

HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
Minutes of the Board of Trustees
Wednesday, August 20, 2003

TRUSTEES PRESENT

Mr. Will Miyake, Chairperson	Mr. Gerald Machida
Mr. Joan Lewis, Vice-Chairperson	Mr. John Radcliffe
Mr. Bob Awana, Secretary-Treasurer	Mr. Mark Recktenwald
Mr. Harold DeCosta	Ms. Kathleen Watanabe (Arrived 9:20 am)
Ms. Audrey Hidano	

TRUSTEES ABSENT

Mr. Dayton Nakanelua

ATTORNEY

Mr. Brian Aburano, Deputy Attorney General

EUTF STAFF

Mr. H. Mark Fukuhara, Administrator	Mr. Andy Keowen, Consultant
Mr. Lawrence Nishihara	Ms. Gerti Reagan, Consultant
Ms. Maria Quartero	Ms. Kathleen Shiroma
Mr. Gary Sanehira	Ms. Donna Tonaki

OTHERS PRESENT

Ms. Lynette Arakawa, HDS	Mr. Tracy Matsumoto, CPH
Mr. Tracy Ban, B&F	Mr. Maurice Morita, HSTA
Mr. Alana Deppe-Mariota, Kaiser	Mr. Michael Moss, HMSA
Ms. Monica Engle, VSP	Mr. Gordon Murakami, Royal State
Ms. Elaine Fujiwara, HDS	Ms. Karen Muronaka, HSRTA
Ms. Venus Gabuyo, MBAH	Ms. Celeste Nip, HFFA
Mr. Calvin Hutton, Ceridian	Ms. Gertrude Nitta, HGEEA-R
Ms. Grace Ing, HSTA-R	Mr. Rod Tam, HMSA
Ms. Ruth Kim, HSRTA/HEA	Ms. Lori Taniguchi, Royal State Group
Ms. Doreen Kuroda, DHRD	Ms. Amy Yasuda, UH

I. CALL TO ORDER

The regular meeting of the Board of Trustees was called to order at 9:18 a.m. by Trustee Will Miyake, Chairperson, in Conference Room 1935, City Financial Tower, 201 Merchant Street, Honolulu, Hawaii, on Wednesday, August 20, 2003.

II. APPROVAL OF MINUTES: None

III. COMMITTEE REPORTS

A. ADMINISTRATIVE COMMITTEE: None

B. BENEFITS COMMITTEE

Chair Radcliffe reported that there is no action being taken at this time.

The next Benefits Committee meeting is scheduled for September 18, 2003 at 8 a.m.

C. TPA COMMITTEE

Chair Watanabe reported that the TPA Committee met on July 30, 2003 and that the next TPA Committee meeting is scheduled for August 29, 2003. She added that the committee should have their recommendation to the board shortly. Ms. Reagan stated that five proposals were received and the results will be submitted to the TPA Committee at their next meeting. Mr. Aburano stated that the RFP stated that the board would do the final selections on August 29, 2003 whereas we now have a TPA Committee. Therefore, the board should take action to designate the TPA Committee to be the entity of the board that will do the finalists review and selection.

MOTION was made for the TPA Committee to review and make final selection on RFP No. 03-002. (Radcliffe/Awana) After discussion by Trustees, motion passes unanimously. Employer trustees 5/Employee-Beneficiary trustees 4)

IV. OTHER REPORTS

A. ADMINISTRATOR

Mr. Fukuhara reviewed and reported:

1. PEHF/EUTF Transition

Mr. Nishihara reported that a memorandum from PEHF and a joint memorandum from the Chief of Staff and Director of Finance were sent informing department heads, departmental personnel officers, fiscal officers, employer organizations, and union plan administrators about a July 31, 2003 deadline on turning in enrollment transaction documents. Recently, the PEHF retroactive transactions were inputted, the information will be sent to the carriers and employer organizations, and that the contributions payable or receivable will be calculated. The audit of the financial statements for FY ended June 30, 2001 was received by July 31, 2003 and the FY ended June 30, 2002 was received by August 18, 2003. The delay was due to the State implementing the GASB Statement 34 affecting local and state governments for the FY 2003. He stated that the FY ended June 30, 2003 audit should be done by December 31, 2003 and that the audit for the nine-month period ending March 31, 2004 is expected to be done by June 30, 2004. He said that there is one outstanding issue

