

**Texas Health Insurance Pool
Board of Directors Meeting
February 7, 2014**

The meeting of the Board of Directors of the Texas Health Insurance Pool was held Friday, February 7, 2014 at 4140 Governor's Row, Room Southpark A, Austin, Texas. Notice of the meeting was filed electronically with the Secretary of State's office on Wednesday, January 29, 2014 and published immediately on the *Texas Register* web site (TRD#2014000698).

Board members present: Gary Cole, Chair; Rick Ott, Vice-Chair; Greg Barbutti, Secretary/Treasurer; Robert Emmick, M.D.; Pati McCandless; Vicky Paparelli, APRN; and Marinan Williams. Maureen Milligan was unable to attend. Steven Browning, Pool Executive Director, and Betty DeLargy, Pool General Counsel, were also in attendance.

Meeting Called to Order

With a quorum of the Board present, Mr. Cole called the meeting to order at 9:00 a.m. Mr. Cole asked those present to observe a moment of silence in memory of Dr. Bill Rainey, former Pool Board member, who died September 17, 2013.

I. Approval of Minutes

Dr. Emmick moved to approve the minutes of the December 4, 2013 Board of Directors meeting. The motion was seconded by Mr. Ott and unanimously approved.

II. Financial Report

Mr. Browning presented the Pool's unaudited financial report for August through December 2013. At year-end, a total of ±\$43 million was booked for Y2013 and Y2014 interim assessments receivable. Checks for the ±\$6.9 million in year-end assessment refunds were mailed to carriers in January 2014. The Pool's \$141.8 million Y2013 net loss was ±\$22 million higher than the Y2012 loss, due to lower premium receipts and higher claim payments in Y2013. After further discussion, **Mr. Ott moved to approve the August through December 2013 financial statements. The motion was seconded by Dr. Emmick and unanimously approved.**

Mr. Browning presented the Pool's third quarter 2013 financial statement filed with the Texas Department of Insurance (TDI). After further discussion, **Ms. McCandless moved to ratify the Third Quarter 2013 Statement filed with TDI. The motion was seconded by Mr. Ott and unanimously approved.**

Mr. Browning presented the Pool's final Budget vs. Actual variance report for Y2013 administrative expenses. Total expenses for the year were \$2,485 below budget. Legal fees represented the only material negative variance line item; overruns occurred in this category due to unanticipated levels of legal support associated with the legislative session, Pool dissolution plan, and the commissioner's extension of Pool coverage. On the other hand, other budget line items, for which additional mailing expenses were projected, ended the year with favorable

variances, due to Blue Cross Blue Shield of Texas (BCBSTX) offering to cover those costs.

Mr. Browning presented his proposed administrative budget for Y2014 and discussed notable assumptions. There is more uncertainty surrounding this year's assumptions, but the budget can be adjusted by the Board later in the year, if necessary. Mr. Browning provided a staffing update, reporting that only he and the Pool's accountant remain employed by the Pool. Last month, the Pool accounting assistant left for a position with a state agency and the Pool appeals specialist retired. After further discussion, **Mr. Barbutti moved to approve the Y2014 Administrative Budget. The motion was seconded by Dr. Emmick and unanimously approved.**

Mr. Browning presented the Y2013 assessment report, which reflects each carrier's share of the Pool's Y2012 audited net loss. He also discussed the \$20.4 million Y2013 and \$25.1 million Y2014 interim assessment invoice packages that were mailed to carriers in November and December. He reported that the process for both assessments was very smooth, with relatively few questions from the companies and no collection problems.

III. Executive Director's Report

Mr. Browning presented the Board of Directors highlights report for Y2013. Average premiums per enrollee decreased 4% compared to Y2012; a premium rate decrease was implemented mid-year 2012. Conversely, Y2013 claim trend increased 7%.

Application and enrollment volumes were down in 2013, particularly during the last quarter, as individuals anticipated the guaranteed availability of market coverage effective January 1st. Mr. Browning reviewed the Net Loss/Assessment history chart, updated through year-end 2013, which reflects a cumulative total of ±\$2.2 billion in premium collections and ±\$3.4 billion in claims and operating expenses since Pool inception.

Mr. Browning discussed the premium rate notice letters that were mailed in late January, in advance of the March 1st rate adjustment. Two versions of the letter were used because the ±360 Medicare beneficiaries in the Pool do not have the same guaranteed issue market options as other Pool enrollees. He noted that TDI has devoted much time and effort assisting the Pool's Medicare beneficiaries during the transition, developing a special enrollment option for the Plan A Medicare Supplement market. Ms. Jan Graeber, TDI, confirmed that the commissioner's order for this enrollment opportunity should be approved soon. Mr. Browning noted that, in addition, CMS agreed to create a special enrollment period in the Medicare Advantage market for eligible risk pool policyholders losing their secondary Pool coverage. He reported that he plans to mail letters next week, describing both replacement coverage options. Mr. Ott requested that the letters include a suggestion that enrollees seek assistance from health insurance agents.

