

North Carolina Department of Insurance  
Market Reform Technical Advisory Group Meeting  
Thursday, January 5, 2012

Meeting Attendees	Organization
George Teague	Aetna Health Inc.
Joe Winn ( <i>by phone</i> )	Aetna Health Inc.
David Hill	Assurant
Barbara Morales Burke	Blue Cross Blue Shield of North Carolina
Patrick Getzen	Blue Cross Blue Shield of North Carolina
Aaron Nelson	Chapel Hill-Carrboro Chamber of Commerce
Jeff Tindall	CIGNA HealthCare of North Carolina, Inc.
Tracy Baker	Wellpath/Coventry
Ken Lewis	FirstCarolinaCare Ins. Co. Inc.
Stephanie Everts ( <i>by phone</i> )	Humana Insurance Co.
David Contorno	Independent Insurance Agents of NC
Allison Garcimonde	Manatt
Joel Ario	Manatt
Melinda Dutton	Manatt
Sharon Woda	Manatt
Ed Fischer	Mercer
Sudha Shenoy	Mercer
Jeff Barnhart	NC Assoc. of Health Plans
Tony Gutierrez	NC Assoc. of Health Underwriters
Fred Joyner	NC Assoc. of Insurance and Financial Advisors
Mike Kelly	NC Business Group on Health
Vinny Longobardo	NC Business Group on Health
Rebecca Whitaker	NC Community Health Center Association
Ben Popkin	NC Department of Insurance
Carla Obiol	NC Department of Insurance
Ernest Nickerson	NC Department of Insurance
Jean Holliday	NC Department of Insurance
Walter James ( <i>by phone</i> )	NC Department of Insurance
Julia Lerche	NC Department of Insurance
Lauren Short	NC Department of Insurance
Louis Belo	NC Department of Insurance
Mike Wells	NC Department of Insurance
Rosemary Gillespie	NC Department of Insurance
Ted Hamby	NC Department of Insurance
Yolanda Fonville	NC Department of Insurance
Michael Keough	NC Health Insurance Risk Pool, Inc./dba Inclusive Health
Adam Linker	NC Justice Center
Conor Brockett	NC Medical Society
Mark Holmes	UNC/Cecil G. Sheps Center
Garland Scott ( <i>by phone</i> )	United Healthcare
Peter Chauncey	Wellpath/Coventry

**Agenda**

- Introductions
- Overview of Project
- Expectations for TAG
- North Carolina Landscape
- Presentation of Key Priority Areas
- Discussion of Key Questions in Priority Areas
- Next Steps

*Please refer to the January 5 "TAG Kick-Off Meeting" Slide Deck.*

**Introductions**

Louis Belo of the North Carolina Department of Insurance ("DOI" or "the Department") convened the meeting at 9:30 AM and welcomed meeting attendees. Mr. Bello reviewed the purpose and role of the Market Reform Technical Advisory Group ("TAG"):

- The TAG will discuss market reforms that are required by the Affordable Care Act ("ACA") and is entirely distinct from the meeting groups that have been convened by the North Carolina Institute of Medicine to examine issues related to health care reform.
- The TAG is charged with assessing policy options and related considerations and reporting its findings to the DOI to inform the Department's development of recommendations to the North Carolina General Assembly ("NCGA") on HBE-related issues.

Mr. Belo then introduced Ted Hamby of the DOI as Chair of the TAG. Mr. Hamby:

- reviewed at a high-level the types of issues that the TAG will be discussing, and
- introduced consultants from Manatt Health Solutions and Mercer who have been contracted to support and facilitate the TAG's market reform discussions.

Melinda Dutton of Manatt and Ed Fisher of Mercer provided brief overviews of their respective companies and introductions of the Manatt/Mercer project team. Ms. Dutton then reviewed the agenda and goals for the meeting which included:

- Introduce key project staff and overall project approach
- Establish expectations of TAG and describe process for TAG engagement
- Review North Carolina landscape in light of ACA implementation
- Develop consensus around Tier 1 issues for TAG deliberations

**Overview of the Project**

Sharon Woda of Manatt provided an overview of the overall project approach, project timeline and process for TAG deliberations (*see slide deck for additional details*). Ms. Woda described the three topic areas that will be the focus of TAG deliberations: Leveling the Playing Field to Mitigate Adverse Selection, Risk Adjustment and Reinsurance, and Small Group Market Considerations. Within each topic area, the TAG will be asked to assess two types of policy decisions:

- Tier 1 policy decisions (issues that must be addressed by the NCGA in the 2012 legislative session and/or require input now to inform later decision making), and
- Tier 2 policy decisions (issues which may be addressed in the 2013 legislative session, accomplished administratively and/or require a lengthier or more detailed technical analysis).

