

North Carolina Department of Insurance
Market Reform Technical Advisory Group In-Person Meeting #3
Thursday, February 16, 2012

FINAL version – approved by the TAG with revisions at its March 9, 2012 Meeting¹

Meeting Attendees	Organization
<i>TAG Members and NC HBE Project Team</i>	
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
Tracy Baker	Wellpath/Coventry
Ken Lewis	FirstCarolinaCare Ins. Co. Inc.
Craig Humphrey	FirstCarolinaCare Ins. Co. Inc.
David Contorno	Independent Insurance Agents of NC
Allison Garcimonde	Manatt
Joel Ario	Manatt
Melinda Dutton	Manatt
Sharon Woda	Manatt
Sudha Shenoy	Mercer
Gerry Smedinghoff	Mercer
Teresa Gutierrez	NC Assoc. of Health Underwriters
Fred Joyner	NC Assoc. of Insurance and Financial Advisors
Mike Kelly	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
Julia Lerche	NC Department of Insurance
Lauren Short	NC Department of Insurance
Louis Belo	NC Department of Insurance
Mike Wells (<i>by phone</i>)	NC Department of Insurance
Rosemary Gillespie	NC Department of Insurance
Ted Hamby	NC Department of Insurance
Walter James	NC Department of Insurance
Yolanda Fonville	NC Department of Insurance
Michael Keough	NC Health Insurance Risk Pool, Inc./dba Inclusive Health
Pam Silberman	NC Institute of Medicine
Adam Linker	NC Justice Center
Conor Brockett	NC Medical Society

¹ Approved revisions to these meeting notes are captured in the notes from TAG Meeting #4.

Meeting Attendees	Organization
Linwood Jones	North Carolina Hospital Association
Mark Holmes	UNC/Cecil G. Sheps Center
Peter Chauncey	Wellpath/Coventry
Interested Parties	
Andy Landes	H-PACT
Amy Jo Johnson	NC General Assembly
Ryan Blackledge	NC General Assembly
Randall Madry	Schooner Healthcare Services
Cheryl Harris	Wellpath Select, Inc.

Agenda

- Welcome and Introductions
- Project Timeline and Goals/Objectives of Today's Discussion
- Review of TAG #2 Meeting Minutes
- Statement of Values for TAG
- Issues for Discussion in TAG Meeting #3
 - *Should NC explore development and administration of a NC-based risk adjustment model? What influences this decision?*
 - *If NC does not develop its own model, what role should NC play in administering the federal risk adjustment model at the state level? What entities are best suited to take on these administration responsibilities?*
 - *Who should make reinsurance policy decisions in NC? What characteristics should the nonprofit entity responsible for the administration of reinsurance in NC have? What, if any, existing entities could administer reinsurance in NC?*
- Wrap Up and Next Steps

Please refer to the February 16 "TAG In-Person Meeting #3" Slide Deck.

Welcome and Introductions

Ted Hamby of the North Carolina Department of Insurance ("DOI" or "the Department") convened the meeting at 9:00 AM and welcomed meeting attendees. Mr. Hamby asked attendees, including those participating by phone, to introduce themselves to the group. Mr. Hamby then turned the floor over to Sharon Woda of Manatt for a review of the overall project timeline/objectives of the day's meeting discussion.

Project Timeline and Goals/Objectives of Today's Discussion

Ms. Woda briefly reviewed the overall project timeline and the work plan for the TAG's first phase of work (*see slide deck for additional details*). Ms. Woda noted that development of the Risk Adjustment and Reinsurance Plan would take place along a longer timeline than what was pictured on the related slide and that the plan would not be finalized until later in the year. Ms. Woda then reviewed the goals for the day's meeting which included:

- Finalize statement of TAG values
- Confirm TAG 2 meeting minutes
- Confirm options and decision points for each of the policy questions related to risk adjustment and reinsurance
- Identify considerations for each option in the policy question
- Identify any points of consensus within each policy question

Review of TAG Meeting #2 Minutes

Ms. Woda then turned to review the TAG Meeting #2 meeting minutes, reminding the group of the importance of confirming each of the draft points of consensus as these will form the basis of the TAG Issue Briefs. All TAG #2 points of consensus were approved as drafted except the recommendation related to self-insurance. Members gave the following feedback and recommended the following revisions to the draft self-insurance points of consensus:

