



**Thursday, November 18, 2021**

## **MINUTES**

Chairman Pollak called the meeting to order at 1:01 p.m.

**Commissioners present via telephone:** Akintade, Bhandari, Boyer, Boyle, Brahmhatt, Doordan, Jensen, Metz, O'Connor, O'Grady, Sergent, and Wang

### **AGENDA ITEM 1.**

#### **Approval of the Minutes**

Commissioner O'Connor made a motion to approve the minutes of the October 21, 2021, public meeting by teleconference of the Commission. The motion was seconded by Commissioner Wang and unanimously approved.

### **AGENDA ITEM 2.**

#### **Update of Activities**

Ben Steffen, Executive Director, gave an update on the transition to the new All-Payer Claims Database (APCD) Base contractor for the Maryland Health Care Commission (MHCC or Commission), Onpoint Data Systems (Onpoint). Mr. Steffen reported that Onpoint has been working with payers to provide overviews of data submission processes. Commission staff have emphasized to payers the importance of making timely submissions for the closeout with the previous APCD contractor, SSS. Mr. Steffen also reported that all of the national payors are familiar with the Onpoint processes as Onpoint currently manages APCDs in California, Connecticut, Minnesota, Oregon, Rhode Island, Vermont, and Washington, in addition to multi-payer claims databases in several other markets. Onpoint has emphasized the importance of meeting claim submission deadlines. Commission staff plans to be more aggressive in enforcing data reporting deadlines and has reminded payers that fines may be assessed for failing to meet deadlines or submitting inaccurate claims data.

Next, Mr. Steffen talked about the final report of the federal State All Payer Claims Databases Advisory Committee established as part of the No Surprise Billing Act, which was part of the Consolidated Appropriations Act of 2021. The report contained fourteen (14)

Recommendations covering five broad areas: Standard Data Format, Data Submission, Data Privacy and Security, Voluntary Data Submission and Possible role for DOL for engaging ERISA plans.

Mr. Steffen reported on the Telehealth study, including the NORC contract, all work is proceeding as planned. NORC will be given access to APCD data for 2019-2021 to study changes in use of telehealth among the privately insured. Planning for surveys of providers and focus groups of consumers are underway. Providers will complete surveys via the internet. One challenge faced is identifying current email addresses for providers. Commission staff requested assistance from the Board of Physicians and is awaiting a response. Provider associations also may be able to provide these email addresses although this approach is less desirable because membership does not encompass the universe of practicing providers. The Commission must submit a report on recommendations on whether telehealth waivers should be continued in December 2022.

Lastly, Mr. Steffen, reported that this was the last Commission meeting for Suellen Wideman, Assistant Attorney General, who has been counsel to the Commission for over twenty-five (25) years. The Commission has relied on her guidance on a range of issues. Mr. Steffen noted that Ms. Wideman has given up her free time to help the Commission in any way possible and that she will be very much missed by the Commissioners, staff, and her colleagues. He thanked Ms. Wideman for her diligent work and efforts over the years to protect the interests of the Commission and wished her well in her retirement.

Courtney Carta gave a brief update on the Maryland hospital performance on healthcare associated infections (HAI) in 2020 as compared to 2019. In response to a question asked during the October Commission meeting, MHCC staff completed additional HAI analysis at the regional level and did not find any notable trends across regions for any infection types. Ms. Carta continued with providing a brief update on the Fall 2021 Leapfrog Hospital Safety Grades as follows: Nine hospitals received an A, 17 received a B, 15 received a C, one received a D, and there were no F's. A more detailed table with comparisons to the previous grading cycle and national results will be available in the December written Commission update.

