

HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
Minutes of the Board of Trustees
Wednesday, February 18, 2004

TRUSTEES PRESENT

Mr. Will Miyake, Chairperson
Mr. Harold DeCosta
Mr. Gerald Machida
Mr. John Radcliffe

Mr. Mark Recktenwald
Ms. Katherine Thomason
Ms. Kathleen Watanabe

TRUSTEES ABSENT

Ms. Joan Lewis, Vice-Chairperson
Mr. Bob Awana, Secretary-Treasurer
Mr. Dayton Nakanelua

ATTORNEY

Mr. Brian Aburano, Deputy Attorney General

EUTF STAFF

Mr. H. Mark Fukuhara, Administrator
Mr. Lawrence Nishihara
Ms. Maria Quartero
Ms. Kathleen Shiroma

Mr. John Garner, Consultant
Mr. Andy Keowen, Consultant
Ms. Donna Tonaki

OTHERS PRESENT

Mr. Tracy Ban, B&F
Ms. Sandra Benevides, Kaiser Permanente
Ms. Alana Deppe-Mariota, Kaiser Permanente
Ms. Monica Engle, VSP
Ms Elaine Fujiwara, HDS
Ms. Donna Higashi, HSTA-Retired
Mr. Rick Jackson, MDX Hawaii
Ms. Ruth Kim, HSRTA
Ms. Alice Kotake, HSTA-R
Ms. Lilia Yu Lum, Royal State

Mr. Maurice Morita, HSTA
Mr. Michael Moss, HMSA
Mr. Gordon Murakami, Royal State
Mr. Glenn Nakamoto, DOE
Ms. Gertrude Nitta, HGEA-R
Mr. Peter Rodriguez, Hartford
Mr. Ray Sodetani, HSTA-MBC
Mr. Rod Tam, HMSA
Mr. George Yamamoto, HGEA-Retirees

I. CALL TO ORDER

The regular meeting of the Board of Trustees was called to order at 9:05 a.m. by Trustee Will Miyake, Chairperson, in Conference Room 405, Leiopapa A Kamehameha Building, 235 South Beretania Street, Honolulu, Hawaii, on Wednesday, February 18, 2004.

II. APPROVAL OF MINUTES: None

III. COMMITTEE REPORTS

A. ADMINISTRATIVE COMMITTEE

Trustee Recktenwald reported:

1. Administrative Rules – proposed changes for contribution shortages

Overview by Trustee Recktenwald regarding Administrative Rules – proposed change regarding contribution shortages. The proposed change will be sent to public employers/employee organizations for consultation if the Board approves it.

MOTION was made upon the recommendation of the Administrative Committee for the Board to approve proposed Rule 4.14 – Reinstatement of Enrollment for addition to the EUTF Administrative Rules. After discussion by the Trustees, the motion passed unanimously. (Employer Trustees-4/Employee-Beneficiary Trustees-3)

2. IFB - Printing for Open Enrollment

Overview by Trustee Recktenwald regarding printing for open enrollment.

MOTION was made upon the recommendation of the Administrative Committee for the Board to authorize the EUTF to enter into a contract with Pioneer Venture for an amount not to exceed \$129,000. The motion passed unanimously. (Employer Trustees-4/Employee-Beneficiary Trustees-3)

3. Staffing Plan

Staffing is okay. Information on future staffing was removed by the Administrator and will be added for discussion at a later date for the next biennium.

4. RFP for PeopleSoft Consulting Services

Ms. Shiroma has been unsuccessful in contacting PeopleSoft's new representative, John Mayhew, regarding additional information requested by the Trustees. She will follow-up and report back to the Trustees at the next Administrative Committee meeting.

The small purchase contract was awarded to the lowest bidder with a flexible schedule, Business Solution Technology, Inc., for an amount not to exceed \$25,000. They will assist in running the daily maintenance events routines and semi-monthly payroll closing that includes documenting the process, training the management and staff, as well as, assisting staff as needed.

5. Financial Report as of 1/31/04

Trustee Recktenwald stated that there were no concerns by the Trustees.

