DUTCHESS EDUCATIONAL HEALTH INSURANCE CONSORTIUM

A Year in Review (YIR), 9/2021 – 6/2022

This document provides summary highlights of the projects or major initiatives undertaken by the DEHIC Board of Trustees and DEHIC Executive Committee during the period noted.

Prepared by Rose & Kiernan, Inc. (a subsidiary of NFP)

DUTCHESS EDUCATIONAL HEALTH INSURANCE CONSORTIUM

A Year in Review (YIR), 9/2021 – 6/2022

Retiree Drug Subsidy (RDS)

- The Consortium continues to participate in the Retiree Drug Subsidy (RDS) program, sponsored by the Centers for Medicare and Medicaid.
- Total subsidy received for the period July 1, 2021 through May 31, 2022 is approximately $3 million. **Note**: Through June 30th, weekly notification files will be received from RDS and will contain additional subsidy amounts for the complete plan year.
- As always, reconciled funds are returned to Medicare-eligible participants in the form of a premium subsidy.

Medicare Analysis and Rightsizing of Rates

- Since 2008, the DEHIC Board has taken steps to reduce the premium expense to its Medicare-eligible population since the coverage provided by the health plan pays secondary to Medicare.
- Efforts to provide a more equitable balance in pricing have come from an adjustment to the contract ratios, as well as the return of the Retiree Drug Subsidy reconciled funds in the form of a premium credit each year, as noted above.
- Beginning in 2021, the Consortium's benefits consultants, NFP, continued their analysis of the cost separation in their review of claims expenses (medical and prescription drug) versus the premium charged.
- The analysis undertaken included a lookback period spanning seven (7) years outlining Medicare v. non-Medicare claim costs.
- A recommendation was made to the Board that, beginning with the July 2022 renewal, incremental but significant lowering of the Medicare-eligible premium be instituted to provide a more equitable rate balance.
- The Board recognized that although the non-Medicare eligible rates would be increased because of this change, it was important to approve this step.
- During their March 2022 meeting, the Board unanimously approved a motion to "right-size" the rates over the next four renewal years beginning July 1, 2022.

The Affordable Care Act (ACA)

- DEHIC Participant Groups continued their efforts to ensure compliance with Form 1095-C filings for January 1 through December 2021.
- As previously mentioned, NFP continued to guide groups inquiring about the coding of forms, and the ACA in general.
- For those groups who migrated to the RKSolutions platform, ACA reporting is significantly streamlined, producing a reduction in time, cost savings, and accurate results for each group.

- Through routine communications, NFP continues to keep the Consortium participants aware of any/all ACA developments.

PFM Asset Management (PFMAM) Revised Investment Advisory and Custodial Agreements

- During the November 2021 meeting, the Board of Trustees addressed the issue of (need for) a revised Investment Advisory Agreement and consent forms between DEHIC and PFMAM (a division of US Bank).
- A determination was made for DEHIC's legal counsel to undertake a review of the related documents.
- The Board further approved a change in custodian bank from Bank of New York to US Bank because of improved pricing opportunities.
- Over several months, legal counsel, Dutchess BOCES, and NFP worked to conduct calls, gather supporting materials from US Bank, etc. to properly amend the Investment Advisory Agreement and Custodial Agreement.
- As of June 2022, these efforts are ongoing with the expectation that a final document will be available for signature during July 2022.
- An additional update will be provided upon completion.

ACA, Small v. Large Group

- We have continued to provide an update on this important initiative included in the Affordable Care Act for the past several years.
- DEHIC's advocacy efforts have been put forth on behalf of two Participant Groups, Livingston Manor CSD and Roscoe CSD, who are impacted by the ACA's redefinition of small employer groups.
- In our June 2021 update, DEHIC advised on discussions with Empire BCBS and their outside legal counsel regarding the status of an extender bill passed by both the NYS Senate and Assembly, which was pending the Governor's signature during the summer of 2021.
- Empire's outside legal counsel confirmed that Governor Cuomo, before leaving office, signed the bill to allow businesses of between 50 and 100 employees to maintain their status with their health insurance carrier (and consortium) until December 31, 2025.
- If permanent legislation is not enacted following this period, DEHIC employers with 100 or fewer employees will need to obtain other coverage outside of the consortium beginning July 1, 2026.

Amended and Restated Escrow Agreement

- In accordance with the Empire BCBS Minimum Premium Agreement that governs DEHIC's current funding arrangement, the Consortium is required to maintain a claims reserve fund to pay for claims that would

Affordable Care Act (ACA), Small v. Large Group (reminder)

The Affordable Care Act (ACA), when passed in 2010, included the government's distinction between a small and large employer group, with large employer groups defined as 101 employees and above. Individual states were permitted to maintain their definition of a large employer group, 51 employees and above, and New York State determined to do so until 2016. In the years following, extender bills have been initiated in NYS reauthorizing small employer groups to maintain their participation in their large-group health plan. Until permanent legislation is passed, DEHIC and like entities will continue to pursue this matter.

be received after, but incurred before, the end of the agreement period, fulfilling the runout of any claims.

- DEHIC works with a third-party administrator to hold the funds needed to fund the claims reserve, which includes an Escrow Agent to support the management of the funds.
- The Escrow Agent was changed from RBC Capital Markets Corporation (RBC) to PMA Securities, LLC (PMA).
- Because of the change, the existing Escrow Agreement required revision and approval by the parties to the Agreement – PMA, Empire BCBS, and DEHIC.
- The required changes were prepared by DEHIC's legal counsel, and approval and signatures were provided by all parties during October 2021, effective July 2021.