### **Expectations for TAG**

Ms. Dutton next briefly reviewed the role of the TAG and expectations of TAG participants. Among other requirements, TAG members are expected to be a consistent presence in TAG meetings, meet timelines, consider perspectives from diverse stakeholder groups, and attend meetings in-person to help facilitate as productive a discussion as possible.

A workgroup member asked whether webinars would be recorded and subsequently made available to those members who were not able to attend the session live. Manatt and DOI responded that they would investigate the feasibility of the request and report back to the TAG.

### **North Carolina Landscape in Light of the ACA**

Julia Lerche of the DOI presented a high-level summary of a report developed by Milliman in December 2011 which identifies a number of HBE design questions and examines the likely impact of ACA implementation in North Carolina. (See “*Summary of Final Milliman Report – Presentation to the Market Reform Technical Advisory Group*” slide deck and Milliman Report, “*North Carolina Health Benefit Exchange Study*,” for more information.)

### **Presentation of Key Priority Areas**

Ms. Dutton stated that the goal of the day’s discussion will be to come out with a prioritized list of issues that will be used to develop a detailed project workplan. Manatt will present this workplan at the next TAG meeting for members’ review.

Ms. Dutton turned the floor over to Joel Ario of Manatt to present an overview of the market reform issues under the ACA and related policy options that the TAG will be asked to consider.

### ***Topic Area #1: Leveling the Playing Field to Mitigate Adverse Selection***

Mr. Ario first reviewed the provisions in the ACA that are meant to mitigate adverse selection in the HBE and related policy options that the TAG may choose to address (*see slide deck for additional details*). Mr. Ario emphasized that the list of policy options presented is not necessarily comprehensive and that, conversely, not every issue listed has to be addressed by the TAG.

One workgroup member suggested that when considering policy options the group should keep in mind whether incentives are being created that may drive groups to self-insure versus remain fully insured and to consider the impact that might have on the market.

A workgroup member asked whether some of the policy options under consideration would be applicable to multiple employer welfare arrangements (MEWA). Ms. Lerche and Mr. Hamby noted that many MEWAs in North Carolina are self-insured but are still regulated as insurers (via a licensing process). The group decided that this issue should be considered in further detail and that it should be added to the list of issues for consideration under Topic Area #3 (Small Group Market Considerations).

Another workgroup member asked a clarifying question regarding whether plans inside and outside of the Exchange were required to offer essential health benefits (“EHB”). Mr. Ario responded that the EHB requirement applies to all carriers that offer coverage in the individual or small group market inside and outside of the HBE. Mr. Ario then asked Sudha Shenoy of Mercer to present the key issues for consideration in Topic Area #2 (Risk Adjustment and Reinsurance).

### ***Topic Area #2: Risk Adjustment and Reinsurance***

Ms. Shenoy reviewed the three mechanisms in the ACA designed to further mitigate the impact of potential adverse selection and stabilize premiums in the individual and small group market: reinsurance, risk corridors and risk adjustment programs. Ms. Shenoy then reviewed the related policy options for potential TAG consideration (*see slide deck for additional details*). Ms. Shenoy turned the floor back to Mr. Ario for a review of the key issues in Topic Area #3.

### ***Topic Area #3: Small Group Market Considerations***

Mr. Ario reviewed the ACA requirements and related policy options for the SHOP/small group market (*see slide deck for additional details*). Mr. Ario then turned the floor back over to Ms. Dutton to facilitate the TAG’s discussion and prioritization of issues in each of the topic areas.

### **Discussion of Key Questions in Priority Areas**

Ms. Dutton asked the TAG to first develop a list of overarching goals/values that the group can then use to guide and inform its assessment of policy options and development of recommendations to the NC DOI.

### ***Develop and Confirm Goals for Post-ACA Market***

Ms. Dutton asked members to review a list of sample goals/values and to provide feedback regarding which values should be added to, removed from, or otherwise modified on the proposed list.

