STATE OF MARYLAND

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Monday, February 6, 2012, via teleconference

Minutes

Chair Moon called the public meeting to order, via teleconference, at 5:00 p.m. to discuss legislation.

Commissioners present: Conway, Falcone, Fleig, Grady, Kan, Lyles, Montgomery, Schneider, and Weinstein.

Ben Steffen, Acting Executive Director, and Erin Dorrien, Program Manager, Governmental Relations and Special Projects, reviewed the legislative priorities and discussed several bills scheduled to be heard.

- ***SB 227 "Maryland Health Care Commission – Assessment of Fees and Maryland Trauma Physician Services Fund – Revisions"***

SB 227 was initiated by MHCC to correct two inefficiencies and one inconsistency created by language in our existing statute. SB 227 lifts the provision currently in statute that prohibits the MHCC from using revenues of the Maryland Trauma Physician Services Fund which are not collected in that fiscal year. An effort to streamline payments has resulted in time discrepancies between payment deadlines into the state's financial management system (FMIS) and revenue transfers from the Motor Vehicle Administration (MVA). Alleviating this provision gives the Commission flexibility to utilize surplus revenues from the fund and ensures timely final payments for the fiscal year to both trauma centers and physicians. These surplus revenues will then be transferred back to the fund after transfers have been made by the MVA, in essence, a temporary loan.

The second administrative change requested to current statute alters the type of premium data collected by the MHCC from insurance carriers. Currently, the Commission surveys and assesses insurance companies based on their total earned premium for health benefit plans. Shifting from earned premiums to written premiums aligns this survey data with what is currently collected by the Maryland Insurance Administration (MIA). The MHCC would be able to receive the data from the MIA eliminating an unnecessary burden to carriers who now must fill out two individual surveys on two different types of premium.

Lastly, the bill removes a statutory deadline for the MIA to give this information to the Commission. The Commission will create an MOU for this data as discussions progress for streamlining the process. Staff recommended supporting SB 227. The Commissioners concurred with staff's recommendation, with no opposition.

- ***SB 238 "Maryland Health Benefit Exchange Act of 2012"***

SB 238 includes recommendations of the Maryland Health Benefit Exchange Board necessary for continued implementation of the Affordable Care Act. The legislation establishes the Small Business Health Options Program Exchange (SHOP). SB 238 also sets requirements and limitations on carriers. These include requiring

carriers with a minimum of $20 million in annual premiums in the small group and $10 million in annual premiums in the individual markets outside the Exchange to also offer products in the exchange.
The legislation allows the Exchange to enter into interstate agreements and sets up an operating model for the exchange. This model includes allowing the Exchange to establish minimum standards beyond ACA and use alternate forms of contracting with participating plans.

The bill sets up Navigator programs for both the SHOP exchange and the individual exchange. Navigators will participate in outreach to employers not offering insurance coverage and to individuals not enrolled in insurance. Navigators can be individuals or organizations defined in ACA required to provide information assistance for those looking to enter the Exchange. SHOP Navigators must hold a license issued and regulated by the Insurance Commissioner and are compensated by the Exchange, not the carriers. Individual Exchange Navigators must hold certifications issued by the individual Exchange.

Lastly, SB 238 establishes Essential Health Benefits as those in the State's benchmark plan, which must be offered in the individual and small group markets inside and outside of the Exchange beginning January 1, 2014. The law requires the Health Care Reform Coordinating Council to conduct a public stakeholder process to select the State's benchmark plan and sets a deadline of September 30, 2012 for selection.

Ben Steffen outlined the various components of SB 238 and recommended supporting SB 238. Following discussion, the Commissioners requested more information and asked that this bill be further discussed at the February 16, public meeting of the Commission. Further, Commissioner Moon felt clarification should be offered to ensure that the Exchange properly utilizes the existing expertise in the State, particularly MHCC, HSCRC, and DHMH. Ben Steffen suggested the Commissioner's consider uncodified language that could be brought to DHMH as a friendly amendment. This language will be presented and discussed at the next Commission meeting.

- ***SB 456 "Health Benefit Plan Premium Rate Review"***

SB 456 requires a health insurance carrier to file a rate review with the Maryland Insurance Administration prior to changing the premium charged to a contract holder. Carriers are required to file rate reviews to the Insurance Commissioner 90 days before the proposed effective date. In deciding whether to disapprove or modify the premium rate the Commissioner will consider: (1) Past and prospective loss experience within and outside of the State; (2) Underwriting practice and judgment, to the extent appropriate; (3) A reasonable margin for reserve needs; (4) Past and prospective expenses both countrywide and within the State; and, (5) Any other relevant factors inside and outside of the State. The legislation is required under the Affordable Care Act. MHCC has no explicit responsibilities under the legislation, but has agreed to share all-payer claims data with the MIA for use in the rate review process. In meetings held at the Health and Government Operations Committee in the fall, both MHCC and HSCRC publicly committed to share data with the MIA to support these types of activities. Staff recommended supporting SB 456. A motion to support was made and seconded. Commissioners Kan and Fleig suggested amending the motion to a position of support with amendment that would require carriers to file rate reviews to the Insurance Commissioner 60, rather than 90, days before the proposed effective date. The motion to amend failed. Commissioners voted to support SB 456. Commissioners Fleig and Kan abstained. Ben Steffen agreed to get clarification from the Maryland Insurance Administration regarding the 90-day time frame and provide that information to the Commissioners.

- ***HB 470 "Preauthorization of Medical Services and Pharmaceuticals"***

HB 470 directs the MHCC to adopt regulations establishing standards for preauthorization for medical services and pharmaceuticals for the State-regulated payors, Pharmacy Benefits Managers (PBMs), and providers. The Commission's regulation must include exemptions from the standards for extenuating circumstances including;

lack of broadband internet access; low patient volume practices; and certain specialty providers. Standards may include penalties for noncompliance. Staff recommended that the Commission support this bill with an amendment to allow flexibility, in a manner consistent with the Commission's December 2011 report to the General Assembly entitled *Recommendations for Implementing Electronic Prior Authorizations*. Following discussion, it was agreed that Commission staff would send the Commissioners via email the draft wording for the suggested amendment to the bill, at which time the Commisioners would make staff aware of the position they wanted to take on the bill.

The meeting adjourned at 6:50 p.m.