FLORIDA HEALTH INSURANCE ADVISORY BOARD MEETING

November 17, 2023
Conference Call
Call-In Number: 866-299-7949
Code: 1433866#

AGENDA

I. Call to Order

II. Roll Call - Attachment

III. Antitrust Statement - Attachment

IV. Approval of Minutes, September 28, 2023 - Attachment

V. Executive Director's Report – Attachments

VI. Legislative Proposals for 2024 - Attachment

VII. Other Business

VIII. Public Comment

IX. Adjourn

Attachment A

FLORIDA HEALTH INSURANCE ADVISORY BOARD

Alexis Bakofsky, Chair Designee
Chief of Staff
Office of Insurance Regulation
200 East Gaines Street
Tallahassee, FL 32399
850-413-5000
Alexis.Bakofsky@floir.com
Office of Insurance Regulation

Ken Stevenson, Vice Chair
Vice President, Employee Benefits
Earl Bacon Agency
3131 Lonnbladh Road
Tallahassee, FL 32308
850-878-2121
kens@earlbacon.com
Term Ending: 12/31/2022
Agent

Stefan Grow
Chief of Staff
Florida Agency for Health Care Admin.
2727 Mahan Drive, Mailstop #2
Tallahassee, FL 32308
Phone: 850-412-3605
Stefan.Grow@ahca.myflorida.com
Agency for Health Care Administration

Louisa McQueeney
Communications Director
Florida Voices for Health
9653 El Clair Ranch Road
Boynton Beach, FL 33437
MOBILE: 561-302-0345
louisa@healthyfla.org
Term Ending: 12/31/2023
Individual Policyholder

Christina Lake
Executive Vice President
Datamaxx Group, Inc.
2001 Drayton Drive
Tallahassee, FL 32311
850-558-8102
Christina.lake@datamaxx.com
Term Ending: 12/31/2023
Employers or Employer Representatives

William "Bill" Herrle
Executive Director
NFIB
110 East Jefferson Street
Tallahassee, FL 32301
850-681-0416
MOBILE: 850-728-7356
Bill.Herrle@nfib.org
Term Ending: 12/31/2026
Employers or Employer Representatives

Eric Johnson, PhD, ASA
Chief Actuary & VP of Analytics
& Business Intelligence
AvMed Health Plans
4300 NW 89th Blvd.
Gainesville, FL 32606
800-346-0231
Eric.Johnson@AvMed.org
Term Ending: 12/31/2026
Carrier

Richard B. Weiss, CPA
President, Florida Market
Aetna
261 N University Drive
Plantation, FL 33324
954-858-3434
MOBILE: 954-554-1757
rbweiss@aetna.com
Term Ending: 12/31/2024
Carrier

John J. Matthews
Vice President of Legal, Regulatory and
Government Affairs
Oscar Health
4560 Grove Park Drive
Tallahassee, FL 32311
MOBILE: 850-443-6996
jmatthews@hioscar.com
Term Ending: 12/31/2026
Carrier

Seth M. Phelps
Assistant General Counsel
Blue Cross and Blue Shield of Florida, Inc.
4800 Deerwood Campus Parkway
DCC1-7th Floor
Jacksonville, FL 32246
904-905-8747
MOBILE: 904-422-3647
Seth.Phelps@bcbsfl.com
Term Ending: 12/31/2026
Carrier

Rick Wallace
President/CEO
FAMOS, LLC
d/b/a American Academy of Cosmetology
1330 Blanding Blvd, Suite 125
Orange Park, FL 32065
MOBILE: 850-879-2649
Rick@teamwallace.org
Term Ending: 12/31/2024
Employers or Employer Representatives

Robert Muszynski
Director of Finance and Administration
WMFE (NPR) Radio
11510 E. Colonial Drive
Orlando, FL 32817
MOBILE: 407-617-5261
rmuszynski@wmfe.org
Term Ending: 12/31/2024
Employers or Employer Representatives

Nathan Landsbaum
President and CEO, Florida
Sunshine Health
1700 N. University Drive
Plantation, FL 33322
MOBILE: 314-378-3207
nlandsbaum@centene.com
Term Ending: 12/31/2023
Carrier

Vacant
Agent

As of September 8, 2023

Attachment B

FLORIDA HEALTH INSURANCE ADVISORY BOARD

BOARD MEETING

November 2023

Antitrust Statement

We are here to discuss and act on matters relating to the business of the Florida Health Insurance Advisory Board. We are not here to discuss or pursue the business interests of any individual companies. All of us should proceed with caution and awareness of the requirements and prohibitions of federal and state antitrust laws. We should not engage in discussions, either at this meeting or in private conversation, of our individual companies' plans or contemplated activities. We should concern ourselves only with the business of the Florida Health Insurance Advisory Board, as set forth in the agenda for this meeting and each company's business plans cannot be discussed. If you have questions, please contact the General Counsel.

