The Commonwealth of Massachusetts
Commonwealth Health Insurance Connector Authority
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Boston, MA 02108

DEVAL PATRICK
Governor

TIM MURRAY
Lieutenant Governor

JAY GONZALEZ
Board Chair

GLEN SHOR
Executive Director

Board of the Commonwealth Health Insurance Connector Authority

Minutes

Thursday, October 11, 2012
9:00 AM to 12:00 PM
One Ashburton Place
Boston, MA 02108
21st Floor Conference Room

Attendees: Jay Gonzalez, Glen Shor, Louis Malzone, George Gonser, Nancy Turnbull, Andres Lopez, Julian Harris, Ian Duncan, Celia Wcislo, Jonathan Gruber and Dolores Mitchell. Nancy Schwartz attended in place of Joseph Murphy.

The meeting was called to order at 9:06 AM.

I. **Minutes:** The minutes of the September 13, 2012 meeting were approved by unanimous vote.

II. **Executive Director's Report:** Glen Shor opened by reporting that Commonwealth Care (CommCare) membership as of October 1, 2012 is 192,076, which is roughly the same as September membership. Mr. Shor indicated that the number of CommCare members who are not aliens with special status (AWSS) increased from September to October by 1,726 . Next, Mr. Shor informed the Board that October 1, 2012 enrollment for Commonwealth Choice (CommChoice) is 43,346 members. He stated that membership increased 2% from September enrollment.

Next, Mr. Shor highlighted the recent publication of the Commonwealth Health Insurance Connector Authority's (CCA) 2012 Progress Report. Mr. Shor explained that the Progress Report is an opportunity for the CCA to present its major accomplishments over the past year. Mr. Shor remarked that 2012 marked major success in procuring CommCare, leveraging great savings for the state to maintain comprehensive affordable health insurance coverage for members. Additionally, Mr. Shor noted that the report not only features the continued success of Connector 1.0, but also lays out the major groundwork for re-designing Connector operations to meet the requirements of the Affordable Care Act (ACA). Mr. Shor explained that 2012 marked the U.S. Supreme Court decision upholding the ACA, the enactment of state legislation designating the CCA as the state's ACA compliant exchange and the full launch of the HIX-IES (Health Insurance Exchange-Integrated Eligibility System) system in collaboration with UMass Medical Center and MassHealth. Mr. Shor added that the 2012

Progress Report features great personal stories from our members whose lives are touched by the CCA each day.

Finally, Mr. Shor informed the Board that he participated in the Massachusetts Association of Health Underwriters annual trade show event known as Benefest. This was the first time Mr. Shor was invited to attend and participate in the event and he noted that he was grateful to have the opportunity to meet some of the brokers that serve the Massachusetts small and individual market community. Mr. Shor further expressed the view that the questions from the moderator and participants were excellent and he is excited about a future where the CCA and brokers will collaborate and make an effort to serve each other.

Dolores Mitchell arrived at 9:09am.

III. 2014 Seal of Approval Introduction (I) Qualified Health Plan Certification: Sarah Bushold and Jean Yang opened discussion by explaining that this is the first in a series of conversations the CCA will have around the 2014 Seal of Approval. The power point presentation entitled "2014 Seal of Approval Introduction (I): Qualified Health Plan Certification" was used during Ms. Bushold and Ms. Yang's presentation to the Board and was subsequently posted to the CCA website. In providing an overview of the general ACA requirements on QHP certification, Ms. Bushold explained that the Exchange may only offer QHPs. She further noted that the ACA specifies certain "minimum certification standards" that Exchanges must apply in certifying QHPs. Thus, to meet ACA minimum requirements, an Exchange must establish procedures to ensure that plans are certified through a comprehensive review process in order to become QHPs. Ian Duncan asked for further explanation on accreditation as it pertains to carrier qualifications. Ms. Yang replied that under the ACA, the federal government has identified the NCQA (National Committee for Quality Assurance) and URAC as acceptable accrediting entities. Nancy Turnbull asked whether there is any doubt that we can adopt the standardized benefit approach as opposed to an actuarial value (AV) approach. Mr. Shor explained that all products sold inside and outside the Exchange must fit within federally specified actuarial tiers (i.e. platinum, gold, silver and bronze). While all products sold on the Exchange must fit within one of those tiers, that requirement does not preclude the CCA from standardizing. Ms. Bushold continued by explaining that the ACA does allow exchanges to have significant flexibility in defining their specific policies under each of the required categories, as well as setting standards for additional QHP responsibilities as exchanges see fit. In discussing how QHP certification and Seal of Approval intersect, Jonathan Gruber asked if a decision has been reached on whom and how the actuarial value of the plans will be evaluated. Ms. Yang replied that the federal government has not yet provided guidance on this issue. She further added that the CCA's understanding to date is that it will be dependent on how prescriptive the federal AV calculator is going to be.

