

# **MEDICAID OVERSIGHT AND ADVISORY COMMITTEE**

## **Minutes**

**September 9, 2019**

### **Call to Order and Roll Call**

The Medicaid Oversight and Advisory Committee meeting was held on Monday, September 9, 2019, at 10:00 AM, in Room 171 of the Capitol Annex. Senator Stephen Meredith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen Meredith, Co-Chair; Representative Daniel Elliott, Co-Chair; Senators Ralph Alvarado, Danny Carroll, Jimmy Higdon, and Morgan McGarvey; Representatives Jim Gooch Jr., Melinda Gibbons Prunty, Steve Sheldon, and Lisa Willner.

Guests: Beth Partin, Medicaid Advisory Council, Tom Miller, CEO, University of Louisville Hospital

LRC Staff: DeeAnn Wenk, Lead Staff, Chris Joffrion, Hillary McGoodwin, and Dana Simmons

### **Overview of the Advisory Council for Medical Assistance**

Dr. Beth Partin, Chairperson, Medicaid Advisory Council, stated that Medicaid Advisory Council (MAC), was established by the Kentucky General Assembly in 1960, to advise the legislative and executive branch on services provided by the Cabinet for Health and Family Services, development of Medicaid policy, and participation in programming. Outlined in KRS 205.540. Membership on the council consists of 18 total members. 17 are appointed by the Governor with all appointments lasting four years and the cabinet secretary for Health and Family Services serves as an ex-officio member. Dr. Partin stated that the MAC is required by statute to meet at least every three months but has chosen to meet every other month. In addition to the MAC, per KRS 205.590, there are 15 technical advisory committees (TACs) which are made up of professional and community representatives who advise the council. Recommendations made by the TACs are voted on by the MAC and sent to the Department for Medicaid Services. Dr. Partin stated that often when there is policy from the cabinet, the council is not given an opportunity to participate in the development process and is often informed of policy changes after policy becomes law.

In response to comments and questions from Senator Meredith, Dr. Partin stated that the MAC has been focused on issues surrounding the 1115c waiver, working with managed care organizations on reduction of emergency room visits and, ways to incentive

preventative care. Dr. Partin stated that most of the TACs meet regularly with reciprocal communication between the TACs and the MAC.

In response to questions from Representative Elliott, Dr. Partin says that despite the secretary for the Cabinet for Health and Family Services being an ex-officio member of the MAC, the secretary is rarely present at the meetings, but there is always a representative from the cabinet as well as from Department for Medicaid Services in attendance.

In response to questions from Representative Prunty, Dr. Partin stated that the MAC could have made an impact on the outcome of the pharmacy benefit manager policy, if the MAC had been brought into the discussion.

In response to questions and comments from Senator Alvarado, Dr. Partin stated that the MAC did not attend all public hearings regarding the 1115c waiver nor was the MAC asked to come to the table when the legislation for the 1115c waiver was being drafted.

In response to questions and comments from Representative Sheldon, Dr. Partin stated that the managed care organizations communicate directly with the MAC in addition to attending MAC meetings.

### **Passport/Evolent Healthcare Update**

Senator Meredith addressed the absence of planned presenter, Scott Bowers, Passport CEO. Senator Meredith stated he was disappointed when Mr. Bowers informed him that he would not attend the Medicaid Advisory and Oversight Council meeting due to advice from his counsel in fear that coming before the committee would violate the blackout period for the Medicaid managed care RFP. Senator Meredith said that he was confused by that because the purpose for Passport being called before the committee was to follow up on the declaration from January that they were preparing to file for bankruptcy based on a reimbursement rate decrease recommended by a cabinet funded actuarial analysis. Senator Meredith stated that in April 2019, another cabinet funded actuarial analysis reported that Passport now needed a reimbursement rate increase.

Senator Meredith stated he was bewildered by the discrepancy between the two actuarial analysis reports and would like to get answers from the cabinet. Senator Meredith directed the committee to the letter Mr. Bowers sent in his absence and opened the floor for comments from the members.

Senator Higdon stated that he echoed the frustrations of Senator Meredith and that Mr. Bowers' absence seems shortsighted, leaving many unanswered questions.

Senator Carroll stated that providers in his area, have experienced issues with reimbursement from Passport and many have begun dropping Passport altogether. Senator

Carroll stated that when a provider drops a managed care organizations (MCO), there are large ramifications for the community. Senator Carroll stated that he is bothered by the many ongoing issues with MCOs and their lack of cooperation, ethical practices, and not prioritizing the needs of the people they serve.

Senator Alvarado stated that in a recent PBM report, \$40 million of Passport's expenditures went to PBMs and the administrative costs for Passport is higher than any other state agency and higher than all other MCOs. Senator Alvarado recommended that Passport look at their administrative and internal expenditures.

### **University of Louisville/ Jewish Hospital Update**

Tom Miller, CEO, University of Louisville Hospital, stated that the Kentucky One Health hospital system has been for sale for several years. In December 2018, the University of Louisville expressed an interest in acquiring the assets of the Kentucky One Health System to consolidate them into University of Louisville Health. As of December 2018, Kentucky One Health was losing approximately \$41 million a year. Mr. Miller stated the university's proposed plan of acquisition involved seeking a capital partner who would provide financial and management resources which would support a multi-year turn around that would not put the university at risk for the significant financial losses. As of June 14, 2019, without finding a capital partner, the university discontinued discussions to purchase Kentucky One Health.

