



Maryland Health Benefit Exchange Board of Trustees

July 15, 2019
2 p.m. – 4 p.m.
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, MD 21215

Members Present:

Robert R. Neall, Chair
S. Anthony (Tony) McCann, Vice Chair
Mary Jean Herron
Ben Steffen, MA
Dana Weckesser
Alfred W. Redmer, Jr. (by phone)
K. Singh Taneja (by phone)
Dr. Rondall Allen (by phone)

Members Excused:

Linda S. (Susie) Comer

Also in Attendance:

Michele Eberle, Executive Director, Maryland Health Benefit Exchange (MHBE)
Andrew Ratner, Chief of Staff, MHBE
Venkat Koshanam, Chief Information Officer, MHBE
Tony Armiger, Chief Financial Officer, MHBE
Caterina Pañgilinan, Chief Compliance Officer, MHBE
Sharon Stanley Street, Principal Counsel, Office of the Attorney General
John-Pierre Cardenas, Director, Policy & Plan Management, MHBE
Betsy Plunkett, Director, Marketing & Web Strategies, MHBE
Heather Forsyth, Director, Consumer Assistance, Eligibility & Business Integration, MHBE
Aaron Jacobs, Director, Organizational Effectiveness and Human Resources, MHBE
Subramanian Muniyasamy, Chief Technology Officer, Maryland Department of Human Services (DHS)
Gregory S. James, Deputy Secretary for Operations, Maryland DHS

Welcome and Introductions:

Secretary Neall opened the meeting and welcomed all participants.

Approval of Meeting Minutes

The Board reviewed the minutes of the June 18, 2019 open meeting. Ms. Herron moved to approve the minutes, and Ms. Weckesser seconded the motion. The Board voted unanimously to approve the minutes of the June 18, 2019 open meeting.

Public Comment

Secretary Neall invited members of the public to offer comment. No members of the public offered comment.

Executive Update

Michele Eberle, Executive Director, MHBE

Ms. Eberle noted that the MHBE just completed an employee survey, with about half of all full-time and contract staff responding.

Ms. Eberle announced that the Board may have to consider a new procurement for Red Hat software during its September meeting if they elect to delay the transition to the Maryland Total Human Services Integration Network (MD THINK). She stated that the Red Hat contract expires on September 30, 2019.

Ms. Eberle then stated that the Centers for Medicare & Medicaid Services (CMS) recently released a summary report on permanent risk adjustment transfers for the 2018 benefit year. She noted that the policy department will prepare a briefing for the Board on how the funds were distributed.

Ms. Eberle then explained that both New Jersey and Pennsylvania are launching state-based marketplaces, with planned launches in 2021. She noted that the MHBE will likely share resources and ideas with the two states. Secretary Neall asked why the states chose to go this route. Ms. Eberle noted that this would give them more control over funding and data, and explained that it is cheaper to operate the marketplace independently than under agreement with federal authorities. Secretary Neall then asked how big the two operations would be compared with MHBE. Ms. Eberle responded that she would look into the question.

Ms. Eberle then stated that oral arguments have occurred in the Texas v. Azar lawsuit, and that staff received a briefing during the state-based marketplace exchange call. She explained that a decision in the case would be expected to take about ten months to occur, and would likely be further appealed.

Ms. Eberle then noted the high level of interest in the small group marketplace around the state. She and Mr. Cardenas recently met with the Maryland Realtors Association, as the group has shown interest in pursuing an association health plan. Additionally, MHBE staff will meet with members of the legislature to work with them and their constituents to meet their needs in the small group marketplace. Secretary Neall noted that realtors are a great target because the industry generally does not provide benefits, adding that people in the realty industry would like a choice beyond using their spouses' benefits.

Ms. Eberle then stated that the small group advisory workgroup would meet the following week. She explained that the MHBE has reached out to current small employers around the state to participate. Additionally, she explained that several chambers of commerce from around the state will participate.

Ms. Eberle then gave an update on the marketing campaign. Staff recently met with the vendor for creative brainstorming, as well as strategic planning around who to target and how to be most effective.

