



Maryland Health Benefit Exchange Board of Trustees

July 17, 2023

2 p.m. – 4 p.m.

Meeting Held via Video Conference

Members Present:

Laura Herrera Scott, Chair
Ben Steffen, MA, Vice Chair
Kathleen A. Birrane
Dana Weckesser
Maria Pilar Rodriguez
K. Singh Taneja
Laura Crandon
Rondall Allen

Members Absent:

Aika Aluc

Also in Attendance:

Michele Eberle, Executive Director, Maryland Health Benefit Exchange (MHBE)
Venkat R. Koshanam, Chief Information Officer, MHBE
Tony Armiger, Chief Financial Officer, MHBE
Sharon Merriweather, Principal Counsel, MHBE
Johanna Fabian-Marks, Director of Policy and Plan Management, MHBE
Tamara Cannida-Gunter, Director of Consumer Assistance & Eligibility, MHBE
Tracey Gamble, Procurement Manager, MHBE

Meeting Call to Order

Secretary Herrera Scott called the meeting to order.

Approval of Minutes

Ms. Taneja moved to approve the minutes of the June 20, 2023, meeting. Ms. Weckesser seconded. The Board voted unanimously to approve the meeting minutes as drafted.

Public Comment

None offered.

Executive Update

Michele Eberle, Executive Director, MHBE

Ms. Eberle started with federal updates. She noted that all eyes are on the public health emergency (PHE) unwinding. Maryland is doing better than other states with Medicaid redeterminations because of the close collaboration between the state's agencies, but there is still more work to do. Ms. Eberle shared that the section 1332 waiver for the state reinsurance program (SRP) was approved for another five years, through 2028. She noted that there has been little relevant activity in Congress recently.

Ms. Eberle then provided state updates. The proposed individual and small group rates were released. The average proposed rate is lower than the actual rates last year; the average proposed rate increased by 5.7% for individuals and 7.5% for small groups. The Maryland Insurance Administration (MIA) will hold a hearing on the proposed rates on Wednesday. Ms. Eberle encouraged those interested to register to provide comments on the proposed rates. She explained that House Bill (HB) 413, passed in 2022, required the MIA, in consultation with the MHBE and the Maryland Health Care Commission (MHCC), to provide a report on the impact of the SRP, including consideration of whether the funding level is appropriate when taking into account future population growth and projected premium growth. The legislature also wants to know if the assessment is appropriately apportioned among the carriers, if it should be broadened to include other business sectors, and whether it should be supplemented by state funds. They are interested in learning more about additional market reforms to provide affordable health coverage in the individual market, such as the continuation of the SRP, providing state-based premium subsidies, or expanding eligibility for Maryland Medicaid. The legislature is interested in the design of the SRP, including program parameters, in light of the impact of the young adult subsidy program, the easy enrollment program, the special enrollment periods, and enhanced subsidies under the American Rescue Plan Act (ARPA). Agencies have been meeting and gathering information for this report since the spring. Ms. Eberle reported that there have been two public hearings and that the next is on August 4, and she encouraged everyone to participate.

Ms. Eberle reported that the Board and MHBE senior leadership held a planning day in June and decided to reduce the number of Board meetings from nine a year to eight and to alternate between in-person and virtual meetings. During the planning day, there was a discussion regarding carriers achieving health equity accreditation, which was a recommendation of the Health Equity Workgroup that convened last year. MHBE learned from the National Committee for Quality Assurance (NCQA) that CareFirst has a survey scheduled for December 7, 2023, and Kaiser Permanente has a survey scheduled for October 15, 2024. NCQA is in the process of scheduling a survey for United Health Care. Ms. Eberle reported that an interactive enrollment dashboard was recently added to the MHBE website.

[Standing Advisory Committee Report](#)

Dana Weckesser

Ms. Weckesser reported that the Standing Advisory Committee (SAC) met on July 13, 2023, and the agenda included an executive update, a legislative update, an update on the 2023 health workgroups, a PHE unwinding update, a presentation on the proposed qualified health plan (QHP) certification standards for 2024, and an update on the Health Equity Workgroup and efforts to improve race and ethnicity data. Ms. Weckesser provided an overview of the highlights from the presentation on the

efforts to improve race and ethnicity data and suggested that this presentation should be added to the agenda of an upcoming Board meeting.

