

STATE OF KANSAS - STATE EMPLOYEES HEALTH CARE COMMISSION

MEETING MINUTES – Approved 08/23/21

JUNE 18, 2021, 12:30 PM

KPERS Board Room: 611 S. Kansas Ave., Topeka, KS 66603

The Kansas - State Employees Health Care Commission (HCC) meeting was called to order on Friday, June 18, 2021, at 12:33 pm. The meeting was conducted in a hybrid model with commissioners and SEHP staff 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 Jose Castillo
- Commissioner Vicki Schmidt
- Dr. Vermelle Brown-Ghoston

The following staff were present:

- Janet Stanek, SEHP Director
- Mike Michael, SEHP Deputy Director
- John Yeary, Department of Administration Chief Counsel
- Patrick Klein, Segal Consulting (virtually)
- Courtney Fitzgerald, SEHP
- Pete Nagurny, SEHP

Welcome & Introductions – Secretary Burns-Wallace

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. Secretary Burns-Wallace notified the commission of the additional board members that will be joining the group as of July 1 as part of the HB 2218 passage: Senator Carolyn McGinn and Representative Brenda Landwehr.

1. Approval of Minutes - Secretary Burns-Wallace

- a. April 27, 2021 **[Action Item]**

Commissioner Steve Dechant made a motion for approval.

Commissioner Jose Castillo declared a second.

All in favor, none against. Motion Passed.

- b. May 21, 2021 **[Action Item]**

Commissioner Steve Dechant made a motion for approval.

Commissioner Dr. Brown-Ghoston declared a second.

All in favor, none against. Motion Passed.

Reports:

2. Financial Report - Segal Consulting

Patrick Klein from Segal Consulting presented the Financial Report. See attachment.

Discussion:

Commissioner Schmidt - Can you clarify the difference between the reserve balance actual on page 1 vs the projected reserve balance? It looks like we will have a significantly higher balance than the projection.

Patrick Klein – It is in-part due to the seasonal fluctuation of claims.

Commissioner Schmidt – On page 5, employees are on the calendar year, where the employer's budget cycle is on the fiscal year (July 1-June 30).

Patrick Klein – all reports provided are in Plan Year which is equal to calendar year.

Secretary Burns-Wallace – we always look at things in terms of the plan/calendar year and coordinate appropriately with the Division of the Budget so they can adjust accordingly and accommodate when variations occur.

New Business:

3. Plan Year 2022 Design [Action Item] – Secretary Burns-Wallace

Secretary Burns-Wallace thanked commissioners for their input and participation throughout the preparation process and the previous modeling meeting in May. Would like to start things off with the following scenario based on feedback from the EAC, commissioner interests and research over this past year: reduce copay plan A from \$40 to \$30, reduce OOP for all plans, reduce coinsurance on preferred drugs in Rxplan on all plans. Looking at 4.3% ER and EE 2.5%, EE+ Children 2.5%, EE+ SP 1.5%, EE+ Fam 1.5%. This reduces the ending balance from current projections but maintains proximity to the target reserve recommendations.

Commissioner Schmidt – feels that she can't proceed until the commission has a consensus of what the target reserve should be. There is a \$12 million difference between the current target reserve percentage of 13% and the 10% referenced the HB2218 language.

Department of Administration Legal Counsel John Yeary read the language of HB2218.

Commissioner Schmidt – understands that the language is just a report but feels there is legislative intent and suggested the commission should wait to make any decisions until the two new members are part of the commission as of July 1. Is not

going to support a plan where our state employees are going to take home less money in light of the lack of cost-of-living increases and rising inflation.

Commissioner Dechant – Would like for commissioners to consider the consequences of lowering the reserves too much as we push the need for increases required to maintain plan solvency into the future.

Commissioner Schmidt – would like to remember that a year ago we modeled a 5.5% increase, which we didn't do, and our ending balance still increased.

Secretary Burns-Wallace – The model shows us how we can use the reserve balance to smooth things over the years instead of trying to make corrections in a single year.

Commissioner Schmidt – Looking back at the proposed changes on the table it is important to look at the employee and the employer contribution. For every 1% of employer contribution increase, it costs the state approximately \$3 million. The recommendation is to increase the state contribution to the plan.

