

# FDAC EMPLOYMENT BENEFITS AUTHORITY

## Board of Directors Teleconference Meeting

Tuesday, May 19, 2009  
10:00 a.m. – 12:00 p.m.

**Call-In Number:** (866) 704-7500

**Passcode:** 978212

**Subscriber PIN:** 381060

7 Erba Lane, Scotts Valley, CA 95066  
318 Pepperwood Drive, Cloverdale, CA 95425  
8200 Old Redwood Hwy, Windsor, CA 95492  
95 Rowland Way, Novato, CA 94945  
1215 K Street, Suite 2290, Sacramento, CA 95814

### *Agenda*

<i>Item</i>	<i>Action</i>
<b>I. Welcome and Introductions</b>	
<b>II. Public Comment</b>	<b>Discussion</b>
<b>III. Consent Calendar</b>	<b>Info/Action</b>
A. Minutes <i>Review and approve minutes from the April 20, 2009 Board Meeting.</i>	
B. Financials <i>Review and approve financials.</i>	
<b>IV. Set Rates for January 2010</b>	<b>Info/Action</b>
<b>V. Revised Investment Policy</b> <i>Review and approve revised investment policy.</i>	<b>Info/Action</b>
<b>VI. Consultant Contracts</b> <i>Current contracts expire June 30, 2009.</i>	<b>Info/Action</b>
A. Administration – Smith Moore & Associates	
B. TPA – BRMS	
C. Broker – LHI	
D. Actuary – David Turner	
<b>VII. COBRA Program Reimbursement</b>	<b>Info/Action</b>
<b>VIII. Adjourn</b>	<b>Action</b>

**FDAC Employment Benefits Authority**  
**Board of Directors Meeting**  
**Via Teleconference**  
Monday, April 20, 2009

**In Attendance**

Mike McMurry, President  
Ron Collier, Treasurer  
Charlene Virts, Director  
Lisa MacCubbin, Director

**Consultants/Guests**

Catherine Smith, Administrator  
Melissa Dixon, Deputy Administrator  
Fiona Young, Administrative Assistant  
David McMurchie, Legal Counsel  
Dawn Dooley, LHI  
John Miller, LHI  
Jon Hilgers, LHI  
Rosa Soria, LHI  
Paul Schafer, BRMS  
Nick Perrin, BRMS  
Dave Turner

President Mike McMurry called the meeting to order at 2:03 p.m. A quorum was established, and there was no public comment.

Consent Calendar

The Board addressed the consent calendar, consisting of the minutes of the March 27, 2009 meeting and the financials for March 2009. Director Charlene Virts moved to approve the consent calendar; Director Lisa MacCubbin seconded. Motion passed unanimously.

Set Rates for January 2010

Dave Turner presented the Board with a report on Blue Shield renewal rates for 2010. Blue Shield agreed to provide rates early for the EBA, set at 11.86% for both HMO and PPO plans, but these rates include a 4% load to the HMO and 5% load to the PPO for "negotiation/early renewal margin." Turner believes these loads are unnecessary and expects they will be negotiated away. In the absence of the loads, the proposed renewals would have been 7.7% for the HMO and 6.6% for the PPO. Considering this and other factors, Turner recommended the Board set the renewal rate at 7%, which he noted was somewhat conservative. John Miller concurred that 7% seems like a good estimation.

President Mike McMurry explained to the Board that this renewal rate does not account for any administrative or consultant fees. Any fee increases or changes for 2010 must be submitted to LHI by May 15 in order for them to calculate an accurate renewal rate.

If rates are negotiated lower than 7%, the EBA can add funds to its reserve fund or pass that discount on to member districts.

Director Virts moved to use Dave Turner's estimated 7% carrier rate increase for 2010. The motion also allows for LHI to come back to the Board in mid-May with two possible all-inclusive rate increases. Director Ron Collier seconded; motion passed unanimously.

The Board proceeded to discuss the BRMS fee structure. BRMS charges a flat rate of \$8.50 per member per month, but agreed to decrease that rate to \$5 for members who only access dental, vision and life insurance. Nick Schafer summarized the cost savings to the EBA as a 17% decrease in fees for BRMS' services.

Additionally, BRMS charged \$15 per member to mail packets about the new COBRA policy to seventeen current and potential members, for a total cost of \$255. BRMS will charge \$4.50 per member per month for the cost of managing any COBRA present or future enrollees; there are currently four. Concern was expressed in regards to the new COBRA program, whereby the EBA would charge members 35% of its cost, and request reimbursement in payroll taxes for the additional 65% from the federal government; since the EBA does not have a payroll, the Board is unsure how it will recoup those funds. Legal Counsel David McMurchie will research and report back to the Board on this issue.

