

SENIOR ISSUES (B) TASK FORCE

Senior Issues (B) Task Force Oct. 20, 2020, E-Vote Minutes

Senior Issues (B) Task Force Oct. 8, 2020, Minutes (Attachment One)

Senior Issues (B) Task Force Proposed 2021 Proposed Charges (Attachment One-A)

Senior Issues (B) Task Force Sept. 2, 2020, Minutes (Attachment Two)

Draft Pending Adoption

Draft: 10/26/20

Senior Issues (B) Task Force Electronic Vote (in lieu of meeting at the Fall National Meeting) October 20, 2020

The Senior Issues (B) Task Force conducted an e-vote that concluded Oct. 20, 2020. The following Committee members participated: Marlene Caride, Chair (NJ); Lori K. Wing-Heier, Vice Chair (AK); Ricardo Lara represented by Tyler McKinney (CA); Michael Conway (CO); Andrew N. Mais represented by Paul Lombardo (CT); Karima M. Woods (DC); Trinidad Navarro represented by Fleur McKendell (DE); David Altmaier (FL); John F. King represented by Geraldine Farr (GA); Colin M. Hayashida represented by Kathleen Nakasone (HI); Doug Ommen represented by Andria Seip (IA); Stephen W. Robertson represented by Karl Knable (IN); Vicki Schmidt represented by Julie Holmes (KS); Sharon P. Clark (KY); James L. Donelon represented by Ron Henderson (LA); Gary Anderson represented by Kevin Beagan (MA); Kathleen A. Birrane (MD); Eric A. Cioppa represented by Marti Hooper (ME); Anita G. Fox represented by Renee Campbell (MI); Jon Godfread represented by Chrystal Bartuska (ND); Bruce R. Range (NE); Barbara D. Richardson represented by Jack Childress (NV); Tynesia Dorsey represented by Laura Miller (OH); Jessica K. Altman (PA); Hodgen Mainda represented by Brian Hoffmeister (TN); Tanji J. Northrup (UT); Mike Kreidler represented by Mike Bryant (WA); and Mark Afable represented by Jennifer Stegall (WI).

1. Adopted the Task Force's Oct. 8, Sept. 2 and Summer National Meeting Minutes

The Task Force conducted an e-vote to consider the adoption of its Oct. 8 (Attachment One), Sept. 2 (Attachment Two) and Aug. 3 (*see NAIC Proceedings – Summer 2020, Senior Issues (B) Task Force*) minutes.

Without objection, the Task Force adopted its Oct. 8 and Sept. 2 minutes, with Alaska, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Hawaii, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Nebraska, Nevada, North Dakota, Ohio, Pennsylvania, Utah and Wisconsin voting in favor of adoption.

Having no further business, the Senior Issues (B) Task Force adjourned.

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Draft: 10/16/20

Senior Issues (B) Task Force
Conference Call
October 8, 2020

The Senior Issues (B) Task Force met via conference call Oct. 8, 2020. The following Task Force members participated: Marlene Caride, Chair (NJ); Lori K. Wing-Heier, Vice Chair (AK); Jim L. Ridling represented by Steve Ostlund (AL); Alan McClain represented by William Lacy (AR); Elizabeth Perri (AS); Ricardo Lara represented by Tyler McKinney (CA); Michael Conway represented by Peg Brown (CO); Andrew N. Mais represented by Paul Lombardo (CT); Karima M. Woods represented by Mary Beth Senkewicz (DC); Trinidad Navarro represented by Susan Jennette (DE); David Altmaier represented by John Reilley (FL); John F. King (GA); Colin M. Hayashida represented by Kathleen Nakasone (HI); Doug Ommen (IA); Dean L. Cameron represented by Kathy McGill (ID); Stephen W. Robertson represented by Mary Ann Williams (IN); Vicki Schmidt represented by Julie Holmes (KS); Kathleen A. Birrane represented by Joy Hatchette (MD); Eric A. Cioppa represented by Marti Hooper (ME); Anita G. Fox represented by Renee Campbell (MI); Grace Arnold represented by Fred Andersen (MN); Chlora Lindley-Myers (MO); Mike Causey represented by Ted Hamby (NC); Jon Godfread represented by Chrystal Bartuska (ND); Bruce R. Ramge represented by Martin Swanson (NE); Russell Toal represented by Bogdanka Kurahovic (NM); Barbara D. Richardson represented by Jack Childress (NV); Tynesia Dorsey represented by Laura Miller (OH); Glen Mulready represented by Ron Kreiter (OK); Jessica K. Altman represented by Jim Lavery (PA); Larry D. Deiter represented by Jill Kruger (SD); Hodgen Mainda represented by Brian Hoffmeister (TN); Tanji J. Northrup represented by Jaakob Sundberg (UT); Scott A. White represented by Bob Grissom (VA); Mike Kreidler represented by Michael Bryant (WA); and Mark Afable represented by Jennifer Stegall (WI). Also participating were: Vanessa Darrah (AZ); Eric Anderson (IL); Bob Williams (MS); Martin Wojcik (NY); Christina Rouleau (VT); and Mavis Earnshaw (WY).