- Members felt that the points of consensus as drafted overemphasized attainment of consensus on the issue when full consensus had not been reached by the group.
- Some TAG members expressed concern that reforms to the small group market will serve as a strong impetus for healthy small groups to self-insure, which from an actuarial perspective is not desirable, and suggested that the most effective way to deal with this issue would be to modify the state's self-insurance statute to ban the sale of stop-loss coverage for employers below a certain size in order to prevent the use of stop loss policies in a market where they actually function like primary insurance.
- Other TAG members expressed concern over limiting small employers' ability to self-insure in light of the increase in premium costs that will likely result from the implementation of the ACA's market reforms, and were hesitant to modify the self-insurance statute until the impact of implementing relevant market reforms could be better understood (including the number of small employers that would see rate increases and the extent of those increases).
- Members agreed that the recommendation should be modified to de-emphasize attainment of consensus and to place increased emphasis on the importance of actively monitoring and revisiting the issue in the near future.

Revised Draft Points of Consensus on Self-Insurance:

- The TAG **did not reach consensus** on whether the state's self-insurance statute should be modified in light of the ACA's market reforms.
- Members agreed that the issue of self-insurance is of critical importance and should be reconsidered before reforms are implemented in 2014.

Ms. Woda then turned the floor over to Melinda Dutton of Manatt to review the revised draft statement of TAG values with the group.

Statement of Values for the TAG

Ms. Dutton asked the group to review and finalize the revised statement of values for the TAG. TAG members provided the following feedback on the revised statement:

- The TAG agreed that the word "ensure" (which implies a guaranteed result) should be changed to "support" in the fifth bullet ("support predictability for market stakeholders, competition among plans and long-term sustainability of the HBE").
- The TAG noted that tension may exist between some of the values on the list and in some cases not all values will be advanced by the policy options under consideration. The TAG

agreed that this tension should be acknowledged when incorporating the values into policy briefs or related materials.

- The TAG discussed whether the group moving forward should formalize the process of evaluating each policy option against the finalized TAG value statement (e.g., using the list of values as a “checklist” against which each policy option would explicitly be weighed). Members agreed that to do so would not be practical since the relative extent to which each value is advanced by a particular policy option will vary and that this nuance is difficult to capture with a simple “checklist” approach. The TAG agreed, however, that the group should be reminded of the value statement throughout the course of its deliberations (perhaps via distribution of a hard copy of the statement to members at each meeting) so that the values can continue to be brought to bear on the TAG’s decision making process.

Ms. Dutton stated that the TAG Statement of Values would be revised based on the group’s input and considered final pending the minor revision listed above.

Ms. Dutton then asked Sudha Shenoy of Mercer to begin the discussion of issues related to risk adjustment and reinsurance.

Issues for Discussion in TAG Meeting #3

Please note that the “Consensus Points” listed in this section are in DRAFT form only and will be reviewed by the TAG at its next meeting; any modifications to these draft consensus points by the TAG prior to TAG approval will be detailed in the TAG Meeting #4 Meeting Notes.

Issue #1: Risk-Adjustment Model

Should North Carolina explore development of a state-specific risk adjustment model? What issues influence this decision?

Ms. Shenoy reviewed background information on risk adjustment including relevant law and regulations, the requirements and functions for developing a risk adjustment model, the policy options under consideration and considerations related to each policy option (*see slide deck for additional details*). Ms. Shenoy then turned the floor over to Joel Ario of Manatt to facilitate the discussion of policy options and related considerations.

- Mr. Ario asked the TAG whether any policy options should be added or removed from the list of options under consideration; the group agreed that the list of policy options was complete.
- TAG members noted that federal guidance detailing the specifics of the federally-developed risk adjustment methodology is still pending, making it difficult to choose between adopting the federally-developed risk adjustment methodology versus developing a state-specific model. Members also expressed some concern that indicating a federal risk adjustment model was preferable might be construed as supporting reliance of a federal model for a NC HBE administration, which would not be their intent.
- The TAG agreed that the key considerations in deciding if North Carolina should develop a state-specific risk adjustment model are 1) whether North Carolina would be any different

from other states to such an extent that it would require or be better served by a state-specific model and 2) whether a state-developed model would be a significant enough improvement over the federal model to merit the investment of time and resources that would be required to develop it. The group discussed current federal risk adjustment methodologies used for the Medicare Part C and Part D programs and noted that they have proven relatively successful in predicting risk in these programs. One TAG member noted that his organization has been in discussions with CCIIO through which they have been assured that the model currently under development will be as good if not better than the model currently used in the Medicare program.

