

MEDICAID OVERSIGHT AND ADVISORY COMMITTEE

Minutes

June 25, 2020

Call to Order and Roll Call

The meeting of the Medicaid Oversight and Advisory Committee was held remotely on Thursday, June 25, 2020, at 3:00 PM. Senator Stephen Meredith, Chair, called the meeting to order at 3:30 PM, and the secretary called the roll.

Present were:

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

Guest Legislators: Senator Max Wise and Representative Kim Moser.

Guests: Larry Hadley, Executive Director and Anthony Gray, General Counsel Kentucky Board of Pharmacy; Lisa Lee, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services.

LRC Staff: DeeAnn Wenk, Ben Payne, Chris Joffrion (Lead Staff), Dana Simmons, Becky Lancaster, Hillary McGoodwin, and Shyan Stivers.

Approval of Minutes

A motion to approve the December 19, 2019 meeting minutes was made by Senator Alvarado and seconded by Representative Elliott.

Update on the Legend Drug Repository Program

Larry Hadley, Executive Director, Kentucky Board of Pharmacy, presented an update on the Legend Drug Repository Program. Mr. Hadley stated that following discussion earlier this year with Jessin Joseph and Jonathan Scott of the Department of Medicaid Services (DMS), the Kentucky Board of Pharmacy began evaluating other states that successfully implemented similar programs. Mr. Hadley and Anthony Gray, General Counsel, Kentucky Board of Pharmacy, stated that based on their findings from other drug repository programs and their talks with DMS, they were able to draft a regulation, and sent that draft to DMS for review.

In response to a question from Senator Meredith, Mr. Hadley says the program drafted in the regulation does have promise. Mr. Gray stated that the program was modified

from the Iowa program to fit the Kentucky statute and that DMS will need to add appropriate Medicaid language when they conduct their review.

In response to Senator Meredith, Lisa Lee, Commissioner of the Department for Medicaid Services, stated that the real concern is the administrative burden the program would cause and that she has reached out to other states for help estimating this burden. Ms. Lee stated that cost savings were evident in other states that have implemented the program and that Kentucky would see similar cost savings if the administrative burden does not negate the cost-benefit.

In response to questions from Representative Sheldon, Lisa Lee agreed that North Dakota's program shows substantial drug cost savings for that state. The only potential barrier for Kentucky would be the administrative burden incurred by DMS.

In response to Senator Meredith's questions, Mr. Hadley stated that the path forward is for DMS to review the draft and make necessary adjustments. Lisa Lee said that DMS is waiting on a cost-benefit analysis to estimate the administrative burden.

In response to questions from Senator Danny Carroll, Lisa Lee said it may be wise to look into housing the program within local health departments and will have her office run the numbers on that scenario.

In response to Senator Meredith's questions, Lisa Lee said she would have a report prepared for the committee no later than a month from today, June 25, 2020.

Effects of COVID-19 on Medicaid Enrollment and Expenditures

Lisa Lee, Commissioner of the Department for Medicaid Services (DMS), stated that since the beginning of the pandemic, DMS was determined to ensure that the burden of the pandemic would not be placed on the providers. This included creating an 1135 waiver that gives flexibility in spending, suspends pre-authorizations, and pre-approvals, and streamlined the approval process for providers in telehealth and alternative settings. Additionally, the waiver granted access to out-of-state Medicaid providers to be covered in Kentucky, automatically, in the event of a shortage in state Medicaid providers. Due to the influx of patients in hospitals, DMS authorized an additional administrative day to cover the longer than average stay of Medicaid recipients to ensure providers and hospitals received payment without delay.

For long-term care facilities, a \$200 per day add-on bonus was approved to help shore up the cost of personal protective equipment and pandemic related cost burden for those facilities. Accounts receivable and cost-sharing has been waived for providers who have declared financial hardship, to-date there have been at least 14 providers who have requested such a waiver. Presumptive eligibility was enacted, which gave authority to grant temporary eligibility to patients to ensure payment to providers. Medicaid telehealth was encouraged and was utilized by social services to perform well-child checks, but it became

clear that the lack of in-person well-child check's led to decreased immunizations. DMS is working to ensure that immunization numbers are back up to par before starting the school year.