Mr. Miller stated that in August 2019, the university received word from Kentucky One Health that they were suspending heart transplant services and were starting the process to close Jewish Hospital. Mr. Miller stated that after that became known, the university and the Governor began discussing a partnership option with a loan of \$50 million from the state, to retain jobs and keep these hospitals open in Louisville. Mr. Miller stated that as of August 2019, university hospital was running above capacity and could not accommodate Jewish Hospital's over 200 patients and 35,000 emergency room visits. The partnership with the state and local foundations gave the university board the ability to acquire the Kentucky One Health facilities effective November 1, 2019.

Mr. Miller stated that the November 1, 2019 acquisition date secured access to care for the one in four Medicaid patients at Kentucky One Health hospitals and secured over 2,000 jobs in the system. In 2018, Kentucky One Health saw 11,439 Medicaid discharges and University Hospital had 6,790 Medicaid discharges, marking them both as high-volume Medicaid providers. In 2018, Kentucky One Health saw \$189.3 million in Medicaid revenue dollars and the university provided \$166.8 million in Medicaid revenue dollars, totaling \$356.1 million for both healthcare systems.

In response to questions and comments from Senator Meredith, Mr. Miller stated that the importance of keeping Jewish Hospital functioning serves more than just the city

of Louisville's interest. Mr. Miller stated that one in three patients seen at Jewish Hospital and over 40% of the out-patient physician visits come from rural towns and counties.

In response to questions and comments from Senator Alvarado, Mr. Miller stated that Jewish hospital saw approximately 35,000 emergency room visits in 2018 and 3,000 per month in 2019. With University hospital at capacity, they could not absorb the amount of patients seen at Jewish, if it were to close. Mr. Miller stated that if the transplant program at Jewish hospital were to close, those patients would have to seek treatment outside of their communities and state for care. Mr. Miller stated that the agreement with the Governor is that the state will lend the university \$50 million with \$25 million to be paid back over a period of time. If the payments were not made, the University Medical Center would be the backstop. Mr. Miller stated there is a five year loan forgiveness agreement with repayments beginning in the fifth year.

In response to questions and comments from Representative Sheldon, Mr. Miller stated that the university will be giving Kentucky One Health \$10 million for their assets. Kentucky One Health will forgive the University of an over \$20 million information technology systems loan from when Kentucky One Health broke away from the university several years ago. The university will keep the \$75 million accounts receivable and several local foundations will be contributing. The Jewish Heritage Foundation will be contribute \$10 million and St. Mary's/St. Elizabeth's Healthcare Systems will contribute \$10 million a year for 4 years. Mr. Miller stated that the main objective is to ensure that the facility stays open so the needs of the community do not go unmet.

In response to questions and comments from Senator McGarvey, Mr. Miller stated the university acknowledges that there are risks involved with this deal. If by the November 1, 2019 acquisition date, the state is unable to fulfill their partnership agreement, the university is prepared to continue with the purchase. Currently the University of Louisville faculty provides 40 percent of the care for Jewish Hospital which fulfills all the disciplinary needs of the university's teaching faculty; the university hospital cannot meet the multi-disciplinary needs alone. Mr. Miller stated that the Governor suggested to the university that their partnership would be an economic development driven deal between the state and the needs of the largest economy in the state.

In response to questions and comments from Representative Elliott, Mr. Miller stated that the university was able to identify the financial shortfalls of the Kentucky One Health system and planned improvements for those shortfalls in their purchase proposal. Since the university is a teaching hospital, the university qualifies for matching federal funds of \$33 million which Kentucky One Health did not have. Kentucky One Health had issues with their outsourced collections which the university would do in house, saving overhead. Mr. Miller stated that Jewish Hospital was paying \$41 million in corporate overhead and the university would be able to cut those administrative fees to \$21 million.

## **Discussion of Prefiled Bills**

### **2020 RS BR 275**

In response to questions from Representative Sheldon, Senator Meredith stated that 2020 RS BR 275 is a bill that is designed to give the legislature more oversight over provider reimbursements from MCOs to ensure fair and equitable payment for rural providers. Senator Meredith stated that with the current lack of accountable oversight of the MCOs' reimbursement to providers, rural hospitals suffer from the inability to be competitive with contracts like the urban hospitals are able to be which lowers the rural hospital reimbursement rate.

### **2020 RS BR 315**

In response to questions from Representative Prunty, Senator Meredith stated that 2020 RS BR 315 is a bill to eliminate Medicaid co-pays. Senator Meredith stated that the MCOs are at fault for not educating the recipients on co-pays. The inability to collect co-pays creates a financial burden on providers.

In response to questions from Representative Gooch, Senator Meredith stated that 2020 RS BR 315 does not address the problem of the healthcare industry and the need for reform. It does buy time for the rural providers to stay afloat until healthcare reform happens.

### **2020 RS BR 278**

In response to comments from Representative Prunty, Senator Meredith stated that 2020 RS BR 278 seeks to limit the number of MCOs to three to ease the credentialing burden that many providers are having. Senator Meredith cited 2018 RS HB 69 which created single-source credentialing as another mechanism to help providers more easily get credentialed with the MCOs. However, the problem will not be solved until there is a limit on the number of MCOs a provider has to work with.

In response to questions from Representative Sheldon, Senator Meredith stated that 2020 RS BR 278 will enhance the bidding process and make it more competitive since there will be fewer MCOs' to choose from.

## **Adjournment**

There being no further business, the meeting was adjourned at 11:45AM.