Director Collier inquired whether it is necessary for the EBA to list the addresses of both Board members and consultants' physical locations on the agenda for teleconference meetings, under Brown Act regulations. McMurchie explained that only Board members' physical locations are required to be listed on agendas, but the Brown Act only specifies the minimum requirements and the EBA is welcome to list more information than required by law.

Having nothing further to discuss, the meeting was adjourned at 3:00 p.m.

Respectfully submitted,

Fiona Young  
Administrative Assistant

FDAC EBA  
Balance Sheet  
As of April 30, 2009

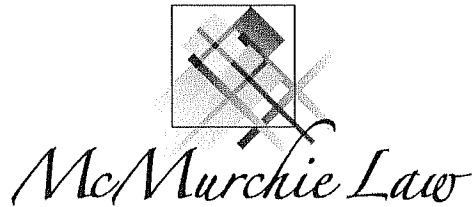
	<u>Apr 30, 09</u>
<b>ASSETS</b>	
Current Assets	
Checking/Savings	
Margin Fund	381,475.57
Medical Reserve (BRMS held)	118,720.18
Money Market Account	8,728.79
US Bank	<u>36,905.67</u>
Total Checking/Savings	545,830.21
Accounts Receivable	
1200 - Accounts Receivable	<u>12,052.23</u>
Total Accounts Receivable	12,052.23
Other Current Assets	
Pre Paid Expense	<u>3,333.33</u>
Total Other Current Assets	<u>3,333.33</u>
Total Current Assets	<u>561,215.77</u>
<b>TOTAL ASSETS</b>	<u><u>561,215.77</u></u>
<b>LIABILITIES &amp; EQUITY</b>	
Liabilities	
Current Liabilities	
Other Current Liabilities	
Prior Year Income	<u>75,554.55</u>
Total Other Current Liabilities	<u>75,554.55</u>
Total Current Liabilities	<u>75,554.55</u>
Total Liabilities	75,554.55
Equity	
Reserves & Contingencies	50,000.00
1110 - Retained Earnings	303,716.42
Net Income	<u>131,944.80</u>
Total Equity	<u>485,661.22</u>
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<u><u>561,215.77</u></u>

**FDAC EBA**  
**Budget vs. Actual**  
July 2008 through April 2009

	<u>Jul '08 - Apr 09</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
<b>Ordinary Income/Expense</b>				
<b>Income</b>				
<b>4000 · INCOME</b>				
4100 · Interest	66.40	3,000.00	-2,933.60	2.21%
4200 · Miscellaneous Income	1,813.27			
4300 · Premium Earnings	6,984,361.56	8,461,224.41	-1,476,862.85	82.55%
4500 · Reimbursed Expenses	0.00			
<b>Total 4000 · INCOME</b>	<u>6,986,241.23</u>	<u>8,464,224.41</u>	<u>-1,477,983.18</u>	<u>82.54%</u>
<b>Total Income</b>	6,986,241.23	8,464,224.41	-1,477,983.18	82.54%
<b>Expense</b>				
<b>6000 · EXPENSE</b>				
<b>6010 · Administration</b>				
6014 · Administration Contract	34,266.60	41,200.00	-6,933.40	83.17%
6016 · Third Party Administrator	98,801.07	93,500.00	5,301.07	105.67%
6018 · FDAC Subsidiary Fee	30,000.00	20,000.00	10,000.00	150.0%
<b>Total 6010 · Administration</b>	<u>163,067.67</u>	<u>154,700.00</u>	<u>8,367.67</u>	<u>105.41%</u>
6040 · Bank Service Charges	74.00			
6100 · Board Meetings	1,889.85	4,000.00	-2,110.15	47.25%
6150 · Broker	365,019.66	549,979.59	-184,959.93	66.37%
6200 · Carrier Payments	6,298,752.58	7,393,065.50	-1,094,312.92	85.2%
<b>6300 · Insurance</b>				
6350 · Insurance Other	1,181.18	1,500.00	-318.82	78.75%
<b>Total 6300 · Insurance</b>	<u>1,181.18</u>	<u>1,500.00</u>	<u>-318.82</u>	<u>78.75%</u>
6400 · Miscellaneous	197.83			
<b>6650 · Office Supplies</b>				
6665 · Office	140.00			
6650 · Office Supplies - Other	40.00			
<b>Total 6650 · Office Supplies</b>	<u>180.00</u>			
<b>6700 · Operating Expenses</b>				
6710 · Postage and Delivery	99.10	500.00	-400.90	19.82%
6715 · Printing and Reproduction	17.44			
6720 · Staff Travel	0.00	250.00	-250.00	0.0%
6730 · Telephone	5.62	50.00	-44.38	11.24%
6700 · Operating Expenses - Other	0.00	1,000.00	-1,000.00	0.0%
<b>Total 6700 · Operating Expenses</b>	<u>122.16</u>	<u>1,800.00</u>	<u>-1,677.84</u>	<u>6.79%</u>
<b>6800 · Professional Fees</b>				
6801 · Accounting	0.00	10,000.00	-10,000.00	0.0%
6804 · Consulting/Actuary	19,380.50	25,200.00	-5,819.50	76.91%
6807 · Legal Fees	4,431.00	15,000.00	-10,569.00	29.54%
<b>Total 6800 · Professional Fees</b>	<u>23,811.50</u>	<u>50,200.00</u>	<u>-26,388.50</u>	<u>47.43%</u>