reported by Royal State for HGEA members enrolled in union plans amounting to a net of approximately \$100,000 which they are claiming is owed to them for under porting the employer contributions. The majority of Royal State's claim is that they transmitted enrollment paper work to the departmental personnel officers and the PEHF did not enter the information in the system because the paperwork was not received. Back-up documents have been received from Royal State and will be reviewed. They are also reporting cancellations, which PEHF did not pick-up which means HGEA owes the PEHF. HGEA is claiming that PEHF owes \$480,000 for under porting and HGEA owes PEHF about \$380,000 for over porting. The UPW wants to turn-in cancellations that were turned in to the departmental personnel officers which means that PEHF has over ported and that they did not have the amount.

PEHF Audit Report for FY ended June 30, 2001
Trustee Hidano's concerns:

- a. Page 9, expenditures (others). Why was such a large amount for \$2 million was not specified on page 9 on expenditures (others)? She would like those amounts identified. Mr. Nishihara will do breakout and report back next month.
- b. Page 20, vision care, seems that there is an underwriting loss of \$1 million. Is the trust fund liable or what happens? Mr. Nishihara stated that it is broken out into two contracts: the one that ended June 30, 1999 had a gain of approximately \$392,000 and the contract ended June 30, 2003 is still pending the final accounting but there will be no PEHF loss, as VSP will be absorbing any losses. She asked what has happened to the 2000, 2001, 2002 contracts. Mr. Fukuhara clarified that it was a two-year contract with a two-year extension. Mr. Nishihara stated that he agreed.
- c. Page 23, on note 1, if no contribution was made or required to the fund, is this a possible or future liability for the fund? Mr. Fukuhara replied that his understanding was the EUTF would have no liability. She would like to know if the auditor is going to recognize this, why is there no complete report for any reader instead of second guessing. It is the same thing for page 25, note O, subsequent event. Mr. Nishihara stated that it is for the PEHF. Trustee Hidano would like to know how it affects the EUTF with everything coming over.

Trustee Hidano would like a response by the next meeting and reserves her questions for the 2003 audit because it was just received today.

Trustee Watanabe asked what it would mean for this board regarding the discrepancies for under porting and over porting. Mr. Nishihara stated that if the PEHF owes, then the employer would be billed. He is currently working with Budget & Finance regarding this matter. Trustee Watanabe would like to know who would be responsible. Mr. Fukuhara stated that Mr. Aburano's memorandum would address Trustee Watanabe's question on who would be responsible.

Trustee Recktenwald stated that on page 6 of the audit it talks about a portion of the records which were not subject to the audit which were the general fixed assets account group. He asked what that is and why it was excluded. Mr. Nishihara explained that normally it is not included in the audit. Trustee Recktenwald asked if it was tangible assets like office equipment. Mr. Nishihara stated that it is for office equipment and computers. Trustee Recktenwald asked if the exclusion reflects any issue or concern or is it just an on going practice that would not be audited. Mr. Nishihara replied yes and added that it is reflected in the next year's audit report.

Confidential attorney-client privileged communication regarding the PEHF Transition. Mr. Aburano gave an overview on certain actions that Budget and Finance intends to take based on advice that they received from a Deputy Attorney General, as a result of the O'Gorek lawsuit that was filed against the PEHF and EUTF. Based on that advice, they are going to: 1) transfer substantially all of the PEHF funds to the EUTF to be placed in an EUTF trust account; 2) hold back approximately \$700,000 to finish the PEHF's 2002 plan for distribution of rate credits and reimbursements to PEHF employee-beneficiaries and to pay certain administrative expenses to the PEHF; 3) Budget and Finance was also advised that they do not have any authority to complete other aspects of the PEHF close out of business. One aspect is the close out of the PEHF insurance contracts which would include items with HGEA and UPW. They would transfer PEHF insurance contracts to the EUTF together with the responsibility for closing out those insurance contracts; 4) Budget and Finance also received advice that they are not authorized to handle disputes. They would transfer all disputes to the EUTF since they were the recipient under Act 88 of all of the contracts, files, funds, staff, etc. He added that in response to the HGEA and UPW matters, Budget and Finance intends to transfer those responsibilities over to the EUTF for final closeout of the insurance contracts and certain pending disputes with employee beneficiaries regarding the handling of their enrollments or contribution shortages. The O'Gorek lawsuit would be transferred and the EUTF is already a defendant as well as the PEHF trustees.

