

STATE OF KANSAS - STATE EMPLOYEES HEALTH CARE COMMISSION

MEETING MINUTES - ADOPTED

August 23, 2021 - 1:30 PM

KPERS Board Room, 611 S. Kansas Ave., Topeka, KS

The Kansas - State Employees Health Care Commission (HCC) meeting was called to order on Monday, August 23, 2021, at 1:35 pm. The meeting was conducted in person at the KPERS Board Room, in Topeka, KS with a virtual video broadcast available to the public using GoTo Webinar following publication to the State of Kansas's Public Square web portal and SEHP website.

The following members were present:

- Chair DeAngela Burns-Wallace
- Commissioner Steve Dechant
- Commissioner Vicki Schmidt
- Commissioner Carolyn McGinn
- Commissioner Brenda Landwehr
- Commissioner Sandy Praeger
- Commissioner Rebekah Gaston

The following staff were present:

- Janet Stanek, SEHP Director
- Mike Michael, SEHP Deputy Director
- Paul Roberts, SEHP Sr. Manager
- John Yeary, DofA Chief Counsel
- Ken Vieira, Segal Consulting (virtually)
- Patrick Klein, Segal Consulting (virtually)
- Courtney Fitzgerald, SEHP
- Pete Nagurny, SEHP Sr. Manager
- Jennifer Flory, SEHP
- Laurie Knowlton, SEHP Sr. Manager

| Topic | Discussion | Action | Follow-up |
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| Welcome and Introductions | <p>Secretary Burns-Wallace welcomed the commissioners and those listening in. She reminded all commissioners to please identify themselves when speaking for those listening on the phone.</p> <p>Secretary Burns-Wallace notified the Commission that the governor has appointed two new commissioners: Sandy Praeger as the representative of the public and Rebekah Gaston as the state employee representative.</p> <p>Both new members greeted the commission and gave a brief introduction.</p> <p>Secretary Burns-Wallace also thanked Jose Castillo for his service to the HCC.</p> | | |
| 1. Approval of Minutes a. June 18, 2021 [Action Item] | <p>Commissioner McGinn requested clarification as to the style of the minutes, whether it be conversational or summary</p> <p>Janet Stanek requested feedback from the commission as to the style they prefer.</p> <p>Commissioner Schmidt noted that she does not want to utilize the transcript message.</p> <p>Commissioner Dechant stated that he prefers the current method of summarizing the conversations.</p> <p>Commissioner Praeger requested that the minutes reflect the action that was taken at the meeting as transcripts are too tedious.</p> | <p><i>Commissioner Schmidt made a motion to approve the minutes for 06/18/21.</i></p> <p><i>1st – Commissioner Schmidt</i> <i>2nd – Commissioner Dechant</i></p> <p><i>All in favor, none against, the motion passed.</i></p> <p>The 06/18/21 Minutes were approved.</p> | |

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| | | <p>Commissioner Schmidt made a motion to approve the meeting minutes from 07/23/21.</p> <p>1st – Commissioner Schmidt 2nd – Commissioner McGinn</p> <p>Vote: All in favor, none against, the motion passed.</p> <p>The 07/23/21 Minutes were approved</p> | |
| <p>2. Employee Advisory Committee Update</p> | <p>Secretary Burns-Wallace thanked Hannah for her service while Natalie Yoza was out on maternity leave.</p> <p>Hannah Rich updated the HCC regarding happenings of the 08/19 EAC meeting. A membership subcommittee was formed to review applications for 5 vacancies coming 01/01/22. Alexandra Blasi will chair this committee. The EAC will next meet on Nov. 10.</p> <p>Hannah Rich updated the HCC regarding the discussion had by the EAC at the 08/19 EAC meeting regarding the HealthQuest Health Center operated by Marathon Health. She noted that many members were not in the Topeka Metro area but that telehealth benefits through the center would be a tremendous benefit to SEHP members. She also noted that there were quite a few</p> | | <p>Commissioner McGinn requested to receive a copy of the EAC Survey results from last fall.</p> |

