

MEDICAID OVERSIGHT AND ADVISORY COMMITTEE

Minutes of the Meeting of the 2020 Interim

August 26, 2020

Call to Order and Roll Call

The meeting of the Medicaid Oversight and Advisory Committee was held on Wednesday, August 26, 2020, at 3:15 PM, 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, and Morgan McGarvey; Representatives Jim Gooch Jr., Melinda Gibbons Prunty, Steve Sheldon, and Lisa Willner.

Guests: Dr. Laxmaiah Manchikanti, Chairman of the Board, American Society of Interventional Pain Physicians; Lisa Lee, Commissioner, and Leslie Hoffmann, Policy Advisor, Department for Medicaid Services (DMS), Cabinet for Health and Family Services.

LRC Staff: Chris Joffrion, Ben Payne, and Hillary Abbott.

Approval of Minutes

A motion to approve the July 27, 2020 meeting minutes was made by Senator Alvarado and seconded by Senator Carroll and approved by a voice vote.

Managed Care Organizations and Payment Recoupment Practices in the Ambulatory Surgery Center Space

Dr. Laxmaiah Manchikanti stated that the impact of COVID-19 on Medicaid providers in Kentucky has been immense. Managed care organizations (MCO) do not always comply with their repayment contracts with providers, which is further stressing providers who have seen a 40 percent drop in caseload and as much as an 86 percent drop in the number of elective procedures performed each week. At the same time, MCOs have seen a dramatic increase in profits from 2019. Dr. Manchikanti stated that the sharp decline in elective surgeries had decreased the number of prescriptions written for opioids by 52 percent and has contributed to the decrease in prescription opioid deaths. However, overdose deaths from cocaine and methamphetamine have increased. Dr. Manchikanti stated that when Centers for Medicare and Medicaid Services (CMS) relaxed the telehealth requirements for Medicaid, due to COVID, it helped many Medicaid providers stay afloat. Dr. Manchikanti recommended that CMS consider making the relaxed requirements

permanent to help Medicaid providers build caseloads with populations in urgent need in rural areas. Dr. Manchikanti also recommended that the General Assembly consider legislation to address the problems caused by MCOs and telehealth measures.

In response to questions and comments from Senator Alvarado, Dr. Manchikanti stated that access to care remains an issue, which is why investment in telehealth is crucial. Senator Alvarado stated that the General Assembly should work with DMS to see if Medicaid dollars can be used to subsidize broadband internet to Medicaid clients' homes.

Representative Gibbons-Prunty thanked Dr. Manchikanti for reiterating the importance of holding MCOs accountable for provider repayments as laid out in their contract.

Senator Meredith agreed with Dr. Manchikanti on the need for an omnibus bill to address a myriad of related issues.

Update on Medicaid-related Administrative Regulation Changes Due to COVID-19

Leslie Hoffmann, Policy Advisor, Department for Medicaid Services, Cabinet for Health and Family Services stated that the Department for Medicaid Services promulgated two administrative regulation to directly respond to COVID-19: 907 KAR 3:300 & E and 907 KAR 1:604 & E. Ms. Hoffmann stated that 907 KAR 3:300 & E were prepared to clarify the department's response to a declared emergency. 907 KAR 3:300 & E allow DMS to quickly respond to local, state, and federal public health emergencies, to communicate with Medicaid members and providers promptly, and to target emergency response to the Medicaid population. Ms. Hoffmann stated that this allowed DMS to expand telehealth to Medicaid members, expand presumptive eligibility, temporarily enrolled some providers to help meet needs, and allowed for continuous updating of the DMS provider website.

Ms. Hoffmann stated that two versions of 907 KAR 1:604 & E have been utilized during the COVID-19 emergency. 907 KAR 1:604E was filed in March and removed co-payment requirements for fee-for-service Medicaid beneficiaries, allows DMS to waive all Medicaid co-pays if necessary during a declared emergency, establishes a process to allow additional co-pay suspensions, and allows MCOs to reduce or eliminate co-pays for enrollees. Ms. Hoffmann stated that amendments were made after the public comment process, which highlighted several ongoing issues with co-pays and how they are impacting some Medicaid populations, like pregnant women who are not subject to co-pays but were being charged co-pays. Lisa Lee, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services, stated that future amendments DMS is evaluating are amendments to 907 KAR 3:170 to further expand telehealth among Medicaid populations and providers.

In response to questions and comments from Senator Meredith, Commissioner Lee stated that she believes DMS has the legal authority to eliminate co-pays and that she would be happy to work with Senator Meredith on legislation regarding co-pays and provider reimbursement issues.

In response to questions and comments from Senator Alvarado, Commissioner Lee stated that the goal is to make the provider portion whole while eliminating co-pays and reducing administrative burden.

Representative Gibbons-Prunty stated that most of the Medicaid providers in her district do not serve the Medicaid population for the money and deserve to be paid, by the MCOs, for the services that they provide.

Update on Medicaid Waiver Programs

Leslie Hoffmann, Policy Advisor, Department for Medicaid Services, Cabinet for Health and Family Services, presented an overview of Kentucky's six 1915(c) waivers. Ms. Hoffmann stated that the total expenditures for 1915(c) waivers in 2019 was \$940,561,437 in total paid claims of which \$658,393,006 was paid by federal cost-sharing dollars and \$282,168,431 paid by state funds. Ms. Hoffmann also provided an update on waiting lists. Currently, there is no waiting list for the Acquired Brain Injury, Home and Community Based, and Model II waiver. The number of people on the waiting lists for the Acquired Brain Injury- Long-term Care, Michelle P., and Supports for Community Living waivers are 38, 7305, and 2, 891, respectively. Finally Ms. Hoffmann stated that under the Kentucky Transitions program, 765 individuals have transitioned out of an institutional care setting since 2008. Federal funding for the Kentucky Transitions program has been extended through September 2021 and is likely to be extended again through 2024, at least.

In response to questions and comments from Senator Carroll, Ms. Hoffmann stated that the waiver program always tries to accommodate a person even if there is a waiting list by exhausting every resource. Commissioner Lee stated that the population is healthier due to expanded Medicaid, and if more people are healthy, they use fewer services, which offsets costs. Commissioner Lee added that money from one waiver could not be used to fund another. If private insurers were carrying their weight with Early and Periodic Diagnostic Screening (EPSD), there would not be the backlog of cases because they would be ruled out or placed in appropriate care before appearing on a waitlist.

In response to questions and comments from Senator Alvarado, Commissioner Lee stated that DMS complies with CMS. Still, any redesign of the waiver program would need CMS approval and regulation changes. Commissioner Lee stated that she would be happy to work with the General Assembly on any redesign ideas.

In response to questions and comments from Representative Elliott, Commissioner Lee stated that DMS would provide the committee with a copy of the 1915 (c) waiver analysis.

Representative Gibbons-Prunty stated that she believes that most people can be independent and would like to see 2019 RS HB 1 considered again in 2020 so that waiver spots can be free for people who genuinely need support.

Adjournment

There being no further business, the meeting was adjourned at 4:45 pm.