

MEDICAID OVERSIGHT AND ADVISORY COMMITTEE

Minutes

August 15, 2018

Call to Order and Roll Call

The Medicaid Oversight and Advisory Committee meeting was held on Wednesday, August 15, 2018, at 1:30 PM, in Auditorium B at the Sullivan University College of Pharmacy and Health Sciences, Louisville, Kentucky. Representative Kimberly Poore Moser, Chair, called the meeting to order at 1:32 PM and the secretary called the roll.

Present were:

Members: Senator Ralph Alvarado, Co-Chair; Representative Kimberly Poore Moser, Co-Chair; Senators Danny Carroll, Morgan McGarvey, and Stephen Meredith; Representatives Jim Gooch Jr. and Joni L. Jenkins.

Guests: Adam Meier, Secretary, Kristi Putnam, Deputy Secretary, Cabinet for Health and Family Services; Jill Hunter, Commissioner, Stephanie Bates, Deputy Commissioner, John Inman, Chief of Staff, Pam Smith, RN, Lori Gresham, Clinical Program Manager Senior, Department for Medicaid Services, Cabinet for Health and Family Services; Cindy Stowe, Dean, College of Pharmacy and Health Sciences, Sullivan University; Erin Klarer, Vice President of Government Relations, Kentucky Higher Education Assistance Authority; Debra McAfee, Volunteer Advocate, National Multiple Sclerosis Society; Miriam Fordham, Legislative Fiscal Analyst, Legislative Research Commission; Terri Thomas, Harbor House of Louisville; Alice Blackwell, Assistant Director, Department for Behavioral Health, Developmental and Intellectual Disabilities; Emily Coons, Outpatient Social Worker, Case manager, Frazier Rehab Institute of Jewish Hospital & St. Mary's HealthCare; Dan Fisher, Partner, Health Care Practice Chair, Bingham Greenebaum Doll; Rebecca Barker, West Branch Manager, Division of Reentry Services, Kentucky Department of Corrections; Shawna Dellecave, Director, Council on Developmental Disabilities; and Kelly Knoop, Kentucky Protection & Advocacy.

LRC Staff: DeeAnn Wenk, CSA, Dana Simmons, Gina Rigsby, and Becky Lancaster.

Approval of Minutes

A motion to approve the minutes from the July 18, 2018 meeting was made by Senator Alvarado, seconded by Senator Meredith, and approved by voice vote.

Welcome to Sullivan University, College of Pharmacy and Health Sciences

Cindy Stowe, Dean, College of Pharmacy and Health Sciences, Sullivan University, welcomed the committee members to the college. There are three educational programs at the college: pharmacy technician, PharmD, and physician assistant. Most students are from Kentucky. The college has a mission to help improve the health and wellbeing of Kentuckians and to be community leaders. The college works toward making sure that when students enter into a practice, they are productive members of the community and not just their chosen profession.

Overview of Kentucky Medicaid Presentation on Kentucky Medicaid Copayments

Jill Hunter, Commissioner, Department for Medicaid Services (DMS), Cabinet for Health and Family Services (CHFS), stated that copayments have been a part of the Department's Managed Medicaid Program for several years. Copayment requirements have not changed for recipients enrolled in fee-for-service (FFS). Prior to July 2, 2018, the Medicaid contracted Managed Care Organizations (MCOs) were given discretion to determine their policy on copayment administration, resulting in some copayments being waived. MCOs were no longer permitted to waive copayments beginning July 2, 2018, in accordance with the administrative regulation that took effect that date. Due to Kentucky HEALTH being remanded to the United States Department for Health and Human Services (HHS), there was some confusion on copayment implementation by the MCOs.

Adam Meier, Secretary, Cabinet for Health and Family Services, stated that because there were a lot of internet technology (IT) system changes and the mandatory collection of copayments was going into effect at the same time, a lot of the IT changes were built in to the same release. Different MCOs chose to operationalize their IT releases differently and this had an impact when those MCOs had to delete certain items from the IT system. If Kentucky HEALTH had gone into effect, participants would not have been changed from the premium plan to the copayment plan for several months if they had not chosen the premium plan. Since the judgment in the lawsuit stopped Kentucky HEALTH from going into effect, it expedited, by a couple of months, the number of people put into a copayment plan.

