



Silver State Health Insurance Exchange

2310 South Carson Street, Suite 2

Carson City, NV 89701

T: 775-687-9939

F: 775-687-9932

www.nevadahealthlink.com/sshix

AGENDA ITEM

For Possible Action

Information Only

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Title: Executive Director’s Report

PURPOSE

The purpose of this report is to provide information to the Board and public regarding the operational matters of the Exchange, as well as State and federal updates affecting the operations of the Exchange.

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GENERAL COMMENTS

The four-month interim since the February Board Meeting has provided an important opportunity for reflection. I have spent a significant amount of time reviewing past Board Meeting agendas and recordings, from the pre-pandemic era up

through the past year, and one conclusion seems evident: in recent years the Exchange’s Board of Directors has not been included in the day-to-day operational decisions of the agency to the same extent that they were previously. Certainly this shift can be attributed, at least in part, to the overall maturation and stabilization of the Exchange as a State Based Marketplace. It’s also apparent that the change from monthly Board Meetings to quarterly Board Meetings had an impact on the scope and impact of the Board as a decision-making body. But it’s my belief that even in light of the quarterly meeting schedule, the Board can and should be kept more proactively apprised of current and future Exchange activities. Having been faced with no shortage of urgent, high-impact decisions since assuming the Executive Director position last August, many of which have boiled down to choosing the least bad option, I can say with frank honesty that I would welcome a degree of shared accountability.

One example which I think illustrates this point particularly well involves a vision carrier who approached the Exchange last year seeking a partnership. To provide the appropriate background context, the Exchange, like all ACA Marketplaces, does not sell vision plans through the Nevada Health Link website. We have, however, maintained a relationship with a vision carrier called VSP Vision Plans for several years, which involves endorsing them as a “trusted partner” alongside the various health and dental carriers listed on our website. VSP pays an annual fee to the Exchange for this endorsement. I have to admit that when I first learned about the nature of this relationship, I felt some ethical reservations about the Exchange endorsing the services of a carrier over whom we have no regulatory purview, and whose operations, including their customer service activities, are opaque to us. This type of relationship is not unusual, however—most State Based Marketplaces have a similar relationship in place with one or more vision carriers—and at any rate I had no intention of trying to modify an existing contractual relationship. But these concerns were top of mind when reviewing the more recent request from the new vision carrier last fall, who was seeking a similar arrangement.

I was especially sensitive to the idea of an endorsement because the Exchange had recently dealt with the fallout from Friday Health Plans’ court-ordered exit from the marketplace, which resulted in thousands of Nevada Health Link enrollees losing their existing coverage. The Exchange was criticized in the media for having endorsed Friday Health Plans as among the “7 Nevada health insurance providers offering the best health plans in the state,” and we were criticized again for removing their logo from our website after Friday was de-certified, “omitting any mention of the insurer [that the Exchange] had previously praised.” So we approached the proposal from the new vision carrier with a fair degree of caution. Our first priority was to assess the performance of this carrier by reviewing customer feedback. During a phone meeting last fall, their director indicated to us that they receive only a few consumer complaints each year, and those complaints are generally resolved quickly. However, when we looked this carrier up on the Better Business Bureau’s website, we found many dozens of consumer complaints from 2023 alone, the vast majority of which had not been resolved. One common complaint was that consumers were consistently unable to reach a live agent in their call center. Several of our staff members, including myself, attempted to contact their call center on multiple occasions over a one-week time frame, using several different phone numbers obtained from the websites of other State Exchanges who’d partnered with this particular carrier. We were unable to reach even a single agent.

The results of this investigation convinced the Exchange’s administrative staff that a partnership with this carrier would not be in the best interest our consumers, and that the public reputation of this carrier presented a risk to the Exchange’s status as a trusted source of high-quality insurance coverage. We notified the carrier of our decision, and we invited them to attend our February, 2024 Board Meeting if they wished to address the Board directly. We also mentioned that if the carrier was able to make notable progress in resolving their apparent customer service deficiencies that we would be willing to reconsider our decision. They did not provide comment the February meeting, and we have had no correspondence with this carrier since then.

I have no reservations about the due diligence that we conducted or the decision that we reached. But today, with the clarity of hindsight, I believe it was a misstep not to present this issue to the Board for a vote. With that in mind, I am resolved moving forward to improve the inclusion of the Board as a decision-making stakeholder. This is the spirit which informs the remainder of my Executive Director’s report, starting with an overview of the operational milestones that the Exchange must accomplish before the October Board Meeting.