Ms. Eberle stated that Consumer Health First has decided to dissolve as an organization. She noted that they were tremendously helpful in assisting with policy work and were at the forefront of the consumer interest in health care.

[Printing Request for Proposals \(RFP\)](#)

Betsy Plunkett, Director, Marketing & Web Strategies, MHBE

Tony Armiger, Chief Financial Officer, MHBE

Ms. Plunkett explained that the MHBE issued an RFP for printing services on May 15 that closed on June 13, for a total of 29 days. Five printing firms responded, including two outside the requested 50-mile radius.

Next, Ms. Plunkett described the scope of the services outlined in the RFP, including letterheads, signage, brochures, envelopes, fliers, posters, and more. She explained that the MHBE would not necessarily purchase all of the items listed in the RFP.

Ms. Plunkett explained that they received three qualifying proposals, from Art & Negative Graphics, Alpha Graphics, Inc., and Uptown Press, Inc. The agency requested a best and final offer (BAFO) from the three firms on July 1 and received them on July 5.

Ms. Plunkett stated that the evaluation committee recommends awarding the printing services contract to the incumbent, Uptown Press, Inc. She also noted that the MHBE uses Art & Negative Graphics for fulfillment services. Ms. Plunkett then explained that Uptown Press produced a strong technical proposal that demonstrated a deep understanding of the MHBE's marketing department. She then noted that the firm has a strong impact in the community, and that the owner serves on several boards. She explained that Uptown Press had a detailed timeline for work production, staffing, and escalation. She stated that the firm met and exceeded all expectations.

Ms. Weckesser noted that the incumbent's proposal was superior on the technical component, but ranked second on the BAFO. She sought clarification on how this ranking was determined, as well as what services the other firm stated it would be able to perform during its presentation. Ms. Plunkett responded that Uptown Press was superior for the technical proposal and second for the financial proposal. Ms. Weckesser then clarified that BAFO does not mean final offer, contingent on its presentation. Ms. Plunkett responded in the affirmative, and stated that they did not require oral presentations for this contract. She further explained that Uptown provided strong samples, whereas the other firm did not present any samples.

Secretary Neall asked about the cost difference between the two firms. Ms. Plunkett responded that it was a difference of around \$9,000. Secretary Neall then asked how long Uptown has been under contract, and Ms. Plunkett responded that it has been two years.

Mr. McCann then asked whether this would be, in effect, an Indefinite Delivery Indefinite Quantity (IDIQ) contract. Ms. Plunkett responded in the affirmative, and that the not-to-exceed (NTE) value is \$120,000.

Mr. Armiger then requested the Board's approval to execute the contract and award Uptown Press, Inc., the contract for a one-year not-to-exceed base amount of \$120,000.00, with a one-year optional renewal, for a total of not-to-exceed amount of \$240,000.00.

Ms. Weckesser motioned for approval, and Ms. Herron seconded the motion. The motion was approved unanimously.

MD THINK Update

Andy Ratner, Chief of Staff, MHBE

Venkat Koshanam, Chief Information Officer, MHBE

Mr. Ratner informed the Board that a targeted go-live date of July 22 is no longer possible, as not enough progress has been made. He then stated that they should be able to complete the remaining two environments, as well as everything else needed for operations, security, and disaster recovery by August 4. After necessary testing, they would be able to go live on August 12 at 6 a.m. He then stated that if the work is not completed by August 4, or issues emerge during testing, that the MHBE would delay the migration until February 1, 2020.

Mr. Taneja asked why this gap would exist if the go-live does not occur in August. Mr. Ratner responded that the MHBE had originally planned two releases for this fall, and that the delay will require them to forego one of the releases. He explained that this release includes some Medicaid items, including family planning and X02 (undocumented immigrants). He further explained that delaying this release until early 2020 would require the approval of the Maryland Department of Health (MDH) and CMS. Next, he stated that the release that would remain focuses on commercial insurance and items needed for open enrollment. Mr. Ratner responded that, in planning backwards from the November 1 open enrollment, they would need to be ready by October 1. Additionally, he stated that interactions with the carriers, brokers, and the call center are necessary. Finally, he explained that once they have achieved the peak load testing in the course of the next three weeks, staff would feel comfortable completing these additional steps.

