

Dirigo Health Agency
Board of Directors
Minutes of Meeting - Final
January 27, 2006

The Dirigo Health Agency Board of Directors held a meeting on Friday, January 27, 2006. Dr. Robert McAfee, Chair, convened the meeting at approximately 1:00 PM in the Dirigo Health Agency Board Room, located at 211 Water Street in Augusta. Other Board members in attendance: Dana Connors, Mary Henderson, Commissioner Christine Bruenn, Commissioner Rebecca Wyke, and Trish Riley. Joining by telephone was Charlene Rydell. Also in attendance: Karynlee Harrington, Executive Director of Dirigo Health Agency, Dr. Dennis Shubert, Director of the Maine Quality Forum, and William Kilbreth, Technical Director of Dirigo Health Agency.

The Board unanimously approved the minutes of the 01/10/2006 meeting.

Updates from the Governor's Office

Ms. Riley gave an overview of the Governor's State of the State address:

The Governor noted that Dirigo is a broad initiative, including DirigoChoice, the Maine Quality Forum, and savings initiatives. The programs represent a foundation in health care reform and now must be built upon.

The Governor is considering alternatives. DirigoChoice initially received one bid, and his Office is not sure what December will bring and must prepare for a number of eventualities. The Office also recognizes that the program must explore more cost effective options, better marketing to the uninsured, and alternative product designs that are more affordable for the target market.

To that end, the Governor is working with Steve Tringale, who was a division president of Massachusetts Blue Cross Blue Shield and an architect of the Fisherman's Fund, to explore program developments. The Governor's Office is determining the contract structure with Mr. Tringale.

Ms. Riley emphasized that this work did not represent a set course, but rather a feasibility study.

Dr. McAfee mentioned that President Bush was planning on discussing Health Savings Accounts in his forthcoming State of the Union.

Legislative Changes

Ms. Riley outlined forthcoming proposed legislative initiatives:

- LD 1845, sponsored by Rep. Bryant - "An act to increase access to health insurance products." This legislation would allow the DHA board to establish alternative organizational structure. The current Dirigo law establishes that the Board may request this allowance of the Legislature in the case no bids or only unsatisfactory bids are received to run the program.
- LD 1935, sponsored by Senator Martin - "An act to protect health insurance consumers." This legislation would prohibit the pass-through of the Saving Offset Payment to insurance consumers through rate increases by insurers.

- LD 1680, Minority Report. This legislation would repeal the SOP and mandate that MaineCare be funded by general fund in the future

Ms. Harrington outlined proposed technical changes to existing Dirigo Law

- 1) Changing Section 6913, subsection 1 to move the date of determination of savings by the Board from April 1st to September 1st.
- 2) Changing the law to allow the MQF to protect practitioner quality date until determined accurate and complete before making available to the public.
- 3) Changing the definition of contribution levels in Section 6910. The Agency proposes to adopt the definition in the insurance regulations specific to part-time and full-time. Currently the employer can define part-time and associated contributions levels.
- 4) Clarify definition of “eligible individual.” Agency wishes to clearly distinguish between “self-employed” participants and “eligible individual” participants.

Ms. Harrington further noted that today is the last day for public comments on the proposed Agency Rules. The Agency has received no comments to date.

The Board discussed the implications of the date change for the determination of savings. Ms. Harrington commented that her understanding was that the April date was based on a projected July program start. She further noted that insurers were concerned about having enough time to adjust their rates after the determination. She also pointed out that the Medicare cost reports would not be available until July or August.

Representatives from the Chamber wished to consider the implications of the date change. Representatives from Anthem expressed concern about both dates (April or September) in terms of building rates in a timely fashion.

The Board agreed that while legislation and discussion among parties was pending the preparation for the April 1 determination must continue as planned.

Ms. Riley mentioned the electronic billing provision of the Dirigo law and noted that significant numbers of small provider groups had not heard of the provision. She acknowledged and thanked the Maine Medical Association for its work in communicating the facts of the law to its members. A representative from the Maine Hospital Association pointed out that issues with MaineCare systems force providers to submit up to 40% of their claims on paper.

The Board discussed the change pertaining to the minimum contribution levels and definitions of full-time and part-time employees. Ms. Harrington noted that the Agency has, through its administrative process and feedback from the market for a standard definition, defined 30 hours and up as full-time and less than 30 hours as part-time and has established minimum contribution for these levels. The Agency wants to ensure the law corresponds with other insurance regulations (i.e., the BOI), with administrative practice, and that it provides clear guidance to employers who wish to apply. Ms. Harrington further noted that this change would help budgeting activities for the Agency.

Adjudicatory Hearing

Ms. Harrington distributed the Notice of Pending Proceeding and Hearing. She announced that the Agency had published the Notice in the Portland Press Herald, the Kennebec Journal, and the

Bangor Daily News today and that the Agency had set up a page on its web site that will contain all documents relating to the hearing. She indicated that the same Notice would be published in the same newspapers on Tuesday.

Ms. Harrington noted that the Agency had not sent the Notice to its Interested Parties list on the advice of the attorney general. Ms. Bruenn questioned that determination under the APA. Ms. Harrington noted that there had been technical problems with the Interested Parties list but that the Agency would establish a separate Interested Parties list for the Adjudicatory Hearing to address any APA and technical issues.

Ms. Harrington noted that the Hearing was scheduled for March 15th, 16th, and 17th in the Hearing Room at the Maine Public Utilities Commission, 242 State Street.