### **AGENDA ITEM 3.**

#### **ACTIONS: Certificates of Ongoing Performance -PCI services**

##### **Agenda Item 3A. Adventist HealthCare White Oak Medical Center (Docket # 19-15-CP032)**

Stephanie Kersheskey, Program Manager, Acute Care Policy and Planning, presented the staff report for the Certificate of Ongoing Performance application for PCI services of Adventist

HealthCare White Oak Medical Center (WOMC). She reviewed WOMC's compliance with key standards and recommended that the Commission find that WOMC met all standards and approve the Certificate of Ongoing Performance for WOMC to continue providing primary PCI services for four years with two conditions. The Commission raised one question regarding the necessity of multiple care area group and case review meetings. The hospital representative for WOMC who attended the meeting was: Robert Jepson, Chief Operating Officer.

Commissioner Boyle made a motion to approve the Certificates of Ongoing Performance for PCI services for White Oak Medical Center, which was seconded by Commissioner Boyer and unanimously approved.

**ACTION: Certificate of Ongoing Performance - PCI services for White Oak Medical Center is hereby APPROVED.**

**Agenda Item 3B. University of Maryland Shore Medical Center at Easton  
(Docket # 20-20-CP034)**

Chairman Pollak and Commissioners Akintade and O'Connor recused themselves from Agenda Item 3B and Vice Chair Sergent presided.

Ms. Kersheskey presented the staff report for the Certificate of Ongoing Performance application for PCI services of University of Maryland Shore Medical Center at Easton (UM SMC-E). Ms. Kersheskey reviewed UM SMC-E's compliance with key standards, and she recommended that the Commission find that UM SMC-E met all standards and approve the Certificate of Ongoing Performance for UM SMC-E to continue providing primary PCI services for four years. No questions or concerns were raised by the Commission. The hospital representatives for UM SMC-E who attended the meeting were: Dyshekia Strawberry, Cardiac Cath Lab Manager, Thomas Dame, Attorney, and Jeffrey Etherton, M.D., Medical Director for the Cardiac Cath Lab.

Commissioner Doordan made a motion to approve the Certificates of Ongoing Performance for PCI services for University of Maryland Shore Medical Center at Easton, which was seconded by Commissioner Bhandari and unanimously approved.

**ACTION: Certificate of Ongoing Performance - PCI services for University of Maryland Shore Medical Center at Easton is hereby APPROVED.**

## **AGENDA ITEM 4.**

### **ACTION: Change in an Approved Project – Adventist Rehabilitation Hospital of Maryland, Inc. d/b/a Adventist HealthCare Rehabilitation - Relocation of a Special Rehabilitation Hospital (Docket No. 18-15-2428)**

Jeanne Marie Gawel, Certificate of Need (CON) Analyst, briefed the Commissioners on the request for a project change for the previously approved application of Adventist Rehabilitation Hospital of Maryland, Inc. d/b/a Adventist HealthCare Rehabilitation (AHR) and Adventist HealthCare Inc. d/b/a Adventist HealthCare White Oak Medical Center (WOMC). Both entities (AHR and WOMC) are subsidiaries of Adventist HealthCare, Inc. (AHC). AHC is requesting a change to the CON approved on March 21, 2019, to relocate 42 inpatient rehabilitation beds to a space within White Oak Medical Center in Silver Spring, Maryland. The previously approved project involved new construction of two rehabilitation wings to the hospital and the total approved cost was \$19,547,323. The total source of funds for the project was cash.

Ms. Gawel stated when the quarterly progress reports resumed it was identified that the construction costs exceeded the budget. The overage was due to increased building material and labor costs due to the COVID-19 pandemic. Ms. Gawel explained that the applicant requests the Commission approve a \$2,997,052 increase to the previously approved cost of the project and take note of that the increase in cost will be covered with cash.

Ms. Gawel also shared that the applicable regulations require Commission action because the applicants have incurred a capital cost increase that exceeded the approved budget and allowable inflation. The Commissioners advised that for future similar project changes, staff should confirm with the Health Services Cost Review Commission (HSCRC) that there will be no impact on rates or the total cost of care.

