

**Audit and Finance Committee
Minutes – Approved
January 24, 2017
Old Jail Conference Room**

Present: Steve Thayer, Chuck Rankin, Peter Salton, Mack Cook, Rordan Hart
Absent: Phil VanWormer, Laura Shawley
Guests: Judy Drake, Don Barber, Rick Snyder, Steve Locey (via conference call)

Call to Order

Mr. Thayer, Chair, called the meeting to order at 3:34 p.m.

Changes to the Agenda

There were no changes to the agenda.

Approval of November 15, 2016 Minutes

It was MOVED by Mr. Salton, seconded by Mr. Rankin, and unanimously adopted by voice vote by members present, to approve the minutes of November 15, 2016 as submitted. MINUTES APPROVED.

Executive Director's Report

CanaRx

Mr. Barber said referred to a letter that has already been reviewed by the Executive Committee from John Powers, the Consortium's legal counsel, concerning CanaRx. A webinar was held on January 4th with Joe Scotti of CanaRx to bring Board and committee members up-to-date on what this is about but there was very poor attendance. The Executive Committee asked that Mr. Scott to attend the Board meeting later this month to explain CanaRx and answer questions concerning Mr. Power's letter. He said there have not been any cases brought forward by the FDA (Federal Drug Administration) to stop CanaRx from operating for over ten years. They have over 500 cooperatives they serve of which many are municipal governments. Two cases were brought forward by pharmaceutical companies. In each case the ruling was in favor of the pharmaceutical companies because the FDA has not signed off on CanaRx.

Mr. Salton asked if a committee should recommend a position on this. Mr. Barber said two committees have been discussing CanaRx and are recommending the program. At the last Board of Directors meeting he was directed to contact Mr. Power and the Department of Financial Services (DFS) for opinions. There has not been a response from DFS to date. Mr. Barber said Mr. Locey is aware of an Article 47 that uses CanaRx and was audited by with no commented. He stated CanaRx would provide an opportunity to save a significant amount of money (in excess of \$1 million) and can also save members who have qualifying drugs between \$100-\$300 annually.

Mr. Salton referred to news he has heard about the new Administration and said their intent for going after the type of thing CanaRx addresses and said he thinks it unlikely a pharmaceutical company would file any claim.

Ms. Drake said she hopes there will be a good discussion at the Board meeting. She is not seeking action but would like the Board to provide some direction as to whether this should move forward at this time.

Mr. Locey suggested getting updated information from the County in terms of its usage and savings. Mr. Barber said ProAct is gathering the information and should be presenting it at the Board meeting.

Mr. Cook said he came out of the webinar being fairly convinced that this is a good program and all of the union employees he spoke with were in favor of it. However, the letter from the Consortium's legal counsel is something that has to be given serious consideration. Mr. Locey said he is aware of one consortium that uses CanaRx and went through an audit and there was no issue raised in their audit.

Prescription Drug Tier 4 Discussion

Mr. Barber said there continues to be good discussions at the Joint Committee of adding a fourth prescription drug option that would be for specialty drugs with copay assistance and Mr. Locey has been gathering financial information. He said if a 4th tier was created it would likely be available to be attached to a Metal Level Plan to help a plan stay within its actuarial value. He commended Phil VanWormer Chair of the Joint Committee, for leading a good discussion and engaging members.

Newsletter

Mr. Barber made copies of the December newsletter available and said he welcomes suggestions for future issues.

Financial Report

Mr. Locey reviewed the Treasurer's report for the year ending December 31, 2016 and said the Consortium finished year well. From a revenue perspective the Consortium was .28% (\$100,000) over budget; from the expense side medical claims were .16% below budget; \$24.7 million was budgeted versus the actual of \$24.6 million.

Prescription drug claims were budgeted at \$9.1 million and actual claims were almost \$10.2 million (over budget by 11%). In aggregate the Consortium was 2.74% over budget on total claims. End of the year expenses were \$37.4 million; the budgeted amount was \$36.76 million (\$635,000 over budget). The Consortium ended the year with slightly over \$1.8 million in net income; the anticipated amount was \$2.3 million.

Catastrophic Claims

Mr. Locey distributed information showing claims of over \$100,000 for the year from 2011 to 2016. The information showed that from 2011 to 2015 the figure osculated from 13 to 23 cases per year. In 2016 (noting claims can be paid through the first three months of 2017) he said through December 31st there were 33 claimants with over \$100,000 (ten more than the prior year). In terms of large losses there were only 3 claimants with over \$200,000 and 1 that went over \$400,000. Based on what was paid to date he expects \$175,000 in recovery. He said they are seeing a common theme up upward trends in larger losses with Locey and Cahill's other clients and this is something that should be monitored to ensure that the 2018 budget is: 1) set at a proper level to account for large losses; and 2) these factors are taken into consideration with decisions made relative to Stop Loss insurance.