Attachment C

DRAFT

Florida Health Insurance Advisory Board
Board of Directors Meeting Minutes
Thursday, September 28, 2023, 9:00 AM
Via Teleconference
Tallahassee, FL

Board Members Present:

Alexis Bakofsky, Chair	Louisa McQueeney	Stefan Grow
Christina Lake	Robert Muszynski	
Rick Wallace	Seth M. Phelps	

Others Present:

- Jack McDermott, FHIAB Executive Director
- Anoush Brangaccio, General Counsel, Office of Insurance Regulation (OIR)

I. Call to Order

Alexis Bakofsky (Chief of Staff, Office of Insurance Regulation), as the Chair, called the meeting to order at 9:00 am, indicating the meeting was properly noticed to the public in accordance with Florida Law. The Chair thanked the members for their attendance and appreciated the diverse expertise of Board members. She announced that Stefan Grow, Chief of Staff for the Agency for Health Care Administration (AHCA), has been appointed to serve as AHCA's representative to the Board.

II. Roll Call

Jack McDermott conducted a roll call of members, noting the presence of a quorum.

III. Antitrust Statement

Anoush Brangaccio was recognized to review the antitrust statement.

IV. Approval of Minutes, November 30, 2022

The Chair presented the minutes from the Board's November 30, 2022, meeting and asked for questions or comments. The Chair accepted a motion from Louisa McQueeney to approve the minutes, seconded by Seth Phelps. The minutes were approved without changes.

V. Executive Director's Report

The Chair recognized Jack McDermott to present the executive director's report. Mr. McDermott presented several administrative items including: 1) the financial statements as of August 30, 2022, 2) that all 2023 assessments were collected and deposited, 3) the Board's adoption of the State's Retention Schedule allowed the documents from 1993-2006 to be destroyed (this was done, which eliminated the need for the storage facility rental unit), and 4) the Executive Director has been working to re-draft the Board's procedure manual and expects to work with auditors and bring this to the Board for approval by the end of the year.

VI. Approval of 2021 Audits & 2022 Audit Engagement

The Chair recognized Seth Phelps, Chair of the audit committee, for the audit committee's recommendation for the 2021 audits and 2022 audit engagement letter. Mr. Phelps recommended approval of the 2021 audit reports (for both individual and small group) and approval of the summary of audit findings and noted the findings were similar to past audits, and it is the committee's understanding the Executive Director will be working on procedures to address these concerns. Mr. Phelps asked for a motion, and Rick Wallace made a motion to approve the audits, and Louisa McQueeney seconded the motion. The motion was approved.

Mr. Phelps continued and recommended accepting the 2022 Purvis Gray engagement letter, which showed a minor price increase from the prior year's audits (from $9,750 to $10,350) but stated this was not unexpected. Mr. Phelps asked for a motion to approve, and Rick Wallace made a motion that was seconded by Christina Lake. The motion was approved.

The Executive Director asked to make one addition to the presentation. In discussion with audit members, the committee consensus was the Purvis Gray 2022 audit engagement was approved with the understanding the auditing services will be re-procured in a competitive process for the 2023 audit. The Chair thanked the Executive Director for the clarification.

VII. Other Business

The Chair moved to the next agenda item which included a reminder that Legislative Proposals will be due soon, and to submit these to the Executive Director prior to the next Board meeting. The Executive Director will be in contact with Board members about the next Board meeting date and the deadline for submitting proposals. The next meeting will feature a discussion of legislative recommendations; the Board's vote on each legislative proposal will be conducted at a subsequent meeting. The Chair asked if any Board members had other business. Hearing none, the Chair moved to the next agenda item.

VIII. Public Comment

The Chair asked if anyone from the public had comments about any of the items discussed during the Board meeting. No member of the public requested to speak.

IX. Adjourn

The Chair thanked everyone who participated and provided public comment. Having completed the agenda, the Chair adjourned the meeting.

