

MISSISSIPPI HEALTH INSURANCE EXCHANGE ADVISORY BOARD MEETING

MISSISSIPPI INSURANCE DEPARTMENT

JULY 11, 2012

9:30 AM – 12:00 PM

WOOLFOLK STATE OFFICE BUILDING – ROOM 145

JACKSON, MISSISSIPPI

MEETING MINUTES

I. Roll Call: Kathryn Gilchrist, Attorney, Adams and Reese, LLP

○ **Board Members present:**

Ms. Geroldean Dyse

Mr. Robert Pugh (*Proxy: Ms. Myrtis Small*)

Ms. Mary Werner

Ms. Therese Hanna

Mr. Roy Mitchell (*Proxy: Ms. Keri Abernathy*)

Ms. Teresa Malone

Mr. Joel Jasper

Dr. Claude Brunson

Ms. Lee Ann Griffin (*Proxy: Dr. Joe Files*)

Ms. Stephanie Barnes Taylor

Mr. Gary Ben

Mr. Bill Oliver

Dr. Jason Dees

Ms. Kathryn Gilchrist, legal counsel to the Mississippi Health Insurance Exchange Advisory Board (“Advisory Board”), verified that a quorum was present.

○ **Attendees:**

Mr. Aaron Sisk, Ms. Maris Cooper, Ms. Kaylea Crabbe, Ms. Michelle Partridge, Ms. Misty Watson, Ms. Liz Barnett, and Mr. Drew Weiskopf: Mississippi Insurance Department

Ms. Cheryl Smith, Ms. Kathryn Toone, and Mr. Parker Larson: Leavitt Partners, LLC

Ms. Kathryn Gilchrist and Mr. Brant Ryan: Adams and Reese, LLP

Mr. Lanny Craft: Mississippi Comprehensive Health Insurance Risk Pool Association

II. Welcome and Introductions: Mr. Aaron Sisk, Senior Staff Attorney, Mississippi Insurance Department

Mr. Sisk welcomed the Advisory Board members and public attendees to the meeting. Mr. Sisk stated that Dr. Jason Dees will now be serving as chair of the Health Insurance Issuers Subcommittee and Mr. David Buchanan has agreed to continue to serve as a Subcommittee member.

III. Updates and Announcements: Mr. Lanny Craft, Executive Director, Mississippi Comprehensive Health Insurance Risk Pool Association

Mr. Craft stated that the Mississippi Legislature created the Mississippi Comprehensive Health Insurance Risk Pool Association (“MCHIRPA”) in 1991. After the passage of the Patient Protection and Affordable Care Act (“PPACA”), Insurance Commissioner Mike Chaney requested that MCHIRPA serve as the business side of the Exchange. Mr. Craft discussed the “shop and compare” platform found at www.onemississippi.com, which became operational on July 1, 2012, and can be used today by Mississippi residents to purchase insurance policies. He stated that www.onemississippi.com serves both as an access mechanism for people to shop for insurance policies on the internet, as well as an informational mechanism to learn about the Exchange.

Mr. Craft stated that a live call center is available through the platform vendor as well. The next step is to select a vendor to implement the remaining requirements of a PPACA-compliant Exchange required to be in place by January 2014. Mr. Craft reported that proposals have been received and the evaluation process of these proposals is in progress.

Mr. Aaron Sisk, Senior Staff Attorney, Mississippi Insurance Department:

Mr. Sisk noted that he attended the National Association of Insurance Commissioners (“NAIC”) Interim Meeting in Washington, D.C., on June 26-27, 2012. Meeting attendees evaluated and voted to adopt white papers focusing on plan management, including: rate review, network adequacy, marketing and consumer information, quality and accreditation, and form review. Mr. Sisk stated these white papers, which will now be presented to the NAIC Executive Committee, can be found on the NAIC website and that the public comment period is still open.

Mr. Sisk updated the Advisory Board on the Mississippi Health Insurance Exchange Community Outreach and Education Program. Three proposals were received for the grassroots, door-to-door campaign. Volunteers from the Advisory Board reviewed each proposal and came to a unanimous decision on a recommendation to the Mississippi Insurance Department (“MID”). MID is currently conducting contract negotiations with the recommended vendor. Once the Personnel Services Contract Review Board has approved the contract an official announcement will be made.

