



NOTICE

SPECIAL MEMBERS' MEETING OF THE LEAGUE INSURANCE GOVERNMENT HEALTH TEAM (LIGHT) ON FRIDAY, SEPT. 16, 2022, AT 9:15 A.M. CT

PLEASE TAKE NOTICE that the members of the League Insurance Government Health Team (LIGHT) will hold the **Special Members' Meeting on Sept. 16, 2022, at 9:15 a.m. CT in Room ABC at the Cornhusker Marriott Hotel, 333 S 13th Street, Lincoln, Nebraska.**

An agenda of subjects known at this time is included with this notice, but the agenda shall be kept continually current and readily available for public inspection at the principal office of LIGHT during normal business hours at 1335 L Street, Lincoln, Nebraska. A notice of this meeting with the agenda and other materials are available at this location with a copy of the Open Meetings Act posted.

On Sept. 9, 2022, notice of this meeting with the agenda and other materials were sent to all LIGHT members and the LIGHT Board of Directors. Notice of this meeting with the agenda and other materials are available for public inspection at 1335 L Street, in Lincoln, Nebraska and posted with the following links kept continually current: an electronic copy of the agenda, all documents being considered at the meeting, with a link to the current version of the Open Meetings Act are on the website of the League of Nebraska Municipalities – www.lonm.org/light/.



AGENDA

SPECIAL MEMBERS' MEETING OF THE LEAGUE INSURANCE GOVERNMENT HEALTH TEAM (LIGHT) ON FRIDAY, SEPT. 16, 2022, AT 9:15 A.M. CT

In accordance with the Open Meetings Act, Chapter 84, Article 14 of the Reissue Revised Statutes of the State of Nebraska 1943, as amended, one copy of all reproducible written materials to be discussed is available to the public at the meeting and at the link below for examination and copying.

1. Call meeting to order:

- a. 9:15 a.m. CT – Plattsmouth Mayor Paul Lambert, Chair of the LIGHT Board, will call the meeting to order.
- b. Roll call.
- c. Indicate that on Sept. 9, 2022, a notice of this meeting with the agenda and other materials were sent to all LIGHT members and the LIGHT Board of Directors. Notice of this meeting with the agenda and other materials were available for public inspection at 1335 L Street, in Lincoln, Nebraska, and also posted with the following link kept continually current: an electronic copy of the agenda and all documents being considered at the meeting, with a link to the current version of the Open Meetings Act are on the website of the League of Nebraska Municipalities – www.lonm.org/light/.
- d. Inform the public about the location of the Open Meetings Act which is accessible to members of the public and at www.lonm.org/light/ along with a copy of all reproducible written materials to be discussed at this meeting.
- e. Pledge of Allegiance to the Flag of the United States of America.
- f. Public comment on any agenda item(s): Pursuant to the Open Meetings Act, the LIGHT Board Chair reserves the right to limit comments on agenda items. In accordance with the Open Meetings Act, there is no time limit on comments made by members of the LIGHT Board of Directors.

2. Requirements of an “Association Health Plan (AHP)”:

In June 2022, the Nebraska Department of Insurance recognized LIGHT as an AHP that can purchase insurance as a large group. Learn how LIGHT qualifies as an AHP, offering excellent coverages and benefits for municipal employees!

See pages 3-21

Michelle Sitorius, LIGHT's Legal Counsel, Cline Williams Wright Johnson & Oldfather, LLP

3. Consider a motion to adjourn.

ASSOCIATION HEALTH PLANS (AHPS)

A Primer

Presented by:

