

MINUTES

HEALTH INSURANCE ISSUES WORKING GROUP

September 26, 2003
Room 514-S—Statehouse

Members Present

Senator James Barnett, Chairman
Senator Ruth Teichman
Representative Nancy Kirk
Robert Day, Kansas Department of Social and Rehabilitation Services
Linda DeCoursey, Kansas Health care Commission
Sandy Praeger, Insurance Commissioner
Robert St. Peter, M.D., Kansas Health Institute

Members Absent

Representative Jim Morrison, Vice Chairman
Representative Rob Boyer

Staff Present

William G. Wolff, Kansas Legislative Research Department
J. G. Scott, Kansas Legislative Research Department
Ken Wilke, Revisor of Statutes Office
Audrey Nogle, Kansas Legislative Research Department
Rena Jefferies, Revisor of Statutes Office
Gina Poertner, Group Secretary

Others Present

David Hornick, Kansas Business Health Partnership
Bill Kostar, Kansas Business Health Partnership
Cliff Sones, Wichita Independent Business Association
John Cripe, City of Lincoln and Lancaster County, Nebraska
Terry Bernatis, State Employee Health Care Commission
Kevin Watt, Security Benefit Group
Nancy Pierce, Kansas Health Care Association
Dale McAlister, Security Benefit Group
Natalie Haag, Security Benefit Group

Tom Bell, Kansas Hospital Association
Chip Wheelen, Kansas Association of Osteopathic Medicine
Larry Magill, Kansas Association of Insurance Agents
Ron Seeber, Kansas Restaurant and Hospitality Association
Bruce Witt, Preferred Health Systems
Brad Smoot, Blue Cross Blue Shield of Kansas
Christina Collins, Kansas Medical Society
Bill Sneed, Health Insurance Association of America/Merck
Pat Hubbell, Pharmaceutical Research and Manufacturers of America (PhRMA)
Bill Curtis, Kansas Association of School Boards
Dennis Carpenter, Kansas Restaurant and Hospitality Association
Jarrod Forbes, Kansas Insurance Department
April Holman, Kansas Action for Children

Morning Session

Senator Barnett called the meeting to order at 9:00 a.m. on September 26, 2003, in Room 514-S of the Capitol.

Members and staff were welcomed by Senator Barnett. The Chairman asked if there were any additions or corrections to the August minutes. *Linda DeCoursey moved to approve the minutes. Bob Day seconded the motion. Motion carried.*

Dr. Wolff was recognized by the Chairman. He gave an overview of Health Reimbursement Accounts (HRAs), Association Health Plans (AHPs), and advertising and marketing of prescription medications, all items on the day's agenda.

David Hornick, of Hornick and Associates, was introduced (Attachment 1). Mr. Hornick explained how health reimbursement accounts are funded by the employer and utilized by the employee. It was stressed that the employer is not actually required to fund an account until a reimbursement claim is filed.

It was asked if funds from an account that has been rolled over can be redistributed, or if it remained with that particular employee's account. Mr. Hornick explained that redistribution of the money would be inappropriate; therefore, the funds remain with the original account.

A member asked how funds are accrued if the employer is not paying into the account. Mr. Hornick stated that the employer is not required to fund the account, and that most do not until a claim is filed. It was further asked if this is where tax advantages come into play. Mr. Hornick explained that it is a tax advantage because it is a reimbursement to an employee expense.

In the event of an employer filing bankruptcy, Mr. Hornick was asked what would happen should there be a claim. Since the obligation to pay for services rendered lies with the employer, the employees would be unsecured creditors. It was further asked if reserve

funds are required. He indicated it is wise to fund the account, but reserve funds are not required. Given the response, the conferee was asked if there is a need to require a reserve fund. He related that this would be good legislation, as protection in the case of a bankruptcy or a business closing.

Mr. Hornick reviewed examples attached to his testimony as additional explanation of how the HRA works. A member asked if people who use more health care services are more likely to get into a richer plan. He said high utilizers opt into richer plans. However, employers usually choose a single plan used by all employees. As to how HRAs have worked in business, he stated that they have worked very well and gave an example of a situation in Missouri. A member wanted to know what percentage of businesses are going to HRAs for their health care plans. He estimated that 5 percent are utilizing HRAs, with the projection of 10 to 15 percent in the next two years.

Mr. Hornick was asked for his suggestions to control health care costs. He restated the question: "Why does the cost of health care go up?" We do not have a true or typical economic relationship between providers and users of services, he said. The consumer is far removed from the providers, and not everyone in the chain of health care delivery is on the same side. Many entities of health care are strictly profit driven. Therefore, economic laws are not applicable to health care. To decrease the price, we need to bring greater efficiency to the delivery of health care services.

Kevin Watt, of Security Benefit Group (SBG), was then introduced ([Attachment 2](#)). An overview of Security Benefit's HRA product was given. He described the development of the plan, as well as tax advantages, including advantages for retirement funding of health insurance. The SBG plan is being marketed to public sector employees, spouses, and qualified dependents.

