses of the 2014 experience, seek input from the standing advisory committee, and develop recommended metrics for network adequacy standards to be adopted for plans offered through the MHC in 2016.

#### Discriminatory Benefit Design (Proposed Standards 14-16)

Ms Quattrocki discussed the following proposals related to discriminatory benefit design: (14) the MHBE would continue to use outlier analysis for determining whether benefit design discriminates against individuals with significant health needs; (15) the MHBE would focus particularly on plans with unusually large numbers of drugs subject to prior authorization and/or step therapy in a category or class; and (16) plan and benefit templates would be reviewed for discriminatory anomalies or wording. Ms. Quattrocki explained that the MHBE staff recommendation is to require carrier attestation that the plan does not discriminate on the basis of any factors established in the proposals or prohibited by federal regulation. The MHBE also recommended deferring any further action pending engagement with the Maryland Insurance Administration (MIA) to determine respective roles in protecting against discriminatory plan design.

- The Board discussed whether the MHBE should require carrier attestation related to discriminatory practices. Commissioner Goldsmith explained that MIA includes examination of

discriminatory practices as part of its policy review process, which involves an in-depth review of plan design. She emphasized the importance of preventing overlap between MIA and the MHBE.

- Commissioner Goldsmith added that gender reassignment surgery is not an essential health benefit (EHB). She explained that this issue is still being examined with regard to plan attestation.

#### Prescription Drugs (Proposed Standards 15-20)

Ms. Quattrocki discussed the following proposals related to prescription drugs: (17) require drugs covered under a plan's medical benefit to be identified in plan's filings; (18) require the drug formulary Internet link to be provided by plans that link to lists of covered drugs without requiring further navigation, and must include tiering and cost-sharing; (19) grant issuers the option of identifying drug as a "preventive drug" covered at zero cost; (20) the MHBE would require plans to cover non-formulary drugs, including drugs that are on formulary but require prior authorization or step therapy, for first 30 days of new coverage under a QHP to prevent disruptions in treatment. Ms. Quattrocki explained that the MHBE staff recommendation is to adopt the Centers for Medicare and Medicaid Services' (CMS') proposals related to the identification of drugs covered by medical benefit and provided as "preventive" at zero cost, and require Internet link to formulary with tiering and cost-sharing. The MHBE also recommended to defer the proposal related to continuity of care to allow enough time for evaluating efficacy of the Maryland Health Progress Act's continuity of care policies.

- Mr. Steffen noted that the General Assembly is considering three pharmacy bills that, if passed, would take effect for the 2016 benefit year.
- Chairman Sharfstein suggested that the MHBE solicit additional public comments, based on recent federal guidance, and bring updated recommendations related to the 2015 plan certification standards to the next Board meeting for review.

#### Meaningful Difference Among Plans (Proposed Standards 21-24)

Ms. Quattrocki discussed the following proposals related to meaningful differences among plans: (21) the MHBE would continue to evaluate whether multiple plans offered by same issuer are meaningfully different before certifying them; (22) the MHBE would consider the following factors: plan network, formularies, deductibles, out-of-pocket limits, covered benefits, premiums, health savings account eligibility, and differences in child-only, adult-only, and family coverage; (23) the MHBE's interpretation would be based on what is required for a reasonable consumer to identify difference in the characteristics of a plan; and (24) the MHBE would not review stand-alone dental plans for meaningful difference. Ms. Quattrocki noted that the Board's limitation on the number of plans permitted has enforced meaningful difference in the 2014 benefit year. Based on this finding, she explained that the MHBE staff recommendation is to examine going forward whether efficacy continues or whether meaningful difference review should supplement or replace limitation approach in 2016.

#### Primary Care (Proposed Standards 25 and 26)

Ms. Quattrocki discussed the following proposals related to primary care: (25) the MHBE would consider a future requirement that all plans, or at least one at each metal level, cover three primary care office visits per year not subject to deductible; and (26) the MHBE would encourage plans to offer this benefit in the 2015 benefit year. Ms. Quattrocki explained that the MHBE staff recommendation is to defer this decision pending federal guidance related to the 2016 approach to EHB, rate impact, and any additional preventive services required at no cost.

