

**Texas Health Insurance Pool
Board of Directors Meeting
September 30, 2009**

The meeting of the Board of Directors of the Texas Health Insurance Pool was held on Wednesday, September 30, 2009 at 333 Guadalupe, Room 102, in Austin, Texas.

Notice of the meeting was filed electronically with the Secretary of State's office on Tuesday, September 22, 2009 and published immediately on the *Texas Register* web site (TRD number 2009007170).

Members present were Gary Cole, Chair, Rick Ott, Vice-Chair, Greg Barbutti, Secretary/Treasurer, Robert Emmick, M.D., Pati McCandless, Vicky Paparelli, R.N., and Marinan Williams. Bill Rainey, M.D. was unable to attend. Also present were Steven Browning, Pool Executive Director, Denise Haidet, Pool Executive Assistant/Office Manager, and Betty DeLargy, General Counsel to the Pool.

The following representatives from BlueCross BlueShield of Texas ("BCBSTX") attended the meeting: Jackson Boen, Div. V.P. Government Programs; Gary Brantz, Div. Sr. V.P. Actuarial Services; Michael Garcia, Sr. Mgr. Government Services; Wanda Gutierrez, Sr. Mgr. Government Services; George Hamilton, Attorney; Brian Naiser, Div. V.P. Government Accounts; Marcy Sasser, Sr. Dir. Government Services; and Cyrus Walker, Dir. Account Management, Government Accounts.

The following representatives from Medco Health Solutions attended: Patrick Fiduccia, Manager Financial Analytics; Bryan Hammons, Dir. Clinical Services Key Accounts; David Runyan, Account Manager; Jill Stearns, Sr. National Account Executive; Ken Wagg, RPh., Accredo Health Group; and Mark Wermes, V.P./General Manager Key Accounts.

Sue Hart, with Milliman, and Alan Kellogg, RPh., HealthLinX, also attended the meeting.

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 May 22, 2009 Board of Directors meeting. The motion was seconded by Ms. Paparelli and unanimously approved.

II. Financial Report

Mr. Browning discussed the Texas Department of Insurance ("TDI") examination report covering the period January 1, 2005 through December 31, 2008. He noted that although the TDI audit was very thorough, the only significant finding reported was a recommendation to restate assessment refunds as a separate liability balance and not offset the refunds against assessment receivables. **Each Board member acknowledged review of the Pool's examination report, adopted by TDI, for the audit period ending December 31, 2008. Mr. Cole noted that Dr. Rainey's separate acknowledgement would be obtained.**

Mr. Browning reviewed the Pool's unaudited monthly financial reports for the period April through July 2009. The \$29,388 assessment receivable is owed by two related companies and Mr. Browning stated that he is working with company management and TDI to obtain full payment of the balance. **Dr. Emmick moved to approve the Pool's April, May, June and July 2009 financial reports. The motion was seconded by Mr. Barbutti and unanimously approved.**

Mr. Browning discussed the Pool's year-to-date Approved Budget versus Actual Expense Comparison report. He noted that the negative actuarial services variance had dropped to \$23,000 as of September 30th.

Mr. Browning reviewed the Second Quarter 2009 TDI Statement filed with TDI. He noted that this statement is a reformat of financial data previously approved by the Board. **Ms. McCandless moved to ratify the TDI Second Quarter 2009 filing, seconded by Mr. Ott and unanimously approved.**

Mr. Browning reported the updated allocation of Pool investments, as of August 31st. He also discussed recommended revisions to the Pool's investment policy. One revision reflects the fact that the Pool's U.S. Government money market funds contain securities that are guaranteed by the Treasury, but not directly issued by the Treasury. The other suggested change would eliminate the very conservative concentration of funds restriction within the government-sponsored enterprise investment category (FNMA, Freddie Mac, etc.), which limits investment in any one agency to no more than 50% of the category balance. At certain times of the year, as Pool funds are drawn down, it is not feasible to have multiple agency investments. Mr. Barbutti suggested that the Board also consider relaxing the provision in the investment policy that limits direct Treasury investments to a maximum one-year term, and permit longer-term investment in these liquid instruments when appropriate. This may improve yield while preserving liquidity and safety. After further discussion, **Mr. Barbutti moved to approve the revised investment policy as presented, and authorize the Treasurer and Executive Director to waive the 12-month maturity limitation on direct U.S. Treasuries, where appropriate. Dr. Emmick seconded the motion, which was unanimously approved.**