Commissioner Jensen made a motion to approve the Change in an Approved Project – Adventist Rehabilitation Hospital of Maryland, Inc. d/b/a Adventist HealthCare Rehabilitation - Relocation of a Special Rehabilitation Hospital, which was seconded by Commissioner Akintade and unanimously approved.

**ACTION: Change in an Approved Project – Adventist Rehabilitation Hospital of Maryland, Inc. d/b/a Adventist HealthCare Rehabilitation - Relocation of a Special Rehabilitation Hospital is hereby APPROVED.**

## **AGENDA ITEM 5.**

### **ACTION: 2022 MCDB Data Submission Manual**

Mr. Kenneth Yeates-Trotman, Director of the Center for Analysis and Information Systems, reported that the Commission's regulations required that the Maryland Medical Care Data Base (MCDB) Data Submission Manual (Manual) be made available to payors on or before November 21 of every year. Payors are required to use the Manual for the upcoming year. The Commission's regulations require that the Manual be displayed on the Commission's website after Commission approval.

Mr. Yeates-Trotman then gave an overview of the MCDB Data Submission Manual. The MCDB Manual consists of commercial (privately insured) and public Medicare and Medicaid data. Commercial reporting entities whose total covered lives exceed 1,000 reported to the Maryland Insurance Administration (MIA) must submit health care claims data to the MCDB. These reporting entities include life and health insurance carriers and HMOs, TPAs, PBMs, Managed Behavioral Health Administrators, and Qualified Health and Dental plans. However, these qualified plans are not restricted by the 1,000 total covered lives requirement to report data to the MCDB. The commercial data submitted by reporting entities include eligibility and claims files (professional, institutional, pharmacy, and dental). A provider directory is also submitted by entities. The Commission also collects Medicare fee-for-service (FFS) data from CMS under a State Agency Data Use Agreement with the Federal government, and Medicaid (MCO and FFS) data from Medicaid via the Hilltop Institute at UMBC.

Mr. Yeates-Trotman added that although there was no new data in the MCDB for 2022, the Commission selected a new MCDB data vendor in Onpoint Health Data through a very competitive procurement process over the summer. Onpoint is an independent nonprofit health data organization based in Portland, ME, and is a market leader in APCD design and development, support, and APCD analytics. Onpoint is currently supporting APCD clients in 11 states, including Maryland. That means that MHCC will have an opportunity to leverage Onpoint's extensive APCD experience spanning 10 states along with valuable national benchmarks to ensure data quality and compare performance across private and public Maryland insurance markets.

Data submission with Onpoint is changing as the company updates the file-naming convention to include metadata (currently manually entered at the portal) in the file name. Onpoint will also update the submitter naming convention (PayorID) to include the prefix "MD" to indicate Maryland, and a suffix starting with an "A" to depict the payors source system, which is already a field submitted by payors. Lastly, the company gives payors two options (Portal-current approach and SFTP new and optional) to submit data to the MCDB. The secure file transfer protocol (SFTP) will provide all reporting entities the opportunity to streamline their submission into a robust automated process. Submissions can be made in a few hours instead

of over approximately two to three-day periods for some large payors. Onpoint will prepare all reporting entities for the new reporting environment through a series of webinar training sessions leading to opening the new portal on January 1, 2022.

Mr. Yeates-Trotman then asked the Commission to approve the 2022 MCDB Data Submission Manual.

Vice-Chair Sergent questioned if MHCC will monitor the submission time of data to the portal in the new Onpoint environment, given the lengthy submission process at the Portal. Mr. Yeates-Trotman responded that the portal's updated file-naming convention would be faster for all reporting entities using the Portal. However, all reporting entities should take advantage of the optional SFTP approach, which will be a game-changer for all submitters utilizing this approach. The Vice-Chair asked what Manual the Commission will target to collect value-based data from PBMs. Mr. Yeates-Trotman said that given the time it would take to engage payors regarding a suitable format to collect, such a decision is beyond a year from now.