Procurement Presentation Discussion

Tony Armiger, Chief Financial Officer, MHBE

Mr. Armiger provided a presentation on the proposed changes to the Board procurement approval process. He started with an overview of the current procurement approval process. The Board must approve all contracts in the amount of \$200,000 or greater, and the MHBE often enters into multi-year contracts, which are approved by the Board. Typically, there is a base period of one or more years, with contract option years.

Mr. Armiger then compared the current procurement process to the proposed process. Under the proposed process for initial contract approvals, staff would be required to bring the recommended award to the Board at least 60 days before the contract effective date instead of 30 days before. The Board would approve the base year and option years for a full contract period not to exceed amount (NTE), subject to available annual appropriations, instead of approving an NTE for one year only. A blanket purchase order (BPO) would be created for the entire contract period instead of for each base year. A purchase order (PO) would be created in each base year for one year only. The annual presentation to the board for each additional base year would be eliminated under the proposed process. The annual amount for the contract would still be included in the MHBE budget approved by the Governor and appropriated by the legislature.

Mr. Taneja asked whether the term “base years” also includes renewal years for a contract. Mr. Armiger responded that the base year includes the base period so staff would not have to send a renewal notice for each year. For example, if the base period is three years, then a renewal notice would not be needed for years two and three of the base period.

Mr. Taneja asked about the Board approval process for option years. Mr. Armiger responded that he will address that shortly.

Mr. Taneja asked what happens when the budget for a contract is reduced after the initial approval given that the budget is determined each year and the budget can change from year to year. He asked whether the MHBE would renegotiate the contract if the budget is reduced. Mr. Armiger responded that a vendor may not be willing to lower the contract cost due to reduced funding. Mr. Taneja noted that he is aware that other jurisdictions have a clause in the contract that states that the annual renewal of the contract is subject to available funds. Ms. Eberle responded that all MHBE contracts have a clause that the contract is subject to the availability of funds.

Ms. Weckesser suggested a clarification in the language for the proposed procurement process, that it should be changed from “Board approves base year” to “Board approves base year(s)” because some contracts have a multi-year base period. Ms. Eberle clarified that, internally, the MHBE uses the terms “base year” or “base years” interchangeably to mean the base period for that contract. She explained that nothing changes during the base period as long as the funds are available, and beyond that, the MHBE would have to exercise the option to continue the contract for the option years.

Mr. Armiger then provided an overview of the proposed procurement process for option years. Under the current process, option years are presented to the board at minimum 30 days before contract renewal, and the Board approves the option year not to exceed amount (NTE). Under the proposed process, assuming management is satisfied with the vendor's performance, a proposal for the Board to exercise an option year of the contract is presented to the board at minimum 30 days before contract renewal. After review, the Board would authorize staff to exercise the option year.

Ms. Weckesser asked if Board approval would be needed for a contract that needs an increased NTE amount. Mr. Armiger responded in the affirmative, explaining that the Board would need to approve any NTE increase beyond the NTE amount it initially approved.

Commissioner Birrane asked for confirmation that, under the proposed process, staff are authorized to go ahead and exercise an option year as long as it falls under the NTE amount and would only need Board approval if the option year required a higher NTE amount. She explained that she is struggling to understand the difference between the current process and proposed process. Mr. Armiger responded that the proposed process for the option year is not significantly different from the current process. Ms. Eberle explained that the Board would approve the contract amount for the entire base period and then approve each option year. She noted that the difference under the proposed process is that the MHBE would not need to come back to the Board for the NTE amount for the option year, but MHBE staff would still ask the Board to approve their authority to exercise the option year.

Secretary Herrera Scott expressed confusion and asked for confirmation that, although the expectation when MHBE staff come back to the Board for an option year is that the base years went well, staff will still provide an update to the Board. Ms. Eberle responded that MHBE staff will provide an update and that the Board can exercise the option year or not but the Board will not have to approve the NTE amount again.