Ms. Sue Hart, the Pool's actuary, presented Milliman's standard rate analysis. She explained the methodology used to calculate the January 1, 2010 rate increases needed to maintain Pool premium rates at 200% of the standard risk rate. An overall average increase of 8.6% is required, based on the updated rates charged by the five largest issuers of individual health coverage in Texas, ignoring application of the federal pool grant funds. This increase factors in the 3.5% reduction in rate associated with the proposed benefit changes, including the elimination of the deductible carryover provision, and also factors in the 4.1% increase in rate that would be required if no additional federal premium relief were available after January 1, 2010.

Ms. Hart noted that the Board previously agreed to apply the entire \$10,456,756 FY2009 federal risk pool grant to premium relief for the period from August 1, 2009 through July 31, 2010. When the grant funds remaining as of January 1, 2010 are applied to the 8.6% unsubsidized rate increase, the subsidized average rate increase becomes 3.3%.

Following further discussion, **Mr. Barbutti moved to approve the premium rate increases recommended by Milliman, effective January 1, 2010, to maintain Pool premiums at 200% of the standard risk rate. The approved rate increases, prior to adjustments for federal grant subsidies, were presented as follows: Plan I: 12.5%; Plan II: 9.1%; Plan III: 7.4%; Plan IV:**

7.4%; and HSAQ Plan V: 9.1%. The approved rate increases, as subsidized by the federal grants, would be: Plan I: 7.0%, Plan II: 3.8%, Plan III: 2.1%, Plan IV: 2.1%, and HSAQ Plan V: 3.8%, with all adopted rate adjustments subject to Commissioner approval. The motion was seconded by Dr. Emmick and unanimously approved.

Ms. Hart presented Milliman's analysis of projected assessment amounts needed to fund Pool losses and maintain a positive cash balance through December 2010. The various enrollment and claim projection assumptions result in an assessment amount that ranges from \$49.8 to \$105.9 million, with a midpoint of \$77 million. The projections also factor in the federal grant and the approved premium rate increases. Mr. Browning indicated that he was comfortable with the midpoint figure because it assumes a positive net enrollment rate and the actual cash balance is higher than the starting point estimate shown in the analysis. Ms. Hart added that Milliman will prepare quarterly projection updates, which would allow the Board to take action during 2010 if additional assessment funds are needed before year-end. After further discussion, **Mr. Barbutti moved to approve the Y2009 Interim Assessment in the amount of \$77.0 million, payable in two equal semi-annual installments and due within 30 days after each invoice date. Ms. McCandless seconded the motion, and it was unanimously approved.**

Mr. Barbutti moved to authorize Mr. Browning to obtain up to a \$7.5 million line of credit on behalf of the Pool, if required to maintain a positive cash balance. The motion was seconded by Mr. Ott and unanimously approved.

III. Executive Directors Report

Mr. Browning presented the updated Board of Directors Summary, noting that 2009 collected premiums had increased just 3% this year, reflecting continued member movement to higher deductible plans.

Mr. Browning reviewed the role risk pools might play in federal health care reform, noting the draft Senate Finance Committee bill contains a provision for \$5 billion in interim funding for a risk pool program during the years prior to implementation of major reforms. He stated that the national risk pool association board and legislative consultant are closely monitoring health care reform developments in Washington.

Mr. Browning discussed the FY2009 federal risk pool grant awarded to the Texas Pool, totaling \$10,456,756. The final grant amount exceeds prior estimates because some state pools did not apply for the grant.

The Timeline was reviewed by Mr. Browning. Ms. McCandless requested addition of important HB 2064 premium subsidy program dates to the next timeline. The updated complaint statistics and customer service survey results were reviewed.

