The Office of Consumer Information and Insurance Oversight (OCIIO)

Consumer Operated and Oriented Plan (CO-OP) Program Advisory Board

February 7, 2011

Executive Summary

The purpose of this meeting was to assist and advise the DHHS Secretary and Congress, through the Office of Consumer Information and Insurance Oversight (OCIIO), on the Department's strategy to foster the creation of qualified nonprofit health insurance issuers. During the meeting, the Advisory Board received input from presenters who provided information and recommendations on insurance regulation and business plan development. In addition, three subcommittees reported back on their work addressing governance, finance, and infrastructure. The following summary highlights the main points of the presentations and subcommittee reports.

Business Plan Development

The first presenter explained the elements of a good business plan and outlined what to look for in evaluating competing applications for Federal support. The ideal is a talented management team that will develop a business model incorporating the best use of the funds and positioning the business to return the investment. Among the elements of a strong business plan are: a concise description of objectives; an overview of the proposed governance model; a management team with deep knowledge of and experience in core areas; a detailed plan for working with the full array of providers; detailed roadmaps for initial operations; a careful assessment of risks and opportunities; a detailed financial plan; and, a clear set of performance measures. The best plans are those that can anticipate and address unforeseen challenges. The panelist advised setting aside funds for further development and expansion.

Insurance Regulation Overview

This presentation began with a review of the requirements for starting an insurance company. All states participate in the Uniform Certificate of Authority Application, though some have additional requirements. Start-ups are required to have more cash or asset capital than are expansion operations. Where there is a parent or holding company, information on that entity is necessary as well. Solvency regulation protects policyholders against the risk that insurers will not be able to meet their financial obligations. The entity must have a surplus of 100 percent for

new businesses, and 150 percent for expansions. States look at the underwriting risk, business risk, reinsurance, networks, contracting, credit risk, interest risk, market risk, and other elements. Audits are a key to ensuring compliance.

Discussion following the two presentations led to clarification of several points. In the private sector, lenders often provide technical assistance in order to help ensure that their funds are returned. Although there is no surplus of expert evaluators, it would be valuable to find a way to provide additional expertise. Medicaid and similar programs may have risk adjustment models that could be used with the co-op program. The point at which a nonprofit insurance company must return profits to the members was debated; "rainy day funds" and expansion funding are allowed. The substantial investment by investors is another consideration, for which development grants are a possible solution.

Subcommittee on Governance

The charge to the Subcommittee on Governance was to review testimony, the statute, examples of co-ops in other disciplines, and innovative capital friendly designs, while also providing guidance on the issues raised. The Subcommittee made the following recommendations:

- Applicant shall have formed the relevant nonprofit entity prior to completing the applications for CO-OP loan or grant funds, and present evidence to this effect.
- Member is defined as the individual insured life.
- The Board of Directors (BOD) shall be composed of members who meet ethical and conflict of interest standards and disclosure requirements.
- The applying entity must be a nonprofit or, to carry out the purpose of the statutes:
    - Entity could own any legal subsidiary with controlling interest and proceeds to the parent;
    - Parent company of an applicant cannot be a for-profit entity;
    - Partnerships or joint ventures will be allowed so long as appropriate benefits accrue to the CO-OP members.

Remaining questions and unresolved issues were also detailed.

Subcommittee on Finance

The first charge to the Subcommittee on Finance was to identify and provide guidance on key issues raised to date: needed capital formation; forms of capital; solvency requirements and measurement; feasibility; and, business plan. The Subcommittee made the following recommendations:

- Loan application process should be done in stages.
- Stage 1 would provide funds for development of a full-blown business plan.

- Stage 2 would provide start-up funds to be phased-in based on the benchmarks in the approved business plan.

The Subcommittee was still discussing its second charge, to define factors to consider in approving applications for loans and grants. The Subcommittee also presented issues for discussion by the full Advisory Board:

- The statement "Substantially all of the activities of which must consist of the issuance of qualified health plans in the individual and small group markets."
  - Latitude of CO-OP plans to participate in large group market and public programs.
  - Ability to rely on enrollment from large employers in early stages and meet requirement over time.

Discussion of these issues centered on the degree to which the plans could change the health insurance market, how that might be accomplished, the role of the CO-OPs and large groups, criteria for the distribution of funds, and the percentage likely intended by the phrase "substantially all".

Subcommittee on Infrastructure

The charge to the Subcommittee on Infrastructure was to identify the basic functions, systems, processes inherent in successful CO-OPs and insurance issuers, and provide the full Board with an annotated listing of key/critical elements that should be present in any CO-OP application. The Subcommittee proposed the following recommendations:

- Marketing should not be defined to include outreach and community education efforts.
- Rather than assuming a particular model of integrated care, ask the applicant to describe the integrated care or care coordination model they will use and why it is appropriate for their area.
- Coordinated care is more important than statewide operation, which is very difficult. Some plans may be able to become statewide over time and should describe a plan for doing so.
- Experienced management with expertise in health insurance and finance is essential. Difficulty in recruiting experienced management to a new start-up organization might necessitate a reliance on consultants and vendors.
- In the area of provider networks, applicants need to provide:
  - Evidence that they have had preliminary discussions with a range of providers and that providers have expressed an openness to contracting with a new insurer
  - Evidence of an understanding of the provider contracting process
  - Where they will get the expertise to develop a network
- In the area of IT, applicants need to provide:

- Appreciation of the importance of a functioning IT system and the difficulty of acquiring and operating one
- Identification of consultants to assist with the choice of an IT system
- Identification of vendors of IT system who will have capability of implementing by 2014

Public Comment

The Advisory Board held a public comment period. Speakers discussed the potential role of self-funded Employee Retirement Income Security Act (ERISA) plans; the difficulties and barriers potential CO-OPs may face in starting operations; ways in which existing CO-OPs might participate under ACA; board structure and involvement by individual employees and small employers; CO-OPs outside the insurance arena as a potential model and resource; and, the use of revenue in a nonprofit, as well as the role of providers on the CO-OP board.

Conclusions and Next Steps

The Advisory Board agreed on a timeline for continuing work in order to discuss a draft report at the next meeting, March 14. The Board proposed two rounds of Requests for Applications for the Phase 1 development grants, as some groups are ready to respond and others require more time. DHHS anticipates that the applications will be peer-reviewed. Those who receive the Phase 1 grants will be eligible to then apply for Phase 2 grants.

Additional issues to be considered by the Board and DHHS staff include the mechanics of reviews, circumstances under which DHHS might discontinue funding a CO-OP, whether applicants should be required to meet Federal exchange requirements, the details of providing technical assistance, whether CO-OPs will be included in the exchanges, loan repayment, how best to deal with profits, and finding a way to deal with existing nonprofits.