Ms. Bushold indicated that a few areas in our existing plan approval process will be refined or augmented to address ACA requirements. She further noted that "service area" is one category in which the CCA and the DOI have been working in collaboration to identify preferred options. Mr. Gruber asked if the CCA already had rules on service area. Ms. Yang replied that currently the CCA only has rules on service areas for Commonwealth Care. Ms. Turnbull asked for further clarification on the concept of quality rating. Ms. Yang explained that the ACA requires that the shopping experience incorporates a quality component. She further indicated that the federal government will provide the state with specific guidance on how to incorporate quality rating into the shopping experience in the future. Dolores Mitchell expressed the view that the political climate in Washington D.C. around this topic is one reason the federal government has not yet provided further guidance.

IV. Affordable Care Act Insurance Market Reforms, Minimum Essential Coverage and Minimum Credible Coverage: Kaitlyn Kenney began by explaining to the Board that the purpose of the presentation is to review state and federal health insurance coverage standards. The power point presentation entitled "Minimum Credible Coverage, Minimum Essential Coverage and ACA Insurance Market Reforms" was used during Ms. Kenney's presentation to the Board and was subsequently posted to the CCA website. Ms. Kenney explained that Minimum Credible Coverage (MCC) is the standard to satisfy the state individual mandate, while Minimum Essential Coverage (MEC) is the standard to satisfy the federal individual mandate requirement. In comparing MCC and MEC, Ms. Kenney noted that although Commonwealth Choice plans are not "per se" compliant with MCC, such plans are fully insured products and currently meet all the state mandated benefit requirements and MCC requirements. In providing an overview of the broad categories of coverage that are "per se" compliant with MEC, Mr. Duncan asked Ms. Kenney to explain why individual plans are "per se" MEC compliant. Ms. Kenney responded that the ACA specifies that individual plans by definition meet MEC. However, she further added that there are several private insurance market reforms instituted through the ACA that apply to some categories within this group, but not others. For instance, most of the benefit standards and cost-sharing requirements apply only to individual and small group employer plans. Secretary Gonzales asked whether, absent state law that imposes more rigorous standards than MEC, it is possible to have a self-insured large employer plan that requires a $100,000 deductible satisfying MEC. Ms. Kenney replied in the affirmative. Ms. Mitchell asked for further information about the private insurance market reforms instituted through the ACA. Ms. Kenney explained that there is a prohibition on annual limits which applies to all categories of plans. In addition, the ACA limits deductibles to $2000 for an individual and $4000 for a family, but such insurance market reforms do not apply to large plans or self-insured plans. Mr. Gruber highlighted the fact that there are quasi self-insurance plans and states are going to struggle with how much they will allow such plans to be exempt from certain insurance market reforms.

Mr. Duncan asked whether a large self-insured employer is "per se" MEC compliant. Mr. Shor explained that an employer is not per se compliant, rather the employees' coverage through their employer is per se compliant and therefore the employer will not receive a penalty. Ms. Turnbull concluded that if an individual works for an employer that is self-insured, typically such an individual will have less insurance market reform protections and poorer health insurance coverage than an individual who purchases coverage through the individual or small group market.

