

**Texas Health Insurance Pool
Board of Directors Meeting
May 29, 2014**

The meeting of the Board of Directors of the Texas Health Insurance Pool was held Thursday, May 29, 2014 at 4140 Governor's Row, Austin, Texas. Notice of the meeting was filed electronically with the Secretary of State's office on Wednesday, May 21, 2014 and published immediately on the *Texas Register* web site (TRD#2014003721).

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

Meeting Called to Order

With a quorum of the Board present, Chairman Cole called the meeting to order at 9:00 a.m. Mr. Cole noted that this was the 84th meeting of the Pool Board of Directors.

I. Approval of Minutes

Dr. Emmick moved to approve the minutes of the February 7, 2014 Board of Directors meeting. The motion was seconded by Mr. Ott and unanimously approved.

II. Financial Reports

Mr. Cole introduced Mr. Don McPhee, partner with PMB Helin Donovan ("PMB"), who presented several reports associated with the audit of the Pool's 2013 financial statements. Mr. McPhee discussed the auditor's role and responsibilities. He affirmed that the Pool's financial statements present fairly, in all material respects, the financial condition of the Pool, and comply with generally accepted accounting principles (GAAP) and TDI requirements, as of and for the year ending December 31, 2013. Mr. McPhee said he was pleased to report that: the audit team did not identify any deficiencies in internal control that are considered to be material weaknesses; the assumptions used to develop claim reserves are reasonable; and no misstatements were identified during the audit. In summary, Mr. McPhee confirmed that this was a clean audit of both the statutory and GAAP financial statements.

After further discussion, **Mr. Barbutti moved to accept the December 31, 2013 financial audit reports prepared by PMB Helin Donovan. The motion was seconded by Dr. Emmick and unanimously approved.**

Mr. Browning presented the Pool's 2013 Annual Statement, timely filed with TDI before the March 1, 2014 deadline. A balance sheet entry was later amended, in May, to reflect a PMB recommendation to reclassify certain premium receivables, but that entry did not affect the Pool's income statement. After further discussion, **Ms. Williams moved to ratify the 2013 Annual Statement filing, as amended. The motion was seconded by Ms. Milligan and unanimously approved.**

Following discussion of the February 27, 2014 confidential Milliman actuarial memorandum regarding adequacy of Pool reserves as of December 31, 2013, **Mr. Barbutti moved to acknowledge receipt of the memorandum. The motion was seconded by Ms. Williams and unanimously approved.**

Mr. Cole noted that the Board needs to approve the amount of the 2013 Regular Assessment, now that the audit report has been presented and accepted. After further discussion, **Ms. Williams moved to approve \$141,797,650, the Y2013 audited net loss, as the Y2013 Regular Assessment amount. The motion was seconded by Ms. Paparelli and unanimously approved.**

Mr. Browning presented the January, February, and March 2014 financial statements. He noted that the rapid disenrollment rate during the first quarter significantly exceeded previous projections. Cash on hand at the end of March was \$15.6 million, while claim reserves were adjusted downward to only \$8 million.

After further discussion, **Mr. Barbutti moved to approve the January, February, and March 2014 Financial Statements. The motion was seconded by Dr. Emmick and unanimously approved.**

Mr. Browning presented the first quarter 2014 TDI statutory report, filed May 15, 2014. After further discussion, **Ms. McCandless moved to ratify the TDI First Quarter 2014 Statement Filing. The motion was seconded by Dr. Emmick and unanimously approved.**

Mr. Browning presented the April 2014 YTD budget vs. actual expense report. While there is currently an unfavorable aggregate budget variance of \$19,265, actual expenditures over time should more closely align with estimates. The \$29,120 unfavorable variance in the actuarial services category is attributable to invoice payment timing as well as fees associated with the premium rate filing, effective March 1, 2014, which was not scheduled in the Y2014 Milliman budget proposal.

Mr. Browning presented the updated cash flow projection analysis prepared by Milliman, which incorporates actual results through March 31, 2014. When the Board last reviewed the forecast in December, Milliman had estimated the Pool would have only \pm \$3 million in cash on hand at YE2014. That analysis assumed a conservative policyholder disenrollment rate during 1Q 2014. The actual 1Q 2014 member-months total, however, was less than half the earlier estimate, and the updated analysis now projects a \pm \$15 million year-end cash balance. The rapid disenrollment rate generated a lower volume of claims than was anticipated. As of last week, only 1,800 medical claims were in the pipeline.