1. Adopted its 2021 Proposed Charges

Director Wing-Heier made a motion, seconded by Mr. Swanson, to adopt the Task Force's 2021 proposed charges (Attachment One-A). The motion passed unanimously.

2. Discussed Medicare and a Possible Coronavirus Vaccine

Director Wing-Heier opened the discussion on the possibility that Medicare may not cover the costs of administering a coronavirus vaccine if approved under an emergency-use authorization. She felt it was important for the Task Force to address and discuss that several newspapers and online articles have written about the problem that Medicare would not cover the cost of administering any coronavirus vaccine approved for emergency use. Director Wing-Heier said the recently passed Coronavirus Aid, Relief, and Economic Security (CARES) Act ensures coronavirus vaccine coverage with no out-of-pocket costs for people on Medicare, but Medicare does not cover costs for drugs approved under the U.S. Food and Drug Administration's (FDA's) emergency use authorization (EUA) designations.

3. Discussed Other Matters

Bonnie Burns (California Health Advocates—CHA) raised a couple issues. The first issue she raised was that persons with End-Stage Renal Disease (ESRD) will be able to enroll in Medicare Advantage, and most plans institute a 20% coinsurance for dialysis. She said these costs will be very high for ESRD patients because most do not know of these costs, and these costs will push many ESRD patients into Medicaid.

Ms. Burns raised a second issue regarding possible confusion of notices pertaining to rate increases and premium reductions. She said there is a lawsuit moving towards settlement and, as part of the settlement, policyholders will be offered a number of options to reduce a previous premium increase. She said the notice will also include information related to future premium increases, if any. She said the notice generated by this settlement could come in addition to or in combination with any current rate increase filings. Ms. Burns said in California, 35,000 California Partnership policyholders may lose their Partnership status if they reduce their daily benefit below the minimum daily benefit allowed in California of \$240 or reduce or drop their inflation protection below the minimum of 5% compounded.

Having no further business, the Senior Issues (B) Task Force adjourned.

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Draft: 10/8/20

Adopted by the Health Insurance and Managed Care (B) Committee, Nov. 2, 2020

Adopted by the Senior Issues (B) Task Force, Oct. 8, 2020

2021 Proposed Charges

SENIOR ISSUES (B) TASK FORCE

The mission of the Senior Issues (B) Task Force is to: 1) consider policy issues; 2) develop appropriate regulatory standards; and 3) revise, as necessary, the NAIC models, consumer guides and training material on Medicare supplement insurance, long-term care insurance (LTCI), senior counseling programs, and other insurance issues that affect older Americans.

