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Department of Insurance
State of Idaho

Attorneys for the Department of Insurance

BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

STATE OF IDAHO

In the Matter of:

IDAHO IMMUNIZATION
ASSESSMENT BOARD

Docket No. 18-3696-19

**ORDER APPROVING PLAN OF
OPERATION**

WHEREAS, Idaho Code § 41-6004 provides that the Idaho Immunization Assessment Board ("IIAB"), created pursuant to Idaho Code § 41-6003, shall submit to the Director of the Idaho Department of Insurance ("Director") its plan of operation and amendments thereto, which shall become effective upon written approval of the Director; and

WHEREAS, the IIAB, at its meeting of September 18, 2019, voted to approve amendments to its existing plan of operation to remove references to collection of interest; to disallow and remove a provision related to proxy voting; to provide that financial statements of the IIAB shall be provided to board members at each IIAB meeting; and to remove certain outdated references.

WHEREAS, the IIAB desires to confirm written approval of its plan of operation, which

document titled "Idaho Immunization Assessment Board Plan of Operation" is attached hereto and incorporated herein as Exhibit 1; and

WHEREAS, Idaho Department of Insurance staff and its counsel have reviewed Exhibit 1 and found it to be consistent with chapter 60, title 41, Idaho Code, and by presentation of this order to the Director recommend approval of it; and

WHEREAS, the Director having indicated his approval upon Exhibit 1 on this date, wishes to confirm that approval by adoption through this final order;

NOW THEREFORE, having reviewed Exhibit 1 and finding it to be consistent with the provisions of chapter 60, title 41, Idaho Code, and concluding that it is in the best interests of the IIAB to confirm approval of the IIAB Plan of Operation, as amended;

IT IS HEREBY ORDERED that the Idaho Immunization Assessment Board Plan of Operation, attached hereto and incorporated herein as Exhibit 1, is hereby approved pursuant to Idaho Code § 41-6004(1).

DATED this 25 day of September, 2019.

STATE OF IDAHO
DEPARTMENT OF INSURANCE



DEAN L. CAMERON
Director

NOTIFICATION OF RIGHTS

This is a final order of the agency. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this order. The agency will dispose of the motion for reconsideration within twenty-one (21) days of its receipt, or the motion will be considered denied by operation of law. See Idaho Code § 67-5246(4).

Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order or orders previously issued in this case may file a petition for judicial review in the district court of the county in which:

- i. A hearing was held;
- ii. The final agency action was taken;
- iii. The party seeking review of the order resides, or operates its principal place of business in Idaho; or
- iv. The real property or personal property that was the subject of the agency action is located.

A petition for judicial review must be filed within twenty-eight (28) days of: (a) the service date of this final order, (b) the service of an order denying motion for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a motion for reconsideration, whichever is later. *See* Idaho Code § 67-5273. The filing of a petition for judicial review does not itself stay the effectiveness or enforcement of the order under appeal. Idaho Code § 67-5274.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have, on this 25th day of September, 2019, caused a true and correct copy of the foregoing ORDER APPROVING PLAN OF OPERATION to be served upon the following by the designated means:

Ted Epperly, M.D.
Chair, IIAB
Family Medicine Residency of Idaho
777 N. Raymond Street
Boise, ID 83704

- ☒ first class mail
- ☐ certified mail
- ☐ hand delivery
- ☐ via facsimile
- ☐ via email

Elaine Mellon
Bureau Chief, Consumer Services
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043

- ☐ first class mail
- ☐ certified mail
- ☒ hand delivery
- ☐ via facsimile
- ☐ via email

Edith L. Pacillo
Lead Deputy Attorney General
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043

- ☐ first class mail
- ☐ certified mail
- ☒ hand delivery
- ☐ via facsimile
- ☐ via email


Pamela Murray,
Assistant to the Director

EXHIBIT 1

IDAHO IMMUNIZATION ASSESSMENT BOARD PLAN OF OPERATION

WHEREAS, the Legislature of the state of Idaho enacted Chapter 60, Title 41, Idaho Code (the "Act"), establishing a mechanism to assess carriers for the costs of vaccines provided to certain children in Idaho;

WHEREAS, the Act authorizes the creation of an Idaho Immunization Assessment Board (the "Board") as a governmental entity within the meaning of Chapter 9, Title 6, Idaho Code;

WHEREAS, the Act created the Idaho immunization dedicated vaccine fund (the "Fund");

WHEREAS, the Act requires the Board to develop a Plan of Operation (the "Plan");

THEREFORE, the Board has developed the following Plan as required by the Act:

Article 1 - Effective Date; Amendment

This Plan and any amendments to same may be recommended from time to time by the Board and shall become effective upon written approval of the Director of the Idaho Department of Insurance (the "Insurance Director"). The Board may propose amendments at any time. Amendments may include a retroactive effective date if such date is proposed in the amendments and approved in writing by the Insurance Director.

