

## **State of Kansas Employees Health Care Commission September 9, 2020**

### **CALL TO ORDER**

The State of Kansas Employees Health Care Commission (HCC) meeting was called to order on September 9, 2020 at 1:34 pm. The meeting was conducted virtually using GoTo Webinar following publication to the State of Kansas's Public Square web portal.

The following members were present:

- Chair DeAngela Burns-Wallace
- Commissioner Steve Dechant
- Commissioner Ximena Garcia, M.D.
- Commissioner Jose Castillo
- Commissioner Vicki Schmidt

The following staff and presenters were present:

- Mike Michael, SEHP director
- John Yeary, DofA Chief Counsel
- Natalie Yoza, EAC Chair
- Ken Viera, Segal Consulting
- Patrick Klein, Segal Consulting
- Dr. Vyas, Segal Consulting
- Courtney Fitzgerald, SEHP
- Pete Nagurny, SEHP

### **Welcome and Recognition**

Chair Burns-Wallace officially welcomed Jose Castillo to the HCC as this is his first meeting as a commissioner.

She also recognized Heather Young for her service. She began service in August of 2014. Her service and voice of her fellow employees has been invaluable.

### **ACTION ITEMS**

#### **1. Approval of the Minutes from June 16, 2020**

Commissioner Schmidt would like to see the following edits:

- Page 3 – 2<sup>nd</sup> paragraph – last sentence commission of insurance change to department of insurance
- Would like to receive PMIB fund balance
- Include been – looking for assumptions
- Page 5 – under reports, finance reports. Did Segal follow-up with Commissioner Dechant's previous request
- Page 6- the HCC instead of The HCC.

There was a motion to approve the minutes from the June 16, 2020 meeting by Commissioner Garcia as noted.

Commissioner Dechant declared a second.

Discussion: none

The motion passed without opposition.

## **2. Consideration of the Medicare Part D RFP Award**

Mike Michael, director of the SEHP, presented on RFP efforts regarding Medicare Part D.

*(Please reference attached memo from the SEHP staff)*

Questions:

Commissioner Dechant – Happy to see an alternative plan. Is there a way for members to check the formulary to see if their current Rx's will be included and/or if the costs will be different?

Mike Michael – said that yes, both of these are available. Part of the requirements are that there must be a formulary available in every category. Members current Rx's can also be grandfathered in. You will also be able to verify any cost differences in current plan vs new plan.

Commissioner Schmidt – Question for Dr. Vyas from Segal – Wondering where, under observations, what is included in the exclusions list that current members are taking? How many exclusions are there on the two plans?

Dr. Vyas – does not have the number currently with him but he could follow up.

Commissioner Schmidt – Still has concerns with the RFP process

Chair Burns-Wallace – Recognizes that this is an issue we discussed previously and will be proposing a separate meeting where commissioners can address process and strategy regarding HCC and SEHP operations.

Commissioner Schmidt – Would like to see some of the deep dive analysis that Segal referenced as well as a preset set of criteria that SEHP uses to evaluate RFPs.

Chair Burns-Wallace – Noted that it is important for the HCC to sit down and pull apart this process and document everything to their satisfaction moving forward. She also noted that the process currently used is not in any violation of the state's standard operating procedures. Requested that if any commissioner has any issues with this specific RFP, please let us know and we can delve deeper into those concerns so that the commission will feel comfortable making this decision today.

Commissioner Schmidt – Feels that she does not have all of the information she deems necessary to make a decision today.

Chair Burns-Wallace – If any commissioner does not feel comfortable today, please let me know or vote no on the issue. There is no issue today with the process being used. It is in no way illegal. She acknowledged that it is not currently a perfect process but is in compliance with current state policies and processes. Said that it is essential that we trust the staff at the SEHP and all of the work they do to analyze and summarize the data that is presented to us.

Commissioner Schmidt – Is in no way saying that anything is illegal. She has spoken to Chief Council and would like to see the existing procurement policies that the HCC follows and she has not been able to get that information so she'll be voting no on RFPs.

Commissioner Garcia – Is there a way to get customer service reports from the various bidders?

Mike Michael – mentioned that the SEHP conducts reference checks with various members to include customer service to both the plan and the members. SEHP also gathers and shares current member feedback.