Mr. Ratner stated that the MHBE is still awaiting Internal Revenue Service (IRS) approval for the new system to receive federal tax information (FTI). Additionally, in terms of interagency agreements, he explained that the Amazon Web Services (AWS) and Deloitte agreements have been signed, the operations memorandum of understanding (MOU) is ready to be signed, and that the authority to connect has also been received.

Ms. Herron asked why the MHBE has to go live now, instead of waiting until February. She again noted that the new target date is behind schedule from even two weeks ago. Mr. Ratner responded that once everything is certified, they will know all they need to launch for this upcoming open

enrollment. He further explained that there would be three additional environments in place by September, which should not be a factor for this open enrollment. He also explained that there would be costs associated with running two systems simultaneously, and that it would be hard to justify a delay for no specific reason. Ms. Herron responded that she would take issue with the characterization of no specific reason, especially given that many problems can emerge with such a system launch. Additionally, she expressed concern that the launch would sacrifice the intended Medicaid items.

Mr. McCann asked whether the transition to the MD THINK platform would be cancelled if the MHBE does not receive IRS approval or if they impose conditions. Mr. Ratner responded that if any of the required items are not in place by the testing week, then they would not proceed. Mr. McCann asked, then, if the deadline to hear from the IRS is August 4. He further stated a desire to put in place a clear timeline of events which, if not met, would preclude a launch. Mr. Ratner responded that everyone is in agreement that there can be no further slippage regarding timelines. Mr. Koshanam then explained that entities are required to notify the IRS when moving to a cloud-based service because they are guardians of FTI. Mr. Koshanam then explained that, while the MHBE notified the IRS within the required 60-day window and received an acknowledgement of receipt, the agency submitted an amendment to the IRS and is awaiting acknowledgement.

Mr. Koshanam then explained that, a month ago, of the eight environments required to go live, only four were certified. He then stated that six environments are currently certified. He explained that the two environments pending certification are staging and production, and that those are around 90 percent complete. He then explained that the recent delay was to allow for time to complete testing. Additionally, he explained that other outstanding items include operational readiness, disaster recovery, security, and licensing, each of which has a specific checklist with due dates. He then stated that the updated timeline is their best judgment based on the facts, including a week of cushion and a week of go-live testing. He also explained that after August 9, they will bring the system down for maintenance. If everything is to their satisfaction, they will open to the public at 6 a.m. on August 12. Finally, he explained that recent load testing has given staff confidence that the system can handle peak loads during open enrollment.

Mr. McCann asked whether, if an issue is identified after the go-live, they would be able to go back to the old system. Mr. Koshanam explained that the moment they go live, there would be no fallback. He did note that there would be some flexibility if issues are noticed immediately upon go-live on August 12. After a month, however, the team will simply have to identify and fix any issues. Mr. McCann then asked whether the criteria used during the week of testing will be available to the Board so that they can determine whether they remain the same. Mr. Koshanam responded in the affirmative, and noted that there will be a command center in operation during this time. He explained that they will complete testing on system performance, infrastructure performance, and the load on the system. Mr. McCann then expressed concern that standards could slip during the testing week and requested that the standards be incorporated into the final decision to go live. Additionally, he stated a desire for the Board to be notified of any changes in standards at the time they occur. Mr. Koshanam responded that there will be no compromise to the standards they have set, as demonstrated by the recent load testing results. He explained that part of the delay was related to their desire to meet the load testing standard. He then stated that any situation related to Mr. McCann's concern would be brought to the attention of the Board.

Ms. Herron stated that the Board thought they were to make a final decision regarding go-live at today's meeting, noting that the timeline has already slipped a number of times. She then stated that she considers dates to be standards. She raised a concern that a recent update listed security at zero. She asked how they would ensure that the data are secure when no longer on their own system. Mr. Koshanam responded that the security of the system has been certified in individual environments, with the exception of one more production environment certification that is still open. He explained that the certification will ensure that the data are protected. He estimated that the team is close to certifying that item. Finally, he explained that it is on the checklist and that unless it is 100 percent met, they would not proceed with the migration. Mr. Ratner further stated that they feel confident, given the amount left to accomplish, that it can be completed.