Secretary Burns-Wallace – when we look at the history of the plan, the HCC has pushed more in for the state, and we may have room for that this year, but she would like to see that the state contribution increase is higher than any change to the employee contribution. This initial model has a higher employer increase and takes into account the EAC's recognition of small increases over time instead of drastic fluctuations as have happened in the past.

Commissioner Schmidt – Recommended model: Reduce out of pocket maximum for Plan A and C, decrease employee contributions by 2%, increase employer contributions by 3%.

Secretary Burns-Wallace – this shows us how we could dip into our reserve balance. The projection shows an operational loss.

Commissioner Dechant – We don't want to discount the impact of COVID. We can't look at the future and think that things will continue to as they did this year. Commissioner Dechant expressed that we are still too close to COVID impacts to make a balance reduction this aggressive.

Secretary Burns-Wallace – Would like to add the following: copay decrease for Plan A

Commissioner Dechant – Would like to see the employee % at 0 instead of -2%.

Dr. Brown-Ghoston – Would like to see the Plan A deductible reduced in addition.

Commissioner Dechant – Would like to still express concern about dipping into the reserves and kicking the higher percent increase down the road. He said he doesn't want to come to a point where we have to either decrease benefits or have an increase to employee and employer contributions.

Commissioner Schmidt – From 2016-2018 the state raised costs 102%. She would like to decrease employee + spouse by 2% and employee + family tiers by 2%.

Commissioner Schmidt – Made a motion for the following changes:

- **increase employer contribution by 5%**
- **keep employee only contribution flat**
- **decrease employee + spouse by 2%**
- **leave employee + children flat**
- **decrease employee + family contribution by 2%**
- **decrease the non-Medicare retiree + spouse by 2%**
- **decrease the non-Medicare retiree + family by 2%**
- **leave the non-Medicare retiree and non-Medicare retiree + children flat**
- **Plan A**
 - **reduce deductible to \$900/\$1,800**
 - **reduce primary copay from \$40-\$30**
 - **reduce out of pocket maximum to \$5,250 single and \$10,500 family**
 - **reduce coinsurance on preferred drugs from 40% to 35%**
 - **reduce the coinsurance on non-preferred brand drugs from 65% to 60%**
- **Plan C**
 - **decrease out of pocket maximum to \$4,500/\$9,000**
 - **reduce coinsurance on preferred drugs from 40% to 35%**
 - **reduce the coinsurance on non-preferred brand drugs from 65% to 60%**
- **Plan J**
 - **reduce coinsurance on preferred drugs from 40% to 35%**
 - **reduce the coinsurance on non-preferred brand drugs from 65% to 60%**
- **Plan N**
 - **reduce coinsurance on preferred drugs from 40% to 35%**
 - **reduce the coinsurance on non-preferred brand drugs from 65% to 60%**
- **Eliminate Plan Q.**

Dr. Brown-Ghoston declared a second.

Discussion:

Commissioner Dechant – expressed his discomfort with the future percent increases that will be required across the out years to maintain plan solvency.

Secretary Burns-Wallace – Requested that the commission to begin working toward a smoothing of rates. Her initial feeling is that she would like to leave the employee tier flat but could work with the current recommendation.

Commissioner Dechant – reflecting on the past when the commission had to make the 16% increase on employee rates: It was difficult and over the past couple years our decisions to help right the boat brings apprehension and doesn't feel that we have a well thought out future goals and guidepost for where we are going. **Would like to have an affirmed proactive plan for the future of the SEHP.** Feelsthat we are knee-jerking in some cases

Dr. Brown-Ghoston – It is a valid point that the commission should know the end goal. Likes the goal of reducing economic impact of state families and developing a plan moving forward.

Secretary Burns-Wallace – her goal is to get better every year. Feels that the commission is better informed than a year past but there is more work as we move forward.

Vote:

- **Castillo, yes**
- **Schmidt, yes**
- **Brown-Ghoston, yes**
- **Dechant, yes**
- **Burns-Wallace, yes**

Motion passed.