A question regarding cumulative sick leave for police officers and firefighters was posed. It was stated that unused leave time, sick leave, or vacation is paid out but can be rolled over for payment of health care expenses, including premiums for health insurance. It was also asked if the salary percentage contributed must be equal for all employees, and if this is strictly employer funded. Mr. Watt related that the rate does not vary between employees, and funding is by the employer. Additionally, he said there is no vesting period; employees are 100 percent vested from the beginning, and plans are transferable if the next employer has the same plan.

The next speaker introduced was John Cripe, Compensation Manager of the City of Lincoln and Lancaster County Nebraska ([Attachment 3](#)). Mr. Cripe discussed the HRA experience in Lincoln and related the outcomes of its implementation. He reviewed employer costs and employee benefits for these plans, as well as strategies of funding and management of the plans. He stated that the city and county employers and their employees have had excellent experiences with this type of coverage.

Mr. Cripe was asked if all plans have to be health plans, or if they could also be retirement plans. He stated that they must be health plans. He was also asked if any medical cost would qualify for use of the account, and if the accounts were premium only or premium plus. Mr. Cripe related that the plan has very broad features, and that one account is premium only.

Terry Bernatis, of the State Employee Health Care Commission, was recognized. She discussed new plan strategies for state employees in order to decrease costs. She mentioned Nebraska's plan and made comparisons to the Kansas approach, as well as Indiana's approach that was unsuccessful. She commented that in Kansas, as in the rest of the nation, there no longer is true insurance, but prepaid medical plans. We have drifted from the true concept of insurance.

A member cautioned that the Indiana experience should not discourage further exploration of this type of plan in Kansas. Rather, it should point out the need for education prior to the introduction of such a plan.

Bill Kostar, Chairman, Kansas Partners Benefit Association, was introduced. He provided the Group with the background of the Business Health Partnership Act, and explained that its purpose was to target and make available an affordable health insurance for low-income employees of small businesses. He also discussed marketing and strategies using insurance agents, as well as subsidies which might include a Medicaid waiver subsidized premium approach. Mr. Kostar offered a packet of information for the Group's review. (The materials are available from the Kansas Partners Benefit Association.) Regarding the number of lives covered by the plans issued through the Partnership, Mr. Hornick said approximately 400 lives are covered.

Concerning premiums being charged for plans, Mr. Hornick related that the plans are age and gender rated, that dependent and family coverage also are considered at different rates, and that the plans are not medically underwritten. The premium could be from \$49 to \$400, depending on the variables noted.

The Chairman then introduced Cliff Sones, President of the Wichita Independent Business Association (WIBA) and Kansas Organization for Private Enterprise (Attachment 4). Mr. Sones described the different insurance products offered by WIBA to their membership. He discussed that their plans experienced a 34.4 percent increase in premiums this past June, causing 10 percent of their membership to drop their health care coverage. The need to create employee incentives was expressed, such as above-the-line deductions for individuals who pay their own health insurance premiums.

Mr. Sones was asked about medical malpractice reform. He discussed placing caps on awards for pain and suffering. Staff noted that, in the mid-1980s, Kansas enacted significant tort reform legislation, including capping such awards at \$250,000. Some states have enacted higher caps. Additional comments were made regarding caps by a member, saying that they provide no comfort when a patient is lying in the emergency room.

A member asked if the issue of health care is a priority with WIBA members. Mr. Sones explained that the primary concern of WIBA members is the cost of health care, which moved ahead of taxes this year.

Mr. Sones mentioned, in conclusion, the Access program in Wichita, in which doctors and nurses volunteer their time to immunize children. Businesses fund the program, and vaccines are provided by pharmacies.

The Chairman presented a packet of information regarding President Bush's federally funded initiatives, *i.e.*, federally funded health care clinics. He stated that Kansas is at the "bottom of the barrel" as far as recipients of these dollars in the clinics that are open. He suggested that the Group consider this as a future topic.

The Chairman asked for further questions or comments. Seeing none, the Group recessed until 1:30 p.m.

Afternoon Session

The afternoon session began at 1:30 p.m. with Dennis Carpenter, President and CEO of the Kansas Restaurant and Hospitality Association (KRHA) ([Attachment 5](#)). He discussed the KRHA's strong support for legislation to provide for association health plans. AHP legislation would enable employers to provide competitive rates to their employees. Mr. Carpenter gave examples of this cost disparity, referring to the chart attached to his testimony and citing KSA 40-2209b.

Brad Smoot, Legislative Counsel to Blue Cross Blue Shield of Kansas, was introduced ([Attachment 6](#)). He explained how employers are taking on the risk of loss, noting that large employers are better able to plan for the possibility of loss. He also stated that increased medical costs passed along to employers through premiums create hardships for the employers and employees. Mr. Smoot suggested a review of policy before enacting new legislation.

A member clarified that the ERISA law was originally implemented to regulate pension plans. The addition of health plans was an unintended consequence.

The Chairman recognized Tom Tunnell, President, Kansas Grain and Feed Association (KGFA) ([Attachment 7](#)). Strategy implemented by his association was described, noting that rural citizens have different health care needs than urbanites. He referred to charts attached to his testimony showing how an AHP would allow his association to self fund.