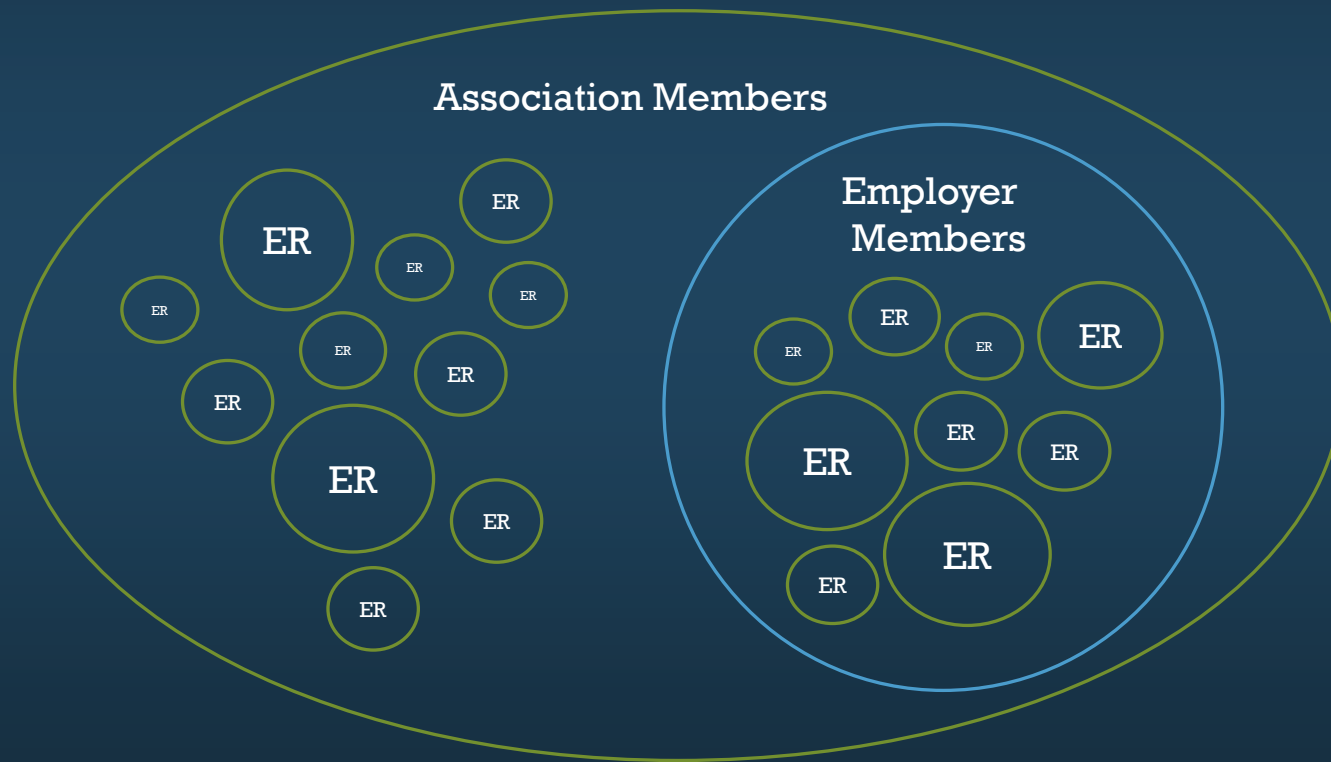
*Michelle Sitorius,
Cline Williams Wright
Johnson & Oldfather, LLP*

