Texas Health Insurance Pool
Board of Directors Meeting
December 4, 2013

The meeting of the Board of Directors of the Texas Health Insurance Pool was held Wednesday, December 4, 2013 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 Tuesday, November 26, 2013 and published immediately on the *Texas Register* web site (TRD#2013008016).

Board members present were: Gary Cole, Chair; Rick Ott, Vice-Chair; Greg Barbutti, Secretary/Treasurer; Robert Emmick, M.D.; Pati McCandless; Maureen Milligan, Ph.D.; and Vicky Paparelli, APRN. Marinan Williams was unable to attend. 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 8:30 a.m.

I. Approval of Minutes

Dr. Emmick moved to approve the minutes of the September 24, 2013 Board of Directors meeting. The motion was seconded by Ms. McCandless and unanimously approved.

II. Executive Director's Report

Mr. Browning discussed the various outreach communications recently provided to policyholders, including the notice mailed last week to all Pool members about the 90-day delay in coverage cancellation. A cancellation request form was included with that notice, so that members can easily notify the Pool about their cancellation date if they arrange for replacement coverage sooner than April 1, 2014. Discussion ensued about the decision to discontinue payment of premiums by bank draft starting next month, when remaining members will instead receive mailed premium statements. Mr. Michael Garcia, BCBSTX, reported that only ±270 year-end cancellation requests have been received thus far. Ms. McCandless noted that often policyholders will simply lapse their coverage and not notify the insurer that replacement coverage has been obtained. Mr. Browning confirmed this is also a common situation for the Pool. Drafting bank accounts of those with replacement coverage in place would require processing of premium refunds, and could create overdraft problems for former Pool members. Mr. Garcia noted that members will still have the protection of the 31-day grace period and will receive a late notice if they do not timely pay their monthly premium. In addition, and in keeping with current procedures, a member who overlooks the mailed premium payment notices would be reinstated upon payment of the past due premium amount.

Mr. Cole asked about billing statement messaging opportunities. It was agreed that the February and March 2014 mailed premium statements should include a notice about the March 31, 2014 Pool policy cancellation date.

Mr. Browning discussed the letter that was mailed in October to the ±550 Pool members who are Medicare-disabled and use Pool coverage for medical benefits supplemental to Medicare Parts A and B. The letter encouraged enrollment in a Medicare Advantage plan by the December 7th open enrollment deadline, for January 1, 2014 coverage. ±170 of these Medicare members have end-stage renal disease, however, and therefore are not Medicare Advantage-eligible. Ms. Katrina Daniel, Texas Department of Insurance, confirmed that TDI is working on a proposed rule that would create a special enrollment period, during which these Pool members could enroll in a Medicare Supplement plan on a guaranteed issue basis. Extensive discussion ensued about the various challenges associated with the effort to provide a solution for these consumers.

III. Board Issues and Administrative Matters

Mr. Browning discussed the updated version of the Pool's draft Dissolution Plan, included in the Board materials. He noted that this draft incorporates the revisions approved at the September meeting, and new redlines have been added to reflect date changes associated with the 90-day coverage termination delay, as well as a couple of edits suggested by TDI staff. There was general agreement with Mr. Barbutti's suggestion to revise the legal action deadline to April 1, 2017. Discussion ensued about the need to formalize, by resolution, the Board's designation of the Executive Director to act as the Board's representative to implement the Plan, and consensus was reached to move ahead with such a resolution.

After further discussion, **Dr. Emmick moved to designate the Executive Director to act as the Board's representative to implement the revised Dissolution Plan and perform all duties required to dissolve the Pool. The motion was seconded by Mr. Ott and unanimously approved.**

After further discussion, **Mr. Barbutti moved to approve the revised Pool Plan of Dissolution, including the redlined changes reflected in the updated draft presented today and the additional revision he requested. Dr. Emmick seconded the motion and it was unanimously approved.**

Mr. Browning presented his memorandum about timing options for the implementation of premium rate adjustments approved by the Board at the September meeting. That rate filing is pending commissioner approval and cannot be implemented until February 1, 2014 at the earliest, given the 30-day notice requirement. Mr. Browning reviewed the financial impact of the premium rate adjustments, which represent an overall average ±33% increase, and he discussed the variation of the impact, depending on the timing of the increase and different disenrollment rate scenarios. He also discussed the additional complexity associated with this particular rate increase notice. Each Pool member will receive a customized notice letter that includes the specific member's new premium amount. In the past, rate change notices simply referred members to an enclosed rate table, but with the much narrower age bands and greatly expanded geographic rating areas next year, referral to a rate table is not feasible. Additional system testing will be needed to ensure accuracy of premium rates quoted in the member letters. For this reason, Mr. Browning suggested that the rate increase not be effective earlier than March 1, 2014.

Discussion ensued about the alternative of not implementing the increase unless the commissioner elects to further delay Pool coverage termination beyond the new March 31, 2014 cancellation date. Ms. McCandless observed that the earlier March 1st rate change date would provide additional incentive for members to move to the insurance marketplace, while implementation tied to a second extension, which is unlikely, might create further confusion. Moreover, the Pool is obligated by statute to maintain premiums at twice the standard market rate. After further discussion, consensus was reached to proceed with an effective date of March 1, 2014 for the rate adjustments. The suggestion was made to mail a preliminary notice letter in mid-January, followed by the official premium rate adjustment notice on February 1st.

Ms. McCandless moved to request commissioner approval of a March 1, 2014 effective date for the pending rate filing. The motion was seconded by Ms. Milligan and unanimously approved.