Ms. Herron stated her understanding that this meeting was to make a decision regarding moving forward on July 22 or not. Mr. Ratner responded that, as of the last Board meeting, it had still been up in the air what the decision would be regarding July 22.

Mr. Steffen asked for clarification regarding the Medicaid items that will not be available, as well as how they would be met. Mr. Koshanam responded that his team continues to work on those items, but that their time is primarily devoted to the MD THINK transition. He further stated that, when they go live on August 12, they do not want to undertake any major items that are not related to open enrollment. Mr. Steffen asked for clarification on the Medicaid items besides family planning. Mr. Koshanam responded that it is X02 – emergency Medicaid coverage for undocumented immigrants. Mr. Koshanam explained that these functions are currently available, but not on the exchange. Mr. Koshanam then explained that there will be no direct impact to the consumer for the next three or four months. Mr. Koshanam further stated that the MHBE will have to inform CMS of the change in plans for one of the environments. Ms. Eberle added that, due to the delays in the releases, they have shifted other items out of other releases. She explained that they have left in two critical items for Medicaid.

Ms. Eberle then stated that X02 is currently being done in a system operated by the DHS, who would have to continue to maintain that system. Additionally, she explained that there may be a financial impact to the state for that function. Regarding family planning, Ms. Eberle explained that CMS and Medicaid had agreed upon a September completion date. She then stated that the MHBE has already alerted the Medicaid director that he will have to notify CMS that it would be delayed until 2020. In response to the previous question about pushing to go live, Ms. Eberle responded that they are very close to completing the necessary tasks for migration. Additionally, she stated that they are unable to do any work during open enrollment due to code freeze. Ms. Eberle then stated that MD THINK is a large strategic initiative of the Governor's office and that moving MHBE to the platform will be a large success for the state. Ms. Herron responded that the Board has a fiduciary responsibility to the MHBE and to the people that use the exchange. She then asked why the MHBE, given its prominence and past history of negative publicity, would want to be the poster child for MD THINK and why they are pushing forward instead of granting time to make sure everything is done properly. Ms. Eberle responded that they have a high level of confidence in achieving the planned date and with no impact on the open enrollment period.

Secretary Neall pointed to the prerequisites set forth, and asked whether any one of those not being met would mean delaying the transition to February 2020. Mr. Koshanam responded in the affirmative. Ms. Herron asked whether there are any other things not listed that could trigger the same

delay. Mr. Koshanam responded that the MHBE is requesting that the Board approve the go-live date contingent upon several criteria. Mr. Ratner noted that they have a checklist with around 180 items, and that around half of those have been worked through.

Mr. Steffen asked how much additional cost the agency would incur if the transition is delayed until after open enrollment. Mr. Koshanam stated that he would defer to DHS for the cost of the environments. Mr. Steffen clarified that he was asking for the additional cost associated with maintaining the existing infrastructure through open enrollment. Mr. Koshanam responded that the cost of the existing services and the services through MD THINK are almost equal. He then explained that there may be costs related to MD THINK's maintenance of the environments, but would defer that question to the MD THINK team. Mr. Steffen then asked whether, by keeping existing infrastructure, the MHBE would be double-paying. Mr. Koshanam stated that he would not guess that to be the case. He then explained that he anticipates the cost to be the same for the first couple of years, but that he does not know the cost associated with keeping MD THINK infrastructure in place while using the existing platform for open enrollment. Mr. Ratner added that they are working through different estimates from MD THINK. He then explained that, as a rough estimate, a \$1 million cost for a system whose total price is greater than \$200 million represents less than one percent to ensure that there is no reputational damage to the platform or to the MHBE.

Ms. Eberle explained that they would not stop work, and that there are other environments to be completed after going live. Mr. Ratner added that they would need to pay for the environments on the AWS cloud, even if they are not being used.