Secretary Herrera Scott asked for confirmation that MHBE staff would not come back to the Board for approval of the option years. Ms. Eberle clarified that they would come back to the Board for approval for all option years. Mr. Taneja expressed confusion, stating that the language of the proposed process does not make it clear that approval from the Board would be sought for the option years and instead implies that option years would not go before the Board. Mr. Armiger responded that there are two options for handling option years: either keeping the current process where the Board approves each option year or adopting the new process wherein initial approval of contract for base and option years would mean that option years are already approved and do not need to be approved again.

Mr. Taneja asked what happens when the level of service for a contract changes: for example, if the Board approved a \$20 million contract for a call center to answer 200,000 calls, but the call center is the number of calls later drops to 180,000. Mr. Taneja asked if, in that situation, the contract would go back to the Board for approval because the level of service changed even through the NTE amount didn't or if the approved NTE amount would supersede the level of services being purchased. Mr. Armiger responded that a modification of the contract would be needed if the level of service changed. Ms. Eberle added that, when the Board approves a contract, all of the terms of that contract are laid out, including the NTE amount, and any change to those terms must be brought back to the Board for approval.

Mr. Taneja asked whether the contract would go back to the Board for approval if the NTE amount for the IDIQ vendors increases. Mr. Armiger responded that the Finance Committee and the Board approve each task order amount rather than an amount for each vendor. If a task order has an NTE amount, then the Finance Committee or the Board approves it, depending on timeliness.

Mr. Taneja noted that the lease for the MHBE office was for a five-year base period with a five-year option. He asked how the option years for lease would be handled and whether they would require Board approval. Mr. Armiger responded that any change in the scope of work for the contract or the NTE amount would require Board approval. The Board would also have to approve the option years.

Secretary Herrera Scott asked Sharon Merriweather, Principal Counsel for the MHBE, if the proposed procurement process is legally the same as the current process. Ms. Merriweather explained that, under the proposed process, the NTE amount would not be approved again for an option year, so the motion would be to approve the exercise of the option year at the previously approved NTE amount instead of approving the NTE amount again. All contract NTEs are approved subject to available appropriations. She noted that the process is largely the same, but the language will be modified.

Secretary Herrera Scott asked about the benefit of the proposed language if it is largely the same as the current process. Ms. Merriweather responded that the largest change is in the procurement process for base year contracts, which will no longer need an approval each year during the base period.

Mr. Steffen asked why the new process is better. Mr. Armiger responded that it will save time during Board meetings because the Board will not have to approve the NTE amount for each year during the base period years. Ms. Eberle added that the Board had previously asked why they were approving each base year of a contract that was previously approved. She explained that the goal of the presentation today was to provide information about the proposed process and pose discussion questions to open up dialogue for the Board.

Mr. Armiger provided an overview of the procurement discussion questions. Commissioner Birrane agreed with Secretary Herrera Scott that the proposed language is a nuanced difference between saying that the Board is approving the NTE amount for the entire length of the contract versus on annual basis. She noted that it is important to her to receive a report on the contract and whether it should be continued.

Ms. Eberle explained that the Board is not voting on the proposed procurement procedures today and that the MHBE staff was seeking the Board's feedback, which staff will take into account when drafting a proposal for the Board's approval.

[2022 Reinsurance Results and 2024 Reinsurance Parameters](#)

Johanna Fabian-Marks, Director of Policy and Plan Management, MHBE

Ms. Fabian-Marks began with an overview of the 2022 SRP results. The projected cost of the SRP was \$520 million, and the actual cost was \$485 million, with the state receiving \$344 million in federal funds. The rest was funded through state funds from the one percent assessment on carriers. Total paid claims in 2022 were about \$1.4 billion. The 6% of individual market enrollees who qualified for payments through the SRP accounted for 66% of paid claims, with 33% being reimbursed through the

SRP. The 94% of enrollees who did not qualify for reinsurance payments accounted for 34% of paid claims. Ms. Fabian-Marks reported that individual market enrollment has grown since the SRP began in 2019, after enrollment started declining in 2017 as premiums increased. Off-exchange enrollment decreased slightly from 2022 to 2023.

