



Maryland Health Benefits Exchange Board of Trustees

April 18, 2016

1:00 PM – 3:20 PM

Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, MD 21215

Board Members Present

Sam Malhotra
Kenneth Apfel, MPA
Michelle Gourdine, MD
Linda Sue Comer
Benjamin Steffen, MA
Tony McCann
Al Redmer
Thomas Saquella

Board Members Absent

Van Mitchell

Also in Attendance

Carolyn Quattrocki, Maryland Health Benefit Exchange (MHBE) Executive Director; Subramanian Muniasamy, MHBE Chief Information Officer; Sarah Rice, Counsel to MHBE; Michelle Wojcicki, MHBE Director of Policy; Caterina Pangilinan, MHBE Chief Compliance Officer.

Opening & General Updates

Mr. McCann called the meeting to order and welcomed all present.

Executive Report

Carolyn Quattrocki, MHBE Executive Director

Ms. Quattrocki summarized the events of the recently concluded legislative session that are most relevant to MHBE.

- The General Assembly did not reduce MHBE's budget, did not remove any of the agency's Position Identification Numbers (PINs), and approved the deficiency funding requested by MHBE.
- The General Assembly passed a bill relating to carrier provider directories and network adequacy standards. In imposing certain requirements on carriers and the MIA to improve the accuracy of provider directories and establish quantitative network adequacy standards, the bill provides that the MIA will adopt regulations in these areas in December 2017, and MHBE's Board may not promulgate regulations regarding carrier provider directories and network adequacy standards until January of 2019.
- The General Assembly also passed a bill requiring certain state agencies, including MHBE, to transmit certain personal demographic information to the Maryland State Board of Elections. The bill provides that MHBE begin transmitting data beginning July 1, 2017. Both technical development and legal research will be required to ensure that the use of consumers' personal data occurs in a manner that is in compliance with CMS regulations and that the data is securely transmitted to the State Board of Elections.

Sarah Rice, Counsel to MHBE, advised that the agency will be seeking advice from CMS regarding whether or not a waiver would be required to permit the transmission of the personal information collected by MHBE to the State Board of Elections.

The General Assembly passed a bill requiring all state agencies to work with DoIT to use Google Translate to make their websites available in multiple languages. The bill provides for an exception for applications which confer benefits on consumers where precision in translation is critical and the data provided by consumers must be accurate in order to ensure correct eligibility determinations. MHBE will continue to work towards translating its application into other languages in addition to Spanish.

- The General Assembly passed a bill officially closing the Maryland Health Insurance Program (MHIP) and providing that the majority of MHIP's surplus funds be transferred into the budget of MHBE for the reinsurance program.

Ms. Quattrocki then proceeded to update the Board about a number of other MHBE topics unrelated to the recent legislative session:

- Medicaid Redeterminations – Of the approximately 380,000 Maryland residents previously enrolled in Medicaid through the *Contractors Analysis & Reporting System* (CARES), approximately 369,000 of those consumers have now been enrolled into Medicaid through HBX.

Mr. Apfel asked whether the Board should view the prior problems with Medicaid redeterminations as a “closed” issue. Ms. Quattrocki replied that redeterminations are ongoing and therefore not closed, but the system now has an auto-redetermination functionality, and the rates of successful auto-renewals is running higher than expected at about 60-65%. With fewer remaining enrollees who cannot be automatically redetermined, MHBE’s call center and other consumer assistance channels will have more capacity to assist them.

- MHBE Personnel Issues – Carolyn Ellison, the former Chief Financial Officer (CFO) of MHBE, has left and will be replaced by Anthony Armiger, the former CFO, and current acting Executive Director, of MHIP.

Sarah Rice, Counsel to MHBE, will be leaving to work for the Litigation Division of the Office of the Attorney General after a replacement is identified.

The Department of Budget and Management (DBM) has asked every state agency to identify two PINs that it is willing to relinquish. There is a mechanism for an agency to make the case that it should not be required to forgo any positions. MHBE will keep the Board posted on the status of these PINS.

- OE4 / Marketing - MHBE has already begun to prepare for the period of open enrollment that will begin on November 1, 2016. Of particular note, Mr. Ratner and his marketing team are trying to identify the groups in Maryland with higher uninsured rates to provide a more streamlined and focused marketing strategy. Additionally, members of MHBE’s marketing team are reviewing the results of recent user experience testing of the HBX website.
- Procurements – The Connector Entity RFA and the SHOP RFP processes are underway.
- MHBE Board – In the near future, the terms of the Standing Advisory Committee Co-Chairs will expire and it will be necessary to select new Co-Chairpersons. Also, the

term of the Board's Standing Advisory Committee liaison (Mr. Apfel) has expired and a new liaison will soon be selected.