Discussion held by Trustees on accepting the pending disputes and closing out of the PEHF operations. A specific list of expected liabilities and responsibilities would be submitted to the board next month. Mr. Aburano explained that the statute is not clear about what is or is not being transferred. His understanding of the opinion that the Deputy Attorney General gave Budget and Finance was that based on the fact that all of the records, files, staff, contracts were by law being transferred to the EUTF, this implies that the responsibility for handling these items was with EUTF. Mr. Aburano stated that since his office gave the opinion, he would have to abide by that. Trustee Recktenwald asked if the opinion would be the authority to accept responsibility for these matters. Mr. Aburano replied yes. Further discussion by the Trustees and the staff on the PEHF business and accepting the liabilities and responsibilities. A letter will be drafted by Mr. Aburano and the Administrator regarding liabilities that the trust fund would or would not accept.

Mr. Fukuhara reported that the lease for the new office space is still being finalized and that we are looking at moving to the new space by the end of October 2003. Discussion held by Trustees on the lease.

Mr. Fukuhara reported that ICSD staff is requesting to move back to DAGS. Discussion held by Trustees and staff on the moving of the ICSD staff.

Mr. Fukuhara reported that the eWorld contract that was extended to August 31, 2003 and assigned to us from PEHF has 87.5 hours left but the person is not available until the end of the month. The money is encumbered and there is no extra cost. He is recommending that the Board approve an extension for two months. Further discussion by the Trustees and staff on the eWorld extension.

MOTION was made to approve the extension of the eWorld contract for two months ending October 31, 2003. (Radcliffe/Awana) After discussion by Trustees, motion passes unanimously. Employer trustees 5/Employee-Beneficiary trustees 4)

2. Expenditure Report as of 6/30/03 (see handout)
Discussion held by Trustees and staff on the expenditure report.
3. Open Enrollment Update
Discussion held by Trustees, staff, and carrier on complaints by employees regarding medical co-payments and reimbursements, phone lines, and e-mails. The Trustees would like to know what could be done now. Mr. Fukuhara explained that in the short term if someone

cannot get through to refer all calls to him and he will follow-up. He stated that currently, three people are answering calls and that we can move forward to increase the number of people to answer calls now. He agreed with B&F to put the updating of the phone system and transferring of lines from Hemmeter on hold in order to save money because at that time the move was supposed to be done in September. He said that the EUTF will work directly with each carrier on the reimbursements and will get updates to them weekly. Further discussion held by Trustees on customer service concerns. A report on status of calls will be submitted to the Trustees at the next board meeting. Mr. Fukuhara stated that the board did approve the ACD phone system and that he would process the paperwork for approval and in the meantime the staff will do all they can do to answer the calls.

Mr. Fukuhara gave an overview on: a) updates of address changes that were put aside and that the carriers will assist with the updates, b) no safeguards in system with two employees under the state plan which the staff is working on, c) only able to handle five kinds of changes or transactions for the Administrative Rules that are still being tested and staff still needs to be trained, d) TV news reporter Daryl Huff has been asking questions regarding domestic partners and that there may be a news report on KITV news, e) premium payments to carriers is being paid in arrears and the first payment was due on Friday, August 15, 2003. Two carriers were paid on Monday, August 18, 2003 and two other carrier checks were received yesterday because they did not have vendor numbers, f) backfile imaging of the various open enrollment documents will be completed by August 31, 2003 and two people need to be sent for administrative training so the EUTF can handle the needs of the imaging system by itself. The cost of training for one person is included in the contract and the cost of sending a back-up person including the travel cost for two people would be \$2,600.00 that is in our budget. Discussion held by Trustees and staff regarding the cost.

