MEDICAID OVERSIGHT AND ADVISORY COMMITTEE

Minutes of the Meeting
of the 2020 Interim

July 29, 2020

Call to Order and Roll Call

The meeting of the Medicaid Oversight and Advisory Committee was held on Wednesday, July 29, 2020, at 3:15 PM, in Room 171 of the Capitol Annex. Representative Daniel Elliott, 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; Representatives Jim Gooch Jr., Steve Sheldon, and Lisa Willner.

Guests: Jessin Joseph, Pharmacy Director, Lisa Lee, Commissioner, Department for Medicaid Services, Eric Friedlander, Secretary, Carrie Banahan, Senior Policy Advisor, Cabinet for Health and Family Services.

LRC Staff: Chris Joffrion, Lead Staff, Hillary McGoodwin, and Shyan Stivers.

Update on the Legend Drug Repository Program

Jessin Joseph, Pharmacy Director, Department for Medicaid Services (DMS), Cabinet for Health and Family Services, provided a follow up to the June meeting presentation on the Legend Drug Repository Program. DMS had reached out to the Centers for Medicare and Medicaid Services (CMS), and CMS stated that while the drug repository is a good idea and is active in several states, the program would have to exclude Medicaid recipients. Drugs in the Medicaid program are paid for with federal funds and cannot be repurposed for use outside the Medicaid program. Additionally, per the rule published in the federal register, if there is a drug dispensing fee, there needs to be a rebate agreement with the drug manufacturer. Since DMS cannot claim a rebate on legend drugs, CMS told DMS that Medicaid members would have to be excluded.

In response to questions from Chairman Elliott, Mr. Joseph stated that CMS recognized the success of this program in other states for non-Medicaid members when pressed by DMS on the possibility of a Medicaid drug repository program.

Legislative Update: 2018 RS HB69, 2020 RS SB50, and 2020 RS HB8

Lisa Lee, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services, stated that regarding HB 69, DMS developed and released a Request for

Proposals for a single organization as a credentialing verification organization. A contract was awarded on June 30, 2020, and the award is currently under protest.

Commissioner Lee stated that regarding SB 50, the anticipated contract date is January 1, 2021, and that DMS will ensure proper communication is given to providers, members, and managed care organizations (MCOs) as we transfer to a single MCO pharmacy benefit manager (PBM). The PBM is subject to CMS approval. Medicaid MCO have received the clinical criteria for the Medicaid prescriptions single preferred drug list. All MCOs and Medicaid fee-for-service will be utilizing the same single preferred drug list on January 1, 2021.

Commissioner Lee stated that DMS has biweekly team meetings working to implement HB 8. DMS has finalized a provider revenue survey, and the department has a target implementation date of January 1, 2021. Commissioner Lee added that the program's final design requires the approval of a state plan amendment by CMS and amendments to associated regulations.

In response to questions and comments from Senator Meredith, Commissioner Lee stated that all contractors would have fiduciary responsibility and are expected to adhere to the law as outlined in SB 50.

In response to questions and comments from Senator Alvarado, Commissioner Lee stated that DMS is taking precautions to ensure no data breach will occur.

In response to questions and comments from Representative Sheldon, Commissioner Lee stated that every contractor is expected to work ethically and is held accountable.

Update on Plans to Transition to a State-Based Health Insurance Exchange

Eric Friedlander, Secretary, Cabinet for Health and Family Services, stated that on June 16, 2020, Governor Beshear announced a plan to move Kentucky back to a state-based health insurance exchange. Savings will be achieved by eliminating the federal exchange user fee, which was $15.2 million in 2019. Carrie Banahan, Senior Policy Advisor, Cabinet for Health and Family Services, stated that the federal exchange user fee has been included in Kentuckians' premium amounts to pay for the federal system and call center.

Ms. Banahan stated that in addition to eliminating the federal user fee, benefits of transitioning to a state-based exchange are found in retention of the fee in-state to reduce premiums for residents, improvements in administrative efficiencies, and the use of savings towards a state reinsurance pool. Nevada, New Jersey, New Mexico, and Pennsylvania are all states that will also be transitioning from a federal-based exchange to a state-based exchange. Secretary Friedlander stated that an additional benefit of a state-based exchange would be integrating with the Medicaid program, which will offer a single door to access

coverage. Secretary Friedlander added that by providing local control, the state would better serve the client's and provider's needs.

Ms. Banahan stated that there would be a one-time system cost for updates and new coding of $5 million, with the ongoing operational cost being $1 million to $2 million. The state-based health insurance exchange costs will be allocated with all public assistance programs for system and IT costs and with Medicaid for call center operations, education, and outreach, resulting in an overall reduction in costs.

Secretary Friedlander stated that a declaration letter of intent was sent to CMS on June 16, 2020, to transition to a state-based exchange beginning January 2022. The upcoming scheduled planning activities include: hosting joint design sessions, meeting with insurers, agents, and other stakeholders, establishing a governing structure, scheduling bi-weekly meetings with CMS, and updating the state-based exchange blueprint application.

In response to questions and comments from Representative Elliott, Secretary Friedlander stated that there are no available federal funds to transition to a state-based program.

In response to questions and comments from Senator Meredith, Ms. Banahan stated that there both user fee savings and 1332 waiver savings in the transition from a federal exchange. Ms. Banahan stated that there are no new outside contractors or consultants needed and that Deloitte will be rebuilding the system on a contract that was extended, for a one-time fee of $5 million.

In response to questions and comments from Senator Alvarado, Ms. Banahan stated that no Medicaid funds would be used to fund the transition. The cost savings from the transition will be allocated across all programs.

In response to questions and comments from Senator Carroll, Ms. Banahan stated that the concerns with Deloitte's track record are understandable. There are mechanisms in place in the contract extension to hold them accountable.

In response to questions and comments from Representative Elliott, Secretary Friedlander stated that the COVID-19 pandemic presumptive eligibility participants would not be precluded from qualifying from full Medicaid eligibility. The presumptive eligibility status will be treated like a major qualifying event for Medicaid which authorizes a person to apply for full benefits.

Adjournment

With there being no further business, the meeting was adjourned at 4:25 pm.