



Thursday, September 15, 2022

MINUTES

Chairman Sergent called the meeting to order at 1:07 p.m.

Commissioners present via telephone and in person: Bhandari, Boyer, Brahmhatt, Buczynski, Doordan, Jensen, Metz, O'Connor, O'Grady, Ojikutu, Wang, and Wood.

AGENDA ITEM 1.

Approval of the Minutes

Commissioner Jensen made a motion to approve the minutes of the July 21, 2022, public meeting of the Maryland Health Care Commission (Commission or MHCC), which was held by teleconference hybrid. The motion was seconded by Commissioner Wang and unanimously approved.

AGENDA ITEM 2.

Update of Activities

Ben Steffen, Executive Director of the Commission, provided an update on the Total Cost of Care Model (Model). On August 17, 2022, a Memorandum of Understanding (MOU) was signed between Centers for Medicare and Medicaid Services (CMS) and Maryland that reaffirms their mutual commitment to the continued success of the Model and memorializes annual savings targets for the next three years. The MOU also lays the foundation for expansion of the current Model and reiterates the State's commitment to improve quality performance and advance other Model priorities, including Hospital Quality Performance, Medicaid Alignment, Total Population Health and Health Equity.

Mr. Steffen briefed the Commission on plans for the next Model. The State will convene workgroups from October 2022 to April 2023 to gather input on the following: Cost Containment and Financial Targets, Population Health and Health Equity, Post-Acute and Long-Term Care, Consumer Engagement, Multi-Payer Alignment and Physician Engagement & Alignment.

CMS determined that the State has met five of the six requirements under the Model. However, it did not meet the Readmissions Reductions for Medicare requirement. The nation performed better than Maryland on the Medicare 30-day unadjusted all-cause, all-site hospital

readmission rate by 0.23 percentage points. CMS could require the State to submit a Corrective Action Plan because it is not in compliance, but CMS has not required one to date.

Next, Mr. Steffen briefed the Commission on other updates such as staff's work related to SB 1148 Health Insurance – Two-Sided Incentive Arrangements and Capitated Payments – Authorization. This bill authorized commercial insurers to offer two-sided risk arrangements. The MHCC will be assessing quality outcomes and the cost effectiveness of the value-based arrangements. Work is underway and over the past month, MHCC met with five large payers. From those meetings, staff and MHCC's consultant developed a template based on a methodology created by the Health Care Payment Learning & Action Network (HCP-LAN). The template is now being presented to payers.

Mr. Steffen then provided an update on MHCC's study on financial restrictions on access to organ transplants. MHCC is required to review hospital financial policies and has sent out communications to University of Maryland Medical Center, Johns Hopkins University Hospital, and Medstar Georgetown Medical Center.

Next, Mr. Steffen provided an update on various workgroups assigned to MHCC. MHCC will soon convene the Palliative Care Services Workgroup. MHCC has agreed to assist the Secretary of Health with a workgroup focusing on workplace violence in healthcare settings. Dr. Blair Eig has agreed to chair this workgroup and Mr. Steffen asked Theresa Lee to serve as vice-chair. MHCC is organizing a workgroup to study potential oversight of small assisted living facilities.

Stacy Howes, Chief of Long-Term Care and Health Plan Quality Initiatives for the Center for Quality Measurement and Reporting, provided an update from her May 2022 presentation to the Commission on the results of the 2021 Nursing Home Family Experience of Care Survey. As part of that presentation, she presented a table that shows that the overall satisfaction with nursing homes has declined fairly significantly over the past several years. MHCC and other stakeholders are concerned that nursing home acquisitions might be associated with poorer quality and lower satisfaction. Staff categorized nursing homes into three categories during the years 2015-2017: no acquisitions; operator acquisitions and/or property acquisitions; and property only acquisitions. Staff plotted the average overall satisfaction score from 2013 to 2021. Even though all nursing home categories decreased in satisfaction over time, the two categories of acquisitions (operator and/or property changes and property only changes) have a much lower average score in 2013 and continue to have the lowest score every year.

At the request of Chairman Sergent, the data were divided into for profit nursing homes and not-for-profit nursing homes. There were 54 not-for-profit nursing homes, and none of them underwent a property only acquisition between 2015 and 2017. Not-for-profit homes tend to have higher satisfaction rates than for-profit homes, and the satisfaction rate has changed very little from 2013 to 2021. The not-for-profit nursing homes that experienced owner acquisitions manifested the same pattern as those that experienced no acquisitions, but Ms. Howes warned that this conclusion should be interpreted cautiously because only two not-for-profit nursing homes experienced owner acquisitions between 2015-2017. For the for-profit nursing homes,

nursing homes that experienced no acquisitions always had a higher satisfaction score than the other two categories, but Ms. Howes noted that there is less variation between those with no acquisitions and those with property only acquisitions compared to the same analysis that included all nursing homes. Also, the for-profit nursing homes have experienced a decline in satisfaction, regardless of whether there were ownership changes. A Commissioner asked if there was a possibility that the satisfaction level goes down right after acquisition but eventually returns to normal. Ms. Howes responded that this does not seem to be the trend although to really know for sure, more years of data would need to be included.