Ms. Fabian-Marks then presented the final parameters for the 2024 SRP. The Board is required to set the parameters each year for the upcoming plan year. MHBE staff recommends increasing the 2024 attachment point from \$19,500 to \$20,000 and holding the coinsurance rate and cap steady at 80% and \$250,000, respectively. Staff also recommend that the Board continue to apply a dampening factor as determined by the MIA.

Ms. Fabian-Marks explained the factors influencing the 2024 projections. She noted that the actual 2022 reinsurance payments were 6.7% lower than projected and that the actual 2023 federal pass-through funding was 7.8% higher than projected. The projections also incorporated anticipated enrollment due to the fix to the family glitch effective January 1, 2023, resumption of Medicaid redeterminations in 2023, and the expansion of the Young Adult Subsidy in 2024 to people ages 35-37. Lastly, the projections incorporated the continuation of the enhanced subsidies from ARPA through 2025.

Ms. Fabian-Marks explained the projected impact of increasing the 2024 attachment point from \$19,500 to \$20,000. There is no expected impact on enrollment, but the increased attachment point is projected to increase rates by approximately 0.6%. The 2028 reinsurance fund balance would be increased from \$304 million to \$336 million. She then provided an overview of a chart showing the SRP's funding projections as of October 2022 with a 2024 attachment point of \$19,500. Under this projection, the cost will increase while the fund balance decreases, with the projected funds exhausted by 2028. Ms. Fabian-Marks then provided an overview of an updated funding projection conducted in July 2023 that showed a decrease in the gap between the funding and cost of the SRP.

Secretary Herrera Scott noted that reinsurance funding projections assume that the state funding is flat and asked if there are concerns about fluctuating state funding for the reinsurance program. Ms. Fabian-Marks responded that legislation has authorized the 1% assessment on carriers through 2028, so the state funding is secure.

Commissioner Birrane added that the HB 413 working group has been examining the long-term trajectory of the SRP funding and doing a lot of modeling regarding market reform. She underscored that, in 2023, there was concern that the enhanced subsidies from ARPA would not be extended, which would have increased premium rates by 17 to 20% in the individual market. She explained that, even with the continuation of ARPA, the original 2024 rate increase requested by carriers was roughly 12%, but they were able to claw back \$50 million out of \$100 million that was going to be allocated out of the state reinsurance fund, which allowed for a drop of the attachment point and a reduction of the rate increase for 2024. Commissioner Birrane concluded that, based on the trend analysis, her team felt confident that the attachment point could return to \$20,000 without any adverse market impact and result in a \$32 million net gain for the reinsurance fund.

Mr. Steffen asked whether the projection assumes that the enhanced subsidies end in 2025. Ms. Fabian-Marks responded in the affirmative and noted that the fund balance line in the chart drops in

2025 when the enhanced subsidies end. She noted that, if the enhanced subsidies were to continue past 2025, then state funds would be sufficient for the reinsurance program costs.

Mr. Steffen asked how many enrollees in the individual market did not have any costs for the year and asked for more information on the payer distribution for the 6% of enrollees whose claims were reimbursed through the SRP. Ms. Fabian-Marks responded that she will pull the number of enrollees without claims and will get back to Mr. Steffen. She noted that she will show a chart on the carrier distribution during her presentation of the carrier accountability reports and agreed that the majority of enrollees who reached the reinsurance attachment point were enrolled in CareFirst.

Ms. Crandon asked if the SRP costs and funding have stabilized or if there is still run-off from the past three years of pandemic behavior. Ms. Fabian-Marks responded that claims were fairly flat from 2021 to 2022 and that this is reflected in the proposed rate increase not being as high as expected, as well as in the fact that the reinsurance costs were less than anticipated. She noted that, even though there are limited years of data, MHBE staff feel good about current trends.

Commissioner Birrane noted that the MIA carefully examines trends across markets and is currently in the process of breaking down the trends based on companies' reports on their trends across markets and outside actuarial analysis. The MIA can work with the MHBE to schedule a primer on the MIA's process for trend analysis. Brad Broban, Senior Actuarial Analyst with the MIA, added that the does not have trend numbers readily available but that he will be presenting on trend numbers at the upcoming Affordable Care Act rate setting hearing. Mr. Broban reported that the individual market trends are running lower than the small group and large group markets, and his team is trying to identify the factors that are driving these trends in the individual market. They will look at the whole period from pre-pandemic through post-pandemic. Commissioner Birrane added that the MIA is breaking down information to understand the drivers of the trends because, until the MIA understands the drives of the trends, it will be difficult to determine whether the trends are temporary or permanent. The MIA could possibly provide a primer at the September Board meeting after the rates are finalized. Ms. Eberle noted that the MHBE typically asks the MIA to present on the final rates at the September Board meeting.

