



MARYLAND HEALTH CARE COMMISSION
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MARYLAND HEALTH CARE COMMISSION
Thursday, February 17, 2011

Minutes

Vice Chair Falcone called the public meeting to order at 1:00 p.m.

Commissioners present: Conway, Falcone, Fleig, Jefferson, Kan, Krumm, Lyles, Olsen, Weinstein, and Worthington.

ITEM 1.

Approval of the Minutes

Commissioner Krumm made a motion to approve the minutes of the January 20, 2011 public meeting, which was seconded by Commissioner Jefferson and unanimously approved. Commissioner Kan made a motion to approve the minutes of the February 11, 2011 public meeting held via telephone, which was seconded by Commissioner Conway and unanimously approved.

ITEM 2.

Update of Activities

Rex Cowdry, Executive Director, said that he presented the Commission's budget to both the House Appropriations and the Senate Budget and Taxation Committees. Dr. Cowdry said the Chairs were appreciative that the Commission did not propose an increase in the cap.

Pam Barclay, Director of the Center for Hospital Services, introduced and welcomed Scharmaine Robinson to the Center for Hospital Services, Hospital Quality Initiatives. Ms. Barclay said Ms. Robinson will be working on hospital quality and performance issues, focusing primarily in the area of healthcare associated infections data collection and reporting.

Bruce Kozlowski, Director of the Center for Health Care Financing and Health Policy, announced that Aisha Pittman, Chief, Health Plan Quality and Performance, has resigned and will be joining the Health Quality Forum, in Washington, DC.

ITEM 3.

ACTION: Renewal of Primary Percutaneous Coronary Intervention (pPCI) Services Waiver

- **Frederick Memorial Hospital (Docket No. 11-10-0052 WR)**

Dolores Sands, Chief, Specialized Services Policy and Planning, presented the recommendation on Frederick Memorial Hospital's two-year waiver that would allow the hospital to continue to provide primary percutaneous coronary intervention services without on-site cardiac surgery services. Ms. Sands stated that the Commission reviewed Frederick Memorial Hospital's application and, based on that analysis and the record in this review, recommended that the facility be granted a two-year waiver. Commissioner Fleig made a motion to issue a two-year waiver that permits Frederick Memorial Hospital to provide primary percutaneous coronary intervention services without on-site cardiac surgery services, which was seconded by Commissioner Krumm and unanimously approved.

ACTION: Frederick Memorial Hospital is hereby granted a two-year primary PCI waiver.

- **Meritus Medical Center (Docket No. 11-21-0051 WR)**

Ms. Sands presented the recommendation on Meritus Medical Center's two-year waiver that would allow the facility to continue to provide percutaneous coronary intervention services without on-site cardiac surgery services. Ms. Sands stated that the Commission reviewed Meritus Medical Center's application and, based on that analysis and the record in this review, recommended that the facility be granted a two-year waiver. Commissioner Jefferson made a motion to issue a two-year waiver that permits Meritus Medical Center to provide primary percutaneous coronary intervention services without on-site cardiac surgery services, which was seconded by Commissioner Krumm and unanimously approved.

ACTION: Meritus Medical Center is hereby granted a two-year primary PCI waiver.

ITEM 4.

ACTION: COMAR 10.24.05 – Continuation of Non-Primary Research Waiver through Participation in the Follow-On C-PORT-E Registry: Action on Proposed Permanent and Emergency Regulations

Pam Barclay presented proposed permanent and emergency regulations regarding the Continuation of Non-Primary Research Waivers through Participation in the Follow-On C-PORT E Registry. Ms. Barclay said if adopted, the regulations would establish an application process that would allow the Commission to extend the research waivers of hospitals that are participating in the C-PORT E research study, and require those hospitals to participate in the follow-on C-PORT E Registry of Non-Primary PCI. She noted that the regulations would permit the Commission to extend npPCI waiver while it considers applications that may be file under future regulatory changes that may be adopted after the Commission considered the results of the C-PORT E study. Commissioner Krumm made a motion to adopt the regulations as proposed and emergency, which was seconded by Commissioner Fleig and unanimously approved.

ACTION: COMAR 10.24.05 – Continuation of Non-Primary Research Waiver through Participation in the Follow-On C-PORT-E Registry – ADOPTED as proposed and emergency regulations.

ITEM 5.