6. Board Policy on Testimony at Legislature

Overview by Mr. Aburano regarding the policy on testimony to the legislature. Mr. Aburano reported back to the Board regarding the issue of polling before meetings. He confirmed that polling cannot be done through e-mail or telephone. Deliberations and discussions must take place at a public meeting. The Board can try to hold an emergency meeting under Section 92-8, Hawaii Revised Statutes ("HRS"). By consensus of the Trustees, the policy on testimony to the Legislature will be reviewed by the Trustees and finalized at the next Administrative Committee meeting to incorporate language regarding emergency meetings. The operating policy will be status quo for now.

1. Legislative Bills

Overview by Trustee Recktenwald regarding legislative bills. By consensus of the Trustees, the Administrative Committee decided not to review bills that did not move from last session because it probably would not be an issue this session. The Administrative Committee could not reach consensus on the following bills, therefore, no action was taken: (1) HB 2356-Repeal Statutory Exemptions for Chapter 103D, HRS; (2) HB 2707-Prescription Drugs, Cost Containment; (3) HB 2884-VEBA. Trustee Recktenwald stated that the Administrative Committee reached consensus on two bills:

HB 2171 – Revision Bill

By consensus of the Trustees, recommendation was made by the Administrative Committee for the Board to be in support of HB 2171 and for the Administrator to provide testimony to the extent that it is a housekeeping bill.

HB 2876-State Health Authority

By consensus of the Trustees, recommendation was made by the Administrative Committee for the Board to oppose the repeal of the EUTF and not take a position on establishing a commission to study it. Mr. Recktenwald stated that the EUTF has been advised that the bill was passed out of the House Committee and was modified to remove the provision on the repeal of the EUTF and the bill now calls for a new entity and to study the issue of whether the EUTF functions be incorporated into the new entity. If the proposal to abolish the EUTF comes up again, the Administrator is authorized to oppose it.

MOTION was made upon the recommendation of the Administrative Committee for the Board to: (1) be in support of HB 2171 and for the Administrator to provide testimony to the extent that it is a housekeeping bill; and (2) oppose the repeal of the EUTF and not take a position on establishing a commission to study it. The motion passed unanimously. (Employer Trustees-4/Employee-Beneficiary Trustees-3)

2. Draft Financial Audit of the Trust Fund

Trustees are to provide comments to the Administrator by Tuesday, February 24, 2004. Mr. Fukuhara clarified that comments submitted by the Trustees, would in turn be passed on to the Auditor to address those comments or questions. At the next Board meeting, the Auditor will make a brief presentation to the Board. Discussion held by Trustees and staff regarding any surplus.

3. Quarterly Carrier Reports on Performance Standards

Trustee Recktenwald stated that a report regarding the performance standards by carriers were submitted by the consultant.

4. Impact of Being Administratively Attached to Budget & Finance

Trustee Rectkenwald reported that Mr. Aburano provided a confidential attorney-client privileged communication regarding Section 26-35, HRS. Trustee Recktenwald summarized that this type of structure (boards administratively attached to departments) is fairly standard and governed by statute. To the extent that there are particular aspects of this relationship that the EUTF feels is inappropriate for the EUTF, the EUTF could seek legislatively to modify the application of Section 26-35, HRS. The Administrative Committee agreed to monitor this issue during the year.

B. BENEFITS COMMITTEE

1. Special Open Enrollment for Dual Coverage Plans

Overview by Trustee Radcliffe regarding the special open enrollment for dual coverage plans and payment to Royal State for dual coverage.

MOTION was made upon the recommendation of the Benefits Committee for the Board to authorize the EUTF to pay the employees' portion for the month of February to Royal State in the amount of \$14,622 and to send a letter to the affected employees explaining the current situation. The motion passed unanimously. (Employer Trustees-4/Employee-Beneficiary Trustees-3)

2. Kaiser Cancellation of Dependent for Cause

Trustee Radcliffe reported that Kaiser has provided an arbitration and internal appeal mechanism for subscribers' or dependents that are terminated for cause.