- a. Paper Flow for Open Enrollment (see handout)
Mr. Fukuhara gave an overview on the paper flow for open enrollment.
4. New Employer: Hawaii Board of Water Supply and Charter Schools
Mr. Fukuhara reported that as of today we have eight employers and the new employers are the Hawaii Board of Water Supply that broke off from the county and a charter school on Maui. He said that it would have an impact on the RFP for TPA because it only included coordinating information and premiums with six employers.

5. Act 111 (see handout)
Mr. Fukuhara reported that Act 111 has two major impacts: 1) Medicare Part B reimbursements will be on actual rates that are currently \$58.70 and; 2) maximum caps for retirees for the 2nd year effective July 1, 2004 have been increased.
6. Letters
 - a. Letter from Insurance Commissioner dated 7/21/03 Re: Mutual Benefit Society (see handout)
 - b. Response from Chair Miyake to Ruth Kim dated 7/23/03 Re: RFP for TPA (see handout)
 - c. Letter from Mona Stevenson dated 7/26/03 & Response from Administrator dated 8/6/03 Re: Tiering (see handout)
Trustee Hidano expressed concern that Mona Stevenson should not have used state letterhead for personal use.

Trustee Watanabe asked if the two new employers are not included on the RFP for TPA what will need to be done to include them. Mr. Fukuhara said that a temporary fix had been implemented but configuration changes would need to be made to the system. If the decision to engage a TPA then the two additional employers would be handled as part of final negotiations.

B. DEPUTY ATTORNEY GENERAL

1. PEHF Transition
Discussed under Administrator's Report on PEHF Transition.
2. Garner Consulting – Proposed HMSA Work
Confidential Attorney-Client Privileged Communication regarding Garner Consulting-Proposed HMSA Work. Mr. Aburano reported that he does not believe that the proposed arrangement based on the facts given constitutes a violation of any statute or law that he knows of and would not be a conflict of interest. Discussion by Trustees on the opinion that the amount of contract is not substantial. Ms. Reagan stated that she believes it is not a contract, HMSA just wants to have Garner Consulting as a resource and they would bill HMSA their hourly rates. There is no guarantee what the cost would be. The consultant would report to the board on what the amount of the actual engagement would be.
3. O'Gorek et al. vs. PEHF, et al.

Confidential Attorney-Client Privileged Communication regarding O'Gorek et al. vs. PEHF, et al. Mr. Aburano gave an update on the

O’Gorek lawsuit and that a hearing was held on July 31, 2003. He said that the Attorney General opposed the motion and Judge Chang denied the plaintiff’s motion for preliminary injunction. He stated that there is no preliminary injunction or TRO presently pending against the trust fund. Of significance to what may be discussed later is that the court orally indicated the ruling that it would enter a conclusion of law that this trust fund did have authority to distribute the public employee health funds that would be coming over to public employee health fund beneficiaries if that was the decision of this board. He is currently circulating the findings of fact and conclusions that the judge asked him to prepare. The plaintiff’s attorney does have objections to some of the things that were included but did not indicate any objection to that particular conclusion of law that this trust fund has that authority to make distribution of the employee health fund.

There being no objections from the Trustees, all three attorney-client privileged communications were waived.

Mr. Fukuhara also reported that the ERS was instructed not to handle duties of the health benefits due to their workload. As the board moves forward for TPA this may be another duty for them to perform.

C. BENEFITS CONSULTANT

1. Garner Bulletin – July 2003 (see handout)
Ms. Reagan gave an overview on the Garner bulletin relating to the EEOC issues proposed regulations on retiree health plans. Discussion by Trustees on the concern for retirees being affected by this lawsuit.
2. VSP letter dated 8/7/03
Mr. Keowen reported that he would like to focus on the certificate of insurance for VSP. VSP’s plan has come back saying that they carry \$1 million and the providers carry \$1 million and they will self-insure the excess of \$3 million over the \$2 million. The RFP stated that all carriers responding to the RFP offer liability in the amount of \$5 million per occurrence and aggregate. He stated that part of their response to our RFP, VSP made no exception to our insurance requirement of \$5 million in coverage. Discussion by Trustees, consultant, and staff on the options for VSP. Ms. Engle clarified that there was a misunderstanding at the time of the RFP that their \$30 million umbrella also applied to the coverage per occurrence. When she received the certificate of liability insurance she did question that and it was clarified that the umbrella coverage does not apply to the per occurrence coverage. She stated that VSP would like to self-insure any occurrence that did come up rather than pay an additional