A second document Mr. Locey provided was a listing of the municipalities that fall within the six contingent counties and that would be eligible to join the Consortium. He noted there are a total of 133 municipalities that can participate and to date there are 28 currently participating. This represents 21% of the maximum eligibility. He said once municipalities from other counties become aware of the Consortium he anticipates a greater interest being expressed in joining. He expressed concern when adding small municipalities in keeping them engaged with

the Consortium. This information should be kept in mind as discussions take place about the future of the Consortium. He asked Ms. Pottorff to review the information to confirm it is correct.

Stop Loss

Mr. Locey the renewal was secured at the \$450,000 level and a summary has been provided to members. He noted that the individual who had been lasered is no longer on the plan and he doesn't expect having anyone else with this deductible level. In terms of impact he said they were able to get Highmark to agree to hold the line on the aggregate insurance. They had wanted an increase in the cost but reduced the overall yearly premium by approximately \$17,000. He and Mr. Barber will be approaching Highmark during the year to discuss this insurance as they feel it is inappropriate for them to be charging a significant premium for a coverage that will never be used.

Mr. Locey reported the Governor signed legislation that preserves many of the benefits, particularly the preventive benefits, that are part of the Affordable Care Act. This means from a State perspective they are already taking steps to make sure that if the ACA is undone that many of the benefits in New York State would still mirror what has been place. He will share a copy of the Legislation with the Joint Committee on Plan Structure and Design at its next meeting.

Administrative Procedures for Request for Proposals

Mr. Barber reviewed the document included in the packet that was drafted to establish procedures outlining what will take place and who is responsible for each step of a Request for Proposal process. Members were supportive of procedures being put into place; the document will be reviewed and comments submitted prior to the next meeting when it is presented for approval.

Limiting Number of Plans a Municipal Partner Can Offer

Mr. Barber said this issue came up at a previous meeting and was deferred because one of the municipalities with only a few employees had more than one plan it offered to employees but has put everyone on one plan. He said the intent was to have a discussion of this because of the number of plans that already exist and the amount of work that is created. Mr. Locey suggested that a municipality coming in with a small number of employees be limited to one plan. He acknowledged that adjustments may need to be made when collective bargaining is involved but if there isn't a collective bargaining unit some rules can be put into place around the reasonable administration of the program.

Mr. Cook said he can see a need to set the medical portion but can also see a need to be flexible in the prescription drug plans or a combination of the plans. He suggested that if a number is set that two numbers be set, especially if the Consortium moves in the direction of having a fourth drug tier.

Ms. Drake questioned if this would take the Medicare Supplement Plan for retirees into consideration. Mr. Locey said he doesn't believe the new municipalities are providing much, if any, coverage to retirees. Mr. Barber said this is a good point and this would be considered a separate group. Mr. Locey said Excellus has some parameters that they follow when they work with small employers that he will share with the Committee when this is discussed further. Mr. Barber and Mr. Locey will develop a draft proposal for the Committee to consider at a future meeting.

Medical Claims Audit

Mr. Locey reported the medical claims audit performed by BMI and the report contained 115 notations in terms of claims they found with questions or errors. On January 9th they asked BMI to assign each of these to four categories: 1) claim errors where Excellus provided additional detail and BMI is satisfied with the reply and no longer deems the claim to be in error; 2) claim errors where Excellus agreed and Excellus was developing corrective action; 3) claim errors that Excellus did not agree and notated why they are dissenting and BMI's reasons for still deeming there being a claims adjudication error; and 4) claim errors where further investigation is needed. By having the errors compiled into these categories Mr. Locey said it will make it much easier to determine what action items there are that need to be followed up on. He said Mr. Barber sent a communication to BMI stating the Consortium is holding its last payment until the end of February while these items are worked on. They will be following up with BMI tomorrow to check on the status.

Mr. Barber reported on the response to the audit by Excellus and said their criticism of BMI is that it takes a small snapshot of one part of their process and there are several steps in the process when a claim is being adjudicated that were not being taken into account. He said this needs to be discussed with BMI as there is concern if they are doing an audit and are not auditing the entire process. He noted this represents .3% of the total claims cost.

DFS Audit Recommendations

Mr. Barber reported the Executive Committee met on January 4th with DFS representatives to review preliminary recommendations that will be included in the audit report. He said once the report is complete they will go through the recommendations with the Department and will send the report to the Consortium. The Consortium will then be given a period of 30-45 days to respond to the report.