IV. Other Board Issues & Administrative Matters

The Mitchell Williams Long Burner 2010 legal services proposal was reviewed. **Mr. Barbutti moved to accept the proposal, seconded by Dr. Emmick and unanimously approved. Ms. McCandless abstained because her husband is employed by the firm.**

The 2010 Milliman actuarial services proposal was reviewed, with the hourly rate increase noted. **Ms. Williams moved to approve the proposal, seconded by Dr. Emmick and unanimously approved.**

The 2010 HealthLinX pharmacy consultant and audit services proposal was reviewed, with the per script fee increase noted. Mr. Browning discussed the advantages of the retainer compensation arrangement. **Mr. Barbutti moved to accept the proposal, seconded by Mr. Ott and unanimously approved.**

The PMB Helin Donovan proposal for audit of the Pool's 2009 financial statements was discussed. Mr. Browning noted the proposed fees are \$1,000 higher than the previous year. **Dr. Emmick moved to accept the proposal, seconded by Ms. Williams and unanimously approved.**

Mr. Browning presented the draft form to be used by HMOs and insurers to report the Pool's share of late claim penalties associated with the premium subsidy program created by HB 2064 (81st). Discussion ensued regarding clarification language for the penalties to be paid to the Pool. **Mr. Barbutti moved to approve the form for monthly reporting of the Pool's share of the late claim penalties required pursuant to HB 2064. Beginning January 2010, monthly penalty payments and reports are due to the Pool within 60 days after the end of each month. The Executive Director was authorized to make additional revisions to the form as needed. The motion was seconded by Ms. McCandless and unanimously approved.**

Mr. Barbutti also moved to authorize the Executive Director and Board Officers to open a separate bank account for the premium discount program funds to be collected from insurers and HMOs. Ms. Paparelli seconded the motion and it was unanimously approved.

Mr. Barbutti also moved to authorize the Executive Director and Board Officers to sign updated account documents and signature card certificates requested by JP Morgan Chase for several existing accounts, and to incorporate any limiting provisions required by the Pool's Treasurer. The motion was seconded by Ms. Williams and unanimously approved.

Mr. Browning reviewed this year's benefits review process. He and the benefits work group, comprised of Mr. Cole, Dr. Emmick, Ms. Williams, and Mr. Barbutti, carefully considered benefit design revisions suggested by Pool members as well as input from the BCBSTX and Medco account teams and Alan Kellogg. For possible benefit changes, the group considered the coverage provided by the five Texas carriers with the largest open blocks of individual major medical policies. The work group began its review in July and recently completed its list of recommendations, which are outlined in the redlined policy draft, as follows:

1. Add a 6th sick care in-network office visit per year with just a \$30 copayment. The additional cost of this benefit will be offset by an increase to premiums that results from actuarially equalizing Pool benefits to the commercial market in the derivation of the standard risk rate.
2. Increase the extra deductible charged at the emergency room from \$75 to \$100 per visit. This fee will continue to be waived if the enrollee is admitted to the hospital. This benefit change is intended to steer Pool enrollees to the doctor's office or urgent care center instead of the more expensive hospital emergency department, when medically appropriate. The policy is also clarified to reflect that BCBSTX applies the \$30 sick care copayment benefit to in-network urgent care facility claims.

3. Eliminate the 4th quarter deductible carryover provision. Most of the individual coverage carriers do not offer this carryover credit, so elimination will significantly reduce Pool premiums. This proposed change represents most of the 3.5% premium reduction associated with the proposed benefit changes, as reflected in the Milliman rate analysis. The carryover from the fourth quarter of 2009 to 2010 would not be affected by this change.

4. Adopt the mandated coverage provisions from the 81st Legislature that affect individual health coverage: a) add a \$200 age-specific cardio screening test benefit, every five years; and b) add a benefit for amino acid-based elemental formulas for treatment of specific conditions. In addition, the work group recommends expanding the age range in the Pool's autism spectrum disorder benefit, from the date of diagnosis until the enrollee's 10th birthday, consistent with HB 451.

5. Add an exclusion to clarify that there is no coverage for complications associated with excluded conditions or services.

6. Add a benefit for coverage of diagnostic and surgery expenses associated with TMJ treatment, as most of the major individual coverage carriers offer a TMJ benefit. The estimated annual claim cost is \$150,000.

7. Add an exclusion for all over-the-counter products. The Pool policy currently contains an OTC exclusion in the pharmacy benefit, but this proposed revision clarifies that the exclusion applies to the medical benefit as well.