#### QHP Performance and Oversight (Proposed Standards 27-30)

Ms. Quattrocki discussed the following proposals related to QHP performance and oversight: (27) require plans to submit a compliance plan and organizational chart; (28) the MHBE would conduct some compliance reviews during the 2015 benefit year—the scope of this review will be limited to compliance with plan certification standards and will not extend to requirements enforced by the MIA; (29) require plans to ensure compliance with plan certification standards by their brokers, agents, and web-brokers; and (30) information would be used from various sources to review compliance, including complaint data, issuer self-reporting, customer service, health care quality and outcomes, QHP issuer operations, and

network adequacy. Ms Quattrocki explained that the staff recommendation is to defer this decision until later this year to assess appropriate scope, approach, and available resources for 2015 compliance review and oversight.

#### Employee Choice in the Small Business Health Options Program (SHOP) (Proposed Standard 31)

Ms. Quattrocki discussed the following proposals related to employee choice in SHOP: (31) qualified employers could offer employees a choice of all stand-alone dental plans offered or a single stand-alone dental plan. Ms. Quattrocki explained that the MHBE staff recommendation is to defer this decision pending additional information about the system and dental plans to be offered in 2015.

#### Consumer Support (Proposed Standard 32)

Ms. Quattrocki discussed the following proposals related to consumer support: (32) the MHBE would ensure meaningful access for individuals with limited English proficiency or disabilities. Ms. Quattrocki explained that the MHBE staff recommendation is to require plans to explain their strategies to provide meaningful access. The MHBE would incorporate into compliance oversight its approach to reviewing meaningful access.

#### IT Update

Kevin Yang, Chief Information Officer at the MHBE, provided an IT update. He reviewed recent enrollment statistics and IT vendor contract actions. Mr. Yang explained that roughly 190,000 individuals have gained Medicaid coverage in 2014. This increase is largely due to Primary Adult Care (PAC) program participants becoming eligible for full Medicaid benefits. He noted that Isabel Fitzgerald, Secretary of DoIT, continues to work closely with the MHBE on IT improvements.

Mr. Yang commended the work of the IT project management office (PMO). The PMO has supported various activities, including supported communication with CMS, contractor oversight, technical architecture, and IT security. Also, the PMO has provided Affordable Care Act (ACA) subject matter expertise. Mr. Yang explained that Secretary Fitzgerald and the MHBE recommend authorizing the Interim Executive Director of the MHBE to negotiate and sign contract extensions through June 30<sup>th</sup>, related to existing PMO vendors with a combined not-to-exceed amount of \$850,000. After June 30<sup>th</sup>, Secretary Fitzgerald would work to design the strategy around the resources available going forward.

Mr. Yang discussed call center technology that the MHBE provides to the Maximus Consolidated Services Center (CSC). He explained that the principal vendor for call center technology is Interactive Intelligence Incorporated (I3), which was a subcontractor to Noridian. Because Noridian is no longer a vendor to the MHBE, he explained the recommendation to authorize the Interim Executive Director of the MHBE to transfer I3's subcontract to the MHBE for direct payment.

- Mr. Steffen asked whether the MHBE could provide a list of the PMO vendors. Mr. Yang said that he could provide a list of all contractors, vendors and read off the names of a few vendors.
- Chairman Sharfstein asked for clarification about the contract with I3. Mr. Yang replied that this would be a new contract with the MHBE, paid through existing federal funds.

Dr. Gaskin motioned to approve the recommendations to extend existing contracts of PMO vendors through June 30<sup>th</sup>, and transfer the I3 subcontract to the MHBE for direct payment, which was seconded by Dr. Benjamin. The Board voted unanimously to approve the recommendations.

#### Operations Update

Leslie Lyles-Smith, Director of Operations at the MHBE, provided an operations update. She presented updated statistics on call volume related to the CSC. Ms. Lyles-Smith explained that, due to open enrollment ending on March 31<sup>st</sup>, the call center is averaging 7,000 calls per day. She noted recent improvements in abandonment rates, average speed of answer, and increased service levels.

Ms. Lyles-Smith provided an updated on certified application counselor (CAC) training. She explained that 260 individuals have applied to be CACs.

**Adjournment**

Chairman Sharfstein commended the continued work of the MHBE staff and adjourned the meeting.