Chair Burns-Wallace – Recognized the recommendation from Commissioner Garcia. Said that we'll hear from the EAC on an initiative they are working on to garner feedback directly from employees.

Commissioner Castillo – There are no questions but does recognize Commissioner Schmidt's concerns regarding trusting staff summaries and recommendations.

Commissioner Dechant – Were you aware of the 11%+ negative impact regarding the alternative plan?

Mike Michael – Yes, we were. However, it is expected when someone is going from a plan that costs \$190 per month to a plan that goes down to \$37 per month. It is the same when comparing any high-end product with a less expensive option.

Commissioner Dechant – Can you explain what would happen if we were to not offer Part D?

Mike Michael – It would require our members to go to the private market to secure any Part D Rx coverage for 2021.

Chair Burns-Wallace – What is the latest point in which we could make a decision regarding Part D?

Mike Michael – We are very near the threshold to be able to notify members in the timeframe.

Commissioner Schmidt – Expressed her concerns with the timing of this decision.

Mike Michael – This timeline is not set by SEHP. These companies require information from the Feds in order to provide bids for this coverage.

Commissioner Dechant made a motion to offer a three-year contract to Silver Scripts for the Medicare Part D coverage with 2 plan designs: premier and alternative.

Commissioner Garcia declared a second.

Discussion: None

The motion passed: 3 for and 1 against and 1 abstention: Schmidt (no), Dechant (Yes), Garcia (yes), Castillo (abstain), Burns-Wallace (Yes)

Commissioner Schmidt requested to explain her vote: "Madam Chair, I vote no on the awarding of the Pharmacy Part D program to SilverScript. At many HCC meetings, the Committee is called on to vote on awarding contracts without the opportunity to provide input into the need for such contracts or even the design of the contracts, including on such important matters like deliverables or the qualifications of bidders. Sometimes, the contracts involve millions of dollars, yet the HCC still does not have its own policies for the SEHP RFP process that would allow for informed decision making. Instead, it appears the HCC's practice has been defaulting to the general procurement processes used by the Department of Administration. It does not appear the HCC has made the affirmative decision

to use those processes, which given the exemptions set forth in K.S.A. 75-6504, seems like a matter that needs to be addressed by the full HCC. Once again, there was no opportunity for the HCC to ask questions of bidders in a meaningful timeframe. The guidelines utilized for the review of the bids have not been presented to the HCC and therefore a vote cannot be made without additional information. I cannot vote without making an informed decision. And without information I must vote no, especially considering the financial implications of such a contract.”

### **3. Consideration of Audit Services for the State Employee Health Plan**

*See attached memo from the SEHP.*

Questions:

Chair Burns-Wallace – How does the HCC and SEHP use this information?

Mike Michael – SEHP makes appointments to review the findings with the various companies and adjudicate any claims that are found to be improper. We also then publish the findings on the SEHP website.

Commissioner Schmidt – Can you tell us which vendors you have experience with?

Mike Michael – SEHP has worked with all but BMI. Has not had any issues with any of the previous companies.

Commissioner Schmidt – Would like to see inclusion of telehealth services.

Mike Michael – Previous to this year, telehealth has only had minimal use, but there will be a heightened focus moving forward. Similar to the previous audits regarding bariatric surgery when that was added as a benefit.

Commissioner Schmidt – Reviewing the bids and is curious as to why the one bidder is 30%+ less than all of the others. Expressed that the lowest cost is not always the best choice. Was this analysis done all by SEHP or was Segal also involved?

Mike Michael – SEHP staff checked references, used personal experiences and experience guarantees.

Commissioner Schmidt – Has concerns. What is our timeline?

Mike Michael – There is no timeline since it doesn't impact members. Referenced state requirements as to the exclusion of the lowest bidder without just cause. Deferred to legal counsel.

Chair Burns-Wallace – Asked that Tanner share any information regarding the procurement process. Reminded commissioners that they are able to push this issue for more information.

Tanner – It is not as clean as the process discussed. Does agree that if there isn't a clear-cut reason to exclude a bidder then the lowest bidder is typically selected.

Commissioner Dechant – Is concerned that there is a \$400,000 difference over the three-years of the contract. Thinks maybe the company uses this experience as a loss leader. He feels better considering the state has previously worked with Sagebrush and checked out references.