Next, Ms. Kenney explained that in reviewing the ACA insurance market reforms, she would focus her presentation on Essential Health Benefit (EHB) coverage requirements. Mr. Duncan asked whether EHBs apply universally. Ms. Kenney explained that EHBs apply only to the small and non-group fully insured market. Ian Duncan and Celia Wcislo requested a list that details which ACA insurance market reforms apply to which markets. In discussing the benchmark plan for the state, Ms. Kenney informed the Board that the benchmark plan selected for the state is BCBSMA HMO Blue, which is the largest small group plan in the state. Ms. Kenney also noted that HPHC Best Buy HMO was selected as the benchmark plan for pediatric dental services. Mr. Duncan asked if the HPHC Best Buy HMO is a stand-alone dental plan. Ms. Kenney explained that the HPHC product is not a stand-alone dental plan and is one of the top three largest small group plans in the state. Ms. Kenney further added that since the BCBSMA plan did not include pediatric dental, the DOI turned to the pediatric dental services that were in the HPHC plan. Ms. Turnbull commented that the benchmark plan does

not include cost-sharing and only includes the services and limits on services. Ms. Schwartz also noted that the pediatric dental services from the HPHC plan is fairly limited and is essentially preventive dental care that is embedded into a health plan.

Next, Ms. Kenney explained that MEC plans may cover certain required benefits and may have certain limits on cost-sharing, but this is not necessarily a requirement if insurance is purchased through a large or self-insured group. Ms. Turnbull asked whether it would be accurate to state that if the Board were to keep MCC in place, such a decision would thwart the intention of some small groups who were trying to become self-insured. Ms. Kenney replied that more analysis needs to be performed to appreciate the incentives that would or would not exist if MCC remained in place. Mr. Gruber commented that he would like the Division of Insurance to fully explore exactly what it means to be self-insured and he is happy to play a role in this process. Ms. Turnbull asked how many people pay the individual mandate penalty because they have insurance that fails to meet MCC. Ms. Kenney stated that the CCA is unable to determine out of all the people that are penalized, whether it was because they had health insurance that did not meet MCC. She further clarified that out of the group of people that are uninsured, this includes people who are truly uninsured and some people who may have coverage that doesn't meet MCC. Mr. Shor noted that the CCA has a robust appeals process in place for individuals to appeal. Lou Malzone asked what percent of individuals fail to meet the mandate. Ms. Kenney replied that approximately 140,000 to 150,000 individuals fail to meet the mandate.

Ms. Kenney emphasized some important implications resulting from the fact that large groups and self-insured plans are not required to cover EHBs. As an example, she explained that under the federal coverage standards, a large employer plan, by definition, meets MEC. However, the large employer plan is not required under the ACA to provide EHBs. Therefore, an individual may have an employer plan that fails to provide one, or several, of the categories of coverage required in EHBs. Ms. Kenney further emphasized that this would meet MEC requirements, but fails to meet MCC requirements. In conclusion, Ms. Kenney posed the question to the Board whether there continues to be a role for MCC to maintain Massachusetts' commitment to protecting the quality of coverage people receive.

The Board began a conversation regarding retention of MCC requirements. Secretary Gonzalez commented that under federal law, MEC is the floor in order for the state to meet ACA compliance. He further noted that to the extent someone failed to meet the federal mandate, they would pay a penalty to the federal government. Therefore, if the state were to layer something on top, whether continuing to impose MCC or some version of it, and some higher penalty amount that might apply to certain populations, those payments would come to the state. Secretary Gonzalez stressed that the state needs to ensure that if an individual failed to meet MEC and MCC compliance, the individual wouldn't have to pay the total amount to the state or the total amount to the federal government. Mr. Gruber emphasized his belief that the Board needs to revisit and rethink MCC. Ms. Kenney responded and explained that the CCA's vision is to highlight particular components of MCC that the CCA would want to consider for modification to comply with the ACA insurance market reforms. Ms. Mitchell stated that she would find it helpful to receive a CCA staff recommendation for the Board to then discuss. Ms. Turnbull indicated that the state needs to retain MCC because it applies fairly across all individuals in the Commonwealth. She further emphasized that she would hate to see the Board tinker with something that is working quite well. Ms. Wcislo indicated the continuing need to lower certain cost-sharing mechanisms. Mr. Duncan stated that many of his clients are large self-insured national companies. He expressed his concern that large employers will be less likely to offer their employees health insurance if they have to deal with complicated state and federal standards that differ from one another. Mr. Duncan asked that

Board members talk to some large employers about this issue before they come to a conclusion on whether to retain MCC. Secretary Gonzales asked CCA staff to ensure that the Board has all the information they need to make a thoughtful decision.

The meeting was adjourned at 10:42 AM.

Respectfully submitted,
Kristin F. McCarthy