Ms. Harrington distributed a draft Procedural Order. She pointed out that parties wishing to intervene had until February 10th at 3:00 pm to file applications at DHA. She noted that the Agency has no rules relating to Adjudicatory Hearings and that the Procedural Order was meant to set out process guidelines for the Hearing. She brought the Board's attention to the fact that at this time the Board had yet to hire a hearing officer and counsel.

Ms. Harrington highlighted the requirement of interveners to provide a methodology detailed in the Exchange of Witness Lists and Documents (Section E) of the Order. The Board discussed this requirement and the Order. Ms. Henderson recommended that there be defined limits to the extent of cross-examination allowed and further definition of "limited" parties and "full" parties to the Hearing. The Board expressed reservations about the requirement to provide a methodology and suggested that the presentation of a methodology be optional. The Board agreed to allow the Attorney General and Ms. Harrington to re-draft the Order.

The Board discussed the role of the Hearing Officer and of any consultants whom the Board might hire. The Board agreed that the Hearing Officer should administer the Hearing, but that the Board would not ask the Officer for a preliminary decision. The Board will request the Officer to draft the written document based on the Board's decision.

The Board discussed the difference between the Hearing required of the Board and that required of the Superintendent of Insurance. There was agreement that the two Hearings were largely redundant. Ms. Riley asked interested parties if they had any interest in consolidating the Hearings.

CON Overview

Dr. Shubert updated the Board on the Maine Quality Forum's role in the Certificate of Need process. MQF is now evaluating CON applications for quality and safety issues, specifically that the development follows best practices, industry standards, and that it does not result in an inappropriate increase in services.

Dr. Shubert touched on the relationship of the MQF review to the existing state licensure and joint commission accreditation processes. He noted that a State licensure official was scheduled to address the Forum on the existing process. He further noted that many providers today are not joint commission accredited. He suggested that the role of the MQF would not be to mandate joint commission accreditation, but rather to ensure that entities seeking CON approval followed joint commission recommendations.

Dr. Shubert mentioned the role of the Technology Assessment Committee in this review process. He commented that the MQF would probably not have the authority to deny a CON application, but that the MQF should have the ability to prevent the rollout of new technology the Assessment Committee felt Maine was not ready for. Dr. Shubert concluded his remarks pointing out that many practices don't invest in fidelity of care, i.e., "doing the right thing at the right time", but do invest a huge amount in new technologies.

Other Agency Matters

Ms. Harrington thanked Gloria Tomsa, DHA Director of Operations, for managing the January re-enrollment and waiting list enrollment in January in a compressed timeframe.

Ms. Harrington noted that 469 Section 6908 No. 4 requires the State to perform an audit on the Agency. The audit was for State Fiscal Year 2005, began in October, and ended in December. The result of the audit was that the Agency restated financials as an Enterprise Fund in order to be consistent with the change from a Special Revenue Account in SFY 2006. No other major issues or problems were revealed in the audit. The Agency's final financial statement will be published in the State's Comprehensive Annual Financial Report.

Ms. Harrington distributed two financial overviews she had provided to the Insurance and Finance Committee, one for CY 2005 and the other for CY 2006. She noted that the report resembled the Agency's income statement, but reflected a calendar year instead of a fiscal year and showed a cash balance. Ms. Harrington brought the Board's attention to the estimated liability of \$4 million for MaineCare Parent expansion. She further pointed out the \$26.7 million cash balance at the start of CY 2006. Ms. Harrington noted that the 2006 report was using actual enrollment and retention member month figures for January and February 2006, but that the other months reflected Agency projections. She further called the Board's attention to the report showing cash balance of \$3 million at end of CY 2006. The Agency has set aside this amount for FY 2007 expenditures not covered under SOP. Ms. Harrington stated that the Agency would provide the balance sheet and income statement in the future.

Dr. McAffe requested an update on the move of operations from Skowhegan and on the status of the employees involved in the move. Ms. Harrington stated that the move was on schedule. She said the employees in Augusta would not be the same physical staff as Skowhegan, but would represent the same headcount. The existing staff in Skowhegan will transfer to work on DHHS programs. The Agency anticipates gaining efficiencies through the move and reduce headcount in the long term. The Agency has defined 13 positions of which 12 are filled.

Ms. Wyke stated that the 13 DHA positions are permanent. The positions coming from Skowhegan are DHHS positions.

Ms. Harrington noted that on Monday January 23rd the paid claims definitions were final and approved. The rules are now available on the Agency web site.

Ms. Harrington distributed a letter from Representative Glynn. She noted the Representative is requesting the Agency provide all information relating to the status of the uninsured under the Freedom of Information Act. Ms. Harrington stated the Agency has provided the Legislature all information relating to how this data has been collected to date by survey and what the results of that collection have been. However, the Agency has not provided information on what the Agency has been collecting on the DirigoChoice discount applications. She pointed out that the survey was put on the application in October, but not all applicants have used that version of the application or responded to the questions. The Agency is following up with those applicants and

hopes to do complete the follow-up by end of February. Effective February 1st the survey response is mandatory.

The Board discussed the FOIA request. Some members of the Board expressed concern over HIPPA regulations and disclosing applicant's personal information. The Board agreed to take counsel from the attorney general and to proceed under his guidance.

There were no comments from the public.

The next meeting was tentatively scheduled for February 21st.

The Board adjourned at approximately 3:00 pm.