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Date: March 16, 2001
To: ALL INTERESTED PARTIES
From: Department of Managed Health Care

The following is a brief summary of the comments and events that occurred during the Financial Solvency Standards Board (FSSB) meeting on January 9, 2001.

I. Introduction: Opening remarks by Scott Syphax, Chair.

The purpose of today's meeting is to discuss the limited changes to the emergency regulations made by Department staff. Comments from the Board and the public are welcome.

II. Discussion of the revisions to SB 260 Draft Regulations.

1. Information exchanges between plans and providers to be transferred electronically within 10 days of the beginning of the report month versus 10 days following the report month, effective May 2001 was discussed. The data elements now include the member's identification number and address.

Public Comment:

Consumer focus: (1) data on race and ethnicity and language used by the consumer is a significant omission.

Health plan focus: (1) disclosure of member ID numbers cause concern; and (2) if a member's identification number is his/her social security number, there is a confidentiality issue.

Provider focus: (1) the disclosure should include employer group information.

The Department will determine the preferred terminology between "by plan contract selected" or "by benefit plan selected." The language, "including but not necessarily limited to age, sex, localized geographic care, family size, experience rated, and benefit plan design" was approved by a majority of the Board.

2. The reporting deadlines for 2000 and 2001 relating to the submission of annual reports was discussed. A motion to extend the filing date for audited financial statements from 120 to 180 days in 2001 and subsequent years failed to receive a majority vote.

3. A concern was raised that the draft regulations could be construed as eliminating the risk-bearing organization's responsibility to perform due diligence. The Chair recommended that the section affirmatively provides that nothing in this section shall relieve either the plan or organization of their obligation to perform due diligence.

Public Comment :

Plan focus: Recommended the following language be included, "nothing in this section shall relieve the organization of its obligations to perform due diligence and appropriate actuarial and data analysis to exercise business judgment when entering the contract."

Provider focus: The data the Department receives from providers is going to be flawed to the extent that the data received from the health plans is inaccurate.

A motion to include the language in the draft regulations providing that, "nothing in this section shall relieve the organization or the health plan of their: (1) obligation to provide information that is accurate and truthful to the fullest extent possible and (2) responsibility to perform due diligence and appropriate actuarial analysis and to exercise business judgment when entering the contract," was withdrawn following lengthy discussions with various stakeholders.

4. The specific product lines to be included in plan data elements were discussed. A breakdown between primary care and specialty care should be included in the matrix.

Public Comment :

Plan focus: The data elements are too expansive and should be scaled back.

5. Confidentiality, plan compliance and Department costs were discussed.

Public Comment:

Consumer focus: (1) the lack of enforcement measures against risk-bearing organizations is troubling; and (2) consider enforcement mechanisms and fines that could be assessed against plans and then passed through to medical groups.

III. Approval SB 260 Draft Emergency Regulations

1. A motion to approve and forward the current draft of the emergency regulations to the Director was approved by unanimous vote of the Board. The draft regulations, with today's recommended changes, will be transmitted to the Director.

IV. Fourth Session: Closing remarks by Chair Scott Syphax.

The scheduled meeting for January 23, 2001 is canceled.