



MINUTES FROM THE MEETING OF THE STATE EMPLOYEE BENEFITS COMMITTEE
April 19, 2021

The State Employee Benefits Committee (the “Committee”) met at 2:00 p.m. on April 19, 2021. In accordance with the [Proclamation Authorizing Public Bodies to Meet Electronically](#) and in the interests of protecting the citizens of this State from the public health threat caused by COVID-19, this meeting was conducted via WebEx, without a physical location.

Committee Members Represented or in Attendance:

Secretary Amy Bonner, Department of Human Resources (“DHR”), Co-Chair
Director Cerron Cade, Office of Management & Budget (“OMB”), Co-Chair
The Honorable Colleen Davis, State Treasurer, Office of the State Treasurer
Controller General Ruth Ann Jones, Office of the Controller General (“OCG”)
Secretary Molly Magarik, Department of Health & Social Services (“DHSS”)
Mr. Stuart Snyder, Chief of Staff, Department of Insurance (Designee OBO The Honorable Trinidad Navarro, Insurance Commissioner)
Mr. Jeff Taschner, Executive Director, Delaware State Education Association (“DSEA”) (Appointee of the Governor)
Ms. Ashley Tucker, Staff Attorney, Administrative Office of the Courts (Designee OBO The Honorable Collins Seitz, Chief Justice, Delaware Supreme Court)
Ms. Sydney Garlick, Behavioral Health Coordinator, Office of the Lieutenant Governor (Designee OBO The Honorable Bethany Hall-Long, Lieutenant Governor)

Others in Attendance

Dir. Faith Rentz, Statewide Benefits Office (“SBO”), DHR	Ms. Sandy Hart, IBM Watson Health
Deputy Director Leighann Hinkle, SBO, DHR	Mr. Jamie Johnstone, Deputy Principal Asst., Dept of
Deputy Attorney General Andrew Kerber, Dept. of Justice, SEBC	Finance (“DOF”)
Legal Counsel	Mr. Adam Knox, Highmark Delaware
Mr. Chris Giovannello, Willis Towers Watson (“WTW”)	Ms. Lizzie Lewis, Hamilton Goodman Partners
Ms. Jaclyn Iglesias, WTW	Ms. Lisa Mantegna, Highmark Delaware
Ms. Joanna Adams, Pension Administrator,	Mr. Walt Mateja, IBM Watson Health
Office of Pensions	Mr. Sean McNeeley, Dir. Of Bond Finance, DOF
Ms. Wendy Beck, Highmark Delaware	Ms. Katherine Nedelka, HRIS Specialist, PHRST
Ms. Victoria Brennan, Chief of Fiscal Policy, OCG	Mr. Michael North, Aetna
Ms. Christina Bryan, Delaware Healthcare Associates	Ms. Carrie Schiavo, Delta Dental
Ms. Rebecca Byrd, ByrdGomes Group	Ms. Judi Schock, Deputy Principal Asst., OMB
Ms. Michelle Carpenter, PHRST	Mr. Aaron Schrader, HR Manager, DHR, SBO
Ms. Julie Caynor, Aetna	Mr. Bert Scoglietti, Deputy Controller General, OMB
Deputy Secretary Dr. Jessilene Corbett, DHR	Ms. Mandie Skowronski, Administrative Accountant, DHR
Mr. Steven Costantino, Dir. Healthcare Reform, DHSS	Deputy Director Courtney Stewart, OMB
Ms. Cherie Dodge Biron, Deputy Principal Asst, DHR	Ms. Martha Sturtevant, Exec. Sec., SBO, DHR – Recorder
Ms. Jacqueline Faulcon, READAA	Ms. Kylie Taylor, Fiscal & Policy Analyst, OMB
Ms. Julie Greenwood, University of Delaware	

CALLED TO ORDER

Director Faith Rentz called the meeting to order at 2:00 p.m. and introductions were made.

STATE OF DELAWARE STATEWIDE BENEFITS OFFICE

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APPROVAL OF MINUTES – DIRECTOR FAITH RENTZ

A MOTION was made by Secretary Magarik and seconded by Secretary Bonner to approve the minutes from the March 8, 2021 meeting of the State Employee Benefits Committee.

MOTION ADOPTED UNANIMOUSLY

DIRECTOR'S REPORT – DIRECTOR FAITH RENTZ

Subcommittees Updates

The Subcommittees did not meet in April.

Legislative Updates

The Primary Care Reform Collaborative continues to review draft legislation (draft 2 was distributed on April 15, 2021) that would increase reimbursements to primary care. The draft legislation includes caps on total aggregate spend in areas outside of primary care to balance increases by limiting additional growth in healthcare spending. The latest draft exempts the GHIP; therefore, there will not be a fiscal note.

