

RISK MANAGEMENT ADVISORY BOARD

April 29, 2021
Via Go to Meeting

<https://global.gotomeeting.com/join/934293789>

1. CALL TO ORDER

The meeting of the Risk Management Advisory Board called to order at 1:05 pm by Russell Toal, Chair. The meeting was held via Go to Meeting due to the current COVID-19 restrictions.

ROLL CALL

Roll call indicated the presence of a quorum as follows:

Members Present:

Russell Toal, Superintendent of Insurance
Debbie Romero, Cabinet Secretary Department of Finance and Administration
Raul Burciaga, Legislative Council Service
Teresa Ann Costantinidis, CFO of UNM
Tami Coleman, CFO of Albuquerque Public Schools
Tania Maestas, Chief Deputy Attorney General
C. Quinn Lopez, Attorney

Members Excused:

Michael Byrd, Insurance Agent
Anita Schwing, CFO of NM Health Insurance Exchange

Others Present:

Susan Wilson, NM Coalition for Healthcare Value
Mark Tyndall, Risk Management Division Director
Randall Cherry, General Counsel and Deputy Director of Risk Management Division
Ken Ortiz, Cabinet Secretary of General Services
Jacob Maule, Litigation Bureau Chief
Amber Espinosa-Trujillo, Bureau Chief of Employee Benefits

Chair Toal thanked Mr. Burciaga and his staff for the hard work during the challenging legislative session.

2. APPROVAL OF THE AGENDA

MOTION: The agenda was approved by unanimous voice vote.

3. APPROVAL OF MINUTES FROM DECEMBER 8, 2020

MOTION: Mr. Lopez moved to approve the minutes with a second from Ms. Costantinidis. The minutes were approved by unanimous vote.

4. NM COALITION FOR HEALTHCARE VALUE

Ms. Susan Wilson from the NM Coalition for Healthcare Value presented to the board via power point presentation. Ms. Wilson explained the history of the coalition which is now a 501 C3 nonprofit. They publish an annual guide and compares scores side by side.

Ms. Wilson explained the benefits of being a member of the coalition. They have doubled in size in the last two years. They have just lowered the dues for government agencies. They conduct several education offerings each year.

Chair Toal asked of the State of New Mexico is a member. Ms. Wilson stated they are not as of yet.

Mr. Tyndall disclosed he has been President and Vice President of the coalitions board. He is happy to make the State a member.

Secretary Romero asked what is the benefit for the State to become a member. Ms. Wilson explained they provide up to date information and they get access to information. It is helpful to discuss with the vendors. It looks at value based contracting.

Mr. Tyndall explained the creation of the coalition was to create leverage with the carriers.

Ms. Romero asked which agency and who would get the information and funnel it out. Would all state agencies be able to participate.

Mr. Tyndall explained he would look into having Risk Management Division step into that role if the board wishes.

Chair Toal thanked Ms. Wilson for her time. They will meet with her in June to begin the review process for the NM Health Insurance Exchange.

5. 2021 LEGISLATIVE SESSION DEBRIEF

Mr. Tyndall explained that not all of the bills introduced passed. The first bill that had impact on RMD was HB2 because it involved the budget. The appropriation portion passed, they projected an amount to fill the risk funds. There was some special appropriations as well that had some contingencies.

Mr. Tyndall discussed each bill that was heard that potentially impacted the Risk Management Division. *These are the items that did not pass:*

HB34 would require member cost sharing services from a podiatrist to be no more than the cost of services from a Primary Care Physician (PCP). It passed all committees but did not get a vote on the Senate floor.

HB107 required cost sharing parity between mail order and retail pharmacies. It passed the full House and one Senate committee but was never heard in Senate Finance.

HB129 Requires the Office of the Superintendent of Insurance (OSI) to write rules in calculating member cost sharing and transparency requirements. It was amended and passed the full House and Senate but did not receive concurrence.

HB154 was to create a prescription drug affordability board. It only passed out of one House committee.

HB268 was related to worker's comp and if the coronavirus was contracted as a result of employment. This passed the full House but didn't pass out of Senate Judiciary.

SB23 requires cost sharing from a chiropractor to be no more than services for a PCP. This passed the full Senate and House committees but not the House floor.

SB 261 would add pandemic disease to the conditions to be caused by employment for firefighters. This passed one Senate committee but did not pass out of Senate Judiciary.

SB267 was to appropriate \$94,560 to GSD for RMD to cover benefits for the Mounted Patrol. This passed one Senate committee but did not pass out of Senate Finance.

Mr. Tyndall discussed the items that passed:

SB317 would place a moratorium on cost sharing for any behavioral help services for the next five years. They will track the savings.

Mr. Tyndall explained that most people see their PCP for behavioral health help.

Chair Toal stated it will take effect January 1st. They will need to look at it for the next plan year. The last night of session HB122 was written into SB317.

HB4 creates the "Civil Rights Act" which allows a person who has a civil rights claim can recover actual damages. Mr. Maule of Risk Management gave a brief overview of the Civil Rights Act. There will be a cap per person, per occurrence up to \$2 million dollars. A public employee cannot bring an action against a public body because there are already laws put in place to cover those claims.

