



# Consumer and Small Employer Advisory Committee Meeting Minutes

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**Tuesday, August 27, 2:30 – 5 p.m.**

**UCare, 500 NE Stinson Blvd, Minneapolis, MN 55413**

**Members in attendance:** Matthew Steffens – Chair, Grace Aysta (via phone), Richard Klick, Ann McIntosh (via phone), Denise Robertson (via phone), Kathleen Saari (via phone)

**Members not in attendance:** Matthew Flory, Leigh Grauman, Kim Johnson, Kate Onyeneho, Jamie Rancour

**Staff in attendance:** Christina Wessel – Senior Director of Partner and Board Relations, Aaron Sinner – Board and Federal Relations Director, Eva Groebner – Legal Analyst

## Meeting Topics

### Welcome & Roll Call (Attendance)

*Matthew Steffens, Chair*

Matthew Steffens called the meeting to order at 2:42 p.m.

### Approval of June Meeting Minutes

*CSEAC Members*

**MOTION:** Denise Robertson moved to approve the draft June 25, 2019, meeting minutes. Grace Aysta seconded. All were in favor and the minutes were approved.

### MNsurance Updates

*Aaron Sinner, Board and Federal Relations Director*

Aaron Sinner, MNsure staff, noted that the MNsure board met on July 17. He highlighted that the Health Industry Advisory Committee (HIAC) presented recommendations at the MNsure board meeting, including potential updates to the MNsure mission statement, simplification of the MNsure public website, resources for health literacy, support for the Blue Ribbon panel, movement toward year-round marketing, and coordination of outreach efforts for the underserved population. Additionally, the board approved MNsure’s fiscal year 2020 budget. Aaron noted that the expenditure will be very similar to the previous year, but with a slight shift from system development costs to operational costs. Another big budget change is on the revenue side, where the legislature appropriated \$8 million for the next three fiscal years due to

reinsurance lowering premiums artificially. Aaron added that MNSure's senior director of business operations, Morgan Winters, presented consumer and business benefits of the GetInsured system to the board, as well. Lastly, Aaron noted that the next board meeting will be on October 16.

Aaron informed the members that the Department of Commerce had published carriers' preliminary rate filings for 2020. Health insurance carriers are seeking rate changes ranging from an increase of 4.8% to a decrease of 1.35%. After the Department of Commerce fully reviews these rates, the finalized rates will be released on October 2, 2019.

Denise asked Aaron if the preliminary rates were higher in certain regions of the state. Aaron responded that the published preliminary rates do not clearly define where the increases and decreases are produced and noted that the final rates would show the full plan data. Matt commented that there is a 6% annual trend and he is interested to see the impact reinsurance may have for increases across each region. He further noted that on the group market side, the carriers held rates flat for the fourth quarter, suggesting the risk pool had improved. Denise cautioned that MNSure be specific about messages regarding lower rates. She informed the committee that the previous year, messages of lower premium rates misled consumers in Minnesota's southern region. In that area the rates had increased and consumers expressed frustration with the rates available to them.

Ann McIntosh asked for clarification regarding the 6% trend. Matt commented that carrier actuaries use health care cost trends to project premium changes and that the annual trend was running about 6%. Proposed rates lower than the trend in health care costs indicated the risk pool m

Denise referenced the HIAC proposals to the board and asked whether the two committees could combine to reduce the duplication of efforts. Aaron stated that the board seemed to prefer two advisory committees so they know when and who is endorsing a given recommendation. However, he clarified that joint meetings or recommendations around the same topics are often quite welcome. Matt commented that there are very specific issues a consumer committee can champion that a vendor or carrier would not. Ann noted that the committee needs more advocates. Matt replied that there is opportunity to recruit for more committee members in the next 60-90 days.

Aaron provided updates on committee member terms. Five members—Dick Klick, Ann, Matt Flory, Kim Johnson, and Kate Onyeneho—would have their second terms end in late October and cannot reapply. Jamie Rancour's first term will also end in October, but she is eligible to reapply for a second term. Grace, Leigh Grauman, Denise, Kathy Saari and Matt are each mid-term, and Aaron asked that if they intend to remain on the committee, they complete a re-commitment form for the upcoming year by October 10. There are a total of six open seats; therefore, there would be 11 vacancies to potentially fill. The posting for candidates will be up from September 12 until October 10, with the board set to vote and appoint new members at the November 13 board meeting. Aaron also noted that the chair and vice chair positions were also open for nominations, as Matt had not yet decided if he wished to remain as chair.

## Legislative Update

*Aaron Sinner, Board and Federal Relations Director*

Aaron updated committee members with a new regulatory action on public charge. The new rule is effectively an immigration rule, but might affect MNSure consumers, namely Medicaid recipients. The Department of Homeland Security reviews immigrant applications to determine whether that immigrant was or was likely to become a “public charge.” This determination was previously focused on cash benefits or long term care assistance that the immigrant might require. Under the new rule, immigrants who request a change or renewal of immigration status will be reviewed. Many factors will be considered, including receipt of food stamps or Medicaid within the previous three years, which could cause denial of visa renewal or status change. Aaron noted that the rule was published last month and will take effect October 15. Aaron noted the immigration agent making a determination was now directed to review the totality of the immigrant’s circumstances, including whether the immigrant had applied for or received Medicaid benefits. Since the MNSure application includes a Medicaid eligibility check, it could be considered an application for Medicaid. The rule is highly complex and grants a great deal of discretion to immigration agents, creating uncertainty until a precedent is set as to how these factors will be applied. MNSure continues to serve as a source of health insurance for those who need it, but may need to refer some consumers to speak with an immigration attorney.