FOUR MONTH LOOK-AHEAD

Historically the bulk of the updates that Exchange staff have presented to the Board have been retrospective in nature. As part of my goal to better include the Board in the day-to-day operations of the Exchange, though, I'm establishing a "look-ahead" section of the Executive Director's Report to highlight significant activities occurring in the interim between today's meeting and the October Board Meeting. From my perspective as someone who's worked for the Exchange since 2016, I don't recall a busier or more critical four-month period.

RFPs

The Exchange is planning on releasing two RFPs during the upcoming interim. The first relates to a CMS requirement for State Exchange's to engage the services of a third-party Information Security consultant to perform an "Independent Security Assessment" (ISA). Conducting an ISA is a tri-annual requirement, and this will be the Exchange's third ISA since moving away from the HealthCare.gov platform. We hope to release this RFP in early August, with at least a six-week response window. The contract period for ISA services will run from January, 2025 through July, 2025.

The second RFP will be a two-part solicitation for technology platform and call center services, due to our existing contract with GetInsured expiring at the end of Plan Year 2025. This RFP will be patterned after the original RFP issued in 2018 and will allow vendors to provide a response for technology platform services alone, call center services alone, or both services in a single proposal. We hope to release this RFP in late August, with at least a two-month response window. In the event of a vendor change for either the call center or the technology platform, a significant amount of time and resources will be required to navigate the transition, which is why the Exchange is building a substantial runway into the project timeline.

Plan Certification

The Exchange's annual Plan Certification process is under way and will continue through the end of September. This process, which is conducted in collaboration with the Division of Insurance, ensures that all Qualified Health and Dental plans sold through the Nevada Health Link marketplace meet the minimum requirements of ACA regulations. These requirements include minimum standards for benefit design, prescription drug coverage, actuarial value, and provider network adequacy. At present the Exchange's Plan Certification responsibilities are handled by a single Plan Certification Manager.

Biennial Budget

The Exchange's Finance Team has already begun preparing our Biennial Budget in preparation for the 2025 Legislative Session. This budget, which includes all operational, personnel, and vendor expenses for Fiscal Years 2026—2027, must be submitted at the end of August. We are planning on requesting two new positions in the upcoming budget. One will be a support position for our Plan Certification Manager, in order to accommodate the anticipated increase in the number of insurance carriers selling plans on the Exchange following implementation of Nevada's Market Stabilization Program. The other will be a dedicated, full-time position for a Tribal Liaison, in order to deepen our commitment to Nevada's 28 federally-recognized tribes and ensure the enduring success of the Exchange's Tribal Partnership Program. The Exchange welcomes any comments or feedback from the Board regarding these proposed positions.

Annual Policy Updates

This year's annual Notice of Benefit and Payment Parameters (NBPP) from CMS included several dozen rule changes that will require corresponding updates to the Exchange's Policy Manual. Many of these changes will also require changes to the design and behavior of the Nevada Health Link website platform. These changes are currently being coordinated by the Exchange's Policy Team, with the goal of circulating a draft release of the Policy Manual to stakeholders in August, followed by the release of the final version in September. Details regarding the rule changes have been omitted here for brevity, but if desired the Exchange can provide a follow-up email to board members with additional information.

Fall Marketing Campaign

The Exchange's Communications Team and marketing vendor The Abbi Agency will be working throughout the summer to develop our fall marketing campaign. Details of the campaign itself are provided in The Abbi Agency's Marketing and Outreach Presentation, so I won't repeat them here, but I did want to highlight the significance of the recent focus groups they conducted. My biggest takeaway from the feedback gathered was that the Exchange should consider simplifying its approach to brand awareness, with a focus on defining exactly what the Nevada Health Marketplace is, and how the marketplace is different from other outlets for purchasing insurance coverage.

Federal Privacy and Security Compliance

Each year the Exchange is required to update and submit to CMS a substantial body of documentation demonstrating our compliance with federal privacy and security requirements. We are also required to update and submit to the IRS a comprehensive document known as the Safeguard Security Report, in order to maintain authorization to use the IRS' Income and Family Size Verification (IFSV) service, a mandatory component of the Exchange's process for verifying subsidy eligibility. Max Borgman, the Exchange's Information Systems Manager, will be working closely with the GetInsured Information Security team in the coming months to ensure that all required documentation is updated and submitted by the applicable deadlines (July 31st for the IRS Safeguard Security Report, and August 16th for the CMS documents).