_____ _____

Prepared by: Jack McDermott, Executive Director Approved by Board

Attachment D

Balance Sheet
October 31, 2023
FHIAB

	Small Employer Plan	Individual Plan	Eliminating Entry	Combined Total
Assets				
Cash Operating	62,838.26	14,015.11		76,853.37
Cash Depository	11,492.92			11,492.92
Cash Special Purpose	680.87			680.87
Prepaid Expenses	22.60	4.63		27.23
Due from Indiv Pool	(3,749.92)		3,749.92	-
Assessments Receivable	-	-		-
Total Assets	71,284.73	14,019.74	3,749.92	89,054.39
Liabilities				
Federal Income Tax Payable				-
Due to Small Employer Plan		(3,749.92)	3,749.92	-
Accrued Audit Fees	12,558.30	6,416.60		18,974.90
Account Payable - Postage	-	-		
Account Payable - Line1 Comm	-	-		
Total Liabilities	12,558.30	2,666.68	3,749.92	18,974.90
Net Assets	**58,726.43**	**11,353.06**	**-**	**70,079.49**
Total Liabilities and Net Assets	71,284.73	14,019.74	3,749.92	89,054.39

Income Statement
For the Month Ended October 31, 2023
FHIAB

	Small Employer Plan	Individual Plan	Eliminating Entry	Combined Total
Revenues				
Interest Income	15.20	17.50		32.70
Expense Write-off	-	-		-
Approved Assessments	-	-		-
Expenses				
Contract Services	41,500.00	8,500.00		50,000.00
Professional Fees	6,008.30	3,166.60		9,174.90
Meetings	-	-		-
Storage Fees	45.19	9.26		54.45
Adobe Acrobat	132.72	27.18		159.90
PO Box	226.04	46.30		272.33
Postage	-	-		-
Document Destruction	226.60	46.41		
Total Expenses	48,138.85	11,795.75		59,661.58
Change in Net Assets	($48,138.85)	($11,795.75)		($59,934.59)
Net Assets, January 1, 2023	110,887.21	19,131.32		130,018.53
Net Assets, October 31, 2023	**62,748.36**	**7,335.57**	**-**	**70,083.94**

Attachment E

Proposal # 1: Deductible Health Credit Transfer

Louisa McQueeney – Florida Voices for Health

With the continual rise in annual health insurance deductibles to consumers, having to start a new deductible in the middle of the year creates financial hardship. The deductibles for 2024 could end up being as high as $9,450 for an individual and $18,900 for a family. Some policies require the insured to pay the entire deductible before the insurance company pays anything at all.

When consumers change health insurance plans outside of the Open Enrollment period, because of an employer changing plans outside of annual renewal, or a change of employer, or a change in geographic area, or loss of employer coverage and purchase individual coverage, annual deductibles start all over again even if a consumer has met part or all the accumulators out of their own pocket. This is even more egregious when consumers stay with the same carrier with the expectation already incurred accumulators will be recognized, only to find out that they will not.

□ Recommendation: Expand statute 627.666 to include individual on- and off-exchange policy holders a Deductible Health Credit Transfer to a new policy equal to the deductible paid by the policy holder to the prior insurer. The Credit Transfer should be for the entire amount paid by the consumer without limitations such as a period of 90 days preceding the effective date of the succeeding insurer's plan or recognition of the expenses actually incurred under the terms of the succeeding insurer's plan and subject to a similar deductible provision.

Proposal # 2: Provide Health Care Consumers with One Free Copy of their Own Medical Records

Louisa McQueeney – Florida Voices for Health

Patients have a right to their medical records under the Health Insurance Portability and Accountability Act (HIPAA). However, the same law allows providers to charge fees for providing the requested copies. Many record requests are not honored in a timely fashion if honored at all and can be at great expense to the consumer. Obtaining one's own medical records is especially important when disputes arise with insurance companies, resulting in denial of claims, leaving patients in precarious financial positions. Having a patient see and review their medical records and related provider charges billed to the insurer just makes common sense. It would bring down improper billing and potential fraud, which in turn should lead to lower health insurance costs to both plan sponsors and individuals.

□ *Recommendation: Provide consumers with one free copy of their medical record provided to consumer by mail or electronic mail, within 90 days of discharge or at the time of provider payment request for services provided, whichever comes sooner.*

Proposal # 3: Protect Consumers from Prescription Drug Formulary Changes During a Policy Year

Louisa McQueeney – Florida Voices for Health

Drug pricing remains at the forefront of consumer complaints when accessing health coverage. Consumers often pick a health insurance plan based on the prescription drugs covered and the cost tiers they are classified in.

Consumers enter a contract with the health insurance plan for a twelve-month period and pay an agreed upon amount per month for this period based on the contract they were presented. Health insurance plans negotiate drug prices with the pharmaceutical companies on behalf of consumers, without any involvement or say of consumers.

Insurance carriers then present health plans including drug formularies and premium rates to the Office of Insurance Regulation for approval. The consumer's input is not part of the process, but the consumer is expected to pick up the extra cost in the end or go without the prescription(s) they contracted for.