Mr. Browning said he conferred with Sue Hart of Milliman, and she agrees that up to \pm \$10 million could be refunded after the assessment true-up process is completed, with \pm \$5 million still remaining at year-end. For additional conservatism, these updated projections still assume payment of the disputed \pm \$1.25 million health insurance provider tax. Mr. Browning said the refund could be structured in one of two ways: 1) settle upon an amount, such as \$10 million, that would be released upon completion this summer of the Y2013 assessment true-up

reconciliation; or 2) agree instead on a year-end cash balance target, such as \$5 million, with Milliman calculating the amount of refund that would produce that year-end cash position. The Milliman analysis would include updated 2Q 2014 data and would be available in August. This latter approach would allow for additional precision in the refund estimate, providing an additional quarter of actual claims experience.

After further discussion, Ms. McCandless moved to approve a Y2014 interim assessment refund in an amount that is projected by Milliman to leave a ±\$5 million balance on hand at year-end. The refund amount would be based upon the updated 2Q 2014 Milliman cash flow projections and processed after the Y2013 true-up reconciliation is complete. The motion was seconded by Ms. Williams and unanimously approved.

III. Executive Director's Report

Mr. Browning presented the condensed Board of Directors highlights report, with updated results through March 2014. He also discussed the final Pool dissolution plan order, signed by the commissioner on February 10, 2014, and the 1Q 2014 quarterly dissolution progress report, filed April 30, 2014, as required by that order. The next progress report to the commissioner is due July 31, 2014, covering activity for the second quarter.

Mr. Browning discussed the timeline of notable upcoming deadlines, through December 2014. The Pool's office lease expires tomorrow and TDI is in the process of moving the Pool's furniture and excess equipment and supplies to the state's surplus property store, at no cost to the Pool. Mr. Browning will oversee Pool run-out activity from his home office. Pool mail and overnight packages will be delivered to a new San Antonio post office box and Pool telephone calls will forward to Mr. Browning's mobile phone.

Mr. Browning reported on the status of several projects, including Pool records management and subrogation activities. After the February meeting, he spent several days at the Pool's off-site records storage facility, reviewing stored box contents and comparing those to the descriptions listed in the Pool's box inventory database. He confirmed that the Pool's database is very accurate; therefore, ±340 boxes that had been held beyond their assigned destruction dates were destroyed. In addition, ±90 new boxes of files were shipped from the Pool office to the off-site facility, leaving a total of ±165 boxes of records now in storage at the secure off-site warehouse. These boxes will be transferred to TDI when the Pool is formally dissolved.

Mr. Browning discussed his ongoing efforts to recover ±\$345,000 in high-dollar prescriptions that were paid by the Pool on behalf of 42 former policyholders who reported their retroactive enrollment in new health coverage after their prescription fill dates. All but one of these individuals moved to Blue Cross coverage, and BCBSTX management has agreed to reimburse the Pool for the scripts filled by their new policyholders. Mr. Michael Garcia, BCBSTX, confirmed that final details are being formalized and the aggregate payment should be processed soon. Mr. Browning will continue his separate efforts to get reimbursed for the scripts paid for the one former member who did not move to Blue Cross.

Mr. Browning presented the updated prompt payment penalty account chart that details the Pool's receipt of penalties from insurers and HMOs that, until March 31, 2014, were used to

fund the Pool's premium subsidy program, and are now being held for TDI until a decision is made about future use of these penalties. The penalty fund balance is now up to ±\$53.5 million.

The Senate State Affairs committee staff has begun work on an interim charge to study the impact of the Affordable Care Act. Among other things, the charge instructs the committee to "closely monitor and make recommendations on the continuation of the Texas Health Insurance Pool." Mr. Browning noted that he has provided some background Pool information to committee staff and anticipates additional information requests as they write their report.