\$210,000 in premium for a claim that they may never occur and has not occurred in the last 47 years. She added that being a vision carrier that they are not exposed to the same kind of liabilities that some of the other carriers are exposed to. Chair Miyake agreed but stated that it was a requirement for all carriers and that all the other carriers complied. He stated that this could be something to be discussed in the future contract period. Discussion held by Trustees on the requirements of the RFP for the \$5 million and concern by the Trustees on the liability of the board to resolve this issue immediately. Ms. Engle requested VSP be given the opportunity to submit a response to the Administrator before the next board meeting. After discussion by the Trustees, VSP will respond by the end of the month to the administrator.

D. Carrier Reports

Trustee Hidano thanked HDS for answering all her concerns. She asked VSP what does AI per CG7158 primary per CG0001 mean? Ms. Engle responded that it is referring to the attachments and confirmed that AI means additional insured and that the attachments were provided by HMSA. Trustee Hidano stated that Mutual Benefit Association of Hawaii's certificate does not have the Trustees as additional insured. Trustee Hidano added that all certificates of insurance be reviewed carefully and attachments should be checked thoroughly.

V. UNFINISHED BUSINESS

A. HIPAA Policies and Procedures (see handout)

Chair Miyake stated that HIPAA Privacy Policies and Procedures are almost the same as the ones adopted by the PEHF. It has been recommended that the board adopt the HIPAA Privacy Policies and Procedures at this time and may be able to make revisions at a later date. Mr. Fukuhara explained that minor changes were made to refer to the trust fund and also to correct minor typographical errors. He recommends that the board formally approve and adopt the HIPAA Privacy Policies and Procedures that will eventually lead to HIPAA training that is required for the Board and EUTF staff. Mr. Aburano stated that he did review it and in the future the board may want to go through a formal rule adoption procedure to adopt some parts of the policies and procedures. He added that it needs to be in place now to handle any questions and issues that come up.

MOTION was made to adopt the HIPAA Privacy Policies and Procedures dated August 20, 2003. (Radcliffe/Awana) After discussion by Trustees and

staff, the motion passes unanimously. Employer trustees 5/Employee-Beneficiary trustees 4)

Discussion held by Trustees regarding the training for the HIPAA policies and procedures. Ms. Reagan stated that she estimated cost would not exceed \$5,000.00 to provide training and preparation. To enhance the training for the staff, a day would be spent looking at what the procedures are and basically doing what is called a gap analysis on what they are doing and what the policies say they should be doing. The estimate including the gap analysis, training for staff and trustees would not exceed \$6,500.00. Discussion held by Trustees and consultant regarding the HIPAA training. Mr. Fukuhara stated that there is money in the budget.

MOTION was made for Garner Consulting to conduct gap analysis and provide training for the board and the staff at a cost not to exceed \$6,500.00. (Radcliffe/Awana) After discussion by Trustees and staff, the motion passes unanimously. Employer trustees 5/Employee-Beneficiary trustees 4)

Mr. Fukuhara stated that the training for the staff would be held the day before the board meeting on November 19, 2003.

Mr. Fukuhara also informed the board that currently there are five departments that would like to be a member of the HIPAA Collaborative and the cost would be \$4,000.00 for each member. Last year the cost was \$3,000.00 with nine departments participating.

B. Alternative for Handling of PEHF Surplus (see handout)

Mr. Fukuhara gave an overview on the different alternatives for disposition of surplus monies from PEHF. Discussion by Trustees regarding the alternatives for the PEHF surplus.

MOTION was made to refund the monies to the employees from the PEHF surplus. (Radcliffe/Lewis) After discussion by the trustees and staff, the motion was withdrawn.