In recent years insurance carriers have been making changes to their drug formularies during the policy period. Insurers routinely reclassify drugs to more access restrictive drug tiers, increase the consumer's co-payment, co-insurance, or deductible, and reclassify drugs to higher cost sharing tiers. There are also instances of certain drugs being dropped from coverage altogether. Consumers are then informed by mail that they will be financially responsible for the entire cost of the drug in the middle of the policy year.

□ *Recommendation: Prohibit insurance carriers from amending or removing a covered prescription drug during the policy year. This will not preclude the insurance carrier from expanding the formulary and lowering prices throughout the policy year. This would exclude the formulary for Florida Medicaid which is covered under section 409.91195, Florida Statutes.*

Proposal # 4: Cap the Cost of Insulin at $35 a Month

Louisa McQueeney – Florida Voices for Health

The Inflation Reduction Act of 2022 has reduced the cost of insulin to no more than $35 per month for people on Medicare. This includes insulin pumps. However, the law doesn't extend to individual and group health plans. Although some pharmaceutical companies did lower their prices for insulin, the cost of insulin, which has been around for 100 years, is 10 times higher in the US than any other developed country and creates an enormous financial burden on Floridians who cannot survive without. We have all heard heartbreaking stories. While there is no high cost of development to insulin and innovation is limited, there is also no "free" market where market forces would drive down the cost to consumers. This lack of "free" market allows for price increases at will for this lifesaving medicine. Putting a cap on the price of insulin will save money through less hospital admissions for high blood sugar emergencies and less health complications resulting in disability. 22 States and the District of Columbia have enacted insulin price caps legislation. Putting a cap on the cost of insulin would drive down the cost of healthcare for all Floridians

□ *Recommendation: Require individual & group health insurance policies to cap insured's monthly cost-sharing obligation for covered prescription insulin drugs at $35 starting with 2023 plans; require health maintenance contracts to cap subscriber's monthly cost-sharing obligation for covered prescription insulin drugs at $35 starting with 2023 plans.*

Proposal # 5: Prohibit Balance Billing for Ground Emergency Medical Transportation

Louisa McQueeney – Florida Voices for Health

The No Surprises Act of 2019 addressed many balance billing or "surprise" billing issues for consumers. However, it didn't address the cost of ground emergency medical transportation. Consumers in a life-threatening accident or major medical emergency in need of ground emergency transportation to receive immediate health care attention at a nearby facility, are not able to make an informed decision or negotiate at arms-length about the cost of the transport. Health insurance companies provide coverage for this event, but this coverage gap can leave consumers with surprise high medical bills for the service.

□ *Recommendation: Apply the balance bill rules under HB221, signed into law by Governor Scott, to include ground emergency transportation.*

Proposal # 6: Include Applied Behavioral Analysis as a Covered Benefit in all Insurance Plans

Louisa McQueeney – Florida Voices for Health

As required by federal law Florida's Medicaid program covers medically necessary Applied Behavioral Analysis (ABA) services to correct, or ameliorate a defect, a condition, or a physical or mental illness for eligible recipients under the age of twenty-one.

These services are extremely important for recipients with developmental disabilities. In the health insurance market these services are required under statute section 627.6686, and applicable to a group health insurance policy or group health benefit plan offered by an insurer which includes the state group insurance program provided under s. 110.123. However, these services are not required to be included in any health insurance plan offered in the individual market, any health insurance plan that is individually underwritten, or any health insurance plan provided to a small employer.

Once a recipient loses Medicaid eligibility, they lose coverage for these important services. Neither KidCare program policies nor exchange and off exchange policies cover ABA services, placing an undue financial burden on families already dealing with very difficult circumstances. Expanding some plans off and on exchange to include coverage for ABA services could provide relief for this population.

□ *Recommendation: Require each carrier authorized to sell health insurance in Florida to include at minimum one plan in each service area to cover Applied Analysis Services as covered by Medicaid.*

Proposal # 7: Add Fetal Alcohol Spectrum Disorder (FASD) to Include to the Definition of the Term Developmental Disabilities

Louisa McQueeney – Florida Voices for Health

Harm to Florida's children from prenatal alcohol exposure (PAE) is a significant public health problem and the leading known cause of preventable developmental disabilities in the United States. Given that nearly half of pregnancies are unintended and women often don't realize they are pregnant until they are 6 weeks along or more, makes it easy to understand that women could drink alcohol while not knowing they are expecting. Many myths and misconceptions about the risk of alcohol use during pregnancy remain despite nearly 50 years of research.