Additionally, the work group recommended several administrative changes, as follows:

1. Eliminate the \$5,000 deductible plan for Medicare-disabled Pool enrollees and move these enrollees to the \$2,500 plan. Only ±140 Pool members are enrolled in the \$5,000 deductible plan.

2. Process ambulance claims at 1.2 times the BCBSTX allowed amounts, while retaining the current annual benefit limits of \$2,000 for ground transports and \$5,000 for air transports. This reimbursement rate would cover Pool ambulance claims at ±125% of the Medicare allowable. Since there are no network ambulance providers in the BCBSTX network, this will provide some financial relief to enrollees by reducing their balance bill amounts.

3. Implement the new Medco preferred drug step therapy program for intranasal steroids, similar to the programs already in place for the PPI and hypnotic drug categories.

Ms. DeLargy reviewed the draft changes to the policy and schedule of benefits, necessary to implement the work group's recommendations, as well as other formatting changes and clarifications. The importance of communicating the urgent care benefit design to members was stressed by several board members. Discussion ensued regarding the policy wording to make it clear to members what types of urgent care facilities can be accessed with the copay benefit provision. All agreed it would help to add references to urgent care clinics, retail clinics and walk-in clinics to the Policy Schedule, to highlight the benefit and use the same terminology used in the BCBSTX provider finder website. Following Ms. DeLargy's explanations of the various policy changes, **Dr. Emmick moved to approve all benefits work group recommendations and other policy revisions, effective January 1, 2010, as shown in the policy draft or presented during the meeting. In addition, the Executive Director was authorized to make any necessary revisions to other Pool forms to reflect the approved**

changes. All policy revisions are subject to Commissioner approval. The motion was seconded by Ms. McCandless and unanimously approved.

At 10:50 a.m., Mr. Cole recessed the meeting for a short break.

V. Discussion and Actions on Matters Concerning the Third Party Administrators

A. Report from Medco Health Solutions -- Status of Operations

The meeting was called back to order at 11:06 a.m. and Mr. Cole announced that Medco would present before BCBSTX in order to accommodate travel schedules.

Ms. Stearns reported an issue that had arisen with respect to copayments charged for nonpreferred brand drug prescriptions at retail. Effective 01/01/2008, the copayment charged for these drugs was revised by the Pool to the greater of \$40 or 50% of the drug's cost. This copayment change was properly administered throughout 2008, but effective 01/01/2009 an inadvertent coding error deactivated the 50% copayment in the Medco retail claim system. This error was not discovered until earlier this month and the system was corrected effective 09/11/2009. Mr. Fiduccia uncovered this error when examining the Pool's cost share data for the first half of 2009. Ms. Stearns stated that all affected Pool enrollees were being contacted so that they would understand why their nonpreferred brand drug copayment will increase. This coding error resulted in an estimated copayment undercharge of \pm \$950,000, which Medco will credit back to the Pool after it confirms the precise figure. Ms. Stearns affirmed that Medco will not attempt to recover these copayments from the affected Pool members. Mr. Kellogg confirmed that the error amount appears to be reasonable based upon 2008 script data, but he will verify the credit as part of his 2009 audit procedures. Ms. Stearns noted that Mr. Fiduccia had eliminated the error's impact from the board report to provide accurate financial data.

Mr. Fiduccia presented the pharmacy program financial reports for the first six months of 2009. The Pool's gross drug spend increased \pm 6% over the first half of 2008, while net plan cost increased 8.3%. This increase was completely driven by the specialty drug category, primarily due to the restriction, effective 01/01/2009, of additional high-cost specialty drugs to the pharmacy benefit. Non-specialty medication costs remained relatively flat for the period. He noted that the net plan trend increases in Medco's other governmental accounts varied, but averaged \pm 6%, very close to the Texas Pool results. He noted that drug price inflation increases are of concern, especially for specialty drugs. He added that he had examined the Pool's peer groups to determine ranking of generic dispensing utilization, as requested, and found the Pool was in the lower end of generic utilization among these groups. It is hoped that the generic copay waiver program, which starts next month, will boost the Pool's generic dispensing.