Mr. Browning discussed the sample premium billing statement in the board materials. All enrollees are now receiving monthly premium statements that include the important reminder that all Pool coverage ends March 31st. He mentioned that the Pool's customer service line recording includes this same message at the beginning of the conversation. The Board reviewed the first quarter deductible proration notice and policy amendment that was mailed to all

policyholders in early December. This notice also reinforced the important March deadline. Mr. Browning reported that Pool enrollment has dropped to $\pm 7,900$, down from $\pm 22,000$ in December. Milliman's recent assessment projections assumed Pool enrollment would be at 50% of December levels at this point, so the current 40% enrollment level is ahead of schedule.

Mr. Browning reported that the Board's proposed Pool dissolution plan is now being reviewed by TDI legal counsel and commissioner signature is expected soon. A signed copy will be distributed to board members upon receipt.

The updated Pool Y2014 timeline was presented. In addition to the usual recurring deadlines, entries are included for the March 1, 2014 final termination notice mailing deadline, along with the May 31, 2014 office lease expiration date. Discussion ensued about the likelihood of further extension of Pool coverage, beyond March 31st. Mr. Browning said no such discussions are underway with TDI and he has not heard any recent complaints from members about healthcare.gov website functionality.

Mr. Browning presented an updated Pool low-income premium subsidy program report. Since inception of the program, the Pool has collected \$83 million in prompt payment penalties from insurers and HMOs. Since January 2011, the program has subsidized the premiums of 6,332 Pool policyholders. The penalty fund, managed by the Pool, has a current balance of \$43.5 million, which is being held on TDI's behalf until the commissioner decides how to use the surplus.

Mr. Browning provided an update about the health insurance provider tax. At the December meeting, a \$1.25 million line item was included in the Y2014 interim assessment for this special tax, which the Affordable Care Act imposes on insurance providers. The federal rule implementing the tax makes special reference to state high risk pools and, in fact, applies a discounted tax calculation formula to pools. But due to the estimated size of the Pool's tax, Mr. Browning asked the national risk pool association to obtain a legal opinion from association counsel, Ryan Burt. Mr. Burt has concluded that only state risk pools that are licensed to engage in the business of insurance are technically subject to this new tax. Therefore, it now appears that the Pool may not be obligated to pay this tax, because the Pool does not hold such a license. In 2010, at Ms. DeLargy's suggestion, the Pool's certificate of authority was cancelled by TDI because the Pool's authority derives strictly from statute. Mr. Browning suggested that, rather than ignoring the tax, the Pool should file a \$0 report with the IRS by the April due date, accompanied by a letter explaining the Pool's position. After further discussion, consensus was reached to take this approach. Mr. Browning will provide an update later in the year.

Mr. Browning provided a report about the Y2012 net effective discount (NED) reconciliation project. Mr. Alan Kellogg, HealthLinx, has now reconciled the pricing of most drug categories and concluded that any further verification would require extensive claim-level analysis, which based on his experience would not be cost-effective. He therefore recommends that the Pool accept Express Scripts' (ESI) \$1.4 million reconciliation payment and close the Y2012 NED file. Mr. Browning noted that although the Pool will not further audit the Y2012 NED payment, the Pool will still reserve the right to conduct an audit of Y2012 claims processed by ESI. Consensus was reached to proceed with this approach.

Mr. Browning provided an update of assessment audits and recoveries. Large audit recoveries were recently finalized with UnitedHealthcare and three American National insurance companies. Through internal auditing, UHC discovered it had underreported its stop loss business for the years 2009-2011. Mr. Browning recalculated the company's market share, using corrected reports, and invoiced UHC \$2.4 million in additional assessments, including \$220,000 in past due interest. The American National recovery relates back to a TDI financial examination many years ago, which identified unreported stop loss business. That finding led to extended litigation, which was eventually favorably decided by the Texas Supreme Court. This ruling allowed the Pool to require submission of corrected reporting forms from American National for the years 1999 through 2011. The Pool has now collected \$1.4 million from the 3 companies, including \$480,000 in past due interest. Mr. Browning noted there are no other assessment audits currently in progress, but that he plans to conduct some further verification audits on the companies that just received the largest assessment refunds, to confirm their loss of market share.

Mr. Browning reported he had done some preliminary analysis of the Pool's highest cost claimants to determine whether the Pool was retaining a high percentage of such policyholders. He reviewed the cumulative high-cost claimant tracking report, the pending transplant list, and the lists of the 50 enrollees with the highest claims last year, both medical and pharmacy. In each case, the Pool has retained roughly half of the high-cost claimants, which is generally consistent with the Pool's current 60% disenrollment rate for all Pool members. This preliminary analysis indicates the Pool's highest-cost claimants are disenrolling at generally the same rate as the Pool's healthier enrollees.