IV. Presentation of the U.S. Supreme Court Ruling on the Patient Protection and Affordable Care Act: Ms. Kathryn Gilchrist, Adams and Reese

Ms. Gilchrist gave a summary of the U.S. Supreme Court decision on PPACA, issued on June 28, 2012, as follows:

The Anti Injunction Act provides that lawsuits cannot be maintained to keep the Government from collecting taxes. The Supreme Court determined that the penalty for noncompliance with the individual mandate is a penalty and not a tax, and therefore, the case should proceed.

Second, the Court held that Congress can regulate commerce but it cannot create commerce, therefore, the Commerce Clause does not permit PPACA’s Individual Mandate (requiring nearly all Americans to purchase health insurance). The Court did find, however, that Congress can impose the Mandate and the penalty that follows for noncompliance under its taxing power.

Third, the Court found that the Federal government is not permitted to take away existing funding from State Medicaid programs in order to compel states to adopt a new Medicaid program. States will, however, still have the option to expand their Medicaid program for additional funding, thus leaving the expansion of Medicaid in jeopardy.

V. **Adoption of Advisory Board Meeting Minutes:**

A motion was made to adopt the meeting minutes from the fifth meeting of the Advisory Board, held on June 13, 2012. Said motion was made by Ms. Werner, seconded by Ms. Hanna, and approved by a unanimous voice vote of the Advisory Board members.

VI. **Presentation of Final Subcommittee Findings on Outreach, Education, Adoption and Enrollment: Ms. Cheryl Smith, Leavitt Partners**

Ms. Smith gave a summary of Subcommittee discussions on Outreach, Education, Adoption, and Enrollment. Ms. Smith stated there were clear opinions as to what the role of the navigator should be and the Subcommittees felt the role of the navigator is distinct from the role of a producer. Ms. Smith noted that Subcommittee members considered the navigator's role to include education and information distribution regarding the Exchange and that navigators should not enroll consumers into health plans or Medicaid. Subcommittee members felt once the individual is ready to enroll, he or she should then be directed to an agent or broker. Ms. Smith said the majority of Subcommittee members agreed that navigators should not be licensed producers and producers should not serve as navigators.

Regarding training and certification of navigators, Ms. Smith stated that it was generally agreed upon that certification is necessary, but licensure may be too restrictive. Several Subcommittees felt there should be pre-certification requirements as a matter of consumer protection, including background checks and credit checks. Some Subcommittee members felt the training program should last several months, while others felt that a one-day training program would suffice. It was agreed upon by Subcommittee members that training should be comprehensive and several Subcommittees suggested covering topics such as: HIPAA compliance; consumer protection standards; and

Exchange processes, terminology, and eligibility requirements. It was also mentioned that agents and brokers should be licensed and required to participate in training courses.

Ms. Smith stated that more discussion focused on education and outreach than training and certification. The Subcommittees felt that a combination of traditional marketing along with grass-roots efforts was critical. Outreach materials should be easy to understand, easy to remember, relatable, and maintain overall ease of use.

VII. Discussion of Final Subcommittee Recommendations on Outreach, Education, Adoption & Enrollment:

The Advisory Board members provided reports from their Subcommittee meetings:

Ms. Therese Hanna, Hard-to-Reach Populations Subcommittee:

Ms. Hanna emphasized that the Subcommittee felt cultural competency, communication, and customer service skills were important for training.

Dr. Jason Dees, Health Insurance Issuers Subcommittee:

Dr. Dees stated that social media would be critical for communication and marketing activities. He also stated that using professional medical organizations such as the Mississippi State Medical Association (“MSMA”) would be very important.

Dr. Joe Files, Public Health Experts Subcommittee:

Dr. Files served as proxy for Ms. Lee Ann Griffin. Dr. Files expressed that making a recommendation on the navigator program is difficult due to the lack of substantial guidance. The Subcommittee felt that it would be very beneficial to track the amount of traffic to www.onemississippi.com to measure the effectiveness of marketing strategies. Dr. Files noted that the Subcommittee discussed the frequency of training for navigators and also inquired as to who would have ultimate oversight over the navigator program.