3. Impact on Rates if HSTA is Exempt from EUTF

Overview by Mr. Garner regarding the impact on rates if HSTA is exempt from EUTF (see handouts). Discussion held by Trustees, consultant, and public regarding the impact on rates if HSTA is exempt from EUTF. Mr. Garner stated that the assumption is that all retirees would move over to the VEBA. Mr. Garner said that to have all retirees moved or stay would be the best alternatives for the Trust Fund. The proposed legislation calls for all current retirees to have a one-time choice and all new retirees to be part of the VEBA rather than the Trust Fund. If that were to happen, the EUTF would be stuck with a group of retirees that was constantly aging with no new retirees coming in to lower the average age and the EUTF costs for retiree coverage would go up at a much higher rate than has, historically, been the case. Discussion held by Trustees, consultant, and public regarding rates, retiree caps, assumptions, and if it is best for the retirees to remain with the EUTF plans. Further discussion by Trustees regarding the release of factual information to the legislature.

MOTION was made for the Board to authorize the Administrator and consultant to provide factual information related to the VEBA bill to the legislature and for the consultant to submit a letter to the Board that spells out the assumptions, numbers used, dates of those numbers, the formula, and to include their recommendation. After discussion by the Trustees, the motion passed unanimously. (Employer Trustees-4/Employee-Beneficiary Trustees-3)

4. Claims Experience Summary

Overview by Mr. Garner regarding the claims experience summary (see written report). The Trustees should keep in mind that this is not mature experience and that the reserve ratios are high because there is only 6 months of paid claims. The consultant will provide this report on a quarterly basis with detailed information. Discussion held by Trustees and consultant regarding any surplus.

Recess at 10:10 a.m. and Reconvened at 10:22 a.m. [Trustee Watanabe left during recess.]

IV. OTHER REPORTS

A. ADMINISTRATOR

Mr. Fukuhara submitted Administrator's Update/Report for February (see written report)

1. Star Bulletin Article Regarding Kaiser Leaving Kauai (see article)
2. Reappointment of Trustee Machida (see letter)
3. Opinion from the Attorney General's Office (see letter)
4. 2004 Open Enrollment Health Fairs (see schedule)
Discussion held by Trustees and staff regarding open enrollment schedules. A macromedia presentation will be available on the EUTF website and on CDs.
5. Training Schedule for Departmental Personnel Officers (see schedule)
6. Mr. Fukuhara reported that Mr. Aburano sent a letter requesting additional information regarding an appeal on adoption.
7. Letter from MBAH to the Insurance Division (see letter).
8. Letter from HFFA Regarding Tiering and EUTF's Response (see letters).
9. Resignation letter from Mr. Fukuhara effective July 9, 2004. [Trustee Watanabe arrived at 10:31 a.m.]
10. Dual Coverage Plans
Mr. Fukuhara reported there are circumstances where the carrier may find out that a particular employee may not have another coverage as required. The EUTF staff is not policing employees but ask employees to report any changes and that the EUTF is not asking the carriers to report the information to the EUTF. If not directed by the Board, the EUTF will continue to do the same.

Discussion held by Trustees regarding the resignation of the Administrator.

Trustee Watanabe stated that the Board does work together and has requested that Mr. Fukuhara not resign.

B. DEPUTY ATTORNEY GENERAL

1. Adoption Appeal

Mr. Aburano reported that he spoke to the appellant and also sent a letter to the appellant. An ex-parte order was denied and that may have been due to not having consent from the natural father. Mr. Aburano will research the potential problems raised by the facts of this appeal and report back to the Board if anything further needs to be done.

2. Medicare Secondary Payer (MSP) – Authorization Letter
Overview by Mr. Aburano regarding recovery of amounts Medicare has paid in error. The form letter seeks to authorize HMSA to obtain information about what Medicare claims to be an erroneous payment and to negotiate and settle the matter. Without such an arrangement, Medicare may go after each individual employer for the erroneous payment, the employer may not know what to do, and this could result in penalties and interest. Mr. Fukuhara stated that the form letter will be given to HMSA to fill in the required information, and that this would expedite matters.

MOTION was made for the Board to approve the form letter to authorize HMSA or other carriers to obtain information from Medicare regarding erroneous payments, and to negotiate and settle the matter. (Radcliffe/DeCosta) The motion passed unanimously. (Employer Trustees-4/Employee-Beneficiary Trustees-3)

C. BENEFITS CONSULTANT

1. Garner Consulting Bulletin for January 2004 (see bulletin)

D. Carrier's Reports

1. HDS
Written report submitted for January 2004.
2. MBAH
Written report submitted for December 2003.
3. Kaiser Permanente
Written report submitted for February 2004.
4. VSP
Written report submitted for January 2004.