4. Contract Recommendations – Janet Stanek, SEHP

a. Vision **[Action Item]**

Janet Stanek presented the Vision contract recommendation for approval. See attachments.

Discussion:

Commissioner Schmidt inquired if there had been any discussion with the Kansas Optometric Association. Ms. Stanek noted that she had met with the Executive Director to answer questions about how the RFP process works.

Steve Dechant made a motion to approve a 3-year contract for Vision services to Avesis as recommended by staff.

Commissioner Castillo declared a second.

Vote:

- **Castillo – Yes**
- **Burns-Wallace – Yes**
- **Brown-Ghoston – Yes**
- **Dechant – Yes**
- **Schmidt – No, see explanation below.**

Commissioner Schmidt Explanation – “I vote no on the motion to award the vision contract. Each year, the SEHP expends nearly \$500,000 on medical claims, contractors, and other expenses of the plan. As members of the HCC, we have a duty to ensure that the members of the plan receive good value for the tremendous amounts of tax dollars and employee contributions that are contributed toward their health care. Good value is not always the lowest price. Instead, many factors should guide our selections of vendors. We should consider such things as cost, access to providers, quality of care, and the benefits that are actually

offered to the plan members, their spouses, and dependents. To ensure we select the plan that is in the best interest of the plan, the commissioners should have input into the choice of benefit design and should be afforded the opportunity to ask bidders questions of their proposals. By statute, the HCC is exempt from some of the state's procurement statutes and the process used by the Department of Administration. The HCC has the authority and the ability to set its procurement process in such a way that the issues I've outlined are addressed. I look forward to that day. But because the process of awarding this contract was flawed, I vote no."

Motion passed.

b. **HRA/HSA [Action Item]**

Janet Stanek presented the HRA/HSA contract recommendation for approval. See attachments.

Steve Dechant made a motion to award the 3-year HRA/HSA contract to MetLife as recommended by staff.

Commissioner Castillo made a second.

Commissioner Schmidt – is not familiar with the practice of giving preferential treatment given to KS companies over out of state companies. Is there a standard?

Secretary Burns-Wallace – no, there is no standard, but it can be an element that is taken into consideration.

Vote:

- ***Castillo – Yes***
- ***Dechant – Yes***
- ***Brown-Ghoston – Yes***
- ***Burns-Wallace***
- ***Schmidt – No, see explanation***

Commissioner Schmidt explanation: "I vote no on the motion to award the HRA/HSA contract. Each year, the SEHP expends nearly \$500,000 on medical claims, contractors, and other expenses of the plan. As members of the HCC, we have a duty to ensure that the members of the plan receive good value for the tremendous amounts of tax dollars and employee contributions that are contributed toward their health care. Good value is not always the lowest price. Instead, many factors should guide our selections of vendors. We should consider such things as cost, access to providers, quality of care, and the benefits that are actually offered to the plan members, their spouses, and dependents. To ensure we select the plan that is in the best interest of the plan, the commissioners should have input into the choice of benefit design and should be afforded the opportunity to ask bidders questions of their proposals. By statute, the HCC is exempt from some of the state's procurement statutes and the process used by the Department of Administration. The HCC has the authority and the ability to set its

procurement process in such a way that the issues I've outlined are addressed. I look forward to that day. But because the process of awarding this contract was flawed, I vote no."

Motion Passed.

5. COVID-19 Vaccine Incentive, HealthQuest Credits [Action Item]

Janet Stanek provided a recommendation regarding an incentive for the COVID-19 vaccine incentive. See attachment.

Commissioner Schmidt made a motion to approve the HealthQuest COVID-19 vaccine incentive as recommended.

Commissioner Dechant made a second.

Commissioner Dechant would like to propose an amendment to the motion for 6 credits instead of 3 as recommended due to the significance the vaccine has on the state and/or country.

Vote on amendment – 3 No, 2 Yes amendment fails.

Vote on original motion: All in favor, none against.

Motion Passed.

6. Procurement Process & Statutes

Secretary Burns-Wallace reviewed the current procurement statutes (see attached). The HCC does have an available exemption from the required state process. Currently, the HCC follows closely to the required state process and only varies slightly by leveraging outside expertise and hosting the majority of the RFP process with internal staff rather than procurement staff; however, they work in partnership.