AGENDA ITEM 3A.

ACTION: Certificate of Need- Carroll County Home Health Agency Review- Adventist Home Health Services, Inc. (Docket No. 22-06-2456)

Eric Baker, Program Manager and CON Analyst, presented staff's recommendation on two certificate of need (CON) applications to expand or establish home health agencies in Carroll County. Mr. Baker first provided background about the home health agency (HHA) review process. Mr. Baker noted that Commission had established two review cycles for HHAs in 2022 for counties in which need was projected: one for Carroll County and a second for counties located in the lower Eastern Shore. Mr. Baker further noted that the HHA chapter of the State Health Plan only permits certain types of applicants to apply for a CON for certain types of home health projects.

Mr. Baker next presented the CON application of Adventist Home Health Services, Inc., (Adventist), a subsidiary of Adventist Healthcare(AHC), a licensed home health agency currently operating in Anne Arundel, Charles, Calvert, Howard, Montgomery, Prince George's, St. Mary's, and Frederick counties. In its CON application, Adventist seeks to expand its service area by adding Carroll County to its authorized service area. The total cost of launching the expansion is estimated to be \$94,345, to be funded with cash, and the applicant expects to begin operations within a month. Mr. Baker stated that Adventist met all the State Health Plan standards and all criteria for review. Mr. Baker recommended approving this application with the following conditions:

1. Adventist Home Health Services, Inc. will maintain compliance with the provisions of COMAR 10.24.16.08E(1)-(4) regarding charity care, sliding fee scale, and reduced fee services;
2. Adventist Home Health Services, Inc. will provide a level of charity care equivalent to or greater than the average level of charity care provided by home health agencies in Carroll County; and
3. Prior to its request for first use approval, Adventist Home Health Services, Inc. will provide documentation of its links with hospitals, nursing homes,

continuing care retirement communities, hospice programs, assisted living providers, Adult Evaluation and Review Services, adult day care programs, the local Department of Social Services, and home-delivered meal programs located within its approved expanded service area.

Commissioner Wang moved to approve the Certificate of Need- Carroll County Home Health Agency Review- Adventist Home Health Services, Inc., which was seconded by Commissioner Bhandari and after discussion, unanimously approved.

ACTION: Certificate of Need – Adventist Home Health Services, Inc. is hereby APPROVED.

AGENDA ITEM 3B.

ACTION: Certificate of Need- Carroll County Home Health Agency Review CareNet Health Systems and Services, Inc. (Docket No. 22-06-2457)

Eric Baker presented the staff recommendation on the CON application filed by CareNet Health Systems and Services, Inc. (CareNet). Mr. Baker explained that CareNet was doing business as Lorien Health Systems – Mt. Airy (Lorien). Lorien is an existing nursing home provider currently serving patients in Carroll County where it proposes to establish a new HHA to serve the county. The project budget estimate was \$230,000, to be funded with a cash. Lorien anticipates it will take 12 months to obtain all Medicare and State licensing to establish the new HHA service in Carroll County. Mr. Baker stated that CareNet met all the State Health Plan standards and all criteria for review. Mr. Baker recommended approving this application with the following conditions:

1. CareNet Health Systems and Services, Inc. will maintain compliance with the provisions of COMAR 10.24.16.08E(1)-(4) regarding charity care, sliding fee scale, and reduced fee services;
2. CareNet Health Systems and Services, Inc. will provide a level of charity care equivalent to or greater than the average level of charity care provided by home health agencies in Carroll County;
3. Prior to its request for first use approval, CareNet Health Systems and Services, Inc. will provide documentation of its links with hospitals, nursing homes, continuing care retirement communities, hospice programs, assisted living providers, Adult Evaluation and Review Services, adult day care programs, the local Department of Social Services, and home-delivered meal programs located within its approved expanded service area; and

4. Prior to a request for first use approval, CareNet Health Systems and Services, Inc. will provide documentation of its final Charity Care Policy applicable to the provision of home health agency services.

Commissioner Jensen moved to approve the Certificate of Need- Carroll County Home Health Agency Review CareNet Health Systems and Services, Inc., which was seconded by Commissioner Wang and, after discussion, was unanimously approved.

ACTION: Certificate of Need – CareNet Health Systems and Services, Inc. is hereby APPROVED.

AGENDA ITEM 4.

ACTION: Designation Agreement for the Maryland Patient Safety Center

During the 2022 legislative session, Senate Bill 591 established a special, non-lapsing fund to support the Maryland Patient Safety Center, Inc. (MPSC) in the amount of \$1 million annually (Fund). The Fund is to be administered by MHCC. The law also requires that MHCC monitor performance of the Patient Safety Center based on standards and requirements set by the Commission. Theresa Lee, Director, Center for Quality Measurement and Reporting, provided a brief background on the project and highlighted the key components of a new Designation Agreement between MHCC and the MPSC created to incorporate new funding allocation requirements. Dr. Blair Eig, President, and CEO of the MPSC provided an overview of the Center's 2022 programs, activities and accomplishments, and priorities for next year.