Commissioner Dechant made a motion to approve a three-year contract with Sagebrush for Audit Services

Commissioner Garcia declared a second.

Discussion: None

The motion passed: 4 for and 1 against and 1 abstention: Schmidt (no), Dechant (Yes), Garcia (yes), Castillo (Yes), Burns-Wallace (Yes), Commissioner Schmidt (No)

Commissioner Schmidt requested to explain her vote – “Madam Chair, I vote no on the awarding of the Audit Services RFP to Sagebrush for a period of three years. At many HCC meetings, the Committee is called on to vote on awarding contracts without the opportunity to provide input into the need for such contracts or even the design of the contracts, including on such important matters like deliverables or the qualifications of bidders. Sometimes, the contracts involve millions of dollars, yet the HCC still does not have its own policies for the SEHP RFP process that would allow for informed decision making. Instead, it appears the HCC’s practice has been defaulting to the general procurement processes used by the Department of Administration. It does not appear the HCC has made the affirmative decision to use those processes, which given the exemptions set forth in K.S.A. 75-6504, seems like a matter that needs to be addressed by the full HCC. Once again, there was no opportunity for the HCC to ask questions of bidders in a meaningful timeframe. Questions regarding the stark difference in the 4 bids and with regard to specific pieces of the audit services were asked of staff, but staff was unable to answer the questions. I cannot vote without making an informed decision. And without information I must vote no, especially considering the financial implications of such a contract.”

#### **4. Consideration of the Naturally Slim Point Value**

*See attached memo from the SEHP.*

Questions:

Commissioner Garcia – Curious to where it falls on the scale of the number of points and is it a lot or not? Weight loss is hard and should be awarded accordingly. Would like to see feedback from the survey.

Commissioner Dechant – How much does this cost per year (\$140-ish per person per year). Would concur to take no action at this point as he feels that it needs to be looked at in context of the rest of the program.

Chair Burns-Wallace – Even if Plan Year 2021 materials are published, could the HCC potentially make changes to HealthQuest later this year?

Mike Michael – Yes. There would be communication necessary, but the HCC may make any changes they wish.

Commissioner Schmidt – Thinks that for the cost to the program, that the number of points seem high. There is no accountability included in the Naturally Slim program. In 10 weeks, the average weight loss is only 5 pounds. Feels that someone with a low BMI should not be accepted into the program. Feels that is a waste of funds. Feels that this program needs to be reworked. Feels that if the credits are decreased that the participation rate for the program would be significantly lower. Feels that \$2million/year is too much for this program.

Mike Michael – Curious as to who/how those people she mentioned with a low BMI were admitted to the program as that is a requirement to prevent that from happening.

Chair Burns Wallace – Expressed that this is a topic she has identified to look into at a deeper level at the strategic session and then bring a more comprehensive action to a later meeting.

No motions were made. It has been tabled to a future meeting.

## REPORTS

### **5. Employee Advisory Committee Report from the July 30, 2020 meeting**

Natalie Yoza, EAC president, presented a summary of the July EAC meeting.

Noted that the EAC applications are available on the EAC website

At the previous meeting, representatives from KU presented to the EAC regarding potential ADA concerns with the HQ program. The EAC is working with the SEHP, KS Commission on Disability Concerns.

Looked into the statute that establishes the makeup of the HCC. The EAC is interested in amending this statute so the makeup of the HCC matches the makeup of the current employee workforce. Currently reaching out to other stakeholders and researching potential impacts to all involved. Will review in more detail at the November meeting.

The EAC did discuss how the credit are awarded for Naturally Slim. Feels the program may be weighted a bit heavier than some other key activities.

The EAC is currently working on a 40-question survey to be deployed following open enrollment. The EAC will be working with the Docking Institute at FHSU to produce some reliable and valuable input from members.

EAC will be meeting in November at a date to be determined.

#### Questions:

Commissioner Schmidt – Thanked for the group. Asked as to why someone in her office would receive the HQ survey if they do not have state health insurance.

Mike Michael – The survey went to all benefits-eligible employees even if they don't have state health insurance or not as they still have access to Health Quest, but they wouldn't receive rewards.