Mr. Browning discussed his April letter to the IRS, which asserts the Pool is not subject to the health insurance provider (HIP) tax, which was created by the Affordable Care Act. He reported that an IRS representative called him last week to discuss the letter, and he sent her additional documentation. If the IRS agrees to waive the Pool's tax, Milliman will make that favorable adjustment to the excess cash refund calculation, discussed earlier.

IV. Board Issues and Administrative Matters

Mr. Browning presented the draft Annual Report to the Governor, due June 1st of each year. Ms. McCandless suggested reversing the order of the first two Highlights bullets and Mr. Browning suggested a clarification to the premium subsidy program summary. After further discussion, **Dr. Emmick moved to adopt the 2013 Annual Report to the Governor, as amended by today's revisions. The motion was seconded by Mr. Barbutti and unanimously approved.**

Mr. Browning reported that CMS has awarded the Texas Pool a \$2.1 million FY2014 operational losses grant. Since all policies have been terminated, the Pool is no longer eligible for the federal bonus grant program. He said he will begin working on the grant application as soon as it is released. Although the federal grant program regulation requires a pool that charges more than 150% of the market premium rate to devote at least half of the operations grant to a consumer purpose, Mr. Browning anticipates that the Pool will receive the full award amount because this grant period begins October 1, 2014 and the Pool is no longer collecting premiums.

Mr. Browning discussed his proposal to reallocate the final \$209,116 in undrawn FY2013 federal bonus grant funds to partially offset Y2013 disease management fees. The grant funds were intended to be fully applied in December 2013 to reduce policyholder premiums, but actual December enrollment was lower than projected; by the time in February that the Pool's actuary could quantify the balance created by that enrollment dip, it was too late to apply the funds to premiums. CMS does not object to this proposed reallocation. After further discussion, **Dr. Emmick moved to reallocate the remaining \$209,116 FY2013 federal bonus grant balance to partially offset the Pool's Y2013 disease management program expenses. The motion was seconded by Ms. Milligan and unanimously approved.**

V. Third Party Administrator Reports

A. Report from Express Scripts (ESI)

Mr. David Runyan, Express Scripts, presented the Pool's preliminary financial results for 1Q 2014, compared to 2013, though the comparisons are of limited value, given the rapid

disenrollment earlier this year. The Pool's drug spend was \$9.4 million during 1Q 2014, a 63% drop in plan costs, compared to 1Q 2013. Pool enrollment was 64% lower, quarter over quarter, which indicates there was no significant adverse selection during the final three months of Pool coverage. There had been some speculation that those policyholders with especially high claim costs might stay in the Pool until the very end, but that is not apparent in the pharmacy data.

The Pool's generic fill rate continued to climb this quarter, and specialty drug costs also increased, largely due to new, expensive hepatitis C medications. Total plan costs trended up 3.6%, quarter over quarter, while specialty drug costs rose 26.4%. Mr. Ajay Dalal, Express Scripts, discussed the Pool's Top 25 Drugs by Cost exhibit, and extensive discussion ensued about the high cost of compounded drugs, which moved from the 13th to the top position on the report. While low in volume, these compounded prescriptions can be very expensive. To address the problem, ESI plans to start excluding coverage, later this year, for any compounded script that contains drugs included on a list of $\pm 9,000$ medications.

Mr. Dalal discussed the Top 25 Specialty Drugs by Cost report. Extensive discussion ensued about the new oral hepatitis drug, Sovaldi, at the top of this list, which is effective but expensive. Sovaldi has a $\pm 95\%$ cure rate, but costs $\pm \$84,000$ on average for a course of treatment.

Mr. Runyan reported that the transition of Pool policyholders to the marketplace went very smoothly from ESI's perspective, with call volume during the quarter at just one-third the level experienced in 1Q 2013. Average speed of answer during this recent quarter was just 17 seconds. All finalized Y2013 contract performance standard guarantees were met, but he is still awaiting the results of the speed of answer and call abandonment metrics for the Pool's dedicated specialty drug phone line for the second half of the year; he will forward those results to Mr. Browning when available.