Approval of Meeting Minutes

Commissioner Redmer proposed amending the minutes from the prior Board meeting to include a copy of the Resolution adopted by the Board during that session.

Commission Redmer then moved that the Board approve the minutes as amended. Mr. Saquella seconded the Motion. The motion passed unanimously.

IT Update

Subramanian Muniyasamy, MHBE Chief Information Officer

Mr. Muniyasamy presented slides updating the Board regarding IT improvements to HBX and when those improvements are expected to be operational. During 2016 Mr. Muniyasamy anticipates that HBX will undergo 5 major releases, or IT upgrades. Some of the IT improvements are the result of legislative changes, while others are improvements to the consumer website that make the system more user-friendly. For example, later this year, in certain circumstances, a consumer will be able to automatically terminate their health insurance through the HBX User portal.

Mr. McCann asked whether such an action by a consumer would automatically trigger the appropriate action relating to the consumer's subsidy or tax credit. Mr. Muniyasamy replied in the affirmative.

Commissioner Redmer noted that MHBE IT staff members are currently working closely with Carefirst, and perhaps other insurers, to resolve a number of IT issues that carriers have with HBX. He inquired as to whether these efforts would impact the proposed timeline of the various IT improvements to the HBX system. Mr. Muniyasamy replied that there should be no impact as the extra MHBE efforts required for the Carefirst issues have already been taken into account.

Mr. Muniyasamy then displayed slides describing MHBE's proposed increase of the Not-to-Exceed (NTE) amount of the current Indefinite Delivery Indefinite Quantity (IDIQ) procurement to \$18,000,000.00. The slides explained how the increased funds, if approved by the Board, would be spent under the IDIQ procurement and what percentages would be federally funded and state-funded. Mr. Muniyasamy explained that the main reason behind the increased NTE was the agency's desire to save money and gain control over certain IT processes and that MHBE was therefore bringing certain IT tasks in house such as the website maintenance and enhancement

activities under the IDIQ procurement rather than continuing to utilize the existing sole source vendor.

Commissioner Redmer inquired if the proposed increase of the NTE for the IDIQ procurement would need to be reviewed before the Board of Public Works. Ms. Quattrocki replied in the negative.

Mr. Steffen asked if the IDIQ process, wherein a number of pre-approved vendors participate in “mini-competitions” for specific task orders, as opposed to competing for the entire contract, has been effective. Specifically, have the mini-competitions for the task orders seen widespread participation, and have the pre-approved vendors managed to maintain appropriate levels of staffing between winning individual task orders to compete for and effectively compete the task orders. Mr. Muniasamy replied in the affirmative and explained that the IDIQ procurement was continuing to save money by encouraging multiple competitions.

Mr. McCann asked if losing 2 PINs, as per the request of DBM, would prevent MHBE’s IT staff from completing the extra work being brought in-house and the additional contract management responsibilities necessitated by a larger IDIQ amount. Ms. Quattrocki explained that if MHBE did agree to give up 2 PINs, the positions would not be from the IT staff.

Mr. Apfel moved that the Board approve the motion to increase the NTE amount. Mr. Saquella seconded the motion. The motion passed unanimously.

Regulations Update

Michelle Wojcicki, MHBE Policy Director

Ms. Wojcicki stated that a draft version of proposed MHBE regulations had been shared with stakeholders, the Board, and other government agencies. Due to substantial feedback from stakeholders, a decision was made to delay the Board’s vote on the regulations in order to allow for more vetting of the proposed regulations and additional discussions with stakeholders. Ms. Wojcicki then showed slides indicating some of the issues addressed by the regulations that produced the most comments and a proposed timeline whereby the Board would vote on the proposed regulations at the June 20, 2016 timeline.

Commissioner Redmer asked that the final proposed regulations be submitted to the Board members with sufficient opportunity for them to review the regulations before the June 20, 2016 meeting. Ms. Wojcicki indicated that MHBE staff hoped to provide the final draft regulations to the Board members no later than June 6, 2016.