Jim Petrich, of Fiserv Health, was introduced to speak further on behalf of the KGFA ([Attachment 8](#)). He discussed the difficulty of attaining affordable health care for the small business. He stated that there are only a few viable carriers, and those carriers are raising premiums.

A member wondered if total deregulation of the industry was not what was being requested in the AHP legislation. Mr. Tunnell stated that they were asking for the ability to cover their membership. To the question of whether associate members are included in their health plan, Mr. Petrich stated that they can buy into the plan if desired.

Regarding premiums (see [Attachment A7](#)), a member wondered if the premium paid in is just the health insurance premium. Mr. Tunnell stated that is correct.

All conferees were asked if there is any search for middle ground regarding these issues. In response, the question arose whether Kansas statutes permit the development of multiple employer trust organizations for associations subject to the regulatory requirements. Dr. Wolff responded that small employers are subject to small employer statutes. He also stated that in KSA 40-2209, there is provision for multiple employer trust, but there is another provision that small groups who uses that statute will be subject to the small employer statutes that eventually will put them into the rating bands and everything else that is part of the small group regulatory structure.

Next to speak was Bruce Witt, Corporate Compliance Officer of Preferred Health Systems (Attachment 9). Mr. Witt supported increased access to high-quality, affordable health insurance, but also stated opposition to AHP legislation that would destabilize the current group health marketplace.

Written testimony from Hal Hudson, State Director of the National Federation of Independent Business-Kansas, was distributed to the Group (Attachment 10).

The Chairman then introduced Sandy Praeger, Kansas Insurance Commissioner (Attachment 11). The Commissioner discussed the difficulty small groups face secondary to risk. She also stated that AHP legislation would undermine HIPAA reforms. Asked whether there was some middle ground for small groups, Commissioner Praeger discussed briefly the activities of the Business Health Partnership that has been created. Another member mentioned that some might fear policies that provided limited coverage or covered none of the state-mandated benefits. It should be possible, the member said, to present the public with needed coverage without circumventing state regulations.

Seeing no further questions, the Chairman asked for discussion of items from the previous meeting. Referring to childhood immunizations, it was mentioned by a member that proposals are being considered to assist health departments in providing immunizations and that the Kansas Department of Health and Environment is looking at ways to address the immunization issue. Some states use registries; however, while the creation of a Kansas registry has been discussed, no registry exists in the state at this time. It was further stated that increased administrative duties regarding the registry could present hardship for health departments, and that a fragmented records system is also a problem.

Senator Barnett then turned the discussion to the primary causes of death in Kansas—tobacco, obesity, and alcohol—which had been included in Dr. St. Peters' presentation at the Group's initial meeting. He asked that the Group look at what can be done from a prevention standpoint, particularly regarding tobacco. He stated that multi-level programs such as patient education and community programs are currently being utilized to educate the public. A member asked about the feasibility of freeing up tobacco settlement money for programs. The response was that a redistribution of the tobacco money would cause funding problems elsewhere in the budget.

The Group was reminded that any expenditure or program put in place would need to be continuing, rather than a one-time thing, as they would be up against marketing tactics by the interest groups. The Chairman suggested that the Group look at Kansas-specific data to see what budget implications are out there and perhaps concentrate on taking up one issue with the appropriate state agencies for a possible solution to recommend to the next session of the Legislature. The Group agreed with that plan.

Senator Barnett then asked the Group if it would like a more formal presentation regarding data collection, another area of interest raised at the initial meeting. Comments were made regarding lack of analysis of the data that is currently available, and the need to make existing data useful information. Another member commented that the state needs to make an investment in data gathering and in a process for making data useful. The subject needs to be further explored at the next meeting.

The subject then turned to prescription medications and evaluating the impact of marketing on drug costs. Pat Hubbell, representing Pharmaceutical Research and Manufacturers of America, presented written information to the Group and made brief comments relating to direct-to-consumer advertising (Attachment 12).

A member discussed obesity issues and challenged the Group to think about what the state can do in an effort to promote good lifestyle choices. The Chairman commented that obesity should be a prime concern for the Group. Another member commented on school food and beverage choices as a part of the obesity problem. The Chairman mentioned a newspaper article regarding soft drink contracts with school districts and invited Bill Curtis, of the Kansas Association of School Boards, to comment on the issue of soda sales in schools. He commented that substantial revenues to the districts are involved in the contracts schools have with soft drink companies. It was also suggested that the Group contact the Sunflower Foundation to learn how it is contributing to education regarding obesity.

There being no further business to come before the Group, the Chairman thanked everyone for their attendance and conferees for their participation. He announced the next meeting will be held November 7, 2003. One of the topics will be long-term care. Prior to adjournment, staff distributed materials related to the Children's Initiative Fund. This information is available from the Kansas Legislative Research Department.

The meeting was adjourned at 3:30 p.m.

Prepared by Gina Poertner and Bill Wolff

Approved by Working Group on:

November 7, 2003

(date)