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| | <p>members that expressed positive experiences with the Health Center.</p> <p>Commissioner Schmidt asked Hannah if the EAC reviewed the survey results.</p> <p>Hannah Rich noted that the EAC looked at the summary stats from the survey</p> | | |
| 3. SEHP Director Report | <p>Janet Stanek provided the HCC an update regarding SEHP staff projects. (See attached presentation)</p> <p>Commissioner Schmidt asked who would be updating the SEHP plan documents to meet the requirements of the No Surprise Act.</p> <p>Janet Stanek noted that Segal will be working with SEHP staff to make the necessary changes as a project included in current costs. She also noted that the Plan Documents were already scheduled to be refreshed in 2022.</p> <p>Commissioner Praeger asked if the Federal Government has finished the final rules and regulations for the No Surprises Act.</p> <p>Janet Stanek said that she believes it to be the final guidelines.</p> | | |
| 4. Finance Report | <p>Patrick Klein and Ken Vieira presented the quarterly financial report. (See attached materials)</p> <p>Commissioner Landwehr requested a comparison of the rates SEHP retirees pay</p> | <p><i>Commissioner Schmidt made a motion: "I move that the HCC open discussions with the Kansas Attorney General to offer independent counsel to the Health Care</i></p> | <p>Commissioner Landwehr requested a comparison of the rates SEHP retirees pay for the Medicare-related plans vs. what rates are available on the private market and if that should be an ask of</p> |

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| | <p>for the Medicare-related plans vs. what rates are available on the private market and if that should be an ask of the SEHP or of the Insurance Department.</p> <p>Commissioner Schmidt offered to provide the rates from the Insurance Department to Commissioner Landwehr.</p> <p>Commissioner Praeger noted that retirees are each going to be shopping available plans on both the public market and through the SEHP to determine what is best for their own situation.</p> <p>Commissioner Landwehr asked how employees know about the Medicare options available to them?</p> <p>Secretary Burns-Wallace asked that further discussion regarding Medicare-related plans be held until the next agenda item.</p> <p>Commissioner Schmidt inquired as to the breakout of the contract fees line (p.36 of the meeting materials) and if that was included. She noted that there are differences between contracted expenses and amendments to contracts. She expressed that the HCC should have input on contractual amendments and should receive independent counsel regarding this topic.</p> <p>Discussion on the motion: Commissioner Gaston asked why a private office wouldn't be hired instead?</p> | <p>Commission. The Attorney General's office has a legal opinions and government counsel division that would be appropriate for the job at hand.</p> <p><i>This motion is not a negative reflection on the counsel from the Department of Administration. However, they directly report to one commissioner. The HCC now has 7 members, two of which are from the Legislature; one is a statewide elected official; and one a Governor's cabinet member. Collectively, we are an independent agency that deserves independent counsel. The AG's office has open meetings and the type of general counsel expertise we need.</i></p> <p>Commissioner Landwehr declared a second.</p> <p>Commissioner Landwehr made a substitute motion to defer this topic to the next meeting so that additional research could be done.</p> | <p>the SEHP or of the Insurance Department.</p> <p>Commissioner Landwehr requested that someone from staff reach out to the AG's office regarding available services and inquire as to what services they are currently providing for other boards and commissions.</p> |
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| | <p>Commissioner Schmidt noted that the Attorney General's office currently provides counsel to many state boards and commissions.</p> <p>Commissioner Dechant expressed his preference to defer this to a future meeting so that additional information and research could be done.</p> <p>Commissioner Schmidt noted the fiduciary responsibility of the HCC and that she has not seen any amendments to existing contracts.</p> <p>Discussion on the Substitute Motion:</p> <p>Commissioner Schmidt suggested having the AG's office present to the HCC regarding legal counsel services that may be available.</p> <p>Commissioner Gaston requested that the HCC have a discussion to first decide if the body needs an outside attorney, what an outside counsel would do and how often they would be needed.</p> <p>Commissioner Landwehr requested that someone from staff reach out to the AG's office regarding available services and inquire as to what services they are currently providing for other boards and commissions.</p> <p>Commissioner Praeger requested that the conversation be kept general.</p> | <p>Commissioner Schmidt declared a second.</p> <p>Vote on the Substitute Motion to defer the topic of independent legal counsel to the next meeting so that additional research could be done:</p> <p>All in Favor, none against.</p> <p>The substitute motion passed to gather information regarding independent counsel.</p> | |
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| | <p>Secretary Burns-Wallace asked that commissioners send specific requests to Janet Stanek so that information can be researched.</p> | | |
| <p>5. Contract Recommendations</p> <p>a. Medicare Advantage Contract</p> | <p>Janet Stanek provided a review of the RFP process and recommendation. (See attached materials)</p> <p>Commissioner Dechant requested Janet to go into more detail as to why the HealthPlan recommends the Aetna dual option vs. the single option with Humana.</p> <p>Jennifer Flory noted that simplifying the plan offerings may promote better enrollment and eliminate confusion caused by having so many options.</p> <p>Janet Stanek noted that Aetna offered three plan options, but the SEHP is recommending only offering two options (Freedom and Elite) that include Standard Part D.</p> <p>Commissioner Landwehr requested clarification that the proposed rates do include Part D since there is a significant drop in cost.</p> <p>Janet Stanek confirmed that the rates presented were correct and inclusive of Part D.</p> | <p><i>Commissioner Praeger made a motion to accept SEHP staff's recommendation to award the 3-year Medicare Advantage contract to Aetna for Freedom and Elite plans inclusive of Standard Part D.</i></p> <p><i>1st – Commissioner Praeger</i> <i>2nd – Commissioner Dechant</i></p> <p><i>Vote:</i> <i>6 in-favor, Commissioner Schmidt against.</i></p> <p><i>The motion passed.</i></p> | |