There is one element that is in statute that we may want to consider would be the ability to have a closed meeting for the purpose of negotiations or contracts.

Commissioner Schmidt – appreciates the opportunity to address the HCC procurement process.

No opportunity to ask questions of bidders

Does not see RFP when it is sent to bid, only allowed to offer comments/edits prior to publication.

Requests that the procurement process be outlined and allow the HCC to hold a vote of affirmation of that process.

Secretary Burns-Wallace – thinks that it is a good recommendation to formalize and document the process as well as use this to educate our new members that are coming onto the commission.

Commissioner Dechant – Believes that the commission needs to have a level of reliance upon staff to be the experts and conduct the legwork regarding the research required. Also believes that the process protects the commissioners from any view of improper conduct. Also feels that the closer that we stay to the state process provides a level of liability protection.

Commissioner Schmidt – believes the fiduciary responsibility lies with the HCC, not the staff. Believes that commissioners should be able to ask questions of bidders prior to staff recommendations. Believes that commissioners should get to review the final RFP prior to publication. Believes her staff should be able to review and offer commentary.

Commissioner Dechant – accepts the fiduciary responsibility as a commissioner but expects that staff takes that responsibility seriously as well when they bring those recommendations to the commission. Agrees it would be good to formally outline and affirm the process.

7. Microsoft Teams Demo

Courtney Fitzgerald provided a quick tutorial of Teams, what would be available to commissioners and how they can log in. Secretary Burns-Wallace discussed posting various HCC-related documents for easier access by the Commissioners. See attachment.

8. Other Business

Secretary Burns-Wallace – the HCC will need to schedule a deep dive meeting regarding the wellness program. We will also need to award an actuarial contract prior to September as well. We may also want to look at the frequency and length of these meetings.

Commissioner Schmidt – We will also need to address the Marathon contract.

Schedule a July meeting.

Commissioner Dechant – would like to come back to the HB2218 language to have a board agreement or understanding of the implication

Secretary Burns-Wallace – we will look to add that to the September meeting.

Old Business:

9. Follow-up Items from 05/21 Meeting (*Previously Reported to Commissioners via email*)

Commissioner Schmidt – would like to clarify what type of agreement goes on between the vendor and SEHP in regard to the amount of money that is owed (i.e. negotiation etc.). Would like to know the amount of money the auditors said was due on the PBM audit and what the actual amount agreed to was.

Janet Stanek – There's a lot of work that takes place between the time the audit report is received and when the formal payment agreement is received and noted she did not have the audit report in front of her.

Secretary Burns-Wallace – **please provide a comparison from the audit report and the actual payment agreement.**

10. Rule and Regulation Change Update – Janet Stanek, SEHP Director

Department of Administration Counsel John Yeary – provided an explanation as to why the public hearing originally scheduled for June 17 to be moved. Under KOMA, even if a meeting has an alternative media component, there is a designated location where the public can come if they choose to do so, in order to listen and/or participate in the public meeting/hearing.

With the Emergency Order and the AG's temporary regulations in place, the requirement to have a designated location for the public to come was not needed as long as other means were made available to the public for their participation.

When this Notice of Public Hearing was submitted in March 2021 to have the 60-day notice advertised in the Kansas Register as required by statute, the meeting was scheduled to be done totally via Zoom. A public location was not needed and was not designated. At the time of advertising, there was no indication the Emergency Order and temporary regulations would end prior to the date set for the public hearing.

However, the Emergency Order expired June 15, 2021. The AG's comments on June 15th indicated the temporary regulations promulgated by the AG for KOMA due to the Emergency Order would no longer be in operation. This created the question of the need for a location for the public to come and participate.

KSA 77-421 (a) (1) (E) indicates a location would need to be set forth in the 60-day notice, when establishing a public hearing for the proposed regulations. Individuals are to be given an opportunity to present their views on the proposed regulations under the process. We could not at this late date designate a location for the public as it needed to be in the 60-day notice advertised in the Kansas Register back on April 8, 2021.

11. Adjournment – 3:51 pm