Ms. Hart presented her analysis of the additional costs associated with continuing Pool coverage beyond January 1, 2014. She considered the impact under two different disenrollment scenarios, and the further effect of 25% proration of the Y2014 calendar medical and pharmacy deductibles for the first quarter. Without consideration of deductible proration, Ms. Hart projects that the three-month coverage extension will produce an additional assessment ranging from $10.7 million to $19.3 million, depending on the assumed rate of Pool disenrollment during the first quarter.

Mr. Browning provided background for the consideration of deductible proration. Without proration of the Pool's medical deductible, Pool enrollees who remain in the Pool during the 90-day extension period could incur two full deductibles within the same year, one with the Pool and another with any replacement plan. Proration would limit the enrollee's financial exposure while in the Pool to 1/4th of the yearly amount, while still providing some incentive to move to a marketplace plan as soon as possible, since payment of the Pool deductible will not credit to the replacement plan's deductible. Proration of deductibles would increase the Pool's assessment, since enrollees would satisfy a prorated deductible sooner. Mr. Browning noted that the Pool's health savings account-qualified Plan V could not be prorated because doing so would invalidate that plan's tax-preferred status with the IRS. Any Plan V enrollees who are more interested in deductible reduction than tax savings, however, could elect to move up to the Pool's $5,000 deductible plan.

Mr. Garcia confirmed that medical deductible proration can be programmed into the Pool's claim system, effective January 1, 2014.

The option of deductible waiver was raised, as an alternative to proration, but it was pointed out that a full waiver would encourage enrollees to move to lower-cost, higher deductible plans, which would adversely impact the carrier assessment. It was also noted that waiving the deductible, without equalizing premium rates for all plans, could create an issue of rate discrimination.

Ms. Hart reported that if only the medical deductible is prorated, the needed assessment increases to a range of $14.3 million to $25.1 million, depending on the disenrollment scenario. If the pharmacy deductible is also prorated, the required assessment increases to a range of $15.5 million to $27.1 million. Extensive discussion ensued about the proration of deductibles. Mr. Browning noted his concerns about the greater potential for errors associated with drug deductible proration within the real-time pharmacy claim environment. It was also noted that the Pool's pharmacy deductibles are much lower than the medical deductibles, and that many plans in the marketplace do not impose separate pharmacy deductibles.

After further discussion, consensus was reached to prorate the Pool's medical deductible. **Dr. Emmick moved to approve adjustment of calendar year deductibles during the 1Q2014 coverage extension period, to provide for a 1/4th proration of the calendar Y2014 medical deductible for the non-Health Savings Account Plans I-IV, subject to commissioner approval. The motion was seconded by Ms. McCandless and unanimously approved.**

Mr. Browning reported that an additional element to consider in the discussion of the new assessment amount is the federal health insurance provider tax. The final rule governing this tax was published last Friday and, surprisingly, state risk pools appear to be subject to the tax, though at a discounted rate. The tax applies to insurance providers that collect premiums in Y2014, but the tax is calculated using Y2013 premium volume. Ms. Hart estimates the tax for the Pool would be ±$1.25 million.

Discussion ensued about the amount to require for the additional assessment and whether to use a slower or faster disenrollment assumption over the three-month extension period. Ms. Hart pointed out that her assessment analysis does not make adjustments to the Pool's projected loss ratio, which could increase during the extension period if a disproportionate share of the Pool's higher utilizers remain in the program through March. Consensus was reached to use the more conservative, slower disenrollment assumption for the assessment; it was noted that if the disenrollment is quicker than anticipated, unused assessment funds would later be credited back to the insurance companies. **Mr. Barbutti moved to approve collection of a special Y2014 Interim Assessment in the amount of $25.1 million; the assessment will be considered past due if not fully paid within 30 days of the final invoice date. Mr. Ott seconded the motion and it was unanimously approved.**

Mr. Browning asked Ms. Sandra Sadler, BCBSTX, to provide an update about the ongoing network contract dispute between BCBSTX and the Hospital Corporation of America (HCA). She reported that this provider contract will expire at year-end, unless renewed. BCBSTX hopes to reach a compromise with HCA, but asserts that HCA is requesting a reimbursement increase that is four times the inflation trend rate. HCA owns numerous hospitals across the state, and BCBSTX and its client accounts generate $1.9 billion in annual claim payments to that hospital system. The requested reimbursement rate increase would cost BCBSTX and its clients an additional $100 million annually. Negotiations are ongoing and all BCBSTX members, including Pool policyholders, have received notice letters about the dispute. BCBSTX has created a special website for updates.

IV. Public Comment

Ms. Simone Nichols-Segers, with the National MS Society, asked the Board to consider using excess funds from the premium subsidy program to assist Pool enrollees with their deductibles next year. Discussion ensued about the subsidy funds and the restrictions on their use in Pool statute. A review of the language in SB 1367, the Pool sunset bill, confirmed that only the insurance commissioner is authorized to determine how excess subsidy program funds are used. Although the commissioner could direct the funds to this suggested purpose, the timing of the rulemaking process would not make it feasible, given the March 2014 Pool coverage cancellation date.

V. Adjournment

There was discussion among the board members about the timing of the next meeting. Consensus was reached to schedule a February meeting, with the understanding that it may be postponed if a later survey of the board concludes that meeting again before May is unnecessary.

There being no further business, **Ms. McCandless moved to adjourn the meeting. Ms. Milligan seconded the motion and it was unanimously approved.** Mr. Cole adjourned the meeting at 10:15 a.m.