Jensen moved to approve the Designation Agreement for the Maryland Patient Safety Center, Inc., which was seconded by Commissioner Wang and unanimously approved.

ACTION: Designation Agreement for the Maryland Patient Safety Center is hereby APPROVED.

AGENDA ITEM 5.

ACTION: City of Baltimore/ Monument Analytics MCDB Data Request Application

Mahlet Konjit-Solomon, Chief of APCD Public Reporting and Data Release of the Center for Analysis and Information Systems, presented the City of Baltimore/Monument Analytics Medical Care Data Base (MCDB) Data Request Application, which was submitted by the Baltimore City Law Department. Ms. Konjit-Solomon said that under the current statutes and regulations governing access to MCDB data, a non-governmental data requester must submit an application and acquire approval of the application by the Commission before the release of the MCDB data. Ms. Konjit-Solomon gave a brief overview of the data release process

components, including the governing regulations, COMAR 10.25.05, submission of the data application, posting of the application for public comment, review of the application by the Data Release Advisory Committee (DRAC), and entering into a data use agreement.

Ms. Konjit-Solomon noted that the Baltimore City Law Department is requesting the MCDB data for a new project on “Assessing Extent of Opioid Epidemic in Baltimore City.” Ms. Konjit-Solomon highlighted that the project meets the regulatory requirement of research use because the aim is to estimate the number of individuals affected by the opioid epidemic as well as healthcare utilization and opioid prescribing in Baltimore City from 2010 to 2020. The project also is in the public interest as Baltimore City will use the MCDB data to measure the epidemiology and impact of the opioid epidemic in Baltimore City for opioid litigation purposes. The findings from this analysis will provide information to stakeholders, and the resulting litigation may award abatement and/or damages funds to Baltimore City. If the litigation results in abatement and/or damages funds, the City of Baltimore and its citizens will be able to fund programs based on epidemiology of the opioid epidemic in Baltimore City. Ms. Konjit-Solomon noted the applicant would be able to use the requested data until 12/31/2023, beginning on the date the Data Use Agreement is executed.

During discussion, Sara Gross, Chief Solicitor for the Baltimore City Department of Law, stated that the City would be using the data in litigation to calculate the prior cost of the opioid crisis and would use it to create an abatement model to calculate how much the crisis continues to cost the City. The Commissioners also discussed the security of the data with the applicant. Mr. Steffen noted that the data would be stored in a Microsoft Azure cloud environment and that the applicant has provided HITRUST documentation and segments of its SOC 2 audit. A commissioner questioned if the opposing parties in Baltimore City’s litigation would have access to the data. Solicitor Gross stated that the Commission would be notified if a request for the data was received from the defendant’s legal counsel. Ms. Gross noted that if such a request occurred, the Commission’s attorneys could oppose the release, and if the court ultimately ordered the release of the data, there is a protective order in place.

Commission Wang moved to approve the City of Baltimore/Monument Analytics MCDB Data Request Application, which was seconded by Commissioner Jensen. And, after discussion, unanimously approved.

ACTION: City of Baltimore/ Monument Analytics MCDB Data Request Application is hereby APPROVED.

AGENDA ITEM 6.

ACTION: Formation of Primary Care Workgroup

David Sharp, Director of the Center for Health Information Technology and Innovative Care Delivery, provided an overview of the Primary Care Workgroup (workgroup) and nominees representing broad stakeholder participation as required by Senate Bill 734, *Maryland Health Care Commission – Primary Care Report and Workgroup*. The workgroup will be convened

annually to study primary care investments and make recommendations for improving quality of and access to primary care services. During discussion, Commissioner O'Grady commented that additional stakeholder representation was needed in the workgroup. Commission staff agreed to present an additional nominee representing consumers at the October Commission meeting.

Commission Wang moved to approve the Formation of Primary Care Workgroup, which was seconded by Commissioner Wood and unanimously approved.

ACTION: Formation of the Primary Care Workgroup is hereby APPROVED.

AGENDA ITEM 7.

ACTION: MDPCP Advisory Council Nomination

Anene Onyeabo, Program Manager in the Innovative Care Delivery Division, presented the nomination of James Trumble, M.D. for Commission consideration to the Maryland Primary Care Program (MDPCP) Advisory Council (Council). The Council provides stakeholder input on operations of the MDPCP and serves a consultative and advisory role to the Secretary of the Maryland Department of Health and the MDPCP Program Management Office. Dr. Trumble is the Vice President for Clinical Integration at Tidal Health. The Commission approved the nomination.

Commission Bhandari moved to approve the MDPCP Advisory Council Nomination, which was seconded by Commissioner Wang and unanimously approved.

ACTION: MDPCP Advisory Council Nomination is hereby APPROVED.

AGENDA ITEM 8.

Overview of Upcoming Activities

Mr. Steffen stated that October's Commission meeting agenda will include several CON's, an update on reports that are due to the Legislature, most notably recommendations on the coverage of telehealth services, an update on potential legislation, and outline for educating the new legislators.

AGENDA ITEM 9.

ADJOURNMENT

There being no further business, the meeting was adjourned at 3:20 p.m. upon motion of Commissioner Buczynski, which was seconded by Commissioner Jensen.