Commissioner Schmidt – Would like to see separate analysis of those that participate in the health plan vs those that don't participate. Thinks this makes the entire data set invalid.

Commissioner Dechant – Compliments Natalie and the EAC on their proactive work to improve the health plan.

Commissioner Garcia – Agrees with what Commissioner Dechant said.

### **6. Contracts Report for Contracts Ending December 31, 2021**

*See associated memo*

Questions:

Commissioner Schmidt – When would the RFPs be published for these?

Mike Michael – Internal review has already begun but the release would be based upon the forthcoming meeting.

## **7. Finance Report – Segal**

*See attached documents from Segal Consulting.*

Segal consultants noted that the attachments now included the changes to plan design made for plan year 2021 into the future projections.

Questions:

Commissioner Schmidt – Asked if Segal was able to follow-up with Commissioner Dechant’s previous request regarding the loss ratios.

Segal – Yes, this is what is titled the Loss Ratio Report

Commissioner Dechant – There is no reference in which to compare. Can you speak to the ratios?

Segal – Noted that going back five years wouldn’t be helpful as the plans have gone through some significant changes over the past 5 years. Looking at the ratios, the Employee/Spouse tier is the only one that is off. Plan A is losing slightly but other plans are contributing to the surplus.

Commissioner Dechant – Requested to see this report annually, probably in March prior to any significant plan design decisions.

## **OLD BUSINESS**

## **8. Items**

### **COVID-19 & SEHP**

See Associated memo.

Questions:

Commissioner Schmidt – Asked that SEHP staff follow up to see what the cost difference for the plan is for tests performed at the HealthQuest Health Center versus testing at other locations.

Mike Michael – Testing at the HealthQuest Center is at no cost to the plan as it is done through the KDHE lab.

Commissioner Schmidt – Noted that there were three individuals with incorrect COVID billing within a single agency. She finds it difficult to believe that there were only three members with incorrect COVID billings and that they were all in the same agency. She noted that KID staff have had some success at locating these errors by working with commercial carriers to pull results for all treatments received the same day as the COVID test, not just using the COVID-specific billing codes.

Chair Burns-Wallace - SEHP to get with Insurance Commissioner’s staff to look into methodology to understand COVID billing and how we can all work together.

Commissioner Schmidt – Do we have any metrics to track the turnaround time on testing? The Insurance Department doesn't have jurisdiction over time to return tests but feels that it is essential for the state in terms of preventing spread amongst employees.

Chair Burns-Wallace – this leads into a much larger conversation. It was started at the SPARK committee and how the type of test, the individual lab have an impact on the results turn time.

\*\*SEHP to follow up with information regarding charges for testing at Marathon and results turn time for employees.\*\*

Chair Burns-Wallace – Wants everyone to think about how we can partner with KDHE and our providers to incentivize them to get the flu shot.

Commissioner Schmidt – Wants to encourage people that it's not too early to get your vaccination. Thinks we should encourage employees to get their flu shot through communication. Spread the message that they are at no cost as long as you get the vaccination and run it through insurance. Wants us to message to those 65+ that they should get the appropriate dose (HD).

### **Rule & Reg Change Regarding the 30-day Waiting Period**

Mike Michael – this is in process but there are quite a few steps along the way.

Chair Burns-Wallace – can you please share the redlined copy with the commission? Let everyone know that this process does take quite some time.

Commissioner Schmidt – The first step is to submit to the Division of the Budget, when do we expect to do that?

Mike Michael – Not sure of the date this will go to the Division of the Budget but will follow up with the commission with all of the steps and the anticipated timeline.

### **PMIB Follow-up Information**

Mike Michael – Commissioner Schmidt inquired last meeting about the SEHP investment with PMIB – Executive director. The State Employee Health Plan funds are managed by the Pooled Money Investment Board. According to the Executive Director & Chief Investment Officer of the Pooled Investment Board, "The portfolio is structured to meet the State's cash flow needs, keeping safety and liquidity as the primary objectives while striving to attain a market rate of return... Safety, Liquidity, then Yield." The State Employee Health Plan funds are treated no differently than the other state funds. The Executive Director & Chief Investment Officer of the Pooled Investment Board stated, "As defined in State Statute, all unexpended State funds are to reside in the State Treasury and are invested as one large State Portfolio."