The following is a list of the draft recommendations:

- It is recommended that board members who are unable or unwilling to consistently attend meetings resign or be replaced. Mr. Barber noted that the Consortium does not have authority to dictate who a municipality appoints but he has let the offending municipalities know their Director has been absent from at least half of the Board meetings.
- It is recommended that the Plan adhere to the requirements of Section 4709(c) of the New York State Insurance Law: "4709(c) conspicuously print on the first page of the plan document and summary plan description, in at least ten point bold-face type, shall be the following statement: "This municipal cooperative health benefit plan is not a licensed insurer. It operates under a more limited certificate of authority granted by the superintendent of financial services. Municipal corporations participating in the municipal cooperative health benefit plan are subject to contingent assessment liability." This will be incorporated into plan documents.
- It is recommended that the Plan deliver or cause to be delivered the plan document to all participating municipal corporations and to unions which are the exclusive collective bargaining representatives of employees covered by the summary plan description to every employee or retiree of participating municipal corporations covered by the plan in accordance with Section 4709(a) of the NYIL. Mr. Barber noted to date the Department has only approved on plan document for the Consortium but will provide benefit clerks with a plan document moving forward.

Mr. Barber said many of the substantive recommendations related to ProAct and he has been in contact with them to discuss these findings.

- It is recommended that the Plan's utilization review agent (ProAct, Inc.,) biennially report to the Superintendent of insurance, in a statement subscribed and affirmed as true under the penalties of perjury, the information required pursuant to subsection (b) of this section, in compliance with the requirement of Section 4901(a) of the New York Insurance Law.
- It is recommended that the Plan initiate audits of its claims processed by its contracted pharmacy benefit manager (ProAct, Inc.,) in accordance with its Service Agreement.
- It is recommended that the Plan's Pharmacy Benefits Manager ("ProAct, Inc.,") establish a fair and equitable process of claims review, dispute resolution and appeal procedures including arbitration or rejected claims which are satisfactory to the Superintendent in accordance to Section 4704(a)(8) of the New York State Law.
- It is recommended that the Plan's utilization review agent ("ProAct, Inc.,") appoint a medical director, who is a licensed physician, provided however, that the utilization review agent may appoint a clinical director when the utilization review performed is for a discrete category of health care service and provide further that the clinical director is a licensed health care professional who typically manages the category of service

The following recommendation can be discussed with the Board and moved forward following that discussion:

- It is recommended as a good business practice, that the Plan's board members, officers, manager and consultants sign the established conflict of interest policy form on an annual basis.
- It is recommended that the Plan comply with Reg. 152 and maintain an application where no policy or contract was issued for six calendar years or until after the filing of the report on examination in which the record was subjected to review, whichever is longer. Mr. Barber said the Consortium has been following the County's records retention policy and a resolution will be presented to the Board to formalize this.

Mr. Barber said at the conclusion of the meeting he raised two issues that have not been resolved and the Consortium was informed those were no longer open issues. A copy of the Exit Meeting minutes will be provided to the Board of Directors.

2017 Meeting Schedule

The Committee established its meeting scheduled to be the 4th Tuesday of each month at 3:30 p.m. except the months of March (3rd Tuesday) and November (2nd Tuesday).

Invoice Approval

It was MOVED by Mr. Rankin, seconded by Mr. Cook, and unanimously adopted by voice vote by members present, to approve the following invoices:

Insero – 12-6-2016
Jen Jensen – 12-2016
Photography – 12-2016
DFS Audit – 12-16-2016 and 1-17-2017

Armory – 1-1-2017
Haylor, Freyer, and Coon – 1-2017
Tompkins County ITS – 1-2017

The BMI invoice was withdrawn and will be included in the February agenda.

Next Agenda Items

The following items will be included on the next agenda:

Adoption of Administrative Procedures for Requests for Proposals;
BMI Invoice;
Bill paying process;
Contract addition by Excellus; and
Draft plan to limit the number of plans a municipality can offer

Report on 2017 Start-up

Mr. Barber reported on problems that new members of the Consortium have experienced with getting prescriptions filled. He acknowledged the work that was done while he was away by Ms. Feeley, Ms. Miller, and Ms. Pottorff to get people their medications but said there is a serious issue that needs to be addressed. He will be meeting tomorrow with Mr. Locey, Ms. Drake, Ms. Feeley, and Ms. Miller, to find out what happened and to ensure it never happens again.

Adjournment

The meeting adjourned at 4:55 p.m.