Ongoing Support of NAIC Programs, Products or Services

1. The **Senior Issues (B) Task Force** will:

- A. Develop appropriate regulatory standards and revisions, as necessary, to the NAIC models, consumer guides and training material on Medicare supplement insurance, senior counseling programs, and other insurance issues that affect older Americans. Work with federal agencies to advance appropriate regulatory standards for Medicare supplement and other forms of health insurance applicable to older Americans. Review the *Medicare Supplement Insurance Minimum Standards Model Act* (#650) and the *Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act* (#651) to determine if amendments are required based on changes to federal law. Work with the federal Centers for Medicare & Medicaid Services (CMS) to revise the annual joint publication, *Choosing a Medigap Policy: A Guide to Health Insurance for People with Medicare*.
- B. Monitor the Medicare Advantage and Medicare Part D marketplace. Assist the states, as necessary, with regulatory issues. Maintain a dialogue and coordinate with the CMS on regulatory issues, including solvency oversight of waived plans and agent misconduct. Assist the states and serve as a clearinghouse for information on Medicare Advantage plan activity.
- C. Provide the perspective of state insurance regulators to the U.S. Congress (Congress), as appropriate, and the CMS on insurance issues, including those concerning the effect and result of federal activity on the senior citizen health insurance marketplace and regulatory scheme. Review and monitor state and federal relations with respect to senior health care initiatives and other impacts on the states.
- D. Monitor developments concerning the State Health Insurance Assistance Programs (SHIPs), including information on legislation affecting the funding of SHIPs. Provide assistance to the states with issues relating to SHIPs and support a strong partnership between SHIPs and the CMS. Provide the perspective of state insurance regulators to federal officials, as appropriate, on issues concerning SHIPs.
- E. Monitor, maintain and review, in accordance with changes to Model #651, a record of state approvals of all Medicare supplement insurance new or innovative benefits for use by state insurance regulators and others. Review state-approved new or innovative benefits and consider whether to recommend that they be made part of standard benefit plan designs in Model #651.
- F. Develop appropriate regulatory standards and revisions, as necessary, to the NAIC models, consumer guides, and training material on LTCI, including the study and evaluation of evolving LTCI product design, rating, suitability, and other related factors. Review the existing *Long-Term Care Insurance Model Act* (#640), the *Long-Term Care Insurance Model Regulation* (#641), the *Limited Long-Term Care Insurance Model Act* (#642), and the *Limited Long-Term Care Insurance Model Regulation* (#643) to determine their flexibility to remain compatible with the evolving delivery of long-term care (LTC) services and the evolving LTCI marketplace. Work with federal agencies, as appropriate.
- G. Examine examples of health-related financial exploitation of seniors and work with other NAIC committees, task forces and working groups on possible solutions.

2. The **Long-Term Care Insurance (LTCI) Model Update (B) Subgroup** will:

- A. Review and update Model #640 and Model #641 to determine their flexibility to remain compatible with the evolving delivery of LTC services and the evolving LTCI marketplace.
- B. Update Model #642 and Model #643 to correlate with Model #640 and Model #641.
- C. Consider recommendations referred from the Long-Term Care Insurance (EX) Task Force and/or its subgroups.

NAIC Support Staff: David Torian

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Draft: 9/10/20

Senior Issues (B) Task Force
Conference Call
September 2, 2020

The Senior Issues (B) Task Force met via conference call Sept. 2, 2020. The following Task Force members participated: Marlene Caride, Chair (NJ); Lori K. Wing-Heier, Vice Chair (AK); Jim L. Ridling represented by Steve Ostlund (AL); Alan McClain represented by William Lacy (AR); Ricardo Lara represented by Tyler McKinney (CA); Michael Conway represented by Kim Latta (CO); Andrew N. Mais represented by Paul Lombardo (CT); Trinidad Navarro represented by Susan Jennette (DE); David Altmaier represented by Chris Struk (FL); Colin M. Hayashida represented by Kathleen Nakasone (HI); Doug Ommen (IA); Dean L. Cameron represented by Kathy McGill (ID); Stephen W. Robertson represented by Rebecca Vaughan (IN); Vicki Schmidt represented by Craig VanAalst (KS); Sharon P. Clark represented by Stephanie McGaughey-Bowker (KY); James J. Donelon represented by Alecia Johnson (LA); Gary Anderson represented by Rebecca Butler (MA); Kathleen A. Birrane represented by Joy Hachette (MD); Eric A. Cioppa represented by Sherry Ingalls (ME); Anita G. Fox represented by Renee Campbell (MI); Steve Kelley represented by Fred Andersen (MN); Chlora Lindley-Myers (MO); Mike Causey represented by Ted Hamby (NC); Jon Godfread represented by Chrystal Bartuska (ND); Bruce R. Ramge represented by Martin Swanson (NE); Chris Nicolopoulos represented by Roni Karnis (NH); Barbara D. Richardson represented by Jack Childress (NV); Tynesia Dorsey represented by Laura Miller (OH); Glen Mulready (OK); Andrew R. Stolfi represented by Gayle L. Woods (OR); Jessica K. Altman (PA); Larry D. Deiter represented by Jill Kruger (SD); Hodgen Mainda represented by Brian Hoffmeister (TN); Todd E. Kiser represented by Tomasz Serbinowski (UT); Scott A. White represented by Bob Grissom (VA); Mike Kreidler represented by Michael Bryant (WA); Mark Afable (WI); and James A. Dodrill represented by Ellen Potter (WV). Also participating were: Vanessa Darrah (AZ); Eric Anderson (IL); Bob Williams (MS); Martin Wojcik (NY); Sarah Neil (RI); and Andrew Dvorine (SC).