Ms. Crandon expressed an interest in learning more before the September Board meeting, and Commissioner Birrane responded that Ms. Crandon can contact her with any questions she may have.

Ms. Fabian-Marks provided an update on the SRP carrier accountability reports. MHBE regulations require carriers to submit an annual report that describes the activities to manage the costs and utilization of the enrollees whose claims were reimbursed by the SRP and efforts to contain costs. At this point, there are two years of reports. Ms. Fabian-Marks provided an overview of a table showing the enrollment and reinsurance payment breakdown by carrier. She then provided a summary of the carriers' care management initiatives for plan year 2021; CareFirst and Kaiser Permanente had behavioral health and diabetes management programs. United was new to the market with limited enrollment in 2021 and didn't have any care management initiatives that met the reporting threshold of 300 enrollments, but United does have a behavioral health program focused on opioid use disorder and a broader case management program. Ms. Fabian-Marks explained a table showing the top five most frequent hierarchical condition categories among reinsurance claims for 2019 through 2021. Diabetes, one of the state's public health priorities, was among the 3 most frequent conditions among

reinsurance enrollees in all three years. HIV/AIDS and various cancers were also in the top three in each year.

Secretary Herrera Scott moved to approve the final parameters for the 2024 State Reinsurance Program as follows: an attachment point of \$20,000, a coinsurance rate of 80%, a cap at \$250,000, and a dampening factor to be provided by the Insurance Commissioner. Mr. Taneja seconded the motion; the Board voted unanimously to approve the reinsurance parameters as presented.

[Amazon Web Services contract FY24 Not to Exceed \(NTE\) Increase](#)

Tony Armiger, Chief Financial Officer, MHBE (filling in for Tracey Gamble, Procurement Manager, MHBE)

Venkat R. Koshanam, Chief Information Officer, MHBE

Mr. Koshanam explained that Amazon Web Services (AWS) serves a critical role for several sites such as the MHBE website, the MHC for small business web and mobile applications, Broker Connect, and the LiveAgent chat, among others. He noted that the fiscal year (FY) 2024 Information Technology (IT) strategy includes three areas that will increase usage of AWS services and related costs: disaster recovery and business continuity build-out, lower tier migration and proof-of-concept environment, and expansion of the MHBE enterprise footprint. He explained that the goal of the disaster recovery build-out is to provide an alternate disaster recovery location that is integrated and operated by and for the benefit of the MHBE to ensure seamless business operations in the event of a primary system platform failure that causes the health benefit exchange (HBX) to be inaccessible to both consumers and supporting IT Staff. The lower tier migration and the establishment of a proof-of-concept environment will allow MHBE to complete required system work and deliver innovative solutions with better speed and less overhead.

Expansion of the MHBE enterprise footprint will allow for an enhancement to the MHC for small businesses that will give employers and employees the ability to shop for plans and enroll directly with carriers through Maryland Health Connection (MHC). Also, as part of the MHBE enterprise, MHBE IT is increasing its Shared Services for Continuous Integration and Continuous Development that serve as a delivery model facilitating collaboration between an organization's software development and deployment teams. By building these services and enterprise assets, the goal is to reduce the physical footprint of on-premise services and improve reliability and flexibility. Mr. Koshanam reported that the Application Programming Interface (API) manages and protects server-to-server interactions, and they will be expanding the role of the API gateway to cover more and diverse connections, further improving the overall security posture of MHBE. Mr. Koshanam noted that the MHBE will increase the footprint and utilization of both Artificial Intelligence (AI) and Robotic Process Automation, improving the efficiency of the current staff and allowing them to attend to other important functions. The MHBE will be leveraging AI, like ChatGPT, to enhance the existing chatbot, providing a natural conversation, better instructions, and greater clarity and accuracy when responding to the consumer. MHBE will be modernizing their data management and business intelligence by building a Data Lakehouse to allow MHBE to leverage AI and Machine Learning to gain insights and valuable business intelligence.

Mr. Koshanam reported that they expect a total cost of \$2 million per year but that they will be able to realize efficiencies in current programs of roughly \$1.5 million. The remaining \$500,000 to \$600,000 may potentially require an additional \$200,000 in state funds in the future. He noted that the Centers

for Medicare and Medicaid Services (CMS) approved the MHBE's request for federal funds for some of these initiatives.

Mr. Steffen expressed confusion regarding the IT items the MHBE is paying for and the functionality embedded in MDTHINK and asked for more information. Mr. Koshanam responded that the production systems and state enrollment are currently hosted on the MDTHINK platform from the HBX core application and that this will continue. He noted that there are numerous other applications on the MHBE AWS platform, so the MHBE is seeking to migrate the lower environment tiers that cater to the development and testing of applications from MDTHINK to AWS to be more cost-efficient. The MHBE is also building a number of capabilities on AWS to support their data analytics capabilities, among others.

Mr. Armiger provided an overview of the procurement for AWS. The contract was initially executed in the Fall of 2022, with the base period of two years beginning in November 2022 and ending October 2024 and one option year. The procurement method used was Request for Quote (RFQ) through General Services Administration Schedule 70. The cost of license (NTE) for November 2022 to June FY 2023 was \$285,000. The projected cost of the AWS license for FY 2024 is \$2 million, but the annual cost will vary based on utilization. Board approval of an NTE amount will be requested for each FY. The vendor for the license is A&T Systems, Inc. 75 percent of the \$2 million cost, or \$1.32 million, will be paid through federal funds, and \$680,000 will be paid through state funds.

Secretary Herrera Scott moved to approve for FY24 an NTE amount of \$2,000,000 with a Federal participation amount of \$1,320,000 and State participation amount of \$680,000 to the vendor A&T Systems, Inc. Mr. Steffen seconded the motion, and the Board voted unanimously to approve the procurement as presented.

Annual Compliance Report

Scott Brennan, Director, Compliance & Privacy

Mr. Brennan provided a presentation that represents the compliance department's annual report to the Board. The MHBE completed an overview of the Department of Justice (DOJ) Effective Compliance Program Self-Assessment. The self-assessment examined whether the compliance program is well-designed, the program is being applied earnestly and in good faith, and the compliance program works in practice. He explained that the self-assessment identified many strengths and some areas for improvement.

Mr. Brennan then explained the Board oversight of the Office of Compliance. He noted that compliance leadership has direct access to the Board through regular reporting to the Board and open lines of communication. The Office of Compliance provides quarterly, annual, and ad hoc reports to the Board. Compliance leadership maintains independence to manage MHBE's compliance and ethics functions and establish autonomy from management, as necessary.

Mr. Brennan reported on the hotline investigations and monitoring that have occurred during FY 2023 so far. There were 6 fraud, waste, and abuse allegations, with two substantiated and forwarded to Maryland Department of Health (MDH) for investigation; the other four were unfounded. The debarment and sanctions screening did not find any IDIQ master contractors, vendors, carriers, or MHBE employees on the excluded list.

Mr. Brennan ended with a report on the privacy, policies, external audit corrective actions, and internal reviews. The privacy reporting shows a downward trend, with the number of incidents dropping from 170 in FY 2022 to 140 in FY 2023. This may be attributed to the improvement of processes across the privacy program and improved expansive training. Mr. Brennan provided a list of policies and procedures being updated and an overview of the external audit timeline. The Department of Budget and Management (DBM) audit and independent external audit from CMS were completed. The Office of Legislative Audit (OLA) audit is in progress and is expected to finish in December 2023.

Closing

The Board decided to reschedule the executive meeting since three Board members have to leave the meeting and will not be able to attend the closed session. The purpose of the closed meeting is to provide an update and does not require Board action.

Adjournment

Mr. Steffen noted that Secretary Herrera Scott had to leave the meeting. Mr. Taneja moved to adjourn the meeting, a motion seconded by Mr. Steffen. The meeting was adjourned.