Ms. Geroldean Dyse, Educated Health Care Consumers Subcommittee:

Ms. Dyse stated that the Subcommittee discussed messaging strategies for the marketing of the Exchange, in addition to the navigator program.

Dr. Claude Brunson, Large Employers Subcommittee:

Dr. Brunson stated that the Subcommittee felt training should be directed by the Mississippi Division of Medicaid and MID. Dr. Brunson noted the importance of a recognizable spokesperson for One, Mississippi marketing and advertising.

Ms. Keri Abernathy, Experience in Enrollment Subcommittee:

Ms. Abernathy served as proxy for Mr. Roy Mitchell. Ms. Abernathy stated that the Subcommittee felt community health centers should serve as the primary option for navigators to reach the neediest population. The Subcommittee felt that if producers are permitted to serve as navigators then compensation should be on an aggregated payment system. The suggestion was made that nonprofits should be compensated on a grant structure to assist individuals, whereas producers should be compensated on a fee based structure to assist small businesses. It was recommended that navigators and producers should exercise separate roles through the Exchange but remain as two cooperative bodies. If agents and brokers are allowed to be navigators then a conflict of interest provision should be instituted to prevent them from steering consumers toward any specific plans.

Ms. Abernathy discussed Subcommittee recommendations for the training of navigators. These recommendations included: education on the products offered through the Exchange, knowledge of eligibility for programs such as Medicaid and CHIP, processing of enrollment, document completion, calculation of the advanced premium tax credit, and privacy and security protections.

Mr. Joel Jasper, Health Insurance Agents and Brokers Subcommittee:

Mr. Jasper stated that the Subcommittee mainly focused on the roles of producers and navigators. The Subcommittee firmly believed that navigators and producers should not be executing the same roles. Mr. Jasper said the Subcommittee also felt that navigators should not be consulting or advising small businesses. Mr. Jasper stated that if the navigator program is not regulated by a government agency then the Exchange should be subject to an audit by a regulatory agency.

Mr. Bill Oliver, Health Care Providers Subcommittee:

Mr. Oliver reported that Ms. Smith's outline summarized most of the Subcommittees ideas. He emphasized that marketing and advertising should not be defined as such because it is not sales but, in fact, education. He stated that the Subcommittee felt that grassroots efforts and using chambers of commerce would be less costly and more effective than traditional media options.

Ms. Myrtis Small, Public Health Experts Subcommittee:

Ms. Small served as a proxy for Mr. Robert Pugh and she stated that Dr. Files previously provided an overview of the Subcommittee's meeting. Ms. Small also noted that the Subcommittee felt training should not be overly rigorous and navigators should have some knowledge of health insurance.

Ms. Mary Werner, Small Businesses and Self-Employed Individuals Subcommittee:

Ms. Werner stated that most of the Subcommittee's discussion was covered in Ms. Smith's presentation.

Ms. Teresa Malone, State Government Agencies and Divisions Subcommittee:

Ms. Malone said the Subcommittee discussed the potential of high turnover for navigator positions. Therefore, it was suggested that training should not be overly lengthy and rigorous as to dissuade people from serving as navigator, but should be substantial enough to keep turnover to a minimum. Ms. Malone stated that regulation and oversight of the navigator program should be through MID or MCHIRPA.

Mr. Gary Ben, Federally Recognized Tribes:

Mr. Ben stated that cultural competency and literacy levels were very important for education and outreach.

Ms. Stephanie Barnes Taylor, Health Care Providers Subcommittee:

Ms. Taylor commented that the timing of education and outreach activities is essential for enrollment, and individuals should be aware of what options are available for obtaining coverage prior to checking into an emergency room.

Honorable Mike Chaney, Commissioner of Insurance, Mississippi Insurance Department:

Commissioner Chaney stated his appreciation of everyone who attended the meeting. He stated that as a leader, he has a responsibility to keep the best interests of Mississippians in mind. Commissioner Chaney stated that it would be easier to take a “do nothing” approach, but there are 2.9 million Mississippians that he represents who would be affected if nothing were done. He stated that PPACA is the law of the land whether people like it or not. He stated that people cannot change the law except by an option of voting in the November elections.