Request for Proposal ("RFP") Updates:

The Third Party Administrator RFP for Health Plan Administration is scheduled for advertisement on April 26, 2021. An overview of the RFP scope and goals will be reviewed with the Committee at the May meeting.

2021 Open Enrollment

Open Enrollment ("OE") is scheduled for May 3 – 19, 2021. Items completed to date include mailing of OE postcards, posting of the Human Resources/Benefits Representatives Toolkit, assignment of a Human Resources/Benefits Representatives responsibilities for OE online course (due by April 30), assignment of "Navigating Open Enrollment" online course to employees (due by April 30), and agencies interested in employee engagement in the OE course have been given instructions on how to run custom reports to track completion; the course was not assigned to employees not currently enrolled or who have waived coverage.

Additionally, OE letters/packets are being mailed to benefit-eligible State employees the week of April 19; pensioners were mailed their packets on April 13.

During the OE period, SBO will: send a Benefits Bulletin on May 3 with the necessary steps to actively participate in OE; provide the Cabinet with updates on OE participation the week of May 7 (distributed by Co-Chairs) and send an email to non-completers; another update will be provided to the Cabinet and SBO email to non-completers the week of May 14; and, the week of May 21 final OE statistics will be provided to the Cabinet.

The SBO will provide final OE statistics to all agencies/organizations in mid-July.

FINANCIALS – MR. CHRIS GIOVANNELLO, WTW

February Fund Report

February had \$10.5M in commercial prescription drug rebates and another \$7.8M in EGWP (Medicare Part D) prescription drug rebates which were in line with expectations.

Treasurer Davis joined the meeting.

Claims ran high at \$79.9M and were \$4.7M above budget; however, the YTD is in line with expectations. Other expenses included an extra Express Scripts payment for both the commercial and EGWP plans.

February had \$6.4M in net income relative to an expectation of \$12.0M. The YTD fund equity balance is \$185.9M compared to \$186.8M budgeted and is in line with expectations.

March Fund Report

March ran high with \$91.0M in claims relative to \$84.5 budgeted for a \$6.7M or 0.95% YTD variance to budget which brings the fund equity balance to \$163.5M.

Claims have been trending higher than expected and a full review of Q3 financials to be presented in May 2021 will provide more details.

Director Rentz announced that there will be a full Q3 financial review with the Subcommittees and the Committee in May. This will be the last opportunity to review the budget for FY22 before the Joint Finance Committee conducts the FY22 operating budget markup.

AMERICAN RESCUE PLAN ACT – DIRECTOR RENTZ, SBOCOBRA Premium Subsidy

There are two major components of the American Rescue Plan Act (“ARPA”); a provision to provide COBRA subsidies and an optional Dependent Care Flexible Spending Account limit increase (requires a vote by the Committee).

The ARPA requires that the State Group Health Insurance Plan (GHIP) offer: six months of free COBRA continuation coverage for certain individuals referred to as Assistance Eligible Individuals (“AEI”), a special enrollment and coverage period, and new notice obligations for employers. The Plans subject to the requirement include group health, dental and vision plans. The Subsidy amount is 100% of the COBRA premium and includes the 2% COBRA administration fee and will be paid by the Health Fund. The Health Fund will then be reimbursed for the premium and 2% administration fee via a refundable quarterly payroll tax credit per forthcoming Department of Treasury rules.

The subsidy is available for up to six months from April 1 through September 30, 2021. The subsidy ends if the AEI is or becomes eligible for other group health coverage or Medicare. The AEI is obligated to report loss of eligibility and ARPA imposes a penalty on the AEI for failure to do so.

The purpose of the subsidy is to support AEIs who experienced an involuntary termination of employment or reduction in hours since November 2019. Involuntary termination or reduction in hours is not limited to events related to the National Emergency and does not extend the normal 18-month COBRA coverage period.

Director Cade joined the meeting.

The subsidy is available to AEIs who experienced an event but did not previously elect coverage. The impact to former employees and their covered dependents, for both State and Participating Groups, is estimated to be approximately 3,300 employees.

Notice of availability of the subsidy must be included with the qualifying event notice for those entitled to elect COBRA coverage during the subsidy period. Notice of the subsidy must be sent by May 31, 2021, to AEIs who were entitled to elect coverage before April 1, 2021. Notice of the end of the subsidy must be sent to AEIs not less than 15 days, and not more than 45 days, before the end of the subsidy period.

SBO is in regular communications with OMB, PHRST, and ASI COBRA (State’s COBRA administrator). SBO and ASI COBRA are reviewing administrative system parameters for data-tracking and reporting options. The US Department of Labor provided model notices on April 7, 2021, and the notices will be reviewed carefully and incorporated as necessary. SBO is working to identify AEIs and is targeting to send notice of subsidy availability

in mid-May. Notices will be sent to AEIs who elect coverage regarding the end date of the subsidy. No action is needed by the Committee as this is a Federal mandate.