September 16, 2022

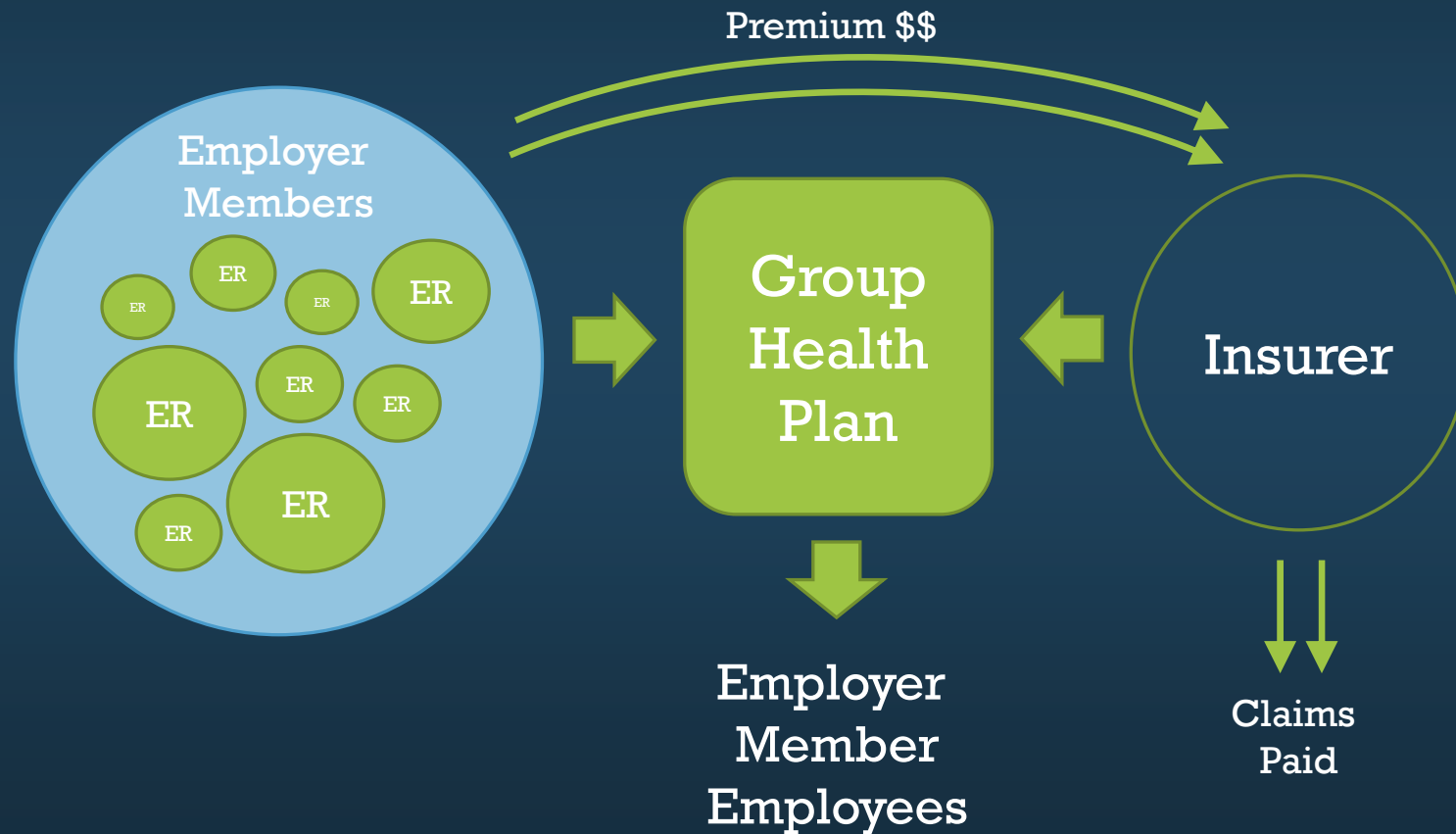
OVERVIEW

- Structure
- Operation
- Development
- ACA Issues
- Creation of LIGHT
 - Interlocal Agreement
 - NDOI Approval
 - Bylaws
 - Membership Agreement
- League's Role
- LIGHT Member Health Plan – Coverage & Requirements

DEVELOPMENT OF AHP - STRUCTURE



DEVELOPMENT OF AHP - OPERATION



DEVELOPMENT OF AHP

- Resources to surmount barriers to entry
 - Formation costs
 - Legal requirements
- Stable community of employers
- Guaranteed level of employee participation
- Contractual incentives to stay
 - Exit assessment
 - Wait period for reentry

DEVELOPMENT OF AHP – ACA ISSUES

- Small employer plans (<51 employees) subject to community rating
 - Community rating often equals a higher premium
 - Fewer insurers participate in the small group market
- Insurers have more flexibility in rating large employer plans (51+ employees)
- Insurers face penalties for violating ACA premium rating rules
 - State agencies enforce rules, subject to CMS oversight
 - CMS has adopted DOL position

DEVELOPMENT OF AHP – ACA ISSUES

- ACA premium rating rules use ERISA definition of “employer” to determine “group” status, size:

The term “employer” means any person acting directly as an employer, or indirectly in the interest of an employer, in relation to an employee benefit plan; and includes a group or association of employers acting for an employer in such capacity.

ERISA § 3(5)

DEVELOPMENT OF AHP – ACA ISSUES

- ERISA definition comes with interpretive baggage
- Department of Labor uses a 7-factor test to determine existence of a “bona fide” association
 - How members are solicited
 - Who is entitled to participate; who actually participates
 - Process by which association formed
 - Purpose of formation
 - Pre-existing relationships of members
 - Powers, rights, and privileges of employer-members
 - Employer-members must directly/indirectly exercise control over program

DEVELOPMENT OF AHP – ACA ISSUES

- Reasons for the bona fide association requirement:
 - Common interest among employers means that an association will look out for the interests of employees
 - History of bad actors
- Some associations do not qualify as “bona fide”
 - Only common interest is providing benefits
 - Open to anyone in a trade/profession, whether or not they are employers
- Without a bona fide association, the plan (if any) exists at the employer level
 - DOL views it as a collection of individual/small employer plans