Mr. McCann asked if there are any new standards being applied to the MD THINK system that are not equal to or greater than the current standards. Mr. Koshanam responded that they expect every standard currently in place to be met by MD THINK. Additionally, he stated that MD THINK is expected to offer more capabilities in the DevOps environment and the ability to scale up resources during open enrollment. Mr. Koshanam added that, in phase 1, they expect everything available today to be in the new system. Mr. McCann asked whether any standards not being met by August 9 would trigger the delay to February. Mr. Koshanam responded in the affirmative, adding that they would notify the Board of any such items.

Mr. Taneja sought assurance that the transition will not go live until the standards are met. Mr. McCann further asked whether that would automatically shift the transition until after open enrollment, and raised a scenario in which problems are identified. Mr. Koshanam responded that, should such a situation arise, the transition would be postponed until after open enrollment. He added that they could go live on July 22 as originally planned, but only by taking several compromises. Mr. Koshanam stated that they would go live once they are comfortable with the testing. Mr. Ratner added that the only compromise that has been made is the previously mentioned delay of three environments. Ms. Herron responded that compromises have been made on the dates. Mr. Ratner agreed that the timeline has slipped more than anticipated. He added that there is not much to be gained from waiting six and a half months compared to two and a half months, other than identifying unforeseen problems.

Mr. McCann asked if there is an agreement in place related to the cost of MD THINK that MHBE will be charged in fiscal year (FY) 2020 and FY 2021. Mr. Koshanam responded that they have an operations agreement in place, and that there is a cost allocation model. Mr. Ratner added that the

only costs that have not been agreed upon are those that would apply if the transition is delayed. He further explained that the migration MOU specifies that MD THINK is paying for the transition of the exchange onto the platform. Mr. Ratner then stated that he does not believe the agreement contemplates not fully transitioning as planned, and that issues could be raised around what counts as a migration.

Mr. McCann asked for the amount that is being allocated, and whether the total has been agreed to or just the allocation. Mr. Armiger explained that the cost allocation model is based on actual usage, and that there would be a true-up at the end of each quarter. Mr. McCann then expressed concern that costs could end up being higher than expected. Mr. Ratner responded that there is an estimated budget in the operations MOU. Mr. McCann then asked whether that budget was appropriated by the legislature, or whether it represents a flexible number. Mr. Armiger responded that the FY 2020 budget did include AWS with MD THINK costs included, and that they will be working on the FY 2021 budget in September. Mr. McCann then asked if the MHBE will have to go to the Maryland Department of Budget and Management (DBM) to get an increase. Mr. Armiger responded in the affirmative.

Mr. Steffen asked when the transfer of MD THINK from the DHS to the Maryland Department of Information Technology (DoIT) will occur. Mr. Koshanam responded that it will not occur for another two years. Mr. Steffen added that seeing the security dial at zero gave him pause, and noted that violations of the Health Insurance Portability and Accountability Act (HIPAA) are not trivial matters.

Ms. Weckesser expressed concern for the workers on the project and added that she trusts they are monitoring the overall effort being put in by the staff. Mr. Koshanam responded in the affirmative. Ms. Eberle then asked the team to stand up and be recognized.

Mr. Ratner stated that, in reference to Mr. McCann's question, the total estimated budget is \$5,740,000 for FY 2020 and \$6,027,000 for FY 2021.

Secretary Neall asked Subramanian Muniyasamy, CTO, DHS and Greg James, Deputy Secretary for Operations, DHS, to respond to questions raised by the Board.

Mr. James stated that the budget is an estimate and that the actual cost is based on utilization of services. He then stated that increases in overall project costs due to things not associated with the MHBE would not have an impact on cost allocation. He also explained that the \$200 million total for the project includes the full replacement of data systems, much of which are funded by agencies other than CMS. Mr. James then responded to Mr. Steffen's question about concurrent operation by stating that it costs approximately \$520,000 per month to operate the environments, which includes the allocation of the annual software costs. He further noted that the development costs are separate and are covered under the initial migration MOU.