Commissioner Hunter stated that DMS has reinstated to MCOs the same discretion on copayment administration that they had prior to July 2, 2018. Prior to July, most MCOs waived some copayments. The same exemptions apply for copayments, and certain populations are still exempt from copayments. Prior to July, some MCOs administered a copayment for pharmacy benefits. Secretary Meier stated that the intent with the Medicaid expansion population was to apply the same administrative regulation that has been in effect for the fee-for-service population so it would be consistent. There should be in change on how an MCO collects copayments.

Commissioner Hunter stated that cost-sharing is a big part of health insurance, and this is an opportunity for recipients to have involvement in their health care. Copayments for generic drugs are cheaper than for non-preferred brand drugs.

In response to questions by Senator Meredith, Commissioner Hunter stated that copayments have always been a part of the Medicaid rate capitation. The Centers for Medicaid and Medicaid Services (CMS) requires that the cabinet have copayment consideration in the capitation payments that are given to the MCOs, so copayments are not necessarily a fiscal positive or a negative for Medicaid. Secretary Meier stated that the point of cost-sharing is to drive more responsible utilization whether it is copayments or premiums. The cabinet felt that the premium plan for Kentucky HEALTH would be easier to administer but it also would drive better utilization of preventive care, primary care, and specialty care. The MCOs contract with providers, so the reimbursement rates would be negotiated with providers. A provider would be reimbursed the negotiated amount less the copayment. Incentives in Kentucky HEALTH were built around better utilization. It would not cost more to administer Kentucky HEALTH than the current program.

In response to questions by Representative Jenkins, Deputy Commissioner Stephanie Bates, Department for Medicaid Services, Cabinet for Health and Family Services, stated that the goal is no copayments for children, but under the Kentucky Children's Health Insurance Program 3 (KCHIP) a child could possibly have to pay a copayment because the household income is higher. Secretary Meier stated that if a child participates in a program like Bridgehaven which provides wrap around services, there would only be one copayment per day even if the child receives more than one service from the same provider.

In response to questions by Senator Alvarado, Secretary Meier stated that it is currently up to the MCOs to implement copayments. Deputy Commissioner Hunter stated that she would provide the names of the MCOs that will or will not implement copayments. Once Kentucky HEALTH is implemented, there may be premiums and copayments depending on the specific plan the recipient is enrolled in. Secretary Meier stated that Kentucky does not have accounts that a recipient contributes to but an adjustable account that is funded by the state. Copayments would be paid out-of-pocket by the Medicaid recipients just like they are in FFS. If a recipient is in a premium plan, there would not be any copayments. Deputy Commissioner Bates stated that a provider can operationalize their normal collection process. A recipient who is under 100 percent of the federal poverty level (FPL), or in an emergency, cannot be refused treatment.

Representative Moser stated that it is important for to have consistency and predictability when Kentucky HEALTH is implemented.

Status of the 1115 Kentucky Health Waiver

Adam Meier, Secretary, Cabinet for Health and Family Services, stated that the cabinet has started a 30-day comment period that closes August 18, 2018. CMS reopened Kentucky's 1115 waiver for comment and review of the initial application, the updated modifications to the initial application, and the previously approved standard special terms and conditions that went along with the Kentucky HEALTH approval prior to it being vacated. The cabinet is still in discussions with CMS about how to proceed. The cabinet is looking at logistically possible scenarios for reimplementation of different components of Kentucky HEALTH.

Kristi Putnam, Deputy Secretary, Cabinet for Health and Family Services, was available for questions.