FDAC EBA  
**Budget vs. Actual**  
July 2008 through April 2009

	<u>Jul '08 - Apr 09</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
6850 · Training/Communication	0.00	5,000.00	-5,000.00	0.0%
Total 6000 · EXPENSE	<u>6,854,296.43</u>	<u>8,160,245.09</u>	<u>-1,305,948.66</u>	<u>84.0%</u>
Total Expense	<u>6,854,296.43</u>	<u>8,160,245.09</u>	<u>-1,305,948.66</u>	<u>84.0%</u>
Net Ordinary Income	<u>131,944.80</u>	<u>303,979.32</u>	<u>-172,034.52</u>	<u>43.41%</u>
Net Income	<u><u>131,944.80</u></u>	<u><u>303,979.32</u></u>	<u><u>-172,034.52</u></u>	<u><u>43.41%</u></u>



2130 East Bidwell Street, Suite 2. Folsom, CA 95630 [916]983-8000

**DAVID W. McMURCHIE**  
dcmurchie@mcmurchie.com

**VICKI E. HARTIGAN**  
vhartigan@mcmurchie.com

May 12, 2009

To: Melissa Dixon at [mdixon@fdac.org](mailto:mdixon@fdac.org)  
FDAC EBA

From: David W. McMurchie at [dcmurchie@mcmurchie.com](mailto:dcmurchie@mcmurchie.com)

Re: Revisions to Investment Policy

Dear Melissa:

Please find enclosed a redline and clean copy of our proposed revisions to the investment policy.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

DAVID W. McMURCHIE

DWM:sjm

**DRAFT**  
**FDAC Employment Benefits Authority**  
**Investment Policy**

POLICY

Under the authority granted by the FDAC EBA Board of Directors, the Treasurer (or his or her designee) is responsible for investing FDAC EBA funds.

The investment of the funds of the FDAC EBA is directed to the goals of safety, liquidity and yield. The primary objective of the investment policy of the FDAC EBA is safety of principal. The secondary objective shall be to meet the Authority's liquidity needs. The third objective shall be to achieve a return on the funds under the FDAC EBA's control. Investments shall be placed in those securities as outlined by type and maturity sector in this document. Effective cash flow management and resulting cash investment practices are recognized as essential to good fiscal management control. The FDAC EBA's portfolio shall be designed and managed in a manner responsive to the public trust and consistent with state and local law.

OBJECTIVES

**Safety of Principal**

Safety of principal is the foremost objective of the FDAC EBA. Each investment transaction shall seek to ensure that capital losses are avoided, whether from securities default, broker-dealer default or erosion of market value. The Authority shall seek to preserve principal by mitigating the two types of risk, credit risk and market risk.

Credit risk, defined as the risk of loss due to failure of the issuer of a security, shall be mitigated by investing in investment grade securities and by diversifying the investment portfolio so that the failure of any one issuer does not unduly harm the FDAC EBA's capital base and cash flow.

Market risk, defined as market value fluctuations due to overall changes in the general level of interest rates, shall be mitigated by limiting the average maturity of the FDAC EBA's investment portfolio to one year, the maximum maturity of any one security to two years, structuring the portfolio based on historic and current cash flow analysis eliminating the need to sell securities prior to maturity and avoiding the purchase of long-term securities for the sole purpose of short-term speculation.