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| | <p>Commissioner Landwehr asked what the plan does to ensure members enroll in the best plan for them and their situation.</p> <p>Janet Stanek noted that the SEHP does not decide for members as to what plan is best but has a call center that can direct members to the correct resources to have their discussions, referring members to vendors and assisting with the completion of enrollment forms.</p> <p>Commissioner Landwehr expressed concerns that the call center staff may be inadvertently providing advice to members.</p> <p>Janet Stanek reinforced that the call center employees only transfer calls to the licensed vendors and explain what options are available.</p> | | |
| <p>5. Contract Recommendations</p> <p>b. Medicare Supplement Contract</p> | <p>Janet Stanek provided a review of the RFP process and SEHP staff recommendation. (See attached materials)</p> <p>Commissioner Schmidt noted that the Insurance Department offers some private market comparisons on their website.</p> | <p><i>Commissioner Dechant made a motion to approve staff's recommendation for a 3-year contract for Medicare Supplement plans to Blue Cross Blue Shield of Kansas.</i></p> <p><i>1st – Commissioner Dechant</i> <i>2nd – Commissioner Praeger</i></p> <p><i>Vote:</i> <i>6 in favor, Commissioner Schmidt against.</i></p> | |

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| | | <i>The motion passed.</i> | |
| 5. Contract Recommendations c. Actuarial Contract | <p>Janet Stanek provided a review of the RFP process and SEHP staff recommendation. (See attached materials)</p> <p>Discussion on the motion:</p> <p>Commissioner Dechant inquired if it is a requirement to award to the lowest bidder.</p> <p>Secretary Burns-Wallace clarified that there is no state requirement to award to the lowest bidder.</p> | <p>Commissioner Praeger made a motion to approve staff's recommendation to approve Segal for the 3-year actuarial contract.</p> <p>1st – Commissioner Praeger 2nd – Commissioner Dechant</p> <p>Vote: 6 in favor, Commissioner Schmidt against.</p> <p>The motion passed.</p> | |
| 5. Contract Recommendations d. Health Center Recommendation | <p>Janet Stanek provided a review of the process to date and staff recommendation. (See attached materials)</p> <p>Commissioner Schmidt referenced statewide telehealth stats pulled from state data showing an increase from 1,800 appointments statewide in Feb. 2020 to upwards of 75,000 per month statewide at the end of 2020.</p> <p>Commissioner McGinn requested that the HCC have a conversation surrounding what elements of the contract should be renegotiated.</p> | <p>Commissioner Schmidt made a motion, <i>"I move that the Health Care Commission non-renew the Marathon Health Center contract AND terminate the lease. The onsite health clinic was a pilot project that has not shown to be successful at delivering cost effective care to a large number of state employees. Quite simply, at more than \$2 million per year, the State should receive far greater benefits than we have received. Continuing to spend money</i></p> | <p>Commissioner Schmidt requested that the number of COVID tests performed by the Health Center be provided to the commission.</p> |