B. Report from Blue Cross Blue Shield of Texas

Ms. Sandra Sadler, BCBSTX, presented the Pool's 1Q 2014 Executive Summary. Comparison to 1Q 2013 is of limited value because average enrollment between these quarters fell from $\pm 23,000$ to 5,373. Ms. Sadler was asked about the comparison of per-member-per-month (PMPM) claim payments for the two quarters; she agreed to analyze that and follow up with Mr. Browning. The Pool's average network provider discount increased slightly, to 59.1%, and 97.6% of claims paid in 1Q 2014 were in-network. BCBSTX network and medical management savings programs reduced Pool claim costs by \$131 million during 1Q 2014

Mr. Michael Garcia presented the 1Q 2014 operations update. As expected, inquiry volumes were much lower, quarter over quarter. He reported that the transition of Pool policyholders to the marketplace was remarkably quiet and smooth. The Pool's outreach campaign was effective because BCBSTX received very few calls from members who were unaware of the March 31st coverage termination date. Daily call volumes now average ± 50 , compared to a daily volume of ± 750 last year.

Mr. Garcia presented the claim processing results for the quarter. In early January, BCBSTX applied a lock on all Pool medical claims and restricted processing to the four most experienced Pool claim examiners. This action was taken because many members were not timely notifying

BCBSTX about their replacement health coverage. The account lock allows the claim examiners to coordinate with the Membership Unit, as part of the adjudication process, to confirm whether the member had new coverage in place on the date of service, or was still in a grace period with the Pool. Grace period claims are being processed so that unpaid premiums are deducted from the benefit payments; the explanation of benefits includes a code to explain the deduction. This high-touch intervention strategy ensures that premiums were paid for the coverage provided and that the Pool does not pay claims for which other health plans were responsible. Mr. Garcia reported that today's Pool medical claim inventory count was only $\pm 1,600$, down from 6,651 claims in the inventory at end of March.

Mr. Garcia discussed the final Y2013 contract performance standards chart. Mr. Browning noted that a total of \$225,000 in penalties were assessed for 2013 services, which represents 2% of the total fees paid to BCBSTX for last year's services. Mr. Garcia presented his request for waiver of the pending \$21,699.14 penalty that is assessable in connection with the claim processing timeliness performance standard for February and March 2014. As previously explained, claim processing during the quarter was placed under a manual lock, which pushed the average processing time out of compliance with the contract requirement to adjudicate 99% of all claims within 30 days. Mr. Browning confirmed that when the lock was implemented it was understood that processing times would lag, but he knew the Board would be supportive of the overall strategy. After further discussion, **Mr. Ott moved to approve the BCBSTX request to waive the \$21,699.44 penalty for noncompliance with the February and March 2014 claim processing timeliness performance standard, due to the manual processing measures implemented to reduce claim overpayments. The motion was seconded by Ms. Williams and unanimously approved, with Ms. McCandless abstaining.**

VI. Public Comment

Mr. Cole requested public comment. Mr. Lee Manross, Texas Association of Health Underwriters, commended the board members for their excellent stewardship of the program. Ms. Mireya Zapata, National MS Society, thanked the members for their service to Texans dealing with multiple sclerosis. She mentioned that the low-income premium assistance program was particularly helpful to many of the MS patients who were covered by the Pool.

VII. Executive Session

At 10:50 a.m. Mr. Cole announced that after a short break the Board would go into Executive Session, in accordance with the Texas Open Meetings Act, to discuss personnel matters. He asked Board members, Pool staff, and counsel to remain, and invited all others to rejoin the meeting upon conclusion of the Executive Session.

VIII. Approval of Executive Session Actions

At 12:00 p.m. Mr. Cole reopened the meeting to the public. Ms. DeLargy reported that the Board had agreed to amend Mr. Browning's employment retention agreement, to provide for an additional contingency in the event of early termination or dissolution of the Pool by state or state agency action. The amendment would be effective immediately following today's meeting. After further discussion, **Mr. Barbutti moved to ratify the Board's executive session decision**

to revise Mr. Browning's retention agreement; the ratification was seconded by Dr. Emmick and unanimously approved.

IX. Adjournment

Ms. Milligan moved to adjourn the meeting. The motion was seconded by Ms. Paparelli and unanimously approved. There being no further business, Mr. Cole adjourned the meeting at 12:05 p.m.