UPDATE: 2009 Joint Chairmen's Report – Maryland Emergency Medical System Operations Fund Update

Ben Steffen provided an update regarding the 2009 Joint Chairmen's Report regarding how Maryland's health care system could be improved, including whether the State should consider adding and/or consolidating existing trauma centers that provided duplicative services. Mr. Steffen noted that the Maryland Institute for Emergency Medical Services Systems (MIEMSS) studied the feasibility of adding additional trauma centers by designating another level of trauma capability. He discussed preliminary findings noting that in terms of Trauma Centers per million population. Mr. Steffen said that Maryland falls in the middle range of all states and states having significantly greater capacity provide it by designating more Level III and IV Centers. Mr. Steffen said that all Maryland Trauma Centers meet key utilization standards set forth in MIEMSS regulations.

ITEM 6.

ACTION: Release of Plans for Studying the Assignment of Benefit (AOB) Law

Ben Steffen provided an overview of the plan to evaluate the implementation of the Assignment of Benefits legislation. Mr. Steffen said that the MHCC is required to report to the House Health and Governmental Operations Committee and the Senate Finance Committee on the Commission's plans to study the impact of the law, which becomes effective July 1, 2011. He said the Commission is required to monitor the impact on the nonparticipating providers, patients, and carriers. Mr. Steffen noted that the MHCC, in consultation with the Maryland Insurance Administration, and the Office of the Attorney General, shall study: (1) benefits and costs associated with the direct reimbursement of nonparticipating providers by health insurance carriers under a valid assignment of benefits; (2) the impact of enacting a cap on balance billing for non-preferred, on-call physicians, and hospital-based physicians; (3) the impact on consumers of prohibiting health insurance carriers from refusing to accept a valid assignment of benefits; and (4) the impact of requiring direct reimbursement of nonparticipating providers by health insurance carriers on a health insurance carrier's ability to maintain an adequate number of primary and specialty providers in their networks, including the impact on billed charges, allowed charges, and patient responsibility for remaining charges, by specialty. Staff recommended that the Commission approve submission of the plan to the legislative committees. Commissioner Fleig made a motion to approve the staff recommendation, which was seconded by Commissioner Krumm and unanimously approved.

- **ACTION: Release of Plans for Studying the Assignment of Benefits (AOB) Law is hereby APPROVED.**

ITEM 7.

ACTION: Legislation

Rex Cowdry and Bruce Kozlowski provided an update on the 2011 legislative session and proposed staff recommendations on specific bills for action.

Bruce Kozlowski discussed the following bills that staff submitted letters of information:

- **SB 742/HB 690 – Maryland Cardiovascular Patient Safety Act**

Mr. Kozlowski said that SB 742 responds to concerns about oversight of the quality and appropriateness of percutaneous cardiac interventions (PCI) performed in Maryland hospitals. Staff will submit a letter of information expressing uncertainty about whether accreditation is the most cost-effective approach to quality assurance, reviews current MHCC data and quality assurance efforts, and proposes that MHCC convene a technical advisory group with all interested parties and prepare a report with recommendations.

- **Mandate Bills**

Mr. Kozlowski said that staff recommended that, for the following mandate bills, staff submit a letter of information highlighting any noteworthy conclusions from the Mercer report, particularly regarding the strength of supporting evidence and any clinical considerations, estimated costs, defined as a percentage of annual premium, provided by Mercer, and the need to consider whether the mandated service is likely to be part of the federally defined essential benefits package since the Affordable Coverage Act requires each state to pay for additional mandated benefits purchased through the exchange. The Commissioners concurred with staff's recommendation.

- **SB 603/HB 446 – Health Insurance – Coverage for Preventive Physical Therapy Required**

Mr. Kozlowski said SB 603 would require carriers to provide coverage of medically necessary preventive physical therapy for individuals diagnosed with multiple sclerosis (MS). The coverage would be subject to the same cost sharing and other requirements imposed for other physical or rehabilitative therapy provided under the policy.

- **SB 759/HB 783 – Health Insurance – Coverage for Autism Spectrum Disorders**

Mr. Kozlowski said SB 759 mandates coverage for the diagnosis of autism spectrum disorders (ASD) and the evidence-based, medically necessary treatment of ASD through habilitative and rehabilitative services. Applied Behavioral Analysis is specifically included as a habilitative or rehabilitative service. Coverage of speech generating devices is also included. There are no limits on annual amount or on the age of the person receiving the services. The services are subject to medical necessity determination and utilization review regarding the intensity and frequency of services, although an updated treatment plan cannot be required more frequently than annually.

- **SB 722/HB 736 – Electronic Health Records – Incentives for Health Care Providers – Regulations**

Dr. Cowdry said SB 722 would require that all providers receive incentive payments from state-regulated payors, removes group model HMOs from participation in the incentive program, permits health care providers to specify to a state-regulated payor the form of incentive the health care provider will receive for the adoption and meaningful use of electronic health records (EHRs), and allows the provider to limit the incentive to a monetary payment. Staff recommended either opposing or supporting this bill with amendments. Following discussion, the Commission agreed to support SB 722 with amendments opposing expanding the EHR adoption incentive requirements to include all providers and opposing the total exclusion of group model HMOs from the incentives. The Commission supports clarifying language making clear that the provider would be paid in cash if there is not mutual agreement between provider and payor regarding an alternative incentive of equivalent value. Commissioner Weinstein made a motion to support SB 722 with amendments, Commissioner Conway seconded the motion and unanimously approved. Commissioners Lyle and Fleig voted to oppose SB 722.