1. Heard a Presentation from AlliedVirtualCare on its Initiative to Reduce LTCI Costs

Commissioner Caride asked Bob Bischoff (AlliedVirtualCare—AVC) to discuss an initiative to help reduce long-term care insurance (LTCI) costs. Mr. Bischoff said their initiative uses virtual tools to help reduce costs. He said they are looking at how long-term care (LTC) insurers can save on closed books of business. He said falls, cognitive decline, hearing loss and depression collectively contribute to a significant increase in costs and claims. He said by implementing programs and services that leverage therapeutic and preventative health programs, identify undiagnosed risks, and increase access to highly effective, lower-cost, virtual solutions for needed therapies, it is possible for these insurers to save on those closed books of business.

Mr. Bischoff said the AVC is a self-funded startup made up of three health care leaders committed to helping people remain healthy and independent as they age and partnering with leading virtual care solutions, seeking pilot populations and pursuing National Institutes of Health (NIH) grants to fund outcomes research to further support their business model. He said AVC brings together allied health professionals and state-of-the-art virtual care technologies to sustain independence and improve health outcomes. He highlighted the target populations as the “aging” population nearing or post-retirement, those experiencing slow progression through the care continuum (“Age in Place”), and those at risk for losing their ability to work and live independently. He highlighted the related conditions of Alzheimer's Disease and related dementias (ADRD), which he pointed out are estimated to cost about \$290 billion in 2020, age-related hearing loss, depression and social isolation, and falls.

Mr. Bischoff said the current system is broken. He said risk assessment for ADRD, depression and social isolation, hearing care, and falls are often overlooked during regular health assessments, that clinic-based therapies exist independently and the care and experience are not readily coordinated, and that effective, proven, lower-cost virtual solutions exist but historically have been underused. He said within the last three months or so, there has been a huge upswing and increase in the use of telehealth. He said in 2019, there were approximately 36 million users, and 2020 is projected to be at about 1 billion. He said AVC has developed a program called Songbird to promote education, awareness and self-assessment to identify undiagnosed risks in these areas, to navigate members to a curated network of virtual care solutions to provide high-quality, economical interventions that increase use of needed therapies, and to integrate self-assessment and virtual care data to measure outcomes.

Mr. Bischoff said the time is ripe now for this initiative and program for a variety of reasons. He said there is a growing awareness of how these conditions have an impact on population independence and quality of life. He said virtual care is seeing a massive lift as a result of new Medicare and Medicare Advantage rules, improved reimbursement and licensing rules for virtual care, an increase demand for allied health providers, an acceptance of virtual care solutions as a viable treatment option, and a recognition of value-based enterprises within pending changes to Physician Self-Referral (Stark) and anti-kickback laws.

Commissioner Caride said she is seeing a large increase of the use of telehealth and that it is becoming more pervasive due to COVID-19. She said she is interested in seeing how this will work with LTCL. Director Wing-Heier asked Mr. Bischoff what the next steps are and what he is seeking from state insurance regulators. Mr. Bischoff said they are looking to identify blocks of members and would appreciate assistance in engaging with these blocks of members. Director Wing-Heier asked if they are looking at pre-claim or on-claim persons. Mr. Bischoff said either group but that pre-claim would be better.

Bonnie Burns (California Health Advocates—CHA) said that a benefit for LTCI insurers would be if fall prevention were part of the care or part of the benefits. She said half of nursing home visits are a result of falls, and insurers and state insurance regulators should think about how fall prevention could prevent nursing home care. Mr. Bischoff said different tests can work with the use of virtual care. He said different treatments can be tied together, such as strength training balance; a Fitbit could be useful for some individuals.

Commissioner Caride asked if physical training through virtual care is happening now. Mr. Bischoff said there are some providers doing just that, and the Centers for Disease Control and Prevention (CDC) has been taking a close look at the use of virtual care and physical training. Commissioner Caride said in relation to hearing loss, more physical treatments, such as training in walking and taking more steps, could help reduce falls. Mr. Bischoff added depression prevention as part of the hearing loss community. He said many individuals with hearing loss suffer from depression, and without treatment for the hearing loss, depression will worsen, and the individual will be less able to interact. He said this could lead to severe withdrawal, both physically and mentally.

Ms. Nakasone asked about the fall assessment and how virtual care can be useful when someone may need an in-person treatment of help to prevent falls. Mr. Bischoff agreed that at that point, a person needing such care and treatment where an in-person caretaker is needed, then virtual care could still be used but in a different manner. Mr. Serbinowski asked if they have approached insurance companies already and how long of a study they are anticipating because he feels that such a study will have to take quite some time. Mr. Bischoff said they have not asked insurance companies and they are prepared, including financially, for a long study time. He gave an example of the progress that currently exists to help those inflicted with hearing loss. He said the modern hearing aid can measure so many metrics now. He said modern aids can measure how long one talks, a speaker's balance and other metrics that are useful in the virtual care arena.