- After continued discussion, the group agreed that the cost and effort required to develop a state-specific model would not necessarily result in a better methodology than what is currently being developed by CCIIO. Additionally, some insurers noted that North Carolina does not significantly differ from other states to such an extent that a state-specific risk adjustment model is required. Therefore the TAG agreed that North Carolina should defer to a federal risk adjustment model for now. However, members stressed the importance of revisiting the issue in future years, after the state has spent some time utilizing the federal model and can evaluate how well the model is meeting North Carolina's needs and whether the development of a state-specific model might, in fact, be beneficial to the state.

Consensus Points:

- The TAG reached consensus around Option 2—defer to federal risk adjustment model for now, but evaluate a state-specific model later.
- Members agreed that the issue of developing a state-specific model should be reconsidered in future years, once the state has had time to evaluate North Carolina's utilization of the federal risk adjustment model and its relative strengths/shortcomings for the state.

Mr. Ario then turned the floor over to Gerry Smedinghoff of Mercer to discuss administration of the risk adjustment model in North Carolina.

Issue #2: Administration of Selected Risk Adjustment Model

If NC does not develop its own model, what role should NC play in administering the federal risk adjustment model at the state level? What entities are best suited to take on these administration responsibilities?

Mr. Smedinghoff briefly reviewed the relevant background information, including relevant laws and regulations, the functional requirements for performing risk adjustment, and considerations related to the available policy options (*see slide deck for additional details*). Mr. Smedinghoff then turned the floor over to Mr. Ario to facilitate the discussion of policy options and related considerations.

- Mr. Ario asked the TAG whether any policy options should be added or removed from the list of options under consideration; the group agreed that the list of policy options was complete.
- TAG members discussed the advantages of administering the federal risk adjustment model at the state-level, noting the benefits that could result from having access to people within the

state who are responsible for administering the program (versus having to be one of many states seeking assistance from or asking questions of federal administrators). Members agreed that stakeholders may enjoy increased administrative responsiveness if the program were to be administered at the state, rather than federal, level.

- The group reiterated the difficulty of making a decision regarding the level at which the program should be administered in the absence of 1) federal guidance detailing the specific activities for which the state would be responsible in each of the models under consideration (i.e., federally administered, state administered, or a hybrid approach) and 2) the extent to which North Carolina would have authority to make decisions about program administration (versus simply implementing/administering a program entirely designed by the federal government).
- Members also noted that insufficient information regarding the relative costs of administering the program at the federal versus the state level similarly limited the ability of the group to make an informed decision about where administration should take place. While the group appeared to favor administering the program at the state level, members agreed this might become less desirable were it to become clear that it would be significantly more costly for the state to administer the program.
- Members noted concerns related to privacy and security of collected data and discussed if where the program is administered would have an impact on where relevant data would be housed (i.e., if the program were administered at the federal level, would data be collected in a centralized national hub or gathered via a distributed model?). Mr. Ario noted that this was still an open question that would be addressed in future federal guidance.
- The TAG discussed additional benefits that may accrue if the program were to be administered at the state level; namely, that data collected by the state to administer the risk adjustment program could also be used to advance other state health policy goals, such as creation of an all-payer claims database (APCD), population health assessments or quality measurement and improvement activities. In essence, this would allow the state to utilize federal funds to pursue broader health policy goals of importance to the state.

Consensus Points:

- Though the TAG expressed interest in Option 2 – administer the risk adjustment program at the state-level – the group **did not reach consensus** on this issue.
- Members agreed that additional information on the relative costs of administering the risk adjustment model at the federal vs. state level were needed to inform the TAG's recommendation, as well as clearer federal guidance regarding the specific tasks for which the state would be responsible if it decides to administer the program.
- For similar reasons, the TAG **did not reach consensus** regarding which entities would be best suited to administer the risk adjustment program at the state level.
- Members agreed to revisit both issues at a future TAG meeting after forthcoming federal guidance is made available and when additional detail on costs and state responsibilities for administration can be brought to bear on the discussion.

Issue #3: Reinsurance

Who should make reinsurance policy decisions in NC? What characteristics should the non-profit entity responsible for the administration of reinsurance have? What, if any, existing entities could administer reinsurance in NC?

Mr. Smedinghoff briefly reviewed the relevant background information including key functions of a reinsurance entity, characteristics of reinsurance entities in current state law and the spectrum of policy decisions that would need to be made by the reinsurance entity (*see slide deck for additional details*). Mr. Smedinghoff then turned the floor over to Ms. Dutton to facilitate the discussion of 1) which entities in the state should have the authority to make reinsurance policy decisions, 2) what technical and operational capabilities the reinsurance entity must possess and 3) what governance and organizational characteristics the reinsurance entity should possess.

