

Draft Pending Adoption

Attachment **XX**
Health Insurance and Managed Care (B) Committee
12/7/20

Draft: 11/30/20

Health Innovations (B) Working Group Virtual Meeting (*in lieu of meeting at the 2020 Fall National Meeting*) November 9, 2020

The Health Innovations (B) Working Group of the Health Insurance and Managed Care (B) Committee met Nov. 9, 2020. The following Working Group members participated: Marie Ganim, Chair (RI); Martin Swanson, Vice Chair, and Laura Arp (NE); Andrew R. Stolfi, Vice Chair, and TK Keen (OR); Anthony L. Williams and William Rodgers (AL); Sarah Bailey, Lori K. Wing-Heier and Jacob Lauten (AK); Howard Liebers (DC); Doug Ommen, Andria Seip and Cynthia Banks Radke (IA); Kim Collins, Claire Szpara and Karl Knable (IN); Brenda Johnson, Craig Van Aalst and Julie Holmes (KS); Robert Wake (ME); Camille Anderson-Weddle, Carrie Couch, Jessica Schrimpf, Michelle Vickers, Chlora Lindley-Myers and Amy Hoyt (MO); Jon Godfread, Colton Storseth and Chrystal Bartuska (ND); Tyler Brannen and Maureen Belanger (NH); Philip Gennace (NJ); Colin Baillio and Paige Duhamel (NM); Mark Garratt (NV); Jessica K. Altman and David D'Agostino (PA); Valerie Brown, Doug Danzeiser, Rachel Bowden, David Bolduc and Barbara Snyder (TX); Shelley Wiseman and Jaakob Sundberg (UT); Molly Nollette and Jane Beyer (WA).

1. Adopted its July 30 Minutes

Commissioner Stolfi made a motion, seconded by Ms. Arp, to adopt the Working Group's July 30 minutes (Attachment 1) which covered presentations related to telehealth and cost control. The motion passed unanimously.

2. Heard a Presentation on Hospital Prices

Christopher Whaley (RAND Corporation) gave a presentation on the RAND Corporation's most recent study on the prices charged by hospitals to private health plans. He described the changes to the study since the last version, including that it now includes 49 states, six all-payer claims databases, professional fees, and facility fees. He said commercial prices relative to Medicare have increased steadily, and they were 247% of Medicare prices, on average, in 2018. He said hospital prices vary widely across the states, within the states, and within health systems. The study found some link between price and quality, but there are many high-quality hospitals with low prices. He suggested policy changes, such as support for all-payer claims databases, policies that promote competition and eliminate gag clauses, limits on out-of-network charges, and all-payer or global budget programs.

Commissioner Stolfi asked what resources might be available to help employers use the data from the study in their negotiations with health plans. Mr. Whaley said employers can form coalitions to rethink benefit designs in ways that take advantage of lower priced providers. He also said states can use their leverage as large employers to direct enrollees to lower priced providers and implement reference based pricing. Commissioner Stolfi asked how the Medicare comparison rate was determined. Mr. Whaley said his study makes all of the same adjustments as Medicare does for payments, including geographic adjustments and teaching hospital adjustments.

Commissioner Godfread asked Mr. Whaley to respond to hospitals' argument that they are rate takers, not rate setters. Mr. Whaley said different markets have different dynamics, so this may be true in some places; but rates of growth, like 10% per year above Medicare rates, do not seem to indicate rate taking.

3. Heard Presentations on Hospital Costs

Marilyn Bartlett (National Academy for State Health Policy—NASHP) explained a hospital cost tool that her organization developed. She said information on hospital prices is more available, but data on the costs that hospitals have is harder to find. She said using the tool does not take much work, just gathering a Medicare cost report for a hospital and entering information into a Microsoft Excel spreadsheet. She said the tool could be used in health insurance rate review, hospital merger evaluations, and discussions around global health care budgets. She showed how the tool can be used to compare hospitals in different categories, such as not-for-profit, for-profit health system, and university-based and by payer mix, showing how much profit hospitals make from Medicare and Medicaid patients. She said the tool also allows calculation of a hospital's breakeven point for different payers.

4. Heard a Presentation on Costs and Coverage Requirements for Coronavirus Tests

Karen Pollitz (Kaiser Family Foundation—KFF) presented on prices for coronavirus tests and issues related to the federal requirement for insurers to cover the cost of tests. She described the different types of tests in the market and those under development. She explained federal law and guidance on insurer coverage, which says that testing for surveillance need not be covered and providers must post their cash prices online. She added that states may impose additional standards or requirements if they do not prevent the application of federal law. She discussed pricing information based on Medicare payment rates, the prices posted on hospital websites, and in advertising from retailers and test manufacturers. She shared media stories of the amounts insured and uninsured individuals have been charged for tests. She suggested ways for state insurance regulators to address testing prices, including enhancing price transparency; coordinating to report complaints; auditing a sample of claims; adapting surprise billing protections; and communicating with federal officials, other state agencies like attorneys general, and local public health departments.