Discussion ensued about the large volume of retroactive membership cancellations being processed by BCBSTX and the implications for Pool claim expenses and management of the policy grace period provision. In early January, Mr. Browning instructed BCBSTX to lock the claims system for 2014 dates of service, to minimize the payment of claims for members who retroactively cancel their Pool coverage. Further, for those members who lapsed through nonpayment of premium, and incurred claims during their 30-day grace period, the Pool can deduct premiums from benefit payments. BCBSTX is now in the process of identifying grace period claimants for whom benefits exceeded their Y2014 deductibles. Mr. Browning reported that since the point-of-sale pharmacy claim system could not be locked, he will be seeking reimbursement for large scripts paid by the Pool on behalf of members before their retroactive cancellations were processed. BCBSTX and ESI are now preparing a report of such high-dollar scripts that may be recoverable from enrollees' replacement insurance carriers.

Mr. Barbutti raised the issue of the Pool Executive Director's office lease. The current lease expires May 31st. Mr. Browning indicated it may be necessary to retain a small, secure space for certain files and the Pool computer server. After further discussion, **Mr. Ott moved to authorize Mr. Barbutti to approve any lease arrangement that may be necessary after May 31, 2014. Ms. Paparelli seconded the motion, which was unanimously approved.**

IV. Third Party Administrator Reports

A. Report from BlueCross BlueShield of Texas

Ms. Sandra Sadler presented the executive summary highlights, comparing Y2013 results to the prior year. The total medical claim payments of \pm \$216 million represents a 2.7% increase. Network provider discounts, at 60.2%, were slightly higher in Y2013. Last year, 98.4% of all medical claim payments were paid to network providers, up slightly from Y2012. In 2013, 3.9% of Pool claimants generated medical claims exceeding \$50,000, up slightly from Y2012, although the average severity of these cases dropped from \$13,444 per member per month (PMPM) in Y2012 to \$11,111 last year. Pool enrollment decreased 2.9% during the year. The various BCBSTX claim system edits and medical management programs produced an overall savings of \$722 million last year, slightly lower than the Y2012 result.

Mr. Michael Garcia discussed the volume of Pool-related customer service inquiries handled by BCBSTX last year, down 9% from Y2012 levels, driven by the drop in Pool membership. Email messaging was up 68% last year, as more members contacted Customer Service electronically. Mr. Garcia reported that the call center saw a large spike in calls in December, but otherwise call volumes have been surprisingly manageable and members seem to be familiar with transition deadlines.

Claim inventories have been well managed, with today's claim inventory at just 8,181, even though a group-level claim lock was in place for most of January. The updated high-cost claimant tracking reports were reviewed. Mr. Garcia noted that 11 high-cost members replaced their Pool coverage with other insurance during January.

The updated BCBSTX performance standards chart was reviewed. Mr. Garcia presented a request for waiver of the December speed of answer penalty; the average speed of answer that month was 48 seconds, three seconds above the permitted limit. Mr. Garcia explained that December's \pm 17,500 call volume was up 26% over November's level, due largely to the release of two mailed notices to Pool members. The 90-day coverage extension notice and the policy amendment for deductible proration both generated many member questions. Mr. Browning said he was receptive to the request, as the work load imposed on BCBSTX in December was certainly elevated, and BCBSTX reduced the answer speed to just 20 seconds in January. After further discussion, **Ms. Williams moved to approve the BCBSTX request to waive the \$43,346.10 penalty assessed for noncompliance with the December 2013 average speed of answer performance standard. The motion was seconded by Dr. Emmick and unanimously approved, with Ms. McCandless abstaining.**

B. Report from Express Scripts (ESI)

Mr. Jeff Johnson presented the Pool's outpatient pharmacy financial results for Y2013, compared to Y2012. Overall, the Pool's Y2013 net drug spend of \pm \$106 million was 6.6% higher than Y2012, due primarily to specialty drug price inflation. Specialty medications accounted for 42% of total plan cost, well above the \pm 25% level typical for a non-risk pool client. Extensive discussion ensued about the many ESI programs in place to manage the Pool's specialty drug program. Drug maker rebate dollars paid to the Pool fell 16% last year, due to the increased

usage of generics and drug makers cutting back on rebates unless their brand products are placed within a narrower formulary.

Plan costs PMPM were flat during the second half of Y2013; there had been some concern that stockpiling might occur in the 4th quarter, but that did not materialize. The Pool's generic fill rate continued to steadily increase throughout the year, with an annual average of 73.4%. Mr. Johnson discussed the top 25 drugs by cost report; these specific drugs accounted for 36.5% of the Pool's total drug expense last year. The pricing for several of the specialty drugs in this group increased by wide margins during the year. Extensive discussion ensued about the drug makers' dramatic pricing markups in the unrestricted U.S. marketplace, and drug maker initiatives, such as couponing, which make it even harder to impact consumer behavior. Mr. Johnson also presented detailed information about the Pool's 25 most expensive specialty drugs, which represented 60% of total specialty drug costs last year and 25% of total Pool drug costs.

Mr. David Runyan reviewed the Y2013 call center statistics for the Pool account. The average speed of answer for the year was 21 seconds. ESI handled 42,000 Pool-related phone calls.

V. Public Comment

Mr. Cole requested public comment, but none was offered.

VI. Adjournment

Mr. Barbutti moved to adjourn the meeting. The motion was seconded by Ms. McCandless and unanimously approved. There being no further business, Mr. Cole adjourned the meeting at 10:50 a.m.