Ms. Neil asked about persons on claim and getting kicked off due to improvement and what about the activities of daily living (ADLs) and if a person is still paying for ADL and no longer need service due to improvement. Ms. Burns said if a person improves enough and gets off claim because they can do enough ADLs, there is a chance they would not improve enough and therefore would not get care. Mr. Bischoff said hearing loss is a domino effect and can lead to problems with or the inability to do ADLs. He said in the ideal world, it would be nice to get the person off claim, but it is more realistic to keep the person at home and continue to get services.

2. Discussed Insurance Sales, Seniors and COVID-19

Ms. Burns discussed COVID-19 fraud against seniors and said the Senior Medicare Patrol (SMP) program is seeing more cases. She introduced Rebecca Kinney (U.S. Administration for Community Living—ACL), Marissa Whitehouse (ACL) and Matthew Smith (Coalition Against Insurance Fraud—CAIF) to discuss this matter.

Ms. Kinney said her department manages the SMP program (SMP), along with State Health Insurance Assistance Program (SHIPs) and other similar programs. She said the SMP assists Medicare beneficiaries, their families and caregivers to prevent, detect and report health care fraud, errors and abuse through outreach, counseling and education. SMPs are grant-funded projects of the ACL. She said there are SMPs in every state and territory, and they work with the states' Departments of Insurance (DOIs) and the Centers for Medicare and Medicaid Services (CMS).

Ms. Whitehouse discussed a special case the SMP in California had examined revolving around unsolicited in-person contact with seniors and offering COVID-19 prevention tests. She said there are concerning sales allegations from certain brokers and a pattern using the guise of delivering COVID-19 prevention kits to gain access to members that are not a part of their book of business and intentionally engaging in unsolicited contact with members in violation of the Medicare Communications and Marketing Guidelines. She said the California SMP referred the case to the investigation arm of the California Department of Managed Health Care, the California DOI, the CMS, and the Office of Inspector General (OIG) of the U.S. Department of Health and Human Services (HHS).

Ms. Burns said these brokers are more aggressive and insistent on coming to the senior's home, using the guise of COVID-19 prevention kits, and then changing the senior's plan. She said these agents/brokers apply pressure, gain entry, begin to discuss COVID-19 and then switch to discussing the senior's coverage. She said many times, these seniors are then changed from their current coverage. She gave an example of one senior who was switched to hospice and others who were switched from Medicare Supplement to Medicare Advantage.

Mr. Smith said COVID-19 scams have the largest spoke in history. He said a United Nations (UN) study showed 60% of phishing scams are related to COVID-19. He said many of the frauds and scams his organization is seeing are fake test kits, pre-signups for a vaccine, targeting seniors' stimulus checks and staged auto accidents. He said in relation to the previous discussion on telehealth, that while it is great and he is supportive, there is a potential for fraud against seniors. He gave as an example of unlicensed physicians and physicians outside the U.S. pretending to be licensed in the U.S. He said his organization is seeing a rise in fraudulent marketing of pandemic riders to provide extra coverage for family members. He said his organization is ready to work with state insurance regulators and insurance professionals, and he provided his organization's website, www.insurancefraud.org, as a starting point for regulators.

Ms. Burns said that each SMP has its own site or is included in the state's SHIP program, and she encouraged state insurance regulators to coordinate with their state's SMP as the best way to combat fraud against seniors.

3. Continued Discussion from the Summer National Meeting of Seniors and COVID-19

Director Wing-Heier said there is no need for further discussion considering the presentations the Task Force just heard. She asked if any states had other COVID-19 concerns. Mr. Swanson said Nebraska has ongoing COVID-19 investigations but specific to seniors. Commissioner Caride said there have been no cases elevated to her department, but she is aware of scams and frauds in other states that may have an impact in her state. Ms. Burns and Mr. Smith both said that it is difficult to get seniors to admit they have been scammed or to complain to an agency if they are aware of abuse and fraud. Ms. Burns said only a small percentage complain. Both Ms. Burns and Mr. Smith said the discovery of any fraudulent abuse or scams are found when the senior comes to a SMP or SHIP for an entirely different reason, and far too many seniors do not know who or what agency/department to bring their complaints.

Having no further business, the Senior Issues (B) Task Force adjourned.

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