CREATION OF LIGHT

- Interlocal Agreement/Municipality Resolutions
- NDOI Approval
- Bylaws
- Membership Agreement

INTERLOCAL AGREEMENT

- Authorized by Interlocal Cooperation Act, Neb. Rev. Stat. §§ 13-801 et seq
- Agreement allowing two or more public agencies to make and execute an agreement providing for joint and cooperative actions
 - Creation of LIGHT as a separate entity
- Perpetual duration (subject to dissolution and termination procedures)
- LIGHT membership consists of employers who have entered into the Agreement
 - LIGHT members may voluntarily terminate LIGHT membership (subject to timeframes required by BCBSNE); LIGHT may involuntarily terminate LIGHT membership for failure to discharge obligations or comply with applicable law

INTERLOCAL AGREEMENT

- Board of Directors is primarily responsible for LIGHT's management
 - negotiating with one or more insurance companies for the provision of health insurance coverage
 - managing the property, business, and affairs of any LIGHT plans
 - entering into any and all contracts, leases, and agreements for the administration and management services
 - establishing the duties and responsibilities of the Administrator and any delegation of its duties to the Administrator
 - selecting and contracting with service providers, including but not limited to insurance brokerage firm(s), accounting firm(s), legal counsel, consultants, and other qualified service providers or advisors

NDOI APPROVAL

- Approval of Nebraska Department of Insurance
 - ACA compliance
 - Bona fide association of employers eligible to establish an AHP and purchase large group insurance as a single plan
 - Declaration regarding single-group health plan status
 - Formation of LIGHT
 - Purpose and preexisting relationships
 - Powers, rights, and privileges of employer members
 - Solicitation of participating employers
 - Entitlement to participation and actual participation
 - Control and direction of plan

BYLAWS THE BOARD

- Board makeup and procedures
 - Initial board composed of elected or appointed officials from five municipality-members
 - New Board of Directors elected by LIGHT members at the 2023 annual meeting and annually thereafter
 - Nominations for Board submitted by either the Nominating Committee or by petition of 10% of the members
 - Three-year term after initial term
- Board Service
 - Unpaid
 - Indemnification
 - Insurance

BYLAWS MEMBERSHIP

- Annual Meetings
 - Held in conjunction with the League's annual meeting
 - Designation of a voting member
 - Election of the Board
- Member fees
 - Defray LIGHT costs and expenses in plan administration
 - Fiduciary liability insurance for Board members

MEMBERSHIP AGREEMENT ELIGIBILITY, APPLICATION, AND OBLIGATIONS

- Membership Eligibility
 - Nebraska city or village
 - Employer under ERISA § 3(5)
 - Employs one common law employee in Nebraska
 - Dues-paying member of the League
- Membership Application
 - Complete and submit a LIGHT membership agreement
 - Complete and submit LIGHT Interlocal Agreement
 - Provide all information required by BCBSNE
- Membership Obligations
 - Pay premiums for plan coverage in a timely manner
 - Update BCBSNE regarding changes in eligibility, name, address, actively-at-work status of employees
 - Distribute plan documentation as specified by law, LIGHT, and/or BCBSNE
 - Cooperate with LIGHT regarding plan administration

LEAGUE'S ROLE

- Facilitation of establishment of LIGHT
 - Protective nexus
 - Mothership status
- Licensing
 - Servicemarks – Name and Logo
- Plan Administration
 - Provide executive, management and office support services
 - Coordinate, host, and provide services for Board meetings and annual members' meetings
 - Assist in marketing and advertising, including managing the LIGHT website, and promotion in League publications and conferences
 - Provide opportunities for promotion at League-sponsored conferences and meetings
 - Negotiate service provider agreements
 - Provide bookkeeping/accounting services

LIGHT MEMBER HEALTH PLAN COVERAGE & REQUIREMENTS

- Employees' eligibility requirements
 - Subgroup application elections
 - LIGHT requirements
- 60 days advance notice of termination of plan coverage (prior to anniversary of enrollment)
 - No re-enrollment by employer municipality for 24 months after date of coverage cancellation
- Continuation coverage
 - Continuation coverage provided through BCBSNE
 - Administrative services (e.g., mailing of notices, billing) provided separately
- Annual insurance policy renewal
 - Subgroup application
 - Membership agreement (automatic renewal with exceptions)

QUESTIONS?