LCB Audit

Throughout the summer and fall of 2023, the Exchange hosted a number of site visits from Nevada's Legislative Counsel Bureau (LCB), who were conducting an on-site audit of the Exchange's operational privacy and security controls. On June 24th the Exchange team will be meeting with the LCB team to accept delivery of their findings, which we anticipate to be relatively few in number and low in severity. The Exchange will then develop a corrective action plan to address and resolve any remaining deficiencies. I want to take the opportunity to commend Max Borgman for his diligent work over the past nine months to preemptively resolve a number of LCB's preliminary findings, which will streamline the process of implementing the Exchange's remaining corrective action. On balance the audit was a confidence-building exercise, and we appreciate the opportunity to have collaborated with LCB's subject matter experts.

IRS Audit

The Exchange recently received notification from the IRS that they will be conducting an on-site privacy and security audit during the second week of September. This will be the first such audit for the Exchange, and based on feedback from other states who've completed similar audits we are anticipating a heavy lift. But we are also feeling well prepared, thanks in large part to the recent operational improvements which were prompted by the LCB audit.

Automatic Voter Registration

The Exchange was named as an Automatic Voter Registration Agency in AB 432 (2021 Session), which requires the submission of marketplace applicant data to the Nevada Secretary of State's Office to facilitate the automated voter registration of qualified individuals. AB 432 originally mandated an implementation deadline of January 1, 2024, but AB 192 from the 2023 Legislative Session extended the implementation deadline to January 1, 2025. The Exchange has met with the Secretary of State's Office in recent months to confirm the technical requirements for implementation. At present we believe that the Exchange will be able to meet these requirements with existing staff resources and expertise, without a reliance on support from our technology vendor. We also believe that such an approach is in the best interest of the state. Our goal is to have a solution prototyped in time for a more detailed presentation during the October Board Meeting.

Annual Passive Renewals

Work on the annual passive renewals job begins in July, with a complete “staged run” that allows the Exchange and technology vendor GetInsured to identify eligibility or data quality issues which could potentially be resolved prior to the October production run. The continued refinement of this process allowed the Exchange to achieve a renewal success rate of greater than 99% last fall, and we anticipate a similar result from this year’s job.

A new challenge that we will face this year involves CMS’ introduction of a per-transaction fee associated with Equifax’s Verify Current Income (VCI) service, which has been an integral part of the Exchange’s eligibility verification workflow in the past. More details are provided in the Executive Summary section of the Fiscal & Operation Report, but the new expense posed by this change has resulted in a desire by the Exchange to find innovative solutions for reducing the overall use of the VCI service.

UPDATE ON WORKSHOP APPROACH TO PUBLIC COMMENT SOLICITATION

The Exchange recently conducted two Public Comment Workshops to gather stakeholder feedback on our Language Access Plan (LAP). As will be mentioned in the introduction to the LAP agenda item, both workshops were characterized by a lack of critical feedback. But the organization of the workshops themselves provided the Exchange with a valuable opportunity to assess the effectiveness of this format for the solicitation of public comments, and in that regard the workshops presented a great success. Both meetings proceeded smoothly and efficiently, and I’m especially grateful for the significant amount of time that Radhika Kunnel, the Exchange’s Deputy Attorney General, devoted to preparing our staff and ensuring that both workshops were conducted in strict accordance with open meeting laws. I believe that the Exchange now possesses a valuable new tool for improving stakeholder communications.

MARKET STABILIZATION PROGRAM

The implementation of Nevada’s Market Stabilization Program, formerly known as the Public Option, continues to proceed under the capable leadership of the administrative team at the Division of Health Care Financing and Policy (DHCFP). In February I notified the Board of a lawsuit that was filed by Senator Robin Titus and a non-profit group called the National Taxpayers Union, seeking declaratory and injunctive relief against the implementation of the Market Stabilization Program. A few days later I received notification that the Attorney General’s Office and the Legislative Counsel Bureau had each filed Motions to Dismiss the lawsuit on February 23rd, citing concerns about its procedural and jurisdictional basis. On May 21st I received another update indicating that the Court has set a hearing on the Motions to Dismiss for June 26th, after which I will be updated on the results of the hearing. We will, of course, forward this update to the Board once it has been received.

