Date: 3/11/22

2022 Spring National Meeting
Kansas City, Missouri

HEALTH INSURANCE AND MANAGED CARE (B) COMMITTEE
Thursday, April 7, 2022
2:00 – 3:30 p.m.
Grand Ballroom 2501 AB—Convention Center—Level 2

ROLL CALL

Glen Mulready, Chair—Oklahoma
Troy Downing, Co-Vice Chair—Montana
Russell Toal, Co-Vice Chair—New Mexico
Lori K. Wing-Heier—Alaska
Michael Conway—Colorado
John F. King—Georgia
Amy L. Beard—Indiana
Anita G. Fox—Michigan
Grace Arnold—Minnesota
Chris Nicolopoulos—New Hampshire
Andrew R. Stolfi—Oregon
Michael Humphreys—Pennsylvania
Jon Pike—Utah
Mike Kreidler—Washington
Allan L. McVey—West Virginia

NAIC Support Staff: Jolie H. Matthews/Brian R. Webb/Jennifer R. Cook

AGENDA

1. Consider Adoption of its 2021 Fall National Meeting Minutes
   —Commissioner Glen Mulready (OK)

2. Consider Adoption of its Subgroup, Working Group, and Task Force Reports
   —Commissioner Glen Mulready (OK)
   A. Consumer Information (B) Subgroup—Mary Kwei (MD)
   B. Health Innovations (B) Working Group—Commissioner Andrew R. Stolfi (OR)
   C. Health Actuarial (B) Task Force—Commissioner Andrew N. Mais (CT) and Paul Lombardo (CT)
   D. Regulatory Framework (B) Task Force—Commissioner Vicki Schmidt (KS)
   E. Senior Issues (B) Task Force—Commissioner Marlene Caride (NJ)

3. Receive an Update on the Special (EX) Committee on Race and Insurance Workstream Five’s Work—Commissioner Kathleen A. Birrane (MD) and Commissioner Grace Arnold (MN)

4. Hear an Update from the Federal Centers for Medicare & Medicaid Services’ (CMS’s) Center for Consumer Information and Insurance Oversight (CCIIO) on its Recent Activities and Federal No Surprises Act (NSA) Implementation—Jeff Wu (CCIIO)
5. Discuss Any Other Matters Brought Before the Committee
   —Commissioner Glen Mulready (OK)

6. Adjourn into Regulator-to-Regulator Session, Pursuant to Paragraph 3 (Specific Companies, Entities or Individuals) and Paragraph 8 (Consideration of Strategic Planning Issues) of the NAIC Policy Statement on Open Meetings

SharePoint/NAIC Support Staff Hub/Member Meetings/Spring 2022 National Meeting/Agenda/Bcmte.docx
Agenda Item #1

Consider Adoption of its 2021 Fall National Meeting Minutes
—Commissioner Glen Mulready (OK)
The Health Insurance and Managed Care (B) Committee met in San Diego, CA, Dec. 15, 2021. The following Committee members participated: Jon Godfread, Chair (ND); Jessica K. Altman, Vice Chair (PA); Lori K. Wing-Heier (AK); Michael Conway (CO); John F. King (GA); Dean L. Cameron (ID); Kathleen A. Birrane (MD); Anita G. Fox (MI); Grace Arnold (MN); Russell Toal (NM); Glen Mulready (OK); Andrew R. Stolfi (OR); Jonathan T. Pike (UT); Mike Kreidler (WA); and Allan L. McVey represented by Tonya Gill espie (WV). Also participating were: Elizabeth Perri (AS); Ricardo Lara (CA); Frank Pyle (DE); Michelle B. Santos (GU); Doug Ommen and Andria Seip (IA); Vicki Schmidt (KS); Carter Lawrence (TN); and Jeff Rude (WY).

1. **Adopted its Summer National Meeting Minutes**

Superintendent Toal made a motion, seconded by Commissioner Stolfi, to adopt the Committee’s Aug. 16 minutes (see NAIC Proceedings – Summer 2021, Health Insurance and Managed Care (B) Committee). The motion passed unanimously.

2. **Adopted its Subgroup, Working Group, and Task Force Reports**

Commissioner Pike made a motion, seconded by Superintendent Toal, to adopt the following reports: 1) the Consumer Information (B) Subgroup, including its Dec. 2 (Attachment One), Oct. 20 (Attachment Two), Oct. 14 (Attachment Three), and Aug. 24 (Attachment Four) minutes; 2) the Health Innovations (B) Working Group, including its Dec. 11 (Attachment Five) and Nov. 2 (Attachment Six) minutes; 3) the Health Actuarial (B) Task Force; 4) the Regulatory Framework (B) Task Force; and 5) the Senior Issues (B) Task Force. The motion passed unanimously.

3. **Adopted its 2022 Proposed Charges**

Commissioner Godfread said the Committee’s 2022 proposed charges were posted on the Committee’s web page and exposed for a public comment period ending Dec. 1. He said the Committee received no comments. Superintendent Toal made a motion, seconded by Commissioner Birrane, to adopt the Committee’s 2022 proposed charges (Attachment Seven). The motion passed unanimously.

4. **Adopted its Task Forces’ 2022 Proposed Charges**

Commissioner Godfread said prior to the call, NAIC staff distributed the 2022 proposed charