



## Board of Directors Meeting

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<b>Date:</b> Wednesday September 4, 2013	<b>Building:</b> Conference call
<b>Time:</b> 7:00 – 7:30 am	<b>Conference Room:</b> NA
<b>Attendees:</b> Thompson Aderinkomi, Pete Benner, Brian Beutner, Kathryn Duevel, MD, Commissioner Jesson, Phil Norrgard, Commissioner Schowalter	
<b>Staff:</b> April Todd-Malmlov, Carley Barber, Mike Turpin, Katie Burns	

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### Topics:

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<b>Welcome and any new business</b> Brian Beutner, Chair	<p>The meeting was called to order by Brian Beutner, Chair, at 7:01 am.</p> <p>The purpose of this meeting is to discuss contract negotiation strategy related to a business agreement with carriers who wish to offer products on MNSure for the upcoming open enrollment period and throughout the 2014 benefit year.</p> <p>Brian explained that because this issue was only recently brought to the attention of MNSure in the course of negotiating the Carrier Business Agreement and because it must be resolved prior to the next regularly scheduled meeting of the Board on September 11, this meeting is being called under Minnesota Statutes, section 13D.04, subdivision 3. Additionally, this meeting will be conducted as a closed meeting pursuant to Minnesota Statutes, section 62V.03, subdivision 2(c)(2) because its purpose is to discuss contract negotiation strategy. The meeting will be recorded and the recording will be made public when the Carrier Business Agreements are executed.</p> <p>MNSure is currently finalizing a Carrier Business Agreement to be signed by all carriers who wish to offer products on MNSure during the upcoming open enrollment period. These Agreements must be signed as soon as possible this week in part because they are the vehicle by which carriers will commit to offering a set of certified Qualified Health Plans. MNSure has to know which specific QHPs each carrier intends to offer in advance of the September 6th release date of MNSure product information in order to present a useful compilation of actual information to the public.</p> <p>MNSure and Carriers have been working on draft iterations of the Carrier Business Agreement for over a month. While the content is nearly final on most components of the Agreement, carriers brought a new issue to MNSure's attention on Tuesday, August 27. In a proposed revision of the Agreement, carriers asked that MNSure provide a safe harbor for carriers by agreeing not to decertify a carrier or any of a carrier's Qualified Health Plans if a carrier is acting in good faith to comply with certification criteria.</p> <p>MNSure countered with a concern that MNSure staff do not have the authority to bind the Board's discretion for decertification. Authority for decertification rests with</p>
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the Board and therefore only the Board can decide whether to decertify a carrier or Qualified Health Plan - or, by extension, to limit how it might choose to approach decertification more broadly

MNSure staff proposed language in an attempt to address carrier concerns by stating that MNSure would consider carrier good faith efforts in determining whether to proceed with decertification. Carriers did not think this language went far enough to address their concerns.

On Thursday, August 29, CCIO issued a final regulation that provides a safe harbor for carriers participating in states with federally facilitated Marketplaces. Specifically, the rule states:

“ (a) Kinds of sanctions. HHS may impose the following types of sanctions on QHP issuers in a Federally-facilitated Exchange that are not in compliance with Exchange standards applicable to issuers offering QHPs in the Federally-facilitated Exchange:

(1) Civil money penalties as specified in § 156.805; and

(2) Decertification of a QHP offered by the non-compliant QHP issuer in a Federally facilitated Exchange as described in § 156.810.

(b) Scope. Sanctions under subpart I are applicable only for non-compliance with QHP issuer participation standards and other standards applicable to issuers offering QHPs in a Federally-facilitated Exchange.

(c) Compliance standard. For 2014, sanctions under this subpart will not be imposed if the QHP issuer has made good faith efforts to comply with applicable requirements.”

Carriers have requested that MNSure provide a similar safe harbor in the Carrier Business Agreement.

After discussion of the issue and possible alternatives, Tom Forsythe proposed the following language to the Carrier Business Agreement:

“For 2014, decertification under this section will not be imposed if the MNSure Board determines the Carrier has made good faith efforts to comply with applicable requirements.”

Phil Norrgard seconded the motion.

All members of the Board voted in the affirmative via a roll call vote and the motion was adopted.

**Adjourn**

The meeting was adjourned.