TAG members suggested the following as values/goals that should guide the group’s future assessment of the market reform policy options under consideration:

- Ease of customer engagement – ensure clarity to the customer with regard to options in the HBE, provide options that bring value to consumers
- Sustainability of the HBE

- Predictability/stability for market stakeholders inside and outside of the HBE
- Accountability through transparency
- Affordability to consumers
- Coverage – increase coverage, decrease the number of uninsured
- Consumer empowerment and informed choice
- Improved care delivery and improved health outcomes – policy options should be considered in light of the extent to which they impact the delivery of care and improve health outcomes
- Innovations in payment and care delivery – focus should be on building the market in such a way that it does not impede innovation but instead allows for innovations to gain traction/flourish
- Competition – improving competition among existing plans/carriers to provide more choices to consumers

The group agreed that Manatt will take the suggestions put forth by TAG members and draft a proposed statement of values/goals to guide future TAG deliberations. The proposed values/goals will be circulated to TAG members for review in advance of the next TAG meeting.

***Issues for Consideration in Topic Area # 1 (Leveling the Playing Field to Mitigate Adverse Selection)***

The group then turned to review the potential issues for consideration in Topic Area #1 – Leveling the Playing Field to Mitigate Adverse Selection. In prioritizing issues as Tier 1 or Tier 2, members were reminded to consider whether the issue is one that needs to be taken up by the NCGA in the 2012 legislative session. Issues that do not require consideration by the NCGA in 2012 may be categorized as Tier 2.

- **Standard geographic rating areas**
  - TAG members discussed whether the issue of geographic rating areas needed to be dealt with legislatively and agreed that the NC DOI should consider seeking statutory authority to define geographic rating areas.
  - The group discussed whether, because of the complexity of the issue, it would be better to develop the rating areas through regulation or statute.
  - TAG members discussed the timeline by when plans will need the defined rating areas for implementation in 2014 and agreed that carriers will require the information at least 12 months in advance of exchange implementation.
  - The group noted that the issue would likely be a challenging one as there currently exists significant differences in how carriers in North Carolina define rating areas.
  - **TAG members agreed that the issue of geographic rating areas is a Tier 1 issue.**
- **QHP certification criteria**
  - The TAG discussed whether the NC DOI would need additional authority to consider QHP certification criteria that exceed federal requirements and decided that the issue of whether additional authority is needed should be investigated further.

- A workgroup member asked whether participation rate requirements for small groups could be addressed via QHP certification criteria or otherwise considered by the TAG. The group agreed that the issue of participation rate requirements for small groups would be better addressed as a component of Topic Area #3 – Small Group Market Considerations.
- Members discussed marketing requirements inside and outside of the HBE and the potential need to require carriers to adopt a single commission schedule for plans sold inside and outside of the HBE. Members did not reach consensus on the issue but agreed that it was an important topic.
- **The group was unable to decide whether QHP certification criteria should be a Tier 1 or Tier 2 issue.** TAG members agreed that further information is needed to determine whether additional statutory authority is required to develop the QHP certification criteria.
- **Open enrollment period both inside and outside of the exchange**
  - TAG members agreed that open enrollment periods are critically important to mitigating adverse selection. However, several members felt that it was an issue where the group may be able to reach consensus quickly, and thus may not require immediate attention.
  - **The TAG agreed to categorize open enrollment periods as a Tier 2 issue.**
- **Options for insurer participation in the exchange**
  - Potential policy options for TAG consideration related to insurer participation in the exchange include whether: participation in the HBE should be mandatory (e.g., if an insurer in the non-exchange individual market it must also participate in the exchange); requirements or incentives should be established regarding what plans insurers must offer inside and outside of the exchange; and whether requirements or incentives should be established for insurer participation across all benefit tiers or a targeted number of tiers in the exchange.
  - TAG members discussed the importance of carefully considering any potential requirements or incentives related to what plans insurers must offer both inside and outside of the exchange, specifically with an eye toward balancing efforts to mitigate adverse selection with avoiding the imposition of requirements that may prove unsustainable for smaller carriers.
  - **The TAG agreed that all policy options related to insurer participation in the exchange are Tier 1 issues.**

Before turning to Topic Area #2, a workgroup member asked whether “Most Favored Nation” clauses in provider contracts should be a topic that is addressed by the TAG due to its potentially adverse impact on competition within the Exchange. DOI responded that it is not sure whether the TAG would be the most appropriate forum in which to address the issue and would further consider where the issue should be addressed.