Mr. McCann requested that the regulations be submitted in a manner that indicated what had changed due to comments received from stakeholders. Ms. Wojcicki and Ms. Quattrocki explained that MHBE plans to share documents with the Board members that not only summarized the content of the various chapters of regulations, but indicated which topics had generated the most public comment and what, if any, changes were made to the regulations by MHBE staff members as a result of the comments received.

Mr. McCann asked if changes to federal regulations and statutes that impact regulations promulgated by MHBE would necessitate MHBE staff returning to the Board to ask for Board approval of changes to MHBE's regulations. Ms. Wojcicki replied in the affirmative but explained that it can be reasonably anticipated that changes to federal law will be coming at a much slower rate than in the past.

Quarterly Compliance Update

Caterina Pangilinan, MHBE Chief Compliance Officer

Ms. Pangilinan reported on some of the recent compliance initiatives undertaken and completed by MHBE staff. Of particular note, an audit compliance manager was hired in January and has initiated external audits. An external independent financial audit required by 45 CFR155.1200 was recently completed, the companion programmatic audit is currently taking place.

Commissioner Redmer asked how MHBE managed its contracts with vendors. Ms. Pangilinan explained that operational contract data was maintained in an MS Excel spreadsheet while IT PMO is managed using a specialized contract management software previously purchased by the agency. The software includes very robust checklists to assist with compliant onboarding and off-boarding of vendors.

Commissioner Redmer asked about any reported incidents of fraud by MHBE staff. Ms. Pangilinan stated that there have been no "founded" incidents of fraud by an MHBE employee.

Commissioner Redmer asked if Ms. Pangilinan has worked with the Maryland Insurance Agency's (MIA) investigators when investigating allegations against MHBE employees. Ms. Pangilinan stated that while she had not yet seen it necessary to reach out to MIA investigators for assistance, she had worked with them when the MIA had referred issues to her.

Commissioner Redmer asked if MHBE possesses the resources to investigate allegations of wrongdoing against its employees. Ms. Pangilinan replied that while IT forensics can be

ascertained, were a complaint regarding Medicaid fraud to be received, she would collaborate with investigators from the Department of Health and Mental Hygiene's Office of the Inspector General as well as the Office of the Attorney General.

Commissioner Redmer asked if the agency had ever experienced a legislative audit. Ms. Pangilinan replied in the affirmative and stated that she expected MHBE to undergo its next legislative audit in approximately another one and a half years.

Ms. Pangilinan then requested that the Board pass a Resolution revoking a previous decision and Resolution rendered by the Board. On June 16, 2015 the Board passed a resolution adopting the MHBE Compliance and Ethics Plan for FY 2016, which set forth the membership and duties of a Compliance and Ethics Committee for MHBE. Subsequent to the passage of that Resolution, the Open Meetings Compliance Board opined that the Compliance and Ethics Committee became a public body for purposes of the Open Meetings Act. The idea behind forming an MHBE Compliance and Ethics Committee was that the body would implement policy, rather than create policy, and as such would not be deemed a public body for purposes of the Open Meetings Act. However, the Open Meetings Compliance Board sees the nature of the body differently. It was never the intention of the Board to establish the Compliance and Ethics Committee as a public body. Therefore, it is now advisable to revoke the June 16, 2015 Resolution and disband the MHBE Compliance and Ethics Committee.

Commissioner Redmer moved that the Board adopt the proposed Resolution revoking its June 16, 2015 Resolution and thus disbanding the MHBE Compliance and Ethics Committee.¹ Ms. Comer seconded the motion. The motion passed unanimously.

Closed Session

At approximately 2:15 PM, Mr. McCann announced that the Board deemed it necessary to discuss certain matters in a closed session. Mr. McCann read the closed session statement, which can be viewed at <http://www.marylandhbe.com/wp-content/uploads/2016/01/Closed-Session-Statement-04.18.16.pdf> and stated that the reasons for the closed session were the need to discuss legal matters with counsel, and the need to seek advice from staff and counsel about pending or potential litigation and maintain the confidentiality of that advice.

Commissioner Redmer moved that the Board meeting adjourn to a closed session. Dr. Gourdine seconded the motion. The motion passed unanimously.

¹ Resolution regarding MHBE Compliance and Ethics Committee is available at <http://www.marylandhbe.com/about-us/board/board-minutes/2016-board-meeting-documents-2/>

The closed session lasted until approximately 3:20 PM.

Adjournment

Mr. McCann adjourned the meeting.