Ann noted that this new rule would appear to affect a huge percentage of MNSure’s targeted population. Matt asked if the MNSure application has the option for the consumer to choose if they want Medicaid. Christina Wessel, MNSure staff, explained that the application with financial assistance conducts eligibility checks consecutively: first for Medical Assistance, then for MinnesotaCare, and finally for tax credits toward a qualified health plan. Aaron added that the unassisted application does not have this impact. Ann commented that a person who submits an assisted application may end up with a public charge determination. Christina agreed with this concern, stating MNSure does not intend to penalize people who have no control over the application system.

Dick asked Aaron about the HRA messaging. Aaron informed the committee that MNSure is developing a communication plans and chambers of commerce will be on the list of who to message to regarding HRAs, which will be in effect for 2020. The messaging should be available in late September or October. MNSure will be ready to enroll the consumers when open enrollment comes.

Dick informed the members about a new feature for assisters, which illustrates how to enroll a consumer from beginning to end. Christina added that this is a new function on the assister website called “Helping Consumers.” The new feature is to centralize and reorganize resources for assisters so that they can resolve enrollment issues quickly without calling in.

Matt asked Aaron to give an overview of the changes related to the GetInsured (GI) system. Aaron informed the members that the Minnesota Eligibility Technology System (METS) will remain the same, and will determine health care eligibility. GI will replace the shop and compare tool and the enrollment system of record. Once a consumer is determined QHP eligible, METS will hand them off to GI. Additionally, a consumer’s eligibility for a special enrollment period will

be determined within GI. Account details and all their other household information will be pulled into that experience. Aaron added that most of the changes should provide a seamless consumer experience. MNsure staff is building up operational processes to manage the changes.

Matt inquired whether METS or GI will ask a consumer what portion of their APTC they'd like to apply and whether the system will educate a consumer about the ramifications of applying APTC if they're receiving an HRA. He stated that a household could potentially apply their full APTC without understanding that they're ineligible. Aaron theorized that due to HRAs' complex nature, a person is likely to seek out guidance prior to enrolling into coverage with one, and thus MNsure wants to ensure that brokers have all the resources they need to address new concerns. Next, he stated that HRAs are considered group coverage, but the system will only be equipped to ask about group coverage generally, without referencing HRAs in particular. Access to an HRA will disqualify a person from APTC in the same way access to an employer-sponsored insurance plan would. Aaron stated that with that in mind, consumers will need to be advised to answer group coverage questions on the application accurately. Christina added that about one-third of Minnesotans enroll through MNsure after receiving help from an assister. Aaron also stated the HRA rule included a "safe harbor" provision intended to reduce culpability for individuals who act in good faith enrolling through an exchange. The IRS is likely to release guidance interpreting that safe harbor at a later date.

Christina explained the recertification process began in early August for certified application counselors and navigators, and will be in early September for brokers. Additional training will be launched to incorporate GI changes for assisters, specifically for brokers that will need to submit agent of record requests through GI. She stated that these updates are awaiting approval from the Department of Commerce. Christina also stated that credits will be issued for attendance to assister assemblies. These will be hosted in Fergus Falls, Duluth, Mankato and the Twin Cities, starting September 26.

## **Public Comment**

Aaron informed the committee of a complaint letter that was mailed to the board chair, the CSEAC chair and the MNsure CEO on advice by the Attorney General's office. A copy of the letter was referred to MNsure's complaint department to determine whether MNsure is able to address any of the consumer's concerns surrounding billing or network coverage, or whether it should be referred to the Department of Commerce for review. Matt added that the core of this consumer's issue is "what is the definition of an emergency?" He stated that the carrier did not recognize the consumer's issue to be an emergency, so when the consumer favored a network outside of their preferred care system, they were billed more than anticipated. Ann stated that the medical community often debates matters such as this, and that defining an emergency is a hot-button topic. She informed the committee of the "prudent layperson standard" for emergency and post-stabilization services (42 CFR § 438.114.) She explained that a symptom, such as chest pain, may be less serious than its diagnosis, like a heart attack, so the symptom is not defined by carriers as an emergency. Through the federal layperson standard, which extended to the individual market through the Affordable Care Act in 2010, carriers have been prevented from defining emergencies based solely on the diagnosis. Ann suggested that practice has recently been replaced in surprise billing. She offered that this particular consumer's carrier may

be concerned over whether the individual presented themselves to the new network, or if an ambulance presented them, because the emergency physician was then discovered as out of network. This is an indication of how the insurers are able to manipulate the health care system at multiple levels. The committee discussed how they intended to react to the letter, and Matt offered to bring a draft response to the September 24 meeting.

## **Working Session – continue developing slides to be presented at the board meeting on October 16, 2019**

*Matthew Steffens, Chair*

Matt asked whether the committee wanted their four ongoing items presented to the board, or if there were new issues that they would like to address. Dick suggested the committee follow through with the work accomplished over the past months. Matt stated that he intended to update the slides to prepare presentations of “creation of ombudsperson office for health coverage-related issues,” “allow submission of life event change (LEC) verification documents online at the time of LEC submission,” “interim insurance coverage for those unsuccessful in seeking an appeal through MNsure,” and “executive summary attached to MNsure notices” to the MNsure board at their October meeting.

## **New Business**

Dick extended an invitation to the members to see a health care speaker, Denny Sanford (Sioux Falls SD) at the Roseville Optimist Club on Friday, September 13. It would cost \$25 for lunch and the subject is about where the health care system is going and how it got here.

## **Adjourn**

**MOTION:** Dick moved to adjourn. Denise seconded. There were no objections and the meeting adjourned at 4:24 p.m.