Commissioner Stolfi asked how the states can clarify coverage for tests when an individual is notified by a contact tracer that there was a possible exposure. Ms. Pollitz said in her view, such a test would be diagnostic and not for surveillance.

5. Heard Presentations from Consumer Representatives on Health Care Prices and Coronavirus Test Prices

Eric Ellsworth (Consumer's Checkbook) outlined ways in which price transparency efforts are not working for consumers. He noted that consumers are not aware of existing tools, the information they provide is not actionable, and providers often make care decisions, not consumers. He said consumers need accurate, real time information. He recommended that state insurance regulators push for public network data and standards for clarity in user experiences.

Amy Killelea (National Alliance of State and Territorial AIDS Directors—NASTAD) spoke on coronavirus test prices. She suggested that there is no such thing as a purely surveillance test. She said for other diseases like hepatitis, insurers cover routine screening as well as diagnostic testing. She said public health funding should be more consistent, rather than increasing only when there is a public health emergency. She said given cuts to public health funding, insurers have a role to play in funding testing in the current emergency. She said state insurance regulators could more broadly define recent exposure to allow more coverage for testing.

Jackson Williams (Dialysis Patient Citizens) addressed the issue of hospital prices and the role of insurers and state insurance regulators in pushing back on high prices. He suggested that state insurance commissioners act as coordinators to facilitate more effective negotiation between payers, both insurers and employers, and providers. He said there is also a role for state attorneys general and consumer advocates. He suggested that state insurance regulators could withhold permission to increase rates and potentially impose a duty on insurers to get the best price for consumers. He shared a law review article he authored that further describes these ideas.

Having no further business, the Health Innovations (B) Working Group adjourned.

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Health Innovations (B) Working Group
Virtual Summer National Meeting
July 30, 2020

The Health Innovations (B) Working Group of the Health Insurance and Managed Care (B) Committee met via conference call July 30, 2020. The following Working Group members participated: Marie Ganim, Chair (RI); Andrew R. Stolfi, Vice Chair, TK Keen, Dorothy Bean, Rick Barry and Tashia Sizemore (OR); Martin Swanson, Vice Chair, Bruce R. Ramge, Michael Muldoon, Tracy Burns, and Laura Arp (NE); Sara Bailey, Jacob Lauten and Mayumi Gabor (AK); Anthony L. Williams, Yada Horace and Steve Ostlund (AL); Howard Liebers and Cheryl Wade (DC); Cynthia Banks Radke, Angela Burke Boston, Johanna Nagel and Sonya Sellmeyer (IA); Alex Peck and Claire Szpara (IN); Barbara Torkelson, Shannon Lloyd, Craig Van Aalst and Tate Flott (KS); Robert Wake, Marti Hooper and Keith Fougere (ME); Jessica Schrimpf, Teresa Kroll, Amy Hoyt, Cynthia Amann, Camille Anderson-Weddle and Christie Kincannon (MO); John Arnold, Ross Hartley, Chrystal Bartuska and Johnny Palsgraaf (ND); Sarah Cahn and Maureen Belanger (NH); Philip Gennace and Chanell McDevitt (NJ); Paige Duhamel and Vlara Ianakieva (NM); Mark Garratt, Jeremy Christensen, David Cassetty and Jeremy Goldstone (NV); Lars Thorne, Karen M. Feather, Sandra L. Ykema, Michael Humphreys, Richard L. Hendrickson, Shannen Logue and Katie Dzurec (PA); Raja Malkani, Luke Bellsnyder, R. Michael Markham, Carol Lo, David Bolduc, Kenisha Schuster, Leah Gillum and Chris Herrick (TX); Tanji Northrup, Heidi Clausen and Jaakob Sundberg (UT); Molly Nollette, Kimberly Tocco, Ali Butler, Mandy Weeks-Green, Pam Brannan, Jane Beyer, Candice Myrum and Sue Hedrick (WA); Julie Walsh, Diane Dambach, Barbara Belling, Nathan Houdek, Rebecca Rebholz and Darcy Paskey (WI); and Joylynn Fix, Tonya Gillespie and Erin K. Hunter (WV). Also participating were: Taryn Lewis, Alan McClain and Melissa Vance (AR); Liane Kido (AZ); Lydia Wang, Bob Darnell, Annette Fortman, Lan Brown and David Noronha (CA); Debra Judy and Eric Unger (CO); Paul Lombardo, Jared Kosky and Aza Mosley (CT); Leslie Ledogar (DE); Ray Wegner, Bryan Peters, Matt Guy, Chris Struk, Toma Wilkerson and David Jones (FL); Teresa Winer (GA); Ian Robertson, Jason Asaeda, Arlene Ige and Mavis Okihara (HI); Kathy McGill, Weston Trexler, Michele Mackenzie and Kristen Finau (ID); Michelle Baldock, Andi VanderKolk, Mike Teer, Kate Morthland, Ryan Gillespie, KC Stralka, Robert Planthold and Lauren Peters (IL); Heather Quinn, Patrick Smith, Jill Mitchell, Sharon P. Clark and DJ Wasson (KY); Frank Opelka, Gayle Raby, Rachael Lundy-Davis and Richard Piazza (LA); Jackie Horigan (MA); Dytonia Reed, James Williams, Gia Wilkerson, Brad Bodan, Adam Zimmerman, Ted Sines and Todd Switzer (MD); Parker Fisher, Chad Arnold, Kevin Dyke, Renee Campbell, Joseph Stoddard and Karen Dennis (MI); Grace Arnold, Sherri Mortensen-Brown, Galen Benshoof, Annelisa Steeber, Cam Jenkins, Adam Goldhammer and Peter Brickwedde (MN); Judy Newton (MS); Jeannie Keller (MT); Robert Croom and Kathy Shortt (NC); Sylvia Lawson, Alison Gold and Patricia Swolak (NY); Kyla Dembowsky, Dan Bradford, Meredith Craig, Laura Miller and Carrie Haughawout (OH); Cuc Nguyen, Lydia Shirley and Ron Kreiter (OK); Katrina Rodon, Joe Cregan, Katie Geer, Shari Miles and Michael Wise (SC); Jill Kruger, Gretchen Brodkorb and Candy Holbrook (SD); Brian Hoffmeister, Bill Huddleston and Rachel Jade-Rice (TN); Bob Grissom, Jackie Myers, Rebecca Nichols, Trish Todd and James Young (VA); Suzette Richards (VI); Jill Rickard, Christine Menard-O'Neil, Emily Brown, Anna Van Fleet, Marcia Violette and Isabelle Turpin Keiser (VT); and Mavis Earnshaw, Denise Burke and Tana Howard (WY).