- TAG members discussed the relative advantages and disadvantages of addressing aspects of reinsurance program development through legislation. Members agreed that policy decisions that affect the market broadly or impact a large number of stakeholders should be the province of the NCGA (such as initial establishment of the reinsurance entity and decisions regarding the carrier assessment amount to fund the reinsurance program), but that decisions that affect only individual market carriers participating in the reinsurance program (i.e., operational considerations of the program) should be the province of the reinsurance entity itself, particularly so that operational issues can be addressed more quickly and nimbly than would be possible through the legislative process.
- TAG members reviewed the proposed list of operational/technical capabilities that should be required of the selected reinsurance entity. The group agreed that in addition to the authority to collect carrier contributions to the reinsurance pool, the entity would need the capacity to pursue payment and enforce assessment requirements in conjunction with the NC DOI, as necessary and to the extent possible. Members also agreed that it would be important for the entity to be able to move quickly and efficiently in program operations, as well as to make its policies and procedures transparent, in order to build trust among participating carriers.
- TAG members discussed the desired governance and organizational characteristics of the reinsurance entity. Members noted that because the ACA requires that the reinsurance program operate only for three years, if the TAG recommends governance characteristics that do not align with existing entities, the group would in effect be requiring the creation of a new entity to take on a complex program for only three years. The group then discussed whether existing entities in the state, particularly Inclusive Health or other state reinsurance entities, were well suited to administer the reinsurance program.
- Members discussed whether it would be desirable to establish a governing board comprised of carriers participating in the program that would then contract down to an existing reinsurance entity with the necessary expertise to actually operate the program. The group agreed that additional information on how this would work, particularly from other states that are operating reinsurance programs and using this approach, would be helpful.
- The TAG also considered what types of organizations should be represented on the governing board and agreed that Board representation should primarily consist of those carriers eligible to receive reinsurance payments, while also including carriers and TPAs subject to the assessment but not eligible for payments in an attempt to secure broad carrier buy-in and support for the program.

- TAG members considered the appropriate role of the NC DOI in relation to the reinsurance entity and its governance board. The group discussed the role that the DOI played in the previously existent small group market reinsurance program (primarily serving in a technical advisory and enforcement capacity) and agreed that this would also be an important role for the DOI in relation to the new reinsurance entity. Members agreed that the authority for the DOI to serve in a technical advisory and enforcement capacity for the reinsurance entity may need to be codified through legislation.

Consensus Points:

Authority to Make Reinsurance Policy Decisions

- The TAG **reached consensus** that the North Carolina General Assembly should establish the reinsurance entity and determine the assessment amount on carriers (i.e., whether the carrier assessment should be increased beyond what is federally required), but that the reinsurance entity itself should have the authority to make decisions on the remaining operational considerations.

Technical/Operational Capabilities of Reinsurance Entity

- The TAG **reached consensus** that the proposed list of required technical and operational capabilities for the reinsurance entity was complete, pending the modification of last bullet to read “authority to collect contributions *and pursue payment*” and addition of the following two bullets: “transparency to build carriers’ trust” and “ability to perform tasks quickly and efficiently.”

Governance Characteristics of Reinsurance Entity

- The TAG **did not reach consensus** regarding whether the reinsurance entity should be: a non-profit entity versus a non-profit entity subsidiary of a for-profit entity; an existing entity versus a newly created entity; or a single state entity versus a multi-state entity (for administration purposes).
- The TAG **reached consensus** that the reinsurance entity should have a governing board composed of carrier representatives. Board representation should primarily consist of those carriers eligible to receive reinsurance payments, while also including carriers subject to assessment but not eligible for payments.
- The TAG **reached consensus** regarding the role of the DOI in relation to the reinsurance entity, agreeing that the DOI should be legislatively authorized to serve in a technical advisory capacity and to enforce the collection of carrier assessments, as necessary.

Wrap Up and Next Steps

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

- TAG review of meeting minutes. Ms Woda reiterated that the minutes reflect points of consensus and considerations discussed during the meeting which will be used for developing related issue briefs, and that accordingly it is important that members carefully review the

meeting notes. The notes will be circulated for members' review prior to the next in-person TAG meeting and approved at the meeting.

- TAG Webinar #4 on topics related to mitigating adverse selection on Wednesday, March 7. Dial-in information for the webinar is forthcoming from the NC DOI.
- TAG In-Person Meeting #4 on Friday, March 9, 2012 from 9:30 AM – 12:30 PM.

TAG members are encouraged to send any additional feedback or suggestions to Allison Garcimonde (agarcimonde@manatt.com) or Lauren Short (lauren.short@ncdoi.gov) of the NC DOI.

The meeting was adjourned at 12:00 pm.