Article 2 - Board of Directors

The Board shall elect a chairperson and vice chairperson from its members and such other officers as it deems appropriate. The terms of these offices will be for one year. Upon election, the chairperson shall notify the Insurance Director of the Board's officers within thirty (30) days of said elections.

The Board shall hold meetings upon the request of the chairperson or two or more members of the Board at such times and with such frequency as it deems appropriate. These meetings may be held in person, or by telephone, provided at least one member of the Board shall be physically present at the location designated in the meeting notice per Idaho Code § 74-203(5). Notice of such meeting and its purpose will be provided to the Board at least seven days prior to the meeting unless such notice is waived by unanimous consent of the members.

All Board meetings will be held and posting of meeting notices (at least 5 days prior to regular meetings) and agenda (at least 48 hours prior to regular meetings) will be made in accordance with Idaho's open public meeting laws, Chapter 2, Title 74, Idaho Code.

The majority of the Board shall constitute a quorum for the transaction of business. The acts of the majority of the voting members of the Board present at a meeting at which a quorum is present (including any members present by proxy) shall be the acts of the

Board. The votes of the Board will be on a one-person, one-vote basis, although the Director (or his designee) does not vote. Proxy voting is not allowed. Members of the Board are required to disclose any potential conflict of interest prior to voting on a particular issue. The chairperson will decide whether the member with the potential conflict may vote and state the reasons therefor.

Annually, the Board will meet to determine assessments necessary for the proper administration of the Fund. In addition, the Board shall:

1. Develop an annual expense budget;
2. Provide an annual report to the Insurance Director and the Director of the Department of Health and Welfare ("DHW Director");
3. Review and evaluate the performance of the Fund in support of the goals of the Act;
4. Determine whether any technical corrections or amendments to the Act shall be recommended to the Insurance Director;
5. Review this Plan and submit proposed amendments, if any, to the Insurance Director for approval;
6. Review reports, including audited financial reports, reports on outstanding contracts and obligations, and all other material matters;
7. Review reports of the committees established by the Board;
8. Consult with the Idaho department of health and welfare and other experts as the board may deem appropriate as necessary or proper to carry out the provisions and purposes of Idaho Code § 41-6005(1).
9. Review, consider and act on any matters deemed by the Board to be necessary and proper for the administration of the Fund. The Board shall establish operation procedures for the Fund consistent with the Act and this Plan.

As required by Idaho Code § 74-205, the Board shall provide for the taking of written minutes of all meetings including at least: (a) all Board members present; (b) all motions, resolutions, orders, etc. proposed and their disposition; and (c) the results of all votes, and upon the request of a member, the vote of each member, by name. The minutes of each Board meeting shall be made and submitted to the Insurance Director within thirty (30) days after said meeting. The original of the record shall be retained by the Department. Board members will review and act upon any other matters deemed necessary.

Article 3 - Conformity to Act; Immunity from Liability

The Board and committee members shall perform their functions under this Plan and have the powers and authority granted by the Act. Nothing in this Plan or the actual operation of the Board shall create any private rights of action against any member of the Board or any committee. All such persons shall at all times enjoy immunity from liability to the fullest

extent afforded by any provision of any applicable law, including the Idaho Tort Claims Act, Idaho Code §§ 6-901, et seq.

Article 4 - Committees of the Board

The Board may appoint its members and others to any appropriate committee as necessary to provide technical assistance in the operation of the Plan and the Fund or other functions within the authority of the Board. A written record of each committee meeting must be kept by a secretary appointed from the membership of the committee.

Article 5 - Administration of the Act and the Plan

To the extent allowed by the Idaho Code, the Board may contract with one or more third parties to provide administrative services needed to implement the requirements of the Act and the Plan. The Board shall select any such administrator in accordance with the procedures established and administered by the State of Idaho Division of Purchasing as may be required. The administrator may be responsible, along with the Board, for the fair, equitable and reasonable administration of the Act and the Plan.

The administrator shall perform the following functions as directed by the Board:

1. Prepare and submit reports, meeting minutes and an annual report to the Board, including assessments to carriers and all assessment changes.
2. Establish procedures and install the systems needed to properly administer the operations of the Fund in accordance with the Idaho Insurance Code and this Plan.
3. Keep all accounting, administrative and financial records of the Fund in accordance with this Plan and work in conjunction with the DOI and DHW in light of their record keeping functions.
4. Serve as a communications resource for carriers subject to the Act.
5. Notify carriers of assessment amounts due and reconcile collection of appropriate amounts due with the DOI.
6. Prepare an annual estimate of operating costs for the administration of Fund operations.
7. Perform other functions as agreed to by the Board and the administrator.