There was a discussion regarding how the subsidy returned to the State will be reappropriated back to the Health Fund.

Dependent Care Flexible Spending Account Maximum

The Dependent Care Flexible Spending Account ("DC FSA") allows employees to deduct pre-tax dollars from their paycheck that are put into a special account to pay for work-related daycare, before/after school care, babysitters, or eldercare expenses. The election is irrevocable for the plan year unless the employee and/or spouse experiences a qualifying change.

The Internal Revenue Service ("IRS") regulations require that the plan does not favor Highly-Compensated Employees ("HCE") as defined by the IRS: individuals who receive annual compensation of \$130,000 or higher, as well as individuals who have been identified as key employees (e.g., legislators).

The Dependent Care FSA is an alternative to taking a tax credit allowed with an individual's tax filing each year. Individuals must choose whether to use the tax credit or the FSA; the IRS will not allow two tax breaks on the same expenses.

The calendar year (January 1 – December 31st) maximum limit before ARPA was \$5,000. The ARPA increases the plan year maximum limit to \$10,500 for CY21. The State is on a fiscal year, thereby must limit the maximum limit to \$8,000 from July 1, 2021 – December 31, 2021 (\$2,500 limit previously set for January 1 – June 30, 2021). An increase would be effective for July 1, 2021 (FY22) and communicated as part of Annual OE.

The CY19 DC FSA had 878 employees participating, of which 413 elected the maximum amount. The FY21 DC FSA has 605 employees with 262 electing the maximum amount.

Considerations include the administrative challenges of increasing the maximum DC FSA include the ASI Enrollment Site must be modified to separate FY22 plan year election amounts for July – December 2021 and January – June 2022 to align with the CY max limits (require participants to elect CY21 maximum of no more than \$10,500). The PHRST system requires table updates to account for the limit increase. The SBO and PHRST would need to override employee deductions applied via July 1 file to front-load deductions for July – December 2021 to align with the CY21 limit and reduce deductions for January – June 2022 to align to CY22 limit (currently assumed to return to \$5,000). And finally, communicating the change to employees during OE, unlike previous years, the annual deduction amount will not be evenly split across all plan year pays.

Other considerations for employees who might be considering a DC FSA plan include: the amount of dependent care expenses eligible for the credit increase to \$8,000 (from \$3,000) for one qualifying individual and \$16,000 (from \$6,000) for two or more qualifying individuals. Also, the maximum reimbursement percentage increases to 50% (from 35%); therefore, the maximum allowable credits are worth \$4,000 and \$8,000. Employees must choose between either the tax credit or the DC FSA as they are not permitted both.

Dependent care FSA participants who meet the definition of an HCE may be subject to mandatory decreases in their DC FSA per pay deductions if the State fails the nondiscrimination testing for the dependent care FSA (particularly, the 55% average benefits test). That test requires that the average benefits provided to non-HCEs must be at least 55% of the average benefits provided to HCEs under all dependent care assistance programs of the employer. If the plan fails the 55% average benefits test, then all benefits paid to or received by HCEs are taxable to those employees.

The SBO, during the current plan year, has conducted non-discrimination testing three times (August, December, and March), and the plan has failed three times; therefore, deductions have had to be reduced each time for those HCEs.

Enhancements made to the DC FSA Direct Pay Program effective July 1, 2021, allow daycare providers to enroll in a program that pays them directly from ASI Flex (State's FSA Administrator). Currently, members must pay DC expenses out-of-pocket and submit for reimbursement. ASI Flex is currently outreaching to providers used by State members to enroll in the program. SBO will communicate the enhancement to State employees as well as participating DC FSA members during OE.

Treasurer Davis clarified that employees currently participating in the FY21 DC FSA plan year that ends June 30, 2021, are not eligible to elect the newly increased tax credit. Director Rentz confirmed.

A MOTION was made by Treasurer Davis and seconded by Secretary Magarik to increase the Dependent Care Flexible Spending Account maximum limit during the FY22 plan year to allow employees the opportunity to elect a maximum deduction of \$8,000 for July 1 through December 31, 2021.

MOTION ADOPTED UNANIMOUSLY

OTHER BUSINESS

No new business was presented.

PUBLIC COMMENT

Ms. Jacqueline Falcon, representing the READAA group, wishes to express their deepest gratitude to the Lt. Governor's office and the SBO for responding to their inquiry regarding access to COVID-19 vaccinations. All their members have been successful in accessing vaccinations.

ADJOURNMENT

A MOTION was made by Director Cade and seconded by Secretary Bonner to adjourn the meeting at 2:50 p.m.

MOTION ADOPTED UNANIMOUSLY

Respectfully submitted,

Martha Sturtevant, Executive Secretary, Statewide Benefits Office, Department of Human Resources
Recorder, State Employee Benefits Committee, and Subcommittees