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| | <p>Janet Stanek clarified the telehealth discussion by noting that expansion of telehealth statewide would be possible. She also noted that SEHP would engage Segal to review the existing contract for additional opportunities.</p> <p>Commissioner McGinn requested that the services provided and how members are charged for use of the facility be further discussed. She mentioned the possibility of charging those outside a 30-mile radius differently.</p> <p>Commissioner Praeger expressed her support of pushing telemedicine statewide through the Health Center. She also expressed the need to promote the service more aggressively.</p> <p>Secretary Burns-Wallace noted that the commission will need to have a strategic discussion in the future to determine what the balance should be between the original legislation, the RFP that was awarded and what is in place today.</p> <p>Commissioner Schmidt inquired as to the current costs and availability of telehealth services.</p> <p>Paul Roberts noted that both Blue Cross and Aetna have telehealth providers. Plan A members pay \$10 per visit and Plans C, J, N and Q members pay \$47 or more per visit</p> | <p><i>on this project, with this vendor, is the wrong move.</i></p> <p><i>Structurally, the costs to the State Employee Health Plan for subsidizing Marathon's employees and paying for most overhead costs just doesn't make sense. I recognize that one of the options presented by the SEHP staff is to extend the Marathon contract and try to renegotiate. However, I think that is a flawed strategy, and wishful thinking that the project will ultimately be worth the cost.</i></p> <p><i>I will not foreclose the possibility of a future endeavor to provide population health services to state employees, including legislators from across the state. We need to consider other vendors and include telehealth. The contract is up, it should not be renewed."</i></p> <p><i>No second was made</i></p> <p><i>Commissioner Landwehr made a motion for SEHP staff to enter into</i></p> | |
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| | <p>until their deductible has been met, depending on the type of service.</p> <p>Commissioner Landwehr expressed concern with the current state of performance guarantees and that Marathon has met approximately half of them.</p> <p>Commissioner Praeger expressed support of extending the current contract by a year to develop a clarified RFP. She also noted the need to fully market to the membership.</p> <p>Larry Morrissey, VP of Government Affairs from Marathon Health, was in the audience and was called before the Commission. Mr. Morrissey deferred to Marathon CEO Dr. Jeff Wells who was participating virtually.</p> <p>Dr. Wells noted Marathon’s spirit of flexibility throughout the past year. He called attention to the SEHP’s financials and the projected growth of claims costs. He explained that Marathon’s model gives the SEHP the ability to manage down the cost of healthcare. He referenced the 2,000+ members that have used the center to date, noting that their total medical costs when compared to those that didn’t use the Health Center were lower per member. He noted that the annual contractual review is set for next month, noting that if Marathon did not meet their performance guarantees for the year, they will compensate the state accordingly. He said that he would be willing to forego their contractual increase while maintaining the</p> | <p><i>negotiations with Marathon for a 1-year extension and bring it to the commission for review.</i></p> <p><i>1st – Commissioner Landwehr</i></p> <p><i>2nd - Commissioner McGinn</i></p> <p><i>Commissioner Praeger made a substitute motion to extend the contract for a year, renegotiate the current terms and issue a new RFP.</i></p> <p><i>Commissioner Gaston made a second.</i></p> <p><i>The substitute motion was withdrawn.</i></p> <p><i>Vote on the original motion to enter negotiations with Marathon for a 1-year extension to bring back to the HCC:</i> <i>6 in favor, Commissioner Schmidt against.</i></p> <p><i>The motion passed.</i></p> <p><i>Explanation of Vote:</i> Commissioner Schmidt requested to explain her vote: “I vote no on the motion to</p> | |
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| | <p>requirement of performance guarantees. He expressed concerns with uncertainty and the possibility of losing current staff.</p> <p><i>Discussion on the motion:</i></p> <p>Commissioner Dechant would like to call a special meeting in September to address this topic.</p> <p>Commissioner McGinn expressed support for the facility due to the unknown of this next phase of COVID and what the needs of employees may be.</p> <p><i>Discussion on the substitute motion:</i></p> <p>There was active discussion amongst all members of the commission regarding the merit of voting to extend the contract prior to negotiation of an extension.</p> | <p>award the consultancy contract to Segal. I have stated on multiple occasions my opposition to the process used by the HCC to award contracts, and this proposed award decision is also flawed. I incorporate those previous concerns into this explanation.</p> <p>But I also vote "no" because I don't believe this is a good contract for the state. Segal is nearly doubling its monthly rate for services that have not been met with satisfaction. Further, it seems that some of the services the State should have expected for the \$22,800 per month rate agreed to in 2015 were later considered "special projects." These special projects were billed separately. The 2015 contract stated the special project rate would be \$340 per hour, but then Segal charges more than that pursuant to the contract amendments.</p> <p>For example, Amendment 6, which was for a 2018 response to HHS on mental health parity, cost the SEHP an additional \$20,000 at \$400 per hour. Secretary Burns-</p> | |
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| | | <p>Wallace then entered into Amendment 7 to bring the total to \$110,000, also at \$400 per hour. I am also curious if my fellow commissioners knew that the benchmarking study, completed in 2020, cost another \$25,000, also at \$400 per hour.</p> <p>Amendment 9 is another mental health parity compliance amendment, also at \$400 per hour and not to exceed \$110,000. I don't recall the HCC being informed the contractor was seeking an additional \$110,000, especially for work we, as a Commission haven't seen.</p> <p>If Segal is awarded the contract, how much will it really end up costing?</p> <p>It certainly seems likely that had an HCC commissioner been part of the review of the bids when they came in, and had the HCC had a seat at the negotiating table, we would've had better options in front of us today.</p> <p>For these reasons I must vote no.”</p> | |
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| <p>6. Follow-up Items from 7/23/21 Meeting</p> | <p>Secretary Burns-Wallace noted that further discussion was requested regarding the efforts of Avēsis to recruit and contract with optometric providers.</p> <p>Janet Stanek noted that Avēsis is currently at 54% of their performance guarantee for recruitment.</p> <p>Secretary Burns-Wallace noted that further discussion was requested regarding pediatric bariatric surgery.</p> <p>Janet Stanek summarized the current status of bariatric and pediatric bariatric surgery (page 116 of the meeting materials).</p> <p>Commissioner Schmidt noted that there are 5 national facilities with a bariatric surgery center of excellence for adolescent bariatric surgery.</p> | | <p>Secretary Burns-Wallace asked staff to bring a recommendation to the commission at a future meeting regarding adolescent bariatric surgery. Please include the requirements of pre and post-surgery requirements and support.</p> |
| <p>7. Bid Protest Status</p> | <p>Secretary Burns Wallace provided a summary regarding the Bid Protest.</p> <p>The Health Care Commission returned to the meeting at 5:35 pm.</p> <p>Commissioner Schmidt requested to not be included in the letter in any way.</p> | <p><i>Commissioner Dechant made a motion to enter into executive session: “I move that the open meeting of the Health Care Commission, being held in the KPERS Board Room, be recessed for a closed, executive meeting pursuant to K.S.A. 75-4319(a), for consultation with an attorney for the Health Care Commission regarding the official protest of bid event EVT0007797 which would be deemed</i></p> | |