Further discussion held by the Trustees and staff on the amount of monies in the PEHF surplus. Trustee Lewis asked Mr. Aburano if waiting until March before we do the refund would satisfy the court that we intend to do what we said. Mr. Aburano stated that what was represented to the court is that the trust fund did not have an opportunity to decide what to do with this money before the lawsuit was filed, the board had been and was interested in the idea of returning the money, and was currently actively looking at that subject and would make its decision at a future meeting. The board can look at the alternatives and scope it out. He suggests that if the board is able to make a decision early and adopt a particular plan on how we are going to return the

money that it may help us get out of the lawsuit. He stated that once the money is returned there is no purpose in being in the lawsuit. He added to the extent the board does not make a decision until some time in the future, he understand the plaintiff's opposing or trying to get out because they would say you could always change your mind at the last minute. He recommended that the board direct the administrator that the board is interested in the last alternative and to come up with a plan with further information so the board can vote on it at the next meeting.

MOTION was made to adopt the concept and methodology of the last alternative and for the Administrator to provide a report on the scope at the next board meeting. After discussion by Trustees, motion passes unanimously. Employer trustees 5/Employee-Beneficiary trustees 4)

VI. NEW BUSINESS

A. Review of Committees and Members

Mr. Fukuhara stated that if the board would want to consider having a Finance Committee or would the Administrative Committee handle it and also how the board would like to handle administrative proposals, in the past it has gone to the Administrative Committee or to have a Legislative Committee. Discussion by the Trustees on appointing committee members and the purpose of the different committees. Trustee Awana nominated Trustee Recktenwald for the Administrative Chair position, Trustee DeCosta for the Benefits Committee, Trustee Watanabe for the Administrative Committee, and himself for the Benefits Committee. There being no objections from the Trustees, the nominees are appointed to the respective committees.

B. IFEBP Annual Benefits Conference 11/7-11/12/03 (see handout)

Mr. Fukuhara asked that the board nominate one employer trustee and one employee trustee. By consensus, the Trustees agreed to submit the names to the Administrator by Friday, August 29, 2003.

C. Training for Board

Discussed under HIPAA policies and procedures.

VII. COMMUNICATIONS FROM THE PUBLIC AND INPUT FROM ATTENDEES

- A. Mr. Tam from HMSA stated in regards to the PEHF surplus that he spoke to the Administrator and agreed that the cost would be lower with the help of HMSA but would like to caution the board that there is a concern regarding HIPAA that is now in place, that the legal staff has raised issues regarding the

ability to share data with the trust fund. Ms. Reagan responded that she thinks that this project would fall under the exclusion for payment and operations.

VIII. FUTURE AGENDA ITEMS AND NEXT MEETING DATE

The next Benefits Committee, TPA Committee, and Board meeting are scheduled for September 18, 2003.

IX. ADJOURNMENT

MOTION was made to adjourn the regular meeting. (Radcliffe/Miyake)
The motion passed unanimously. (Employer trustees 5/Employee-Beneficiary trustees 4)

The meeting was adjourned at 12:15 p.m.

Respectfully submitted,

/s/

Bob Awana, Secretary-Treasurer

APPROVED on January 23, 2004.

Documents Distributed:

1. Financial Audit of the PEHF for FY ended 6/30/01. (29 Pages)
2. Financial Audit of the PEHF for FY ended 6/30/02. (33 Pages)
3. Paper Flow of Enrollment Documents-2002. (3 Pages)
4. Act 111. (8 Pages)
5. Letter from Insurance Commissioner dated 7/21/02. (3 Pages)
6. Response from Chair Miyake to Ruth Kim dated 7/23/03. (1 Page)
7. Letter from Mona Stevenson dated 7/26/03. (1 Page)
8. Response from Administrator to Mona Stevenson dated 8/11/03. (1 Page)
9. Garner Bulletin for July 2003. (2 Pages)
10. HIPAA Privacy Policies and Procedures dated 8/20/03. (65 Pages)
11. Alternative for Disposition of Surplus Monies from PEHF dated 8/20/03. (1 Page)
12. OpenLine – July 2003. (2 Pages)