ACTION: SB 722/HB 736 – Electronic Health Records – Incentives for Health Care Providers – Regulations – Support with Amendment, is hereby APPROVED.

- **SB 723/HB 784 – Medical Records – Health Information Exchanges**

Dr. Cowdry said SB 723 would require the Commission to adopt regulations for the privacy and security of protected health information obtained or released through a health information exchange (HIE), require that an insurer that releases personal health information to certain providers will make it available to the state-designated exchange, and establish liability protections under certain circumstances for an HIE and a health care provider. Staff recommended supporting SB 723 with an amendment relating to patient access to the exchange. Commissioner Krumm made a motion to approve the staff recommendation, which was seconded by Commissioner Lyles and unanimously approved.

ACTION: SB 723/HB 784 – Medical Records – Health Information Exchanges – Support with Amendment, is hereby APPROVED.

- **SJ 6/HJ 6 – Safe Harbor Legislation and Regulations Need to Form Accountable Care Organizations**

Dr. Cowdry said SJ 6 urges the United States Congress and the Federal Trade Commission to pass legislation and adopt regulations to establish safe harbors that are essential to the formation and operation of accountable care organizations. Because reform of our care delivery and payment systems requires experimentation with different models, and because these accountable care organizations will need clear federal antitrust guidance and the protection of safe harbors to demonstrate their potential value, staff recommended supporting the intent of SJ 6. Commissioner Worthington made a motion to approve the staff recommendation, which was seconded by Commissioner Krumm and unanimously approved.

ACTION: SJ 6/HJ 6 – Safe Harbor Legislation and Regulations Need to Form Accountable Care Organizations – Support, is hereby APPROVED.

- **HB 449 – State Government – Regulations Affecting Small Businesses and Economic Impact Analysis**

Bruce Kozlowski said HB 449 adds further requirements to the way the Department of Legislative Services determines that a regulation will have minimal or no economic impact on small business. Staff recommended either submitting a letter of information or remaining silent on this bill. After discussion, the Commission agreed to take no position on HB 449.

- **HB 1146 – Electronic Health Records – Definition of State-Regulated Payor – State Employee and Retiree Health and Welfare Benefits Program**

Dr. Cowdry said HB 1146 would exclude the State Employee and Retiree Health and Welfare Benefits Program from regulations relating to electronic health records. Staff will submit a letter of support noting that although the State Employee and Retiree Health and Welfare Benefits Program will no longer pay EHR adoption incentives to primary care practices, it has agreed to voluntarily participate in the Maryland Multipayer Patient-Centered Medical Home Program, which rewards EHR adoption by the participating primary care practices. The Commissioners concurred with staff's recommendation.

- **HB 1182 – Certificates of Need – Percutaneous Coronary Intervention Services**

Dr. Cowdry said HB 1182 prohibits a hospital from establishing a percutaneous coronary intervention (PCI) program unless the hospital was operating a PCI program on January 1, 2011 through a certificate of need for an open heart surgery program or a waiver in good standing from the certificate of need and State Health Plan requirements issued by the Maryland Health Care Commission (MHCC). MHCC is required to develop recommendations for statutory changes needed to provide appropriate oversight of PCI services on or before December 31, 2011. Staff recommended supporting HB 1182. After discussion, the Commission agreed to support HB 1182 with an amendment to clarify that the establishment of a primary PCI service would not be precluded during this period of time. Commissioner Jefferson made a motion to support HB 1182 with an amendment, which was seconded by Commissioner Krumm and unanimously approved.

ACTION: HB 1182 – Certificates of Need – Percutaneous Coronary Intervention Services – Support with Amendment, is hereby APPROVED.

ITEM 8.

Patient Centered Medical Home Update

Ben Steffen provided an update on the practice selection and the start of Maryland's Patient Centered Medical Home Program (PCMH). Mr. Steffen provided a detailed description of Maryland's PCMH and how Maryland is approaching this new model of primary care, as well as some of the elements. Mr. Steffen also noted implications for the Commission, as well as a timeline for implementation for 2011.

ITEM 9.

ADJOURNMENT

There being no further business, the meeting was adjourned at 3:40 p.m., upon motion of Commissioner Jefferson, which was seconded by Commissioner Olsen and unanimously approved.