

**Minutes of Meeting of the Merged Market Advisory Council (Council) held on Wednesday, June 17, 2020 and Approved by the Council at the Meeting Held on Thursday, September 10, 2020 Motion of Council Member Amy Rosenthal and Seconded by Council Member Rosemarie Lopes. The Motion Passed by a Unanimous Vote of the Council Members**

**Present.**

June 17, 2020, Minutes of the Council Meeting  
**Held Telephonically**

**Members Participating by Telephone**

Gary D. Anderson, Chairman, Commissioner Division of Insurance  
Louis Gutierrez, Executive Director the Massachusetts Health Connector  
Lauren Peters, designee of Marylou Sudders, Secretary of Health and Human Services  
Michael Caljouw, Blue Cross & Blue Shield, Health Insurance Carrier representative  
Lora Pellegrini, Executive Director Massachusetts Association of Health Plans, Health Insurance Carrier representative  
Rosemarie Lopes, Insurance Broker representative  
Rina Vertes, Health Insurance Industry Actuary  
Amy Rosenthal, Small Group/Individual Health Insurance Purchaser representative  
Patricia Begrowicz, Small Group/Individual Employer representative  
Joshua Archambault, Health Insurance Business Community representative  
Jon Hurst, President of the Retailers Association of Massachusetts, Health Insurance Business Community representative

**Not Participating:**

Wendy Hudson, Small Group/Individual Employer representative  
Mark Gaunya, Health Insurance Broker representative

**Attending to the Council:**

Michael D. Powers, Counsel to the Commissioner Division of Insurance  
Jackie Horigan, Director Consumer Services Section Division of Insurance

**Call to Order:**

Chairman Gary D. Anderson called the meeting to order at 1:00PM.  
Chairman Anderson called a roll of the Council Members participating by teleconference and the members or designees identified themselves.

Chairman Anderson explained that as a result of the COVID-19 public health crisis, the Council meetings could not be held as originally scheduled. The work of the Council is important, and in order to keep progress moving, monthly meetings have also been scheduled for July and August, with an intent to resume bi-weekly meetings in September in order to complete the work of the Council.

The Council members reviewed the draft minutes from the March 11, 2020 meeting, and Council Member Joshua Archambault made the motion to approve the minutes, the motion was seconded by Council Member Rosemarie Lopes, and the motion passed unanimously with Chairman Anderson and Council Member (Designee) Peters abstaining.

Chairman Anderson also informed the members of the Council that the draft minutes of the meeting held May 20, 2020 had been provided to all the members of the Council. Chairman Anderson asked the group to review the draft minutes for approval at the next meeting. Mr. Caljouw suggested a revision to the minutes regarding the Division's bulletins and membership. Kevin Beagan, Deputy Commissioner for the Health Care Access Bureau of the Division of Insurance, said he would revise and send to the group before the next meeting.

#### **Presentation about May End Membership**

Mr. Beagan said that the Division has reviewed membership levels for May 2020 and is encouraged that the carriers have not seen a significant drop in membership. He said that employer group membership did drop by approximately 20,000 persons, but with an increase of about 15,000 in government programs, the total number with health coverage only dropped by 5,000 in total.

Mr. Beagan explained that the Division expected much lower numbers because of the high rate of unemployment, so it was a relief to see the numbers have not significantly dropped. Mr. Beagan reminded the Council that the companies report their membership levels on the 15<sup>th</sup> of each month for the preceding month, and the Division will share June membership levels with the Council when received. Mr. Beagan also explained that the Division is working with companies to expand the reporting to include both small and large group numbers, as well as government accounts.

Council member Pellegrini said that it is great that we have such little drop in membership, but surprising. She asked if the Administration is tracking employers who furloughed employees and maintained their benefits but are now letting those employees go as the economy gets worse. She also asked if the Administration is tracking the impact of those individuals receiving health care benefits via COBRA.

Mr. Beagan explained that we are looking at summary information that can be reported quickly, but that the Division, as well as the Center for Health Information and Analysis (CHIA), will be collecting more in-depth information.

#### **Presentation about Suggested Changes to 211 CMR 40.00**

Deputy Commissioner Beagan said that the Council discussed at the last meeting that the DOI should revisit 211 CMR 40.00 ("Marketing of Insured Health Plans") to set up new safeguards so individuals understand the coverage they are buying and avoid choosing options outside the merged market, and then return to the merged market when they realize that the options chosen do not give the coverage they need.