Kansas State Statutes define the list of permitted investments for the Pooled Money Investment Portfolio (PMIP) which are highly liquid, high quality, short-term fixed income investments. The list of the permitted investments can be found on their website at [https://pooledmoneyinvestmentboard.com/forms/invest\\_policy\\_2020.pdf](https://pooledmoneyinvestmentboard.com/forms/invest_policy_2020.pdf).

Not every state agency is credited with the interest. Legislative Authority determines if specific agencies are able to earn interest. State Statute requires the interest is to be credited to the

account by the 10<sup>th</sup> of each month. The Executive Director & Chief Investment Officer of the Pooled Money Board stated, “The Federal Open Market Committee (FOMC) lowered their short-term benchmark target rate (Fed Funds Rate) to a range of 0.00% to 0.25% in March (2020) as a result of the significant economic impact of the COVID-19 Pandemic.....Fed Watchers and Market Participants alike expect the FED to keep their short-term benchmark rate unchanged for a sustained period of time.....to put that expectation into some context, the last time the FED moved their benchmark to the current ‘target range’ was December, 2009 (Financial Crisis)....it remained there for seven (7) years (December, 2016) before they began to raise rates gradually.”

The rates have been trending down and as of August 2020 is .177% and it is expected to continue to trend down in the current environment.

## **NEW BUSINESS**

### **9. Items**

#### **Proposal of Commissioners Strategy Meeting**

Chair Burns-Wallace – has worked with legal counsel to locate KSA 75-6504 that allows the HCC to meet to discuss strategies and negotiations considering healthcare matters. It also covers meetings regarding individual identifiable members.

Some of the conversations that the HCC needs to have to discuss, research and strategically understand plans and rates as well as the wellness plans as well as the RFP process and policies.

The commitment is that there is no binding action, just preparation to better understand the plan and elements.

Proposes to have this meeting in October so that everyone is better prepared to address some of these things moving forward. Would like to get RFP process covered first.

Information from Legal Counsel: Under the HCC statutes there is a subsection of K.S.A. 75-6504 which provides that KOMA does not apply to meetings of the HCC when the commission meets solely for the purpose of:

- 1) discussing and preparing strategies for negotiations for such plans and contracts; and
- 2) considering health care matters relating to individually identifiable plan participants.

The “such plans and contracts” phrase refers to the state health care benefits program plans and contracts associated with it. Discussing and preparing strategies for the plans and contracts is a very broad mandate that would allow for an HCC member and invitee-only retreat/strategy/educational meeting for commissioners to learn about all aspects of the plan and contracts associated with the plan. It could be made clear that no binding action would occur at any such meeting.

Commissioner Schmidt – Requests to have this meeting in-person.

#### **Marathon financial and visit data**

Commissioner Schmidt – How does Marathon Health get paid? Her understanding is that the EOBs don’t come from BCBS or Aetna. Where does that land in the financials? Where’s the encounter data? Her understanding is that they don’t submit their visit data to SEHP contractors. She has some concerns with an incomplete health history that a patient’s information doesn’t get submitted to the commercial carriers. If an employee is on plan C or N how is their copay/coinsurance accounted for if it isn’t submitted to BCBS or Aetna?

**\*\*SEHP Staff to follow up\*\***

### **Surency Vision Plan Benefits**

Commissioner Schmidt – She has become aware that some people with Surency went to get sunglasses and has the enhanced plan, picked out lenses and frames and once selected, they were informed that Oakley and Maui Jim are excluded from coverage. She asked where this exclusion is noted for employees and noted that she was unable to find this information.

Chair Burns-Wallace – asked that these types of one-off issues leverage the SEHP staff and allow them to look into these things individually. It is more appropriate to see if something is individual or systemic in nature.

### **FUTURE MEETINGS**

- **December 7, 2020**
  - Commissioner Schmidt is busy that entire week.
- **It was agreed upon to meet December 14 at 1:30 pm.**
  - Looking to meet board members in person and stream the meeting for audience.

### **ADJOURNMENT**

There was a motion to adjourn by Commissioner Schmidt.

Second by Commissioner Garcia

All in favor.

The meeting was adjourned at 4:50 pm.