**Liquidity**

Because the FDAC EBA is responsible for paying insurance carriers, cash flow is generated on a monthly basis. Historical cash flow trends are compared to current cash flow requirements on an ongoing basis in an effort to ensure that the Authority's investment portfolio will remain sufficiently liquid to enable the FDAC EBA to meet all reasonably anticipated operating requirements. All investments should be up to one year maximum in length. In addition, they will be laddered for maximum liquidity. For example, a one-year CD may be purchased in quarterly increments, so that a CD matures every quarter and the FDAC EBA is never more than three months away from liquidity on at least twenty-five percent (25%) of its funds.

**Return on Investment**

Maximizing the return on the FDAC EBA's investments is of utmost importance to the Authority. The objective here is to be competitive with the average return on a one-year CD or Treasury.



**AUTHORIZED INVESTMENTS**

Investment of FDAC EBA funds is governed by the California Government Code Sections 53600 et seq. Within the context of the limitations, the following investments are authorized, as further limited herein:

*Diversification by Investment* *Maximum % of Portfolio*

<p><u>1. U.S. Treasury Obligation (Bills, Notes, Bonds) United States Treasury Notes, Bonds, Bills, or Certificates of Indebtedness,</u>  <u>for which the full faith and credit of the United States are pledged for the</u>  <u>payment of principal and interest</u></p>	100%
<p><u>2. Certificates of Deposit representing</u>  <u>Certificates of Deposit (CD) Commercial Banks or State a deposit of funds at a commercial</u>  <u>bank or credit union for a specified period of time and for a specified</u>  <u>return at maturity. Eligible Certificates of Deposit shall be issued by a</u>  <u>nationally or state chartered bank or a state or federal association whose</u>  <u>senior debt obligations are rated "AA" or better by Standard &amp; Poor's</u>  <u>or Moody's. The full amount of the principal and interest that may be</u>  <u>accrued during the maximum term of each Certificate of Deposit shall</u>  <u>at all times be insured by the Federal Deposit Insurance Corporation or</u>  <u>the National Credit Union Administration, or fully collateralized.</u></p>	100%
<p><u>3. Negotiable Certificates of Deposit issued by a nationally or state chartered</u>  <u>bank, provided that the senior debt obligations of the issuing institution are</u>  <u>rated "AA" or better by Standard and Poor's or Moody's.</u></p>	30%
<p><u>4. Savings Account or Money Market Account fully insured by the Federal</u>  <u>Deposit Insurance Corporation, or fully collateralized.</u></p>	100%
<p><u>5. State of California Local Agency Investment Fund ("LAIF")</u></p>	50%

Ineligible investments are those that are not described herein, including but not limited to, common stocks, commercial paper, corporate notes and bonds, repurchase agreements, banker's acceptances, as well as any authorized investment exceeding five years in maturity. It is noted that special circumstances may arise that necessitate the purchase of securities beyond the five-year limitation. On such occasions, requests must be approved by the Board of Directors no less than three (3) months prior to the investment.

<p><u>Money Market</u></p>	100%
<p><u>LAIF (Local Agency Investment Fund)</u></p>	100%

~~Ineligible investments are those that are not described herein, including but not limited to, common stocks and long-term (over 5 years in maturity) notes and bonds are prohibited from use in this portfolio. It is noted that special circumstances may arise that necessitate the purchase of securities beyond the five-year limitation. On such occasions, requests must be approved by the Board of Directors prior to purchase.~~

### LEGISLATIVE CHANGES

Any State of California legislative action that affects allowable maturities, investment type or percentage allocations, will be incorporated into the FDAC EBA's Investment Policy and supersede any and all previous applicable language.

### INTEREST EARNINGS

All moneys earned and collected from investments authorized in this policy shall be allocated monthly to various fund accounts based on the cash balance in each fund as a percentage of the entire pooled portfolio.

### POLICY REVIEW

The FDAC EBA's investment policy shall be adopted by the Board of Directors. This investment policy shall be reviewed at least annually to ensure its consistency with the overall objectives of preservation of principal, liquidity and yield, and its relevance to current law and financial and economic trends. Any amendments to the policy shall be approved by the FDAC EBA Board of Directors.