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| | | <p><i>privileged in the attorney-client relationship under the justification listed in K.S.A. 75-4319(b)(2), because discussion of such matters in an open meeting would waive attorney-client privilege; that the Health Care Commission resume the open meeting in the KPERS Board Room at 5:35 PM; and that this motion, if adopted, be recorded in the minutes and be maintained as a part of the permanent records of the Health Care Commission”</i></p> <p><i>2nd – Commissioner Landwehr</i></p> <p><i>All in favor, none against. Motion Passes.</i></p> <p><i>Commissioner Dechant made a motion to move forward as discussed in executive session.</i></p> <p><i>2nd – Commissioner Praeger</i></p> <p><i>Vote:</i></p> | |
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| | | <p>6 in favor and one abstention by Commissioner Schmidt.</p> <p><i>The motion passed.</i></p> | |
| <p>8. Procurement Process Discussion</p> | <p>Secretary Burns-Wallace referenced the documents in the meeting materials (page 127). She referenced that the end goal of the commission is to affirm a procurement process for the HCC.</p> <p>Commissioner Dechant asked what, if any, differences there may be from what is currently being done and what, if anything, is different from the current DofA procurement guidelines.</p> <p>Janet Stanek noted that the draft process follows what staff currently does. The difference from the existing DofA guidelines is the lack of a designated Procurement Negotiation Committee or PNC. In the SEHP, the negotiation committee is built from internal staff dependent upon what is being bid.</p> <p>Janet Stanek noted that another difference is regarding bid files. They are not currently held by DofA procurement but are held by the SEHP internally due to logistics.</p> <p>Commissioner Schmidt expressed her disappointment in the current process, being so close to the existing DofA process since the HCC is exempt. She requested to be</p> | | <p>Secretary Burns-Wallace proposed to come back to commissioners with a set of questions or a survey to get feedback: a list of clarifications and/or a list of changes to be considered to prepare for the next stage of the conversation.</p> |

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| | <p>able to submit suggestions and edits for the commission to discuss at a future meeting.</p> <p>Secretary Burns-Wallace clarified that the document presented was to be the starting point for discussion, formally documenting the process for the first time.</p> | | |
| 9. Upcoming Meetings | <p>The commission discussed upcoming needs and confirmed the following meetings, dates and times:</p> <ul style="list-style-type: none"> • Public Hearing on Proposed Rule & Regulation Change 9/9/21 • Wellness Program Closed Strategy Meeting – Rescheduled to Sept. 9 from 10-noon. • October Meeting – Monday, Oct. 18 at 11 am • Special Meeting to discuss the Marathon Contract for operation of the Health Center – Sept. 27 from 3-5 pm | | |
| 10. Adjournment | | <i>The meeting adjourned at 6:12 pm.</i> | |
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