In recent weeks the Exchange has been working with the DHCFP team to develop marketing and implementation strategies for the project. One particular area of interest relates to the possibility of passively renewing Nevada Health Link enrollees from their existing plans into the forthcoming “Battle Born State Plans” in October of next year. Existing federal regulations require State Based Marketplaces to passively renew consumers into their existing plan if it is still available, however other states who’ve implemented public option programs have convinced CMS to waive this requirement in the financial interest of impacted consumers. Nevada is currently pursuing a similar strategy with its waiver request.

The next major project milestone will be the Managed Care Organization (MCO) RFP, which is anticipated to be released in September of this year. MCO awardees will be required to offer Battle Born State Plans for sale through the Nevada Health Link Marketplace, and the Exchange anticipates that this process will result in several new insurance carriers entering the marketplace for Plan Year 2026. The timing of the RFP should allow the list of awardees to be finalized by

approximately March of 2025, which should provide ample time for the Exchange to onboard these new carriers and complete the required testing for Electronic Data Interchange and Enrollment Reconciliation functions.

MEDICAID UNWINDING

The Exchange continues to receive several thousand electronic referrals each month of Medicaid or CHIP enrollees whose coverage was terminated as part of the unwinding of the Public Health Emergency. As of June 1, 2024, the Exchange has received referrals for a total of approximately 114,700 unique individuals throughout the unwinding period, of which approximately 6500 have enrolled in marketplace coverage. This represents a cumulative “conversion rate” of 5.6% percent.

In an effort to improve this conversion rate the Exchange recently implemented a direct-to-consumer SMS messaging campaign. This campaign aims to inform consumers of their available options for enrollment through Nevada Health Link, and the messaging differs depending on how recently a given household was re-determined as Medicaid/CHIP ineligible. Those who lost eligibility within the previous 60 days are encouraged to “act now to avoid a gap in coverage.” Those who lost eligibility more than 60 days prior are notified that they are still eligible to enroll in marketplace coverage through November 30th, per CMS’ recent extension of the unwinding-related Special Enrollment Period. The Exchange does not yet have enough data with which to gauge the success of the campaign, but we look forward to providing a detailed update at the October Board meeting.

TRIBAL SPONSORSHIP/TRIBAL PARTNERSHIP PROGRAM

In recent months our ongoing work in support of Nevada’s tribes has consisted primarily of seeking support from the Exchange’s insurance carriers for our monthly Aggregated Billing workflow. This process aggregates the monthly premiums of individual enrollments which qualify for premium sponsorship by their respective tribe, allowing for a single monthly payment covering all sponsored enrollments. Thus far, four of the Exchange’s eight health carriers have expressed support, and we hope to bring the remaining carriers on board in the coming weeks.

Another area of progress relates to difficulties that tribes have experienced with specialist referral claims, which is a consistent area of frustration that tribes have reported to the Exchange. Over the past few months, we’ve learned a great deal from our carriers about tools that Tribal Health Centers can use to send electronic notifications of specialist referrals to their respective insurance carriers. These tools have the potential to greatly improve the accuracy of referral claims processing with respect to Cost Sharing Reduction benefits for AI/AN enrollees. We are anxious to share this information with our tribal stakeholders as we work to deepen the Exchange’s support of these communities.

Lastly, I would like to update the board on a recent change that was made to the branding of the Exchange’s tribal support initiative. In prior updates we have referred to this initiative as the “Tribal Sponsorship Program,” but the Exchange recently became aware of some confusion that this moniker was causing amongst our tribal stakeholders. Guidance published by the Indian Health Service uses the phrase “Tribal Sponsorship” in specific reference to the sponsorship of monthly premiums, i.e. the Third-Party Payer arrangement in which tribes pay the monthly insurance premiums of qualifying members. Since aggregation of monthly premiums is only one component of our support services, the Exchange has re-branded our initiative as the “Tribal Partnership Program,” which we believe is more representative of our broad commitment to serving Nevada’s tribal nations.

PERSONNEL UPDATES

I would be remiss if I didn't begin this section by acknowledging that today marks the final Board Meeting of our current Chair, Dr. Florence Jameson. Dr. Jameson has been an integral part of the Exchange's spirit and drive since before I began working here in 2016, and I feel honored to express on behalf of the Exchange's staff, both past and present, our gratitude for her steady temperament, warm demeanor, and compassionate leadership. By any objective measure, the accomplishments of the Exchange under her watch represent an astonishing body of work. And on a personal level, I'm extremely grateful for all that she has done to help me grow into the very big shoes of the Executive Director position over the last year. Thank you, Dr. Jameson, for your vigilant guidance. We wish you the very best of luck in your future endeavors.