**DRAFT**  
**FDAC Employment Benefits Authority**  
**Investment Policy**

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<i>Diversification by Investment</i>	<i>Maximum % of Portfolio</i>
1. United States Treasury Notes, Bonds, Bills, or Certificates of Indebtedness, for which the full faith and credit of the United States are pledged for the payment of principal and interest	100%
2. Certificates of Deposit representing a deposit of funds at a commercial bank or credit union for a specified period of time and for a specified return at maturity. Eligible Certificates of Deposit shall be issued by a nationally or state chartered bank or a state or federal association whose senior debt obligations are rated "AA" or better by Standard & Poor's or Moody's. The full amount of the principal and interest that may be accrued during the maximum term of each Certificate of Deposit shall at all times be insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, or fully collateralized.	100%
3. Negotiable Certificates of Deposit issued by a nationally or state chartered bank, provided that the senior debt obligations of the issuing institution are rated "AA" or better by Standard and Poor's or Moody's.	30%
4. Savings Account or Money Market Account fully insured by the Federal Deposit Insurance Corporation, or fully collateralized.	100%
5. State of California Local Agency Investment Fund ("LAIF")	50%

Ineligible investments are those that are not described herein, including but not limited to, common stocks, commercial paper, corporate notes and bonds, repurchase agreements, banker's acceptances, as well as any authorized investment exceeding five years in maturity. It is noted that special circumstances may arise that necessitate the purchase of securities beyond the five-year limitation. On such occasions, requests must be approved by the Board of Directors no less than three (3) months prior to the investment.

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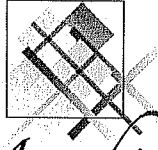
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*McMurchie Law*

2130 East Bidwell Street, Suite 2, Folsom, CA 95630 [916]983-8000

**DAVID W. McMURCHIE**  
dmcurchie@mcmurchie.com

**VICKI E. HARTIGAN**  
vhartigan@mcmurchie.com

May 12, 2009

Catherine Smith  
Executive Director  
FDAC Employment Benefits Authority  
1215 K Street, Suite 2290  
Sacramento, CA 95814

**Re: COBRA Premium Reduction under the American Recovery and Reinvestment Act of 2009**

Dear Catherine:

Pursuant to direction from the Board of Directors, I have researched the issue of the effect of the American Recovery and Reinvestment Act of 2009 ("ARRA") on the Employment Benefits Authority's COBRA coverage. I have attached relevant documentation issued by the Internal Revenue Service with respect to some of the questions frequently encountered with respect to this issue.

ARRA provides for premium reductions and additional election opportunities for health benefits under COBRA. Eligible individuals pay only 35% of their COBRA premiums and the remaining 65% is reimbursed to the coverage provider through a payroll tax credit. This premium reduction applies to periods of health coverage beginning on or after February 17, 2009 and lasts up to a maximum of nine (9) months. In order to be eligible an employee must be involuntarily terminated from employment between September 1, 2008 and December 31, 2009, and elect COBRA coverage. ARRA treats eligible individuals who pay 35% of their COBRA premium as having paid the full amount.

ARRA provides that the "person to whom premiums are payable" is entitled to reimbursement for the amount of COBRA premiums not paid by the eligible individual (the 65% subsidy). The reimbursement is in the form of a credit against payroll tax liabilities which can be either federal income tax withholding, the employer's share of FICA, or the employee's share of FICA. The credit is claimed on that person's payroll

Catherine Smith, Executive Director  
FDAC Employment Benefits Authority  
May 12, 2009  
Page 2 of 2

tax return, Form 941, filed quarterly. The definition of "person to whom premiums are payable" is based on the nature of the plan, to which COBRA continuation coverage provisions apply. The IRS has advised that in the case of a multi-employer plan, it is the multi-employer plan that is allowed the credit. That is because the multi-employer plan is the "person to whom premiums are payable." Therefore, it would seem to follow that a local employer plan, such as the EBA, files a Form 941 payroll tax return quarterly covering those months in which it pays 65% of the premium for COBRA eligible participants.

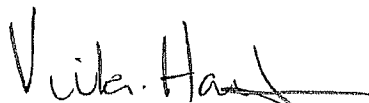
The provisions of ARRA also provide that if the COBRA subsidy paid by the multi-employer plan and reported on the Form 941 exceeds the payroll tax liability, that the excess will be refunded by the IRS to the multi-employer plan.

Therefore, it would appear that even though, to my knowledge, the EBA has no employees and therefore does not currently file quarterly Form 941 payroll tax returns, that the EBA as the multi-employer plan should commence filing payroll tax returns for those quarters in which it does directly pay any COBRA subsidy pursuant to the provisions of ARRA, report the amount of tax as zero and the amount of COBRA subsidy paid, and request a direct reimbursement in the cover letter.

Please note that at the end of IRS Notice 2009-27 attached, that the IRS is admitting that there are various issues relating to the premium reduction provisions that have not been addressed in this notice and that may affect particular arrangements, including multi-employer plan arrangements. There is a contact individual listed if you want to contact them regarding any additional questions you may have regarding the reimbursement provisions.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

  
for DAVID W. McMURCHIE

DWM:sjm  
Enclosures