Commissioner O'Grady raised a question regarding Medicare Advantage. Given the very low Medicare Advantage penetration in the State (10% - 12% market share), even though the rest of the country seems to be moving in that direction very quickly, what plans, if any, the Commission has regarding the possible implications if Maryland decides to move in the same direction as the rest of the country. Mr. Yeates-Trotman responded, and Mr. Steffen responded. Mr. Steffen said that there are three factors that may explain the low uptake: (1) Many of the provider-based Medicare Advantage plans in the State are competing against themselves; (2) some national plans argue that Maryland's hospital payment model precludes negotiations; and (3) Maryland is a high-income State, Medicare beneficiaries may find Advantage plans' cost savings less important. Mr. Steffen said that the Commission currently collects the data from many Medicare Advantage plans and welcomes ideas from Commissioners. Commissioner O'Grady noted that sometimes the Commission gets caught by surprise on such things.

Commissioner Boyle made a motion to approve the 2022 MCDB Data Submission Manual, which was seconded by Commissioner O'Grady and unanimously approved.

**ACTION: 2022 MCDB Data Submission Manual is hereby APPROVED.**

#### **AGENDA ITEM 6.**

**AGENDA ITEM # 6 ACTION: COMAR 10.25.05 - Data Release- Final Action on Regulations**

Chairman Pollak left the meeting and Vice Chair Sergent presided over Agenda Items 6 and 7.

Mahi Nigatu, Chief of APCD Public Reporting and Data Release, presented the background of the proposed new Data Release regulations at COMAR 10.25.05 that staff is recommending the Commission adopt as final regulations of the Commission. At the June 21, 2021 Commission meeting, the Commission adopted these new data release regulations as proposed new regulations, which were published in the September 24, 2021 *Maryland Register* for formal public comment. No comments on the proposed regulations were received from the public after publication in the *Maryland Register*.

Ms. Nigatu explained that these new data release regulations broaden the scope of permissible uses of Maryland Medical Care Data Base (MCDB) data through an expanded and updated data release process and other data sets managed by MHCC. She noted that the expansion will allow the Commission to offer standard, limited, and custom data sets with the capabilities for linkage to other data sources safely and securely, and broaden the potential data recipients to include individuals, governmental, and non-governmental entities.

Commissioner O’Grady made a motion to adopt COMAR 10.25.05 - Data Release as final regulations of the Commission, which was seconded by Commissioner Akintade and unanimously approved.

**ACTION: COMAR 10.25.05 - Data Release- is hereby ADOPTED as Final Regulations.**

#### **AGENDA ITEM 7.**

#### **PRESENTATION: MDPCP Track 2 and Track 3 Update**

David Sharp, Director, Center for Health Information Technology and Innovative Care Delivery, presented on the Maryland Primary Care Program (MDPCP) proposed 2022 Track 2 changes and draft Track 3 framework. Mr. Sharp noted that the Center for Medicare and Medicaid Innovation requested that the MDPCP Program Management Office develop a Track 3 aligned with the national Primary Care First model. Mr. Sharp also noted that nearly half of the Medicare beneficiaries and about 525 practices participate in the program; Tracks 1 and 2 will be phased out over time; the availability of Track 1 ends in 2024; and all practices must be in Track 3 by 2025. Several Commissioners asked questions related to practice performance requirements and program risk and incentives.

**ACTION: NO ACTION REQUIRED**

## **AGENDA ITEM 8.**

### **Overview of Upcoming Activities**

Mr. Steffen stated that December's Commission meeting may include: a Health Disparities report recommendation; a report on recommendations on compromise dealing with Advance Care Planning; a status report on the Physician's Trauma Fund Report; and a couple of Certificate of Need applications.

## **AGENDA ITEM 9.**

### **ADJOURNMENT**

There being no further business, the meeting was adjourned at 3:06 p.m. upon motion of Commissioner Bhandari, which was seconded by Commissioner Sergent and unanimously approved.