Ms. Herron asked how the impact of the MD THINK delay is included in the cost allocations. Mr. Muniyasamy responded that the child support system has had to be built from scratch. He then stated that there is no impact on the exchange and that it is a separate project.

Ms. Herron asked whether, after the migration, MD THINK is prepared to respond at all hours. Mr. Muniyasamy responded in the affirmative and that no compromises have been made. Mr. James also

stated that there are very specific service level agreements for uptime and operation, and that they are fully prepared to meet that requirement on day one.

Secretary Neall stated that everyone is right to be concerned about open enrollment, but that the MHBE also handles Medicaid eligibility. He stated that the number of Medicaid users is 100,000 or more every month, and that it has to work.

Mr. Muniasamy noted, in response to earlier questions around security, that they do have guidance and a compliance structure from federal and state entities. He also stated that a third party vendor has been hired to cross-check each one of the line items to ensure compliance. Ms. Herron asked if they are performing penetration testing. Mr. Muniasamy responded in the affirmative, and stated that they are also completing vulnerability testing. He added that security is a legal concern, and that they are holding bi-weekly meetings with federal partners where these questions are repeatedly brought up.

Secretary Neall stated that the proposal before the Board is that the staff have asked for additional time. He asked what would happen if the Board declines to approve the extension. Mr. Koshanam responded that they would then migrate after open enrollment with a go-live date of February 2020. He also stated that they would have to back-date at least three months to restart the work. He further stated that they would continue to work through the open items.

Secretary Neall stated that if the Board votes yes, they are really voting to afford another two to three weeks to see if the work can be completed. Secretary Neall then moved to accept the staff recommendation.

Ms. Herron asked whether, if they vote no, the Medicaid release would be back as an option to be completed before open enrollment. Mr. Koshanam stated that they would have to re-think that question, but that if that direction is given they would continue to work toward that goal.

Mr. McCann asked whether the Medicaid changes are the result of an Inspector General's report or some other material weakness. Caterina Pañgilinan, Chief Compliance Officer for MHBE replied in the negative.

Mr. McCann seconded the motion with the proviso that the checklist, standards, and components that exist today stay the same.

Ms. Weckesser sought clarification on whether, regardless of the Board's vote, the Medicaid items would be integrated by open enrollment. She received a response in the negative. Ms. Weckesser asked whether, if the Board votes no today, the items would be integrated for next year's open enrollment. Mr. Ratner responded that Medicaid enrollment is year round. Mr. Koshanam added that the priority would be to focus on delivering what they had promised for August and September.

Ms. Weckesser again sought clarification on whether, regardless of the Board's vote, the Medicaid items would be integrated for everybody and that the vote today would not affect that. Ms. Herron responded that if the Board votes no, they would be able to accelerate the Medicaid release back to August or September, and if the Board votes yes, it would have to wait until after open enrollment. She added that it is a resource constraint and a question of how staff are committed. Ms. Weckesser

noted that she believes it is important that the Board consider the end user and that the Medicaid items should be available. Mr. Koshanam responded that there would be no change to the end user whether the items are integrated in September or February.

Mr. McCann sought clarification regarding the motion. Specifically, he stated that everything has to be completed by August 4, and that there is, in effect, a termination for anything that goes wrong. Additionally, he raised the scenario of identifying problems during the go-live, which would stop the migration. Mr. Ratner clarified that issues raised during testing would stop the migration. Mr. McCann asked that the agency not come back to the Board to ask for additional time.

Mr. McCann asked whether the final say on go-live rests with the Chairman and Executive Director. Mr. Koshanam responded that after validation, the CIO would sign off. Mr. McCann asked whether, if any elements are not certified by August 4, that the Chairman and Executive Director would be notified and that they would make the final decision. Mr. Koshanam responded that that is a fair characterization.

Secretary Neall then asked for a roll call vote. Ms. Herron abstained from voting. All other members present voted to approve the motion, and the motion passed.

Mr. McCann thanked Mr. Koshanam, Mr. Muniasamy, and their staff.

Adjournment

The meeting was adjourned.