Mr. Beagan presented draft materials and explained that the draft would require new disclosures so that covered persons would be much more aware when an option is for fully insured health

coverage and when an option is for limited health coverage. Mr. Beagan reminded the Council that the MMAC does not need to vote on what ends up in the final regulation, but the Division would welcome any ideas that MMAC members may have. Ultimately, the Division will need to follow the standard M.G.L. c. 30 approval process when proposing final changes, which will go through a formal hearing.

Council member Rosenthal said she is appreciative of efforts to make sure people understand what they are buying and understand when a plan is a limited health plan. Ms. Rosenthal indicated that she would like to review the regulation with her helpline counselors and share suggested revisions at a later time.

Mr. Caljouw said that he is supportive of the changes generally, but wants to be sure that any changes to this regulation are consistent with 211 CMR 152.00 and the existing requirements with regard to notices about benefits.

**Presentation about Sharing Ministries:**

The discussion then turned to the NCOIL (National Council of Insurance Legislators) sharing ministries model.

Chairman Anderson explained that the Council is not being asked to endorse the model but instead to consider whether there should be any regulation of sharing ministries. Chairman Anderson also explained that the Council should consider any potential overlap with the Massachusetts Health Connector's regulation for minimum creditable coverage (MCC). The Chairman asked Audrey Gastier from the Health Connector, who was also on the call, to explain that regulation.

Ms. Gastier said that the Connector's Board of Directors voted last year to address sharing ministries within its regulations to identify when persons with membership in sharing ministries would be considered to satisfy Minimum Creditable Coverage (MCC). She indicated that she would look into the issue in more detail and see whether it may be helpful for there to be new processes, as suggested by NCOIL, which would regulate the activities of sharing ministries in Massachusetts.

Council member Archambault said that he is concerned about spending time and resources on issues such as sharing ministries when the total number of persons enrolled in these options are minor compared to other options that are a larger part of the market. Chairman Anderson said that it is a small piece of the market, but we are looking at all options because we do not know what impact the pandemic is going to have on the market.

Council member Pellegrini said that she has been talking to a lot of small business owners, many of whom got loans to help bridge financial gaps, but that money is running out. She hopes that more information from economic experts over the next month or two can help shed light on the impact of COVID-19.

Council member Hurst said COVID-19 has sidetracked the Council from discussing substantial real long term reforms, and would like to put a spotlight back on rating factors. He asked

whether CMS/HHS has responded to the Connector's request for continued authority, under ACA Section 1321e, for the Commonwealth to use two merged market rating factors (the group size factor and the cooperative utilization factor (a topic discussed at previous MMAC meetings).

Council member Gutierrez said that the Connector did reach out to get an update on the status, and while not final, the Connector received favorable signals that it is in final stages of approval. Council member Rosenthal agreed that the Council should keep an eye on both the numbers and do work on sharing ministries. She said that while it is not a large part of the market, this issue is important for individuals and families who discover that they don't actually have the health coverage that they thought they purchased.

Council member Vertes said she is baffled that there has not been more erosion in employer sponsored coverage and uptick in government sponsored coverage. She said she is likewise afraid that the Council is losing focus of the core issue, which is the cost of health care and the burden it places on individual, small businesses, and the government. She said that in NY payers are asking for rate increases north of 11%, and she is very concerned about the rates carriers will be filing in the next few weeks. Mr. Hurst agreed with that sentiment and said that the rates should reflect the drop in utilization.

Mr. Caljouw suggested that for the July or August meeting, Gorman Actuarial could model the impact of any legislative changes that might occur through next 6 weeks that might impact the market and that a segment of these Council meetings should be dedicated to reviewing that modeling.

Mr. Anderson said that the Council members' comments present a snapshot of the many challenges the Council is facing. When the full meetings resume in September, the plan is to have more updates from Gorman Actuarial.

**Adjournment:**

Commissioner Anderson thanked the Council Members for their participation, and reminded Council members that the purpose of these monthly meetings is to maintain the momentum the Council created pre-crisis and address some lower priority items that will still benefit Massachusetts residents. Chairman Anderson called for a motion to adjourn, Council Member Hurst made the motion, the motion was seconded by Council Member Archambault, and the motion passed by a unanimous vote of the Council Members with Chairman Anderson abstaining.

Whereupon, the Council's business was concluded.

These minutes are exempt from the requirements of M.G.L. c. 30A, § 22(a) based on the definition of a "public body" as defined under c. 30A, § 18.

**List of Documents provided to the Council before the meeting:**

- 1. Draft amendments to 211 CMR 40.00**
- 2. Draft minutes of the public meeting held on March 11, 2020 at 1000 Washington Street, Boston, Massachusetts.**

- 3. Draft minutes of the public meeting held on May 20, 2020 via telephone.**
- 4. NCOIL HCSM Model draft**