V. UNFINISHED BUSINESS

A. Responses to EUTF Letter to OCB & Unions Re: Tiering

Mr. Fukuhara reported that only HFFA responded. Discussion held by Trustees regarding rate structures and the impact if different unions wanted different tiering.

The Trustees turned to the issue of the status of negotiations regarding employer contributions for the dual coverage and stand-alone plans. Chair Miyake stated that UHPA, HFFA, and HGEA would collectively negotiate with the employers. SHOPO and HSTA will negotiate separately. Mr. Aburano commented that it would not be prudent, in the future, to implement plans prior to the collective bargaining being settled. There has been pressure on the Attorney General to scrutinize contracts to prevent situations like this from developing. Discussion held by Trustees and Deputy Attorney General regarding benefits plans and collective bargaining agreements.

B. Revised HIPAA Privacy Notice

Overview by Mr. Fukuhara regarding the revised HIPAA privacy notice to be included in the booklets. Mr. Garner explained that the HIPAA privacy notice is required by the HIPAA privacy regulations. Minor changes were made to the HIPAA privacy notice.

MOTION was made for the Board to approve the revised HIPAA Privacy Notice. (Recktenwald/Radcliffe) The motion passed unanimously. (Employer Trustees-4/Employee-Beneficiary Trustees-3)

VI. NEW BUSINESS: None

VII. COMMUNICATIONS FROM THE PUBLIC AND INPUT FROM ATTENDEES: None

VIII. FUTURE AGENDA ITEMS AND NEXT MEETING DATE

Administrative Committee meeting is scheduled for Tuesday, March 16, 2004, 1:00 p.m., SOT room 405.

Benefits Committee meeting is scheduled for Tuesday, March 16, 2004, 3:00 p.m., SOT room 405.

Regular Board meeting is scheduled for Wednesday, March 17, 2004, SOT room 405.

IX. EXECUTIVE SESSION

Motion was made to go into Executive Session at 11:00 a.m. to consult with the attorney on pending litigation and personnel matters. (Watanabe/Thomason) The motion passed unanimously. (Employer Trustees-4/Employee-Beneficiary Trustees-3)

Motion was made to move out of Executive Session. (Radcliffe/DeCosta) The motion passed unanimously. (Employer Trustees-4/Employee-Beneficiary Trustees-3)

Executive Session adjourned at 12:40 p.m.

X. ADJOURNMENT

MOTION was made to adjourn the regular meeting. (Radcliffe/DeCosta) The motion passed unanimously. (Employer trustees-4/Employee-Beneficiary trustees-3)

The meeting was adjourned at 12:40 p.m.

Respectfully submitted,

/s/

Katherine Thomason, Secretary-Treasurer

Documents Distributed:

1. HSTA Withdrawal Analysis by Garner Consulting dated 2/13/04. (3 pages)
2. Kaiser Rates without HSTA dated 2/13/04. (10 pages)
3. Kaiser Rate Adjustment Factor dated 2/13/04. (4 pages)
4. EUTF Claims Experience Summary for 6 Months Ended 12/31/03-Estimated dated 2/17/04. (1 page)
5. Administrator's Update/Report dated 2/18/04. (2 pages)
6. Star Bulletin Article dated 2/18/04. (2 pages)
7. Reappointment Letter from Governor Regarding Trustee Machida dated 2/17/04. (1 page)
8. Letter to Attorney General dated 12/2/03 and Response to EUTF Chair from Attorney General Regarding Opinion under Act 88, SLH 2001 dated 2/10/05. (2 pages)
9. 2004 Open Enrollment Health Fairs dated 2/13/04. (3 pages)
10. DPO Training Schedule for 2004 Open Enrollment dated 2/12/04. (1 page)
11. Letter from MBAH to DCCA-Insurance Division Regarding EUTF Rate Filings dated 2/9/04. (2 pages)
12. Garner Bulletin for January 2004. (2 pages)
13. Letter from HFFA dated 1/30/04 and Response from EUTF dated 2/6/04 Regarding Tiering. (2 pages)
14. OIP Openline for December 2003. (2 pages)
15. Approved Minutes for 5/29/03. (8 pages)
16. Approved Minutes for 8/20/03. (12 pages)