BCBS Anti-trust Settlement

- This update follows a previous notice regarding the Board's April 2021 review of the BCBS Anti-trust Class Action Settlement agreement that originated in 2008, with litigation that began in 2013.
- Legal counsel submitted a claim on behalf of the Consortium during November 2021 (ahead of the December 2021 deadline).
- It is expected that settlement details and updates will take some time -- likely several months. As more is known, Counsel will update the Board.
- Details regarding the settlement and associated documents may be found via this link -- https://www.bcbssettlement.com.

Employer Group Waiver Plan (EGWP)

- Beginning with the September 2021 Board meeting, the Trustees continued their investigation into an EGWP plan design.
- This is a prescription drug alternative offering excellent cost savings opportunities to members who enroll in it – savings estimate, 15%.
- The EGWP affects only the prescription drug benefit and makes no change to a member's hospital or medical coverage through DEHIC.
- Through several months of review and weighing of the positive, negative, and neutral impact of the plan designs, the Board agreed to adopt the EGWP option during their March 2022 meeting.
- The plan is **entirely voluntary** for Medicare-eligible members and is effective January 1, 2023 – it is named, ***MedicareRx Rewards Prescription Drug Plan*** (PDP).
- Participant Groups and member communications have been released advising of the plan details, along with informational meeting dates and times which will be held in-person and virtually.
- Business Office and Human Resource staff were also provided three meeting date opportunities to learn about the plan.

BCBS Anti-trust Settlement

The BCBS Anti-trust Class Action Settlement agreement originated in 2008, with litigation commencing in 2013. The lawsuit claims that certain BCBS plans violated anti-trust laws and competition in the health insurance marketplace, causing consumers to pay higher prices for their health insurance coverage. Previously, DEHIC's counsel prepared a confidential summary of the matter for the Board to ensure appropriate context. The settlement administrator states that $1.78B will be released to impacted parties across the country. The matter is ongoing.

New York State Legislative Action, Purchase of Prescription Drugs by Pharmacies

- During the first quarter of 2021, the Board was made aware of proposed legislation regarding mandatory mail-order and the options consumers would have in obtaining their prescription medications.
- The legislation was intended to allow the consumer to purchase their prescriptions through a mail-order process or a retail setting, but it would be the consumer's choice, absent the requirement to use the mail-order avenue.
- On December 31, 2021, Governor Hochul signed legislation providing a similar option for consumers. The legislation allows a member to fill their prescription through a participating non-mail order pharmacy provided that the participating non-mail order retail pharmacy agrees to the same reimbursement arrangement established with the participating mail order or other non-retail pharmacy.
- Empire BCBS is currently working on contract language with the NYS Department of Financial Services that will amend the existing Empire Certificate of Coverage documents to comply with the benefit.
- Empire confirmed the mandate does not technically change DEHIC's prescription benefit because when DEHIC introduced the Mandatory Mail Order benefit a few years ago, DEHIC requested that local pharmacies be provided the option of accepting the mail order reimbursement arrangement, thereby allowing them to continue dispensing maintenance medications to members.
- Empire further confirmed the mandate would not alter the existing local retail pharmacy contracts that previously accepted the mail order look-alike arrangement.
- The new mandate was <u>effective immediately</u> upon its signing by the Governor.

Retiree Drug Subsidy (RDS) Reopening

- During October 2021, the Board discussed the services of two vendors who could support the reopening of previously reconciled RDS applications to determine if additional subsidy funds were available to DEHIC.
- Through proprietary software programs designed by the vendors, they claim to find additional funds that Plan sponsors (i.e., DEHIC) do not receive during the initial RDS submission process.
- Missing eligibility dates, overlooking eligible members, drugs administered in a medical setting, and overlooked disabled members are just some examples of what may contribute to missing subsidy funds.
- Fees charged by each vendor are based on the portion of subsidy funds recovered, with one vendor charging 25% and the other 21%.

Employer Group Waiver Plan (EGWP)

An EGWP provides an alternative to the RDS subsidy; whereby, Medicare members would be subject to the Medicare Part D prescription drug formulary established and approved by the federal government. Empire BCBS and its Pharmacy Benefits Manager (PBM) created a wraparound product to fill in many of the gaps that might occur within the Part D formulary. An EGWP allows DEHIC to carve out from the medical plan the prescription drug benefit for the Medicare-eligible population and obtain prescription coverage through a Medicare Part D plan.

Upon implementation, DEHIC will no longer be eligible for RDS amounts for EGWP-enrolled members. In addition, EGWP-enrolled members will not be subject to the mandatory mail-order requirement because Medicare Part D plans do not allow it.

The product is offered through an affiliated arm of Anthem, Inc. called Unicare.

- During January 2022, the Board selected Part D Advisors for the project, who projected additional subsidy recoveries to be $1.1 to $2.1M.
- The vendor will work with the Consortium's benefits consultants to manage the project, which will likely span several months in duration.
- The vendor's administrative services agreement and other details were confirmed by legal counsel and signed in May 2022 -- the project commenced shortly thereafter.
- Additional updates will follow as the project continues forward.

Retiree Drug Subsidy Reopening

The Retiree Drug Subsidy (RDS) Program was enacted in December 2003 as part of the Medicare Modernization Act. It is intended to reimburse Plan Sponsors for a portion of their Qualifying Covered Retirees' costs for prescription drugs otherwise covered by Medicare Part D that are attributable to such drug costs between the applicable Cost Threshold and Cost Limit. Incurred costs (including dispensing fees) that the Plan Sponsor pays, and the retiree pays, are eligible for subsidy. Rebates received are subtracted from the amount eligible for subsidy. The RDS statutory provisions are published at 42 U.S.C. 1395§-132 (Section 1860D-22 of the Social Security Act). The regulations are published at 42 C.F.R. Part 423, Subpart R.