Mr. Ario then asked Ms. Shenoy to facilitate the review and prioritization of key issues under Topic Area #2 – Reinsurance and Risk Adjustment.

***Issues for Consideration in Topic Area #2 (Risk Adjustment & Reinsurance)***

Ms. Shenoy noted that while states continue to await additional federal guidance on the risk adjustment and reinsurance programs, several decisions can be made.

- **Reinsurance**

- TAG members agreed that legislation will be required to determine where the reinsurance program will be housed/administered. However, TAG members also agreed that the specific parameters of the reinsurance program should not be addressed via legislation, and that instead authority should be established for another entity to design the reinsurance program.
- **Accordingly, the TAG agreed that consideration of where the reinsurance program will be housed/administered is a Tier 1 issue.**

- **Risk Adjustment**

- TAG members agreed that the risk adjustment issue may need to be broken into two component parts due to lack of federal guidance on risk adjustment methodology – who will administer the risk adjustment program and what risk adjustment methodology (federal or state-specific) will be used.
- Because TAG members agreed that the state should have the option to administer the risk adjustment program regardless of the risk adjustment model that is used, and that legislation would be required to grant this authority, **the group decided that administration of the risk adjustment program should be a Tier 1 issue.**
- Because additional federal guidance is required before a decision can be made regarding whether to use a NC-specific risk adjustment methodology or to rely on the federal model and parameters, **the group decided that consideration of risk adjustment methodology must be a Tier 2 issue.**

- **High-risk pool**

- The TAG agreed to further assess whether any issues related to transitioning the high-risk pool must be addressed in the 2012 legislative session.
- **The TAG did not resolve whether all issues related to the high-risk pool were Tier 1 issues.**

Ms. Shenoy turned the floor back over to Mr. Ario to facilitate the review and prioritization of key issues in the final topic area – Topic Area #3 – Small Group Market Considerations.

***Issues for Consideration in Topic Area #3 (Small Group Market Considerations)***

- **Merging the individual and small group markets**

- Mr. Ario clarified that this option refers to merging the individual and small group market risk pools.
- TAG members agreed that the preliminary consensus position is to not merge the individual and small group markets.

- **The TAG did not resolve whether merging the individual and small group markets is a Tier 1 issue.**
- **Definition of “small group”**
  - TAG members agreed that the preliminary consensus position is to not expand the definition of small group in 2014 to include business with up to 100 employees. **The TAG did not resolve whether expanding the definition of small group in 2014 is a Tier 1 issue.**
  - Members agreed that the definition of “employee” and handling of groups of “1” as issues that need to be addressed in near-term. **Accordingly, the TAG agreed that definition of employee and treatment of groups of 1 is a Tier 1 issue.**
- **Determining the level of employer choice in the SHOP**
  - TAG members were not able to reach initial consensus on the desired level of employer choice in the SHOP. The group agreed that the HBE should facilitate employer choice, but had mixed opinions on the matter of the extent to which employers should be empowered to grant or restrict employees’ choice of plans.
  - Due to the lack of consensus and need to further consider the issue, **the TAG agreed that an assessment of the appropriate level of employer choice in the SHOP should be a Tier 1 issue.**

A TAG member requested that the TAG consider how options and considerations in the small group market impact an employers’ willingness and likelihood to self-insure. There was consensus around considering this for all small group discussion topics.

### **Next Steps**

Ms. Dutton reviewed next steps to take place in advance of the TAG’s next meeting as follows:

- TAG review of meeting minutes. The notes will be circulated for members’ review prior to the next in-person TAG meeting and approved at the meeting.
- TAG review of draft proposed statement of values/goals to guide future TAG deliberations. The document will be circulated to TAG members for their review prior to the next TAG meeting.
- Finalize dates and times for the first phase of TAG webinars and in-person meetings (from now through mid-March).
- Creation of a more detailed project workplan based on the TAG’s prioritization of Tier 1 and Tier 2 issues.

TAG members are encouraged to send any additional feedback to the DOI regarding issues that should be considered by the TAG or how such issues should be prioritized.

The meeting was adjourned at 12:30 pm.