Commissioner Lee stated that there was a significant uptick in telehealth usage in the fee-for-service populations. The amount billed for telehealth in the fee-for-service population in January 2020, was \$13,560. In May 2020, it increased to \$ 3.9 million. In January 2020, Managed Care Organizations (MCOs) billed Medicaid \$378,089 for telehealth services, and in May 2020, they billed \$19 million for telehealth services. An area of budgetary concern for DMS is the deactivation of pre-authorizations. Due to the COVID related relaxation of pre-authorization requirements, there has been an uptick in the usage of the semi-private room and board code which pre-COVID billed roughly \$150,000 per month, but with the relaxation, this code is billing for \$6 million per month. That figure is not sustainable and is being monitored. In June, a notice was sent from DMS to MCOs, directing them to reinstitute prior-authorizations for substance abuse treatment centers, long-term care centers, and rehabilitation centers. This change should decrease the usage of the semi-private room/board billing code as pre-COVID authorization requirements are upheld. Additionally, due to COVID, there was a \$700,000 increase in non-emergency transportation costs.

Since March 2, 2020, 164,274 new enrollments have been processed, and 77,000 of these enrollees are enrolled under the presumed eligibility to help offset costs that would incur from the standard MCO eligibility process. The state has increased the Medicaid reimbursement rate of 6.2 percent, and the state Medicaid, provider relief fund, helped offset the state's shared cost to ensure quality standards. For the 2020 fiscal year, DMS will remain on budget, but the status of the 2021 budget is not clear.

In response to Senator Meredith's questions, the 2021 fiscal year will show the impact of the virus, and DMS will set rates accordingly.

In response to Senator Alvarado's question, on behalf of Senator Max Wise, Commissioner Lee stated that there is cost-shifting from MCOs from programs like dentists that could not operate, and DMS has instructed all MCOs to report where the money is being shifted. Commissioner Lee stated that there is an anticipated budgetary shortfall but could not speak to the shortfall.

Medicaid Managed Care RFP Process Update

Lisa Lee, Commissioner, Department for Medicaid Services, stated that currently, Kentucky has five MCO contracts with Aetna, Anthem, Humana, Passport, and Wellcare. All contracts were set to expire on June 30, 2020, but have been updated and extended to December 31, 2020. The updates to the contracts removed language referencing the Kentucky HEALTH 1115 waiver, extended the medical loss ratio adjustment period, and changed the MCO filing time period to match the fee-for-services filing period of 365 days.

In 2019, 7.9 billion dollars were spent on MCO populations and 3 million dollars in the fee-for-service populations. MCOs cover 70 percent of the Kentucky Medicaid population, and fee-for-service population includes 30 percent of the Medicaid beneficiaries.

DMS has awarded contracts to Aetna, Humana, Molina, United, and WellCare, with an anticipated start date of January 2021. The new contracts established one MCO for Supporting Kentucky Youth (SKY), which serves foster children and dually committed youth. The new contracts removed references to the KY HEALTH 115 Waiver and include reference to Kentucky statute, requiring compliance by all pharmacy benefit managers (PBM). Additions also included future modifications based on SB 50 requiring a single (PBM). The new contracts also included precise language for subcontractor requirements, including that all MCOs must share third-party liability information with subcontractors responsible for payment of covered services. Lastly, Commissioner Lee stated that language was amended regarding telehealth based on KRS 205.5591 and an update to medical necessity based on scientific evidence.

Senator Meredith commented that when the RFP process is finished, we would like to invite Commissioner Lee back to speak on those contracts.

Senator Alvarado commented that DMS must hold MCOs accountable.

Representative Gibbons Prunty commented that she believes there is a benefit to the work requirements in the KY HEALTH 115 waiver and would like to revisit it.

In response to Representative Sheldon, Commissioner Lee stated that following SB 50, the single PBM would be implemented in January 2021. In regards to supplemental rebates, Commissioner Lee said that pharmacy directors would get the money. Commissioner Lee assured Representative Sheldon and the committee that DMS would be monitoring the cost-shifting of MCOs, especially that of administrative costs.

In response to questions from Senator Meredith regarding the five new MCO contracts, Commissioner Lee stated that the RFP process prohibited her from commenting.

In response to questions from Representative Gibbons Prunty, Commissioner Lee stated her goal for transforming Medicaid is to become more than a payer of services by elevating Kentuckians' health status. Commissioner Lee said that she would like the program to become member-focused and a driver of innovative health policy while promoting the health of all Kentuckians.

Senator Meredith stated that the next meeting will be on July 29, 2020 at 3:00 PM.

Adjournment

There being no further business, the meeting was adjourned at 5:15 PM.