VIII. Presentation and Discussion on Small Employer Participation Assignment: Ms. Cheryl Smith, Leavitt Partners

Ms. Smith presented on employer participation in the Exchange. Ms. Smith stated that the Advisory Board will be looking at making the small business exchange more appealing to small business owners and employees. Ms. Smith explained that an employer is eligible to purchase insurance through the SHOP exchange if they are recognized as a small employer and if they elect to offer coverage to all full time employees. Ms. Smith said that the federal definition of a small business consists of one hundred (100) or fewer employees; however, Mississippi state law defines small businesses as fifty (50) or fewer employees. Starting in 2016, a small employer will be defined as consisting of one hundred (100) employees or less. Ms. Smith said that states may authorize a minimum participation rate for employee participation in the SHOP Exchange but not participation in any single plan or with any single issuer.

Ms. Smith reviewed market research conducted last year on behalf of MID, which indicated that knowledge of health insurance exchanges was very low. She stated that the results showed concern from employers about the cost of health insurance and respondents showed interest in defined contribution plans as an option through the Exchange.

Ms. Smith discussed a defined contribution model, where the employer would select a dollar amount to provide for each employee purchasing through the SHOP Exchange and the employee has the option of using those funds to select a plan tailored to their health

needs. She stated that a defined contribution model would allow employers to control costs more effectively, reduce their administrative burden, and allow for premium aggregation.

IX. Other Business: Ms. Keri Abernathy, Health Help Mississippi

Ms. Abernathy stated that Health Help Mississippi (“HHM”) was in the process of developing outreach items targeted at young adults. She stated that HHM will be starting their campaign in mid-July, and these materials will be featured in local newspapers and through social media. Additionally, HHM will be at several college football games targeting young adult enrollment in health insurance coverage.

Mr. Aaron Sisk, Senior Staff Attorney, Mississippi Insurance Department:

Mr. Sisk discussed the Advisory Board meeting schedule for August. There will be a brief conference call among the Advisory Board members on Wednesday, August 8, 2012. The next meeting will be held on Thursday, August 30, 2012, in Biloxi, Mississippi.

Mr. Sisk stated that a few days prior to the meeting, MID received a request for public comment. He said that going forward there will be specific procedures for public comment at the Advisory Board meetings. Mr. Sisk noted that the Advisory Board was not created by statute but by the Commissioner of Insurance to involve as many stakeholders as possible and to give recommendations about Exchange policy development.

He stated that no request for public comment had ever been received prior to last week; therefore, organizational public comment procedures are now being developed. Any person is allowed to submit written public comment both to MID and to the Advisory Board. Mr. Sisk stated that all requests for public comment must be submitted in writing, that there will be a specific amount of time allotted at the end of each meeting for public comment, and that organizations must appoint one (1) representative to speak on their behalf. Mr. Sisk emphasized that there must be organizational structure and rules of decorum at each meeting.

Mr. Sisk then stated that he received a request from the Mississippi Tea Party (“MTP”) for Mr. Richard Wilbourn to speak to the Advisory Board on their behalf and MID decided that it was appropriate to allow Mr. Wilbourn fifteen (15) minutes to address the Advisory Board the end of the meeting.

Mr. Richard Wilbourn, Legal Counsel to the Mississippi Tea Party:

Mr. Wilbourn thanked Mr. Sisk for allowing him the opportunity to address the Advisory Board, and proceeded to urge MID and the Advisory Board not to continue with establishing a state-based exchange.

Mr. Aaron Sisk, Senior Staff Attorney, Mississippi Insurance Department:

Mr. Sisk thanked Mr. Wilbourn and the MTP for taking an interest in MID’s activities and stated his appreciation for their comments. He assured the MTP that MID has been following PPACA since its passage. Mr. Sisk emphasized that PPACA is the law and MID must act based on requirements in federal law. He stated that if the law is repealed, or even if a regulation is changed, MID will assess the situation appropriately. If the law stays in place then exchanges will remain a requirement in every state and will be run by the federal government if a state chooses not to implement a state-based exchange. Mr. Sisk thanked the MID staff and the Advisory Board for their hard work and dedication.

X. Adjournment

A motion to adjourn was made and seconded by the Advisory Board members.