Mr. Hammons reviewed the Pool's drug costs, as allocated among the 7 Medco Therapeutic Resource Centers (TRC). He noted that there are 2,400 specialized TRC pharmacists who continually review patient drug therapies. In most categories, the Pool's costs per patient line up with other Medco account results, but the Pool incurs much higher patient costs in the Rare & Specialty disease category, relative to standard populations. Mr. Ott noted that the rare and specialty disease category patient count is just one-tenth of the cardiovascular patient count, yet the cost of drug treatment was the same. Mr. Hammons reviewed the list of the top 25 drugs by plan cost and noted that these drugs accounted for 35% of the Pool's total drug spend. Mr. Hammons reviewed a new Medco study that concluded

that women who take certain widely prescribed anti-depressants (Prozac, Paxil and Zoloft) while on Tamoxifen therapy are at higher risk for recurrent breast cancer. Five Pool members were identified with this profile, and their physicians were notified about the study's findings. Mr. Hammons reviewed the Pool's savings from the various Medco clinical management programs for the first half of the year, which totaled \$8 million.

Ms. Stearns reviewed the YTD 2009 performance guarantees chart, noting that the paper claims turnaround standard was not met. She discussed the annual network reset provision that was added to the extension of Medco's PBM contract with the Pool. This provision allows the Pool's retail drug pricing to update annually to reflect Medco's renegotiated network pharmacy contract terms. The Pool's network would be reset at year-end and there would be relatively little disruption to Pool enrollees. Mr. Browning noted that Peoples Pharmacy in Austin had not yet elected to remain in the updated network, but Medco is working to retain that pharmacy.

B. Report from HealthLinx--Pharmacy Audit and Action Items Update

Mr. Kellogg presented his written report to the Board, updating the status of his firm's work for the Pool. He discussed the settled Average Wholesale Price ("AWP") litigation, which resulted in a global change to the drug pricing benchmark used by pharmacy benefits managers like Medco. Medco engaged Milliman to evaluate the accuracy of the equivalency of the revised discounts using the new AWP benchmark. The Pool's contract with Medco will need to be amended to reflect the required AWP conversion. HealthLinx will audit post-amendment claims and compare pricing to the pre-amendment scripts to ensure that the discounts below AWP were properly adjusted.

Mr. Kellogg reported that the Y2008 audit is progressing and should be completed within two months. He confirmed that the annual reset of the Medco retail network should reduce annual Pool drug costs by \pm \$500,000. Mr. Kellogg noted that there is industry-wide competition among the companies supplying hemophilia factor to patients and, with Mr. Browning's support, he is working with Medco on a strategy to improve factor pricing without patient disruption, through improved discounts/rebates from drug makers and product substitution, where medically appropriate. This would also preserve the enrollees' Pool lifetime maximum benefit. Mr. Kellogg reported he is working with BCBSTX to review "J Code" drug data to identify additional medications that may be candidates for restriction to the pharmacy benefit to reduce Pool costs. Mr. Kellogg noted that he has developed a report to compare the costs of drugs in certain therapeutic classes across several risk pools and he will begin sharing that comparative data soon. Mr. Kellogg discussed other topics with the Board, including an H1N1 update, specialty drug issues, and Pool savings from recent significant generic launches.

C. Report from BlueCross and BlueShield of Texas

Following Mr. Naiser's corporate update, Ms. Walker updated the Board about various projects. As a follow up to the May meeting, Ms. Walker confirmed that BCBSTX allowable amounts average higher than Medicare allowables, but she is unable to provide a specific percentage rate, as rates vary by region and other factors. As requested, the Pool logo on the medical ID card had been resized and enlarged. The 24/7 nurse line service was activated for Pool members 05/21/2009, but she expects low participation until members are notified through the year-end notification packet. Ms. Walker discussed the new BCBSTX H1N1 initiative to encourage widespread vaccination. The \pm \$24 vaccine administration charge will be covered on a first-dollar basis and will not be subject to standard out-of-pocket deductibles and coinsurance. The federal government is providing the vaccine itself at no

charge. Mr. Browning noted that the other major carriers are implementing similar first-dollar coverage programs, even for their plans with no vaccination benefit. Most Pool enrollees will qualify for the high-risk priority distribution of the vaccine. If the Pool participates in the BCBSTX initiative and all members obtain the vaccine, he estimates a total maximum additional plan cost of \$470,000 from waiver of enrollee cost share. He stressed the importance of removing cost barriers for Pool enrollees to obtain this important vaccine. **Ms. McCandless moved to approve participation in the BCBSTX H1N1 vaccination initiative, waiving the member's Pool deductible and coinsurance. Ms. Paparelli seconded the motion and it was unanimously approved.**