Recent studies show an alarming prevalence of up to 1 in 20 first graders in the United States meeting criteria for Fetal Alcohol Spectrum Disorders (FASD) classification. PAE is especially harmful to the developing brain and could impact all facets of a child's life. Research also shows alcohol causes far greater harm to the brain than other drugs, yet recognition of the disability -- with appropriate FASD-informed supports and services -- can prevent secondary disabilities. Without these supports and services, many young adults with FASD may end up incarcerated, homeless, vulnerable to substance abuse, unemployed, and reduced access to health care.

Among medical and behavioral health professionals, inconsistent use or limited knowledge of diagnostic criteria and clinical guidelines result in many (if not most) children and adults living with FASD going undiagnosed or misdiagnosed. Families struggling with children with FASD, many of them adopted or fostered, cannot find systems of care that are familiar with or equipped to diagnose and address FASD-related disabilities. Although there is no cure for individuals impacted by FASD, research shows intervention services and support, including social, environmental, and educational strategies can prevent subsequent trauma to the individual, their caregivers, and society.

□ *Recommendation: Include Fetal Alcohol Spectrum Disorder to the list of definitions of the term developmental disabilities in statute 627.6686.*

Proposal # 8: Apply Payments by, or on Behalf of, a Beneficiary to Count Toward the Out-of-Pocket Cost Sharing Calculations

Louisa McQueeney – Florida Voices for Health

Patients, even those with health insurance, are having difficulty affording their medications because of steadily rising out-of-pocket costs. To help cover the patients' copays and co-insurance, some drug manufacturers, charitable assistance foundations, and other third parties offer copay assistance programs to help patients with serious chronic conditions afford their specialty drugs. Most patients, who use copay assistance require highly specialized, life-saving medications to treat hemophilia, MS, HIV, cancer, and other rare and chronic diseases for which, in many cases, no generics or lower-cost drugs are available.

In recent years, insurance companies and pharmacy benefit manager (PBMs) have implemented so-called "copay accumulator adjustment programs" where none of these copay assistance payments made on behalf of the patient count towards their deductible and annual maximum out of pocket costs. In addition, most insurance plans make it very difficult for a patient to find out if they have an accumulator program, using very vague language, if any at all in plan policy documents.

The financial assistance that patients receive is a specified amount per year based on the cost of the prescription. Patients often discover mid plan year that the copay assistance limit has been reached and they must pay the entire cost of the prescription drug because none of the third-party payments were counted towards their out-of-pocket costs – defeating the purpose of the copay assistance. Research has shown that many patients will abandon their medication at the pharmacy or ration doses when they must pay more than $75 to $225 out of pocket, foregoing life-saving medication. With copay accumulator programs, insurers and PBMs are collecting the financial assistance, the money, intended for the patient while requiring the patient to pay the deductible again, making it harder for consumers get their medications and other health care.

As of June 2023, 19 states have passed legislation prohibiting copay accumulator policies: Arizona, Arkansas, Colorado, Connecticut, Delaware, Georgia,

Illinois, Kentucky, Louisiana, Maine, New Mexico, New York, North Carolina, Oklahoma, Tennessee, Texas, Virginia, Washington, and West Virginia.
Earlier this year, Governor DeSantis signed SB 1550 into law, requiring more transparency and accountability from PBM's. Unfortunately, a ban on copay accumulators, the harmful and deceitful practices of insurers and PBMs towards many vulnerable Floridians, who are having to make choices between getting their medications or buying food, was once again not included.

□ *Recommendation: Require each health insurer, issuing, delivering, or renewing a policy in Florida, which provides prescription drug coverage, administered by the insurer or pharmacy benefit manager, to count any amount paid by the insured or paid on his or her behalf through a third party (including but not limited to manufacturer or provider cost share assistance payments such as manufacturer cost share assistance) toward the policyholder's total contribution to any deductible or out-of-pocket requirement. Insurers must include in policy documents, such as the summary of benefits, and on websites that these payments will be applied to the policyholder's out-of-pocket maximum, deductible, or copayment responsibility.*

In the absence of legislation prohibiting copay accumulator policies, each health insurer, issuing, delivering, or renewing a policy in Florida, which provides prescription drug coverage, administered by the insurer or PBM must clearly disclose the copay accumulator in the summary of benefits, in policy documents and on websites, made available to consumers prior to enrollment in a policy and that payments paid on his or her behalf will not count towards the policyholder's out-of-pocket costs maximum, deductible, or copayment responsibility. In addition, payments made on behalf of the policy holder must appear on the explanation of benefits (EOB) as a payment the insurer will not apply towards the policyholder's out-of-pocket maximum, deductible, or copayment responsibility.