6. Adopted its June 23 Minutes

Ms. Northrup made a motion, seconded by Ms. Bailey, to adopt the Working Group's June 23 minutes. The motion passed unanimously.

7. Heard a Presentation on Federal and State Regulation of Telehealth Coverage

Randi Seigel (Manatt Health) gave a presentation on privacy requirements for telehealth communications under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). She reviewed which HIPAA standards are required versus addressable, the flexibility established under the COVID-19 pandemic, and other considerations for covered entities in complying with privacy requirements.

8. Heard Presentations on Telehealth Policies from Stakeholders

Andrew Sperling (National Alliance on Mental Illness—NAMI) shared poll results and concerns from patients and mental health providers. Kate Berry (America's Health Insurance Plans—AHIP) reviewed the growth in telehealth services, ongoing challenges, and what the states can do to further promote telehealth. Stephanie Quinn (American Academy of Family Physicians—AAFP) discussed changes to provider workflows, regulatory flexibilities, and ongoing challenges, including lack of alignment across payers.

Ms. Duhamel asked about paid online talk therapy portals and whether insurance should be required to cover their services. Mr. Sperling said such portals can be helpful, but NAMI has quality concerns and would like to see insurance coverage to promote affordability as well as greater quality. Ms. Dzurec asked what cost saving levers are available by using telehealth. Ms. Berry said there are advantages for consumers from avoided travel and to the health care system from avoided in-person procedures that may not be necessary with timely remote care. Ms. Quinn said over time, staffing models could change based on telehealth and generate savings.

9. Heard a Presentation on Cost Control, Payment Reform and the Pandemic

Christopher F. Koller (Milbank Memorial Fund) presented on health care system strategies for cost control, and he suggested five areas in which state insurance regulators can incentivize and encourage greater health care system affordability. He highlighted multi-agency efforts in Colorado and Oregon to promote system affordability.

Health Insurance Commissioner Ganim described opportunities to address cost issues even as state insurance regulators work to put out the fires of the pandemic. Mr. Koller said state insurance regulators should have a long-term notion of where they are headed, which will likely include an environment of more consolidated providers. State insurance regulators may get pulled in to respond to these market changes and higher prices. Ms. Quinn agreed, and she noted that providers continue to feel pressure to join consolidated systems.

Having no further business, the Health Innovations (B) Working Group adjourned.

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