Ms. Walker discussed the revised Pool ID card. Mr. Browning reported that he had asked Medco and BCBSTX to develop separate ID cards effective 01/01/2010. The current combined card does not provide enough room for all of the pharmacy copay information. In addition, many members call BCBSTX about pharmacy benefits and a separate pharmacy card should alleviate that service issue. Medco will not charge the Pool for generation of a separate pharmacy card.

Ms. Walker shared her analysis of continuous Pool enrollment data for currently enrolled members. She reported that almost 40% of the Pool's enrollees have been members for two or more years and \pm 38% of current members have been enrolled for three or more years. Of these members, heart disease was the most expensive chronic condition. Mr. Browning noted that in the past, disease management programs were problematic because of the high turnover rate in Pool enrollment but, as the average enrollment period is now increasing, it may be feasible to design a cost-effective, targeted chronic condition care program.

Ms. Gutierrez reviewed the Pool's operational reports and statistics. She reported that standard BCBSTX plans average 6 phone calls per member per year, while the Pool account averages 10 calls, excluding the many pharmacy-related calls that are redirected to Medco. Ms. Gutierrez noted the high rate of cancellation this year of members for non-payment of premiums.

Mr. Boen reported several management team changes, with Ms. Gutierrez assuming responsibility for claims management for all government accounts, including the Pool, and Michael Garcia becoming the operational lead for these accounts.

Ms. Walker reviewed the claims payment summary for the first half of the year, compared to the same period in 2008. She noted that 5% of the Pool's enrollees generated 60% of the medical claims paid and that half of the 100 highest-cost enrollees in 2008 are no longer enrolled. Ms. Walker presented updated case management activity through July 2009. She reported that Pool subrogation recoveries year-to-date averaged 76.5% of lien value, compared to a 75% corporate average.

Mr. Gary Brantz presented an actuarial cost trends analysis through May 2009 for the Pool. He compared the Pool's medical data to a BCBSTX comparison group composed of 300,000 individual policyholders. Mr. Brantz noted that inpatient care is the primary cost driver for both groups, but especially for the Pool. Admission rates and PMPM inpatient costs by diagnosis were presented. Mr. Brantz requested Board feedback for any specialized future reporting.

VI. Public Comment

Mr. Cole requested public comment. None was offered.

VII. Executive Session

At 1:20 p.m., Mr. Cole announced that the Board would go into Executive Session in accordance with the Texas Open Meetings Act (Subchapter D, Section 551) to discuss personnel matters and to seek the advice of counsel. He asked Board members, Pool staff and counsel to remain, and all others to rejoin the meeting upon conclusion of the Executive Session. Pool staff later left the Session when the Board began the discussion of personnel issues.

VIII. Approval of Any Executive Session Actions

At 1:50 p.m., Mr. Cole reopened the meeting to the public and staff and reported that there were items from Executive Session requiring Board action.

Mr. Barbutti moved, in recognition of Mr. Browning's contribution to the Pool as Executive Director, to increase his annual salary by \$10,000 effective October 1, 2009 and to provide an immediate bonus in the amount of \$5,000. Ms. Williams seconded the motion and it was unanimously approved.

Mr. Cole noted that the Board asked Mr. Browning to investigate programs offered by specialty vendors for enhanced management of the Pool's high cost claimants and to augment the management services now provided by BCBSTX. Other risk pools will be contacted to identify successful management programs for high cost conditions. Mr. Cole noted that Mr. Browning would report the results at a future meeting.

IX. Adjournment

Ms. Williams moved to adjourn the meeting, seconded by Dr. Emmick and unanimously approved. There being no further business, Mr. Cole adjourned the meeting at 1:52 p.m.