Mr. Maule explained every year they will review the consumer price index and increase the cap accordingly. The use of qualified immunity is prohibited as a defense. The act waives sovereign immunity for public bodies. There will be a three year limit period to commence a claim under the act.

Mr. Maule discussed the notice of claim needs to be filed within one year and they provide tie, place and circumstances related to law enforcement.

Mr. Tyndall explained from a fiscal impact they anticipate claims will increase by around 35%. The settlements, plaintiff and legal fees will cost an additional \$500,000. The annual cost estimate is about \$4.5 million dollars.

Mr. Cherry stated there are 24 separate items in the Bill of Rights and some are indigenous to New Mexico. There will be a cost involved, hopefully it will work out.

Mr. Maule explained because it is so new there will not be any settlements in the first year. They will see heavier defense costs.

Secretary Romero asked about the line item veto. They may see the Legislative Finance Committee (LFC) to try to get the Local Public Body (LPB)'s involved on increases and wanted them to be aware of it. If they are going to continue to ask for additional funding they may need more justification.

Mr. Tyndall explained they will need to look at that. He has examined the cost differentials and the majority depends on the geography of the LPB. They will have more discussion about it.

6. RMD BUREAU UPDATES

Mr. Tyndall is very impressed with his bureaus during this tough year. They have been able to maintain their services to the State and they are doing an amazing job. They are also updating their system. They are implementing the new Risk Management Information System (RMIS) with more claim information.

The Alternative Dispute Resolution Bureau (ADR) has been able to continue with mediations. Now that they have created the virtual mediations they can expand their services.

The Property and Casualty Bureau (PAC) has been heavily involved in the RMIS project. There is a shortage of adjusters. There has not been any catastrophic events as of yet.

Chair Toal explained his office has more roof damage calls and there is now more funding for the Fire Protection Fund. Chair Toal excused himself from the meeting and will leave Vice Chair Coleman to take over.

The Worker's Compensation Bureau (WC) explained the claims are tied into the RMIS project. They also changed their bill review company.

The Legal Bureau will provide their annual Continuing Legal Education (CLE) in October. They provided presentations for the Civil Rights Commission.

The Loss Control and Prevention Bureau has done their exposure survey and had a 100% response rate. They have done their insurance renewals.

The Employee Benefits Bureau (EBB) had some relief from the American Rescue Plan Act (ARPA) and sent notices to the COBRA members that qualified. They have some RFP's coming up for a PBM Procurement Management Service. They may be able to bring a bigger group of purchasers into the group.

Mr. Tyndall explained the contract is up for the Stay Well Health Center and ERISA they will be putting out an RFP for that as well. For the new hire orientation they are providing information to the agencies.

Ms. Romero explained now that they are in a virtual environment, perhaps they can explore using that platform. Mr. Tyndall states they can discuss that however they may not have enough staff to do that each time an agency has orientations. Ms. Espinosa-Trujillo explained they have virtual open enrollment. The staff is working on a new hire presentation

7. RMD FINANCIAL UPDATE

Mr. Tyndall explained the fund balances at the beginning of the fiscal year, middle of the fiscal year and recently. Most of the funds are healthy, however they need to set actuarial targets. The funds all look sustainable, however with one catastrophic event it could change.

The unemployment funds are notified for claims paid and they bill the entity. For the second quarter the Federal government will pick up 75% of the claim. The benefits fund is at a deficit. They will see a change once they add the special appropriation. Mr. Tyndall stated they will need to make sure the revenue matches the expenses.

Vice Chair Coleman asked if there is any Federal funding that can help with the COVID testing. Mr. Tyndall stated they tried to submit what they have spent on testing and treatment but have not gotten anywhere yet. They are still tracking it so that they are able to provide proof.

Ms. Romero explained the Federal Government may assume that folks were using their own insurance.

8. BOARD DISCUSSION ITEMS

Mr. Burciaga mentioned that this is the year for redistricting. Court cases that go past September may be part of the next year. He can gather information from years before to show how things looked ten or twenty years ago. This year they will not have the census data and there is a citizen's committee. They may need a special session to approve the redistricting in December.

Ms. Costantinidis asked if this would be an operational cost.

Mr. Burciaga knows that RMD paid some of the court fees and costs. In 2000, it came out to \$3.7 million and in 2010, it was \$5.8 million. Some of it was paid by the Legislature. He will get more information.

Ms. Costantinidis asked if the RMAB could be of use with that information. Mr. Tyndall requests that they continue this discussion and he would like to know their responsibility to election law.

Mr. Burciaga explained once the plans are submitted to the Governor it may be challenging and may be in January.

9. PUBLIC COMMENTS

None.

10. NEXT MEETING POSSIBLY JUNE 24, 2021

11. ADJOURN

With all business concluded Mr. Burciaga moved to adjourn at 2:56 p.m. with a second from Secretary Romero which passed by unanimous vote.

Signed and approved:

Russell Toal, Chair