The administrator shall maintain all financial records for each fiscal year for a period of three years following the end of such fiscal year, plus the current fiscal year. The administrator shall be reimbursed for its reasonable costs of administration in accordance with a written agreement approved by the Board.

The administrator will subcontract for services only with the prior approval of the Board. The administrator shall retain the confidentiality of all information pertaining to persons insured and the carriers in accordance with all applicable statutes, regulations and

principles of common law pertaining to confidentiality and trade secrets. Such information shall be used only for the purposes necessary for the operation of the Fund and shall be strictly segregated from other records data or operations of the administrator. Unless specifically required hereunder or by the Act, no information relating to the Act shall be retained or used by the administrator or disclosed to any third party, which information identifies a specific insured or carrier.

Article 6 - Examination; Fiscal Year

The Fund shall be subject to examination by the Insurance Director and the DHW Director and Legislative Services Office. The fiscal year shall be the 12 months ending June 30.

Article 7 - Assessment Collections

Assessments shall be billed in accordance with the schedule in Exhibit A. Financial reports shall be compiled as scheduled in Exhibit B. The Board may allow assessment payments in installments in accordance with Exhibit A.

Covered lives determinations shall be made each year by April 15 based upon numbers reported by carriers to the Idaho Department of Insurance on or before March 15 each year.

Assessment payments will be due as stated in the notices mailed to the carriers. Penalties may be imposed as allowed by the Act for late or nonpayment of assessments by a carrier. Any late or nonpayment of assessments will be addressed in accordance with the protocol in Exhibit C.

Article 8 - Penalties; Adjustments; Dispute Resolution

A. Penalties; Adjustments

1. **Background.** Given numerous factual determinations to be made and tasks to be performed by carriers relative to their calculations of covered lives, all carriers shall exercise the highest degree of good faith and due diligence in all aspects of their relationship with the Board and its administrator should an error occur. The carrier shall notify the Insurance Director as soon as practicable explaining such error and the Insurance Director shall take appropriate action.

2. **Errors Related to Assessments.** All carrier errors related to assessments shall require the immediate payment of additional amounts due calculated from the date such sum should have been paid and any other penalties per Idaho Code § 41-6006(3) .

3. **Violations.** If the Board determines that a particular carrier has violated Title 41, Idaho Code, the Board shall refer its findings to the Insurance Director for appropriate action.

B. Time Considerations with Respect to Assessment Payment Adjustments

Once assessment rates are set by the Board in any year, any adjustment for carrier over reporting of covered lives or overpayments may be considered first by the Board in connection with the assessment determination for the current or following year and may, depending on the cash flow needs of the Fund, be provided as a reduction in the next year's assessments, or be spread over multiple years. No request for reconsideration of any assessment or refund of payment made shall be considered by the Board with respect to any request that is not filed with the Board in writing on or before the date that is six (6) months after the first due date for the corresponding assessment year. Carrier requests to reduce their numbers of reported eligible children by 250 eligible children or fewer which are submitted with satisfactory documentation may be approved by the Department of Insurance or appointed administrator. The Board must be notified of all such approvals of survey changes at least five (5) business days in advance of the revised billing. No adjustments to carrier assessments over 250 children will be made without approval of the Board.

C. Carrier Appeal of Disputes to Board

Carriers may request permission to appear before the Board at any time in connection with any disputes with the Board or its administrator after which the Board may make any recommendations or referral to the Director.

Article 9 - Termination

The Fund shall continue in existence subject to termination in accordance with the Act, other laws of the state of Idaho or the United States of America. The Fund shall terminate and conclude its affairs in a manner to be determined by the Board with approval of the Insurance Director.

In accordance with Chapter 60, Title 41, Idaho Code, the foregoing Plan of Operation has been approved following consultation with the Director of the Idaho Department of Health and Welfare and the Insurance Director.



Dean L. Cameron, Director
Idaho Department of Insurance

Date: 9/25/19

EXHIBIT A

ASSESSMENTS

Carriers providing and/or administering health insurance or health benefit coverage in Idaho are required to report numbers of all covered individuals for the purpose of evaluating the number of program-eligible children in Idaho.