In response to questions by Senator Meredith, Secretary Meier stated that as of now there is no change to the current schedule for procurement contracts with the MCOs. The contracts would be awarded in July 2018 and then would take effect January 2019. The MCOs were given an extension of current contracts in July. The contracts have been filed with the Finance and Administration Cabinet. Secretary Meier stated that the extension for MCO contracts would include the responsibilities for the 1115 waiver. The MCOs are using the previous capitation rates until the cabinet can develop certified capitation rates that would be in place until Kentucky HEALTH is approved.

Update on Medicaid Waiver Programs and Personal Liability for Home and Community-Based Waivers

Jill Hunter, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services, stated that letters were sent to participants rescinding patient liability changes scheduled to take effect on August 1, 2018. DMS conducted five years of historical research on the 2,425 waiver participants with a patient liability as of June 2018. DMS examined the process for refresher training for staff and educating participants on patient liability. DMS conducted system tests and quality checks on DCBS staff to ensure neither technical nor human error caused mistakes in patient liability calculations.

Pam Smith, Senior Nurse, 1915(c) waiver, stated that the next steps for DMS will be to conduct expanded research on past patient liabilities, including all participants who have paid in the last five years but may not have been included in the 2,425 group from June 2018. Teams are working to revise letters that are sent to participants regarding patient liability. DMS teams are creating educational materials for both participants and staff. DMS will work with Navigant Consulting to research patient liability best practices and determine options for changing Kentucky's processes and policies. DMS will be examining the fiscal impact to both the state and to participants about any potential patient liability changes including an adjustment of the needs allowance, up to 300 percent, before moving forward.

In response to a question by Representative Moser, Ms. Smith stated that DMS is using multiple approaches to help recipients and/or their legal representatives understand what is being undertaken by the cabinet. Commissioner Hunter stated that the letters that go to the recipients in the 1915(c) waiver are being personally signed by her to let them know that their concerns are important and will be addressed.

In response to a question by Senator Carroll, Commissioner Hunter stated that the cabinet wants to be sure of the fiscal impact to DMS and the recipients of any change in patient liability.

In response to a question by Representative Jenkins, Commissioner Hunter stated that the department does not have a set date for resolution of the problem because it does not want to miss looking at all of the recipient cases. She will update the committee on its progress.

In response to a question by Senator Alvarado, Ms. Smith stated that the department is sharing data with the federal government about how Kentucky is out of compliance and the plans to get back in compliance.

In response to a question by Senator McGarvey, Ms. Smith said that there will not be any changes retroactively to collect underpayments from a recipient, but if the department made an error in calculations resulting in an overpayment, the recipient would be refunded the amount of the overpayment.

In response to a question by Senator Carroll, Ms. Smith stated that there have always been budget limitations within the Michele P. waiver. Recipients can write their plans to flex units as long as they do not go over the limits set by administrative regulation. DMS has been working with providers on patient's plan of care.

Lori Gresham, Senior Nurse who works with the 1915(c) waiver, stated that there has been increased interagency collaboration. The Division of Community Alternatives in DMS has increased its knowledge about national trends and best practices within home and community-based and to improve knowledge and understanding of federal requirements for the 1915(c) waivers. Throughout the process, DMS has been adamant about including stakeholders. Kentucky continues to be one of a few states that has received final approval on its transition plan on statewide compliance for federal final rules. After consideration of public comments, Navigant will submit a final report to the cabinet that will include their assessment of Kentucky, the national trends and best practices, and final recommendations for the 1915(c) waivers. Public comment input, specific to Navigant's recommendations, was completed on June 15, 2018. Navigant will submit a final report to the cabinet of their assessment of Kentucky's 1915(c) waivers and their recommendations for redesign. The cabinet, in consultation with the Governor's office, will identify which recommendations

to implement, utilizing stakeholder input to help aide decisions. The cabinet will release implementation strategies and draft waivers with periods for public comment.

In response to questions by Senator Carroll, Commissioner Hunter stated that Navigant will conduct a rate study to look at reimbursement. Surveys will be sent in the fall to get input from providers. The challenge is that the cabinet has to remain budget neutral. She said that she would provide the committee with information on the process to fill slots in the waiver.

There being no further business, the meeting was adjourned at 2:26 p.m.