I'm happy to report that as of April 1st, the Exchange is operating at full staff, with zero vacancies, for the first time since the pre-pandemic era. It's my belief that our current staff represents as dedicated and capable a group of employees as the Exchange has ever known. As you know, filling all remaining vacancies has been one of my top priorities since assuming the Director's position. Doing so has been a tall order, and I want to take the opportunity to thank the Exchange's supervisors for their diligent efforts in conducting no fewer than ten successful recruitments in as many months. I regret to inform the Board, however, that the Exchange will not be at full staff for much longer. A bit of background information will be required to properly explain the circumstances, but I believe it's important for the Board to have some insight into these proceedings.

In the fall of 2021, the Division of Human Resource Management (DHRM) approved one of our senior staff members to move out of state and continue his service to the State by working remotely. Throughout 2023 the Exchange awaited the release of the Governor's Statewide Remote Work policy with great interest, as we were concerned that changing regulations might jeopardize this individual's continued employment. The only relevant guidance available at the time was a document hosted on DHRM's website, which enumerated seven reasons for Agency Directors to consider approving out-of-state telework. These reasons included "recruiting or retaining a rare skillset" (which, incidentally, was the justification for approving this employee's move in the first place); and "legacy agreements" for previously-approved out-of-state telework, when it is working well and continuing to meet business needs.

When the Statewide Remote Work policy was released in December of last year, it granted latitude to Agency Directors to approve remote work as a limited discretionary privilege. No mention was made of out-of-state telework, save for two stipulations of the policy which were identified as not applying to "workers who are permanently stationed outside of the State." The policy appeared to be entirely compatible with the guidance on DHRM's website, with no apparent contradictions between the two documents. We therefore breathed a collective sigh of relief, and in January I approved a "Remote Work Agreement" (as required by the Statewide Policy) to allow our out-of-state employee to continue working remotely.

In late February, I received a request from the Governor's Office to provide our agency's Remote Work Agreements for their review. Shortly after providing our agreements, I was notified that the Exchange was not an agency which had been approved for out-of-state or "out-stationed" employees. I requested clarification, as I was concerned that the Exchange might have been operating out of compliance with existing regulations, but no clarification was provided. A few weeks later, the Governor's Office advised Agency Directors that they were no longer authorized to employ personnel who were working remotely from out of state, and that we were to either bring them back into the state or let them go. No guidance was provided regarding a method for dismissal. The aforementioned document on the DHRM website was eventually removed, and the Attorney General's (AG's) Office later confirmed that the document is not an official, sanctioned policy of the State, and that it is inappropriate to base any remote work policy or decisions on the document. This scenario presented a human resources challenge for which the Exchange had no precedent.

Permanent, classified employees of the State of Nevada enjoy substantial protections to their employment status under the Nevada Administrative Code. Before they can be dismissed, they must be notified of an alleged violation of conduct, after which an investigation is conducted to validate the allegation. If the allegation is confirmed, then the level of

discipline is determined, and a lawful basis for the recommended disciplinary action must be approved by the Attorney General's Office. For this reason, I was immediately concerned with identifying a lawful basis for dismissing the employee in question. Over the last three months our agency has sought guidance on this topic from the Governor's Office, DHRM, and the AG's Office. Initially I thought that if a prohibition against out-of-state telework—or even out-of-state residency itself—could be identified, then a lawful basis for termination would exist. But there is apparently no such regulatory prohibition. The eventual guidance from the AG's office, which we received on June 6th, was that I was to order this employee to report for work at the Exchange's Carson City Offices. After failing to report for onsite work on the prescribed date, he would eventually be dismissed for "insubordination" (having failed to comply with the order), and possibly also for being "absent without leave" or AWOL.

I want to emphasize that I have, at every juncture, endeavored to ensure that the State remained protected from any potential liability for wrongful dismissal. The Exchange unequivocally supports the priorities of the Governor's Office, and my deliberation throughout this process has stemmed from caution, not from opposition. On June 10th, I notified the employee in question to report for work at his Carson City office location by July 1st. But I deeply regret that the State's only suggested course of action requires the Exchange to tarnish the otherwise impeccable personnel record of a model employee. Throughout this entire process he has maintained his substantial workload while conducting himself with the utmost professionalism and integrity, knowing full well that his employment status was in jeopardy, but not knowing when or how his dismissal would occur. I believe his commitment to this agency is worthy of the utmost respect and commendation.