For this purpose, health insurance or health benefit coverage includes all health coverage except for the following limited coverage:

- coverage limited to a specific disease
- hospital confinement indemnity
- accident only
- credit
- dental
- vision
- Medicare supplement
- long term care
- disability income insurance
- student health benefits only coverage issued as a supplement to liability insurance
- worker's compensation
- automobile medical payment insurance
- nonrenewable short term coverage issued for a period of twelve (12) months or less

Entities are required to report covered lives as specified below. Entities are encouraged to further specify the numbers of these identified subscribers and dependents having and not having coverage for childhood vaccines. Assessments will be based on identified subscribers and dependents having coverage for childhood vaccines if that number is provided. If an entity does not provide the numbers having coverage for childhood vaccines, that entity will be assessed on all covered lives as specified below.

Entities are required to report in an annual assessment survey their "Covered Idaho Children," defined as the number of all subscribers and dependents:

- Who have health coverage (whether primary or non-primary) as of January 31 of the same year the survey is sent, AND
- With the subscriber having a mailing address within the state of Idaho (the subscriber's mailing address applies to the subscriber and all of his or her dependents), AND
- Who are under nineteen (19) years of age. Individuals who have a date of birth on or after January 1 of the year 19 years prior to the assessment year are considered to be under nineteen (19) years of age.

As noted above, entities are encouraged to further specify the numbers of these identified subscribers and dependents having and not having coverage for childhood vaccines. "Covered Idaho Children" who have benefits for childhood vaccines are "Program-eligible Children."

The Board shall determine the total annual program cost estimate for each year that at a minimum, is expected to be sufficient to cover the administrative costs of the board and fund the purchase of vaccines for "Program-eligible Children" that have in effect a recommendation from the advisory committee on immunization practices of the centers for disease control and prevention on the date the Board makes its assessment determination. The percentage of the total cost that is to be funded by carriers shall recognize the cost differences by age cohort and be weighted by the age distribution differences between VFC (Federal Vaccines for Children) and program-eligible children, using a methodology agreed upon by the Board and the IIP (Idaho Immunization Program). The age distributions shall be evaluated at least every three years. The Board shall further calculate the estimated total statewide number of "Program-eligible Children." This estimate shall be made by adding the numbers of "Program-eligible Children" reported by all entities reporting "Program-eligible Children" plus the numbers of "Covered Idaho Children" reported by all entities NOT reporting "Program-eligible Children." The "Assessment per Child" shall be the total cost for program-eligible children estimate for the year divided by the estimated total statewide number of "Program-eligible Children."

For an entity reporting "Program-eligible Children," the entity's assessment shall be calculated by multiplying the "Assessment per Child" by that entity's number of "Program-eligible Children." For an entity NOT reporting "Program-eligible Children," the entity's assessment shall be calculated by multiplying the "Assessment per Child" by that entity's number of "Covered Idaho Children."

Per Idaho Code § 41-6006(4) assessments are due 60 days after notice of the annual assessment. The Board will bill all assessments at or above a \$50,000 annual threshold in quarterly installments, if requested by the carrier. Assessment reporting and billing schedule:

| | Date |
|---|--------------------|
| Immunization Assessment Survey | Sent Early January |
| Immunization Assessment Survey | Due March 15 |
| Annual Assessment Notice | Sent by April 15 |
| Annual Assessment or First Quarterly Installment | Due June 15 |
| Second Quarterly Installment | Due September 15 |
| Third Quarterly Installment | Due December 15 |
| Fourth Quarterly Installment | Due March 15 |

Each assessment year's first due date will be June 15 and consequently, any request for reconsideration or refund must be filed within six months of June 15. Any underpayment

due to late payments or underreporting of covered lives shall be made by the carrier at the earliest possible date with any administrative charge as set forth in Article 8.

EXHIBIT B

SCHEDULE OF FINANCIAL STATEMENTS

Financial statements will be released on the following schedule:

1. Reconciliation of amounts due and collections during the month before the close of the state fiscal month, generally three days after calendar month end.
2. Financial Statements: To the Board at each Board meeting.
3. Annual Statements: Management statements will be ready for internal review within 60 days after the close of the fiscal year.

EXHIBIT C

FOLLOW-UP FOR PAST DUE ASSESSMENTS

Follow up protocol:

1. Make a phone call three business days after due date
2. Send a fax reminder seven business days after due date
3. Send a letter reminder five business days after the fax reminder with a copy to the Board

In addition to the above, report to the Insurance Director any late or nonpayment of assessments by a carrier in accordance with § 41-6006, Idaho Code. The Board may recommend collection or follow-up activity for any remaining delinquencies to the Insurance Director. It is contemplated that any collection follow-up after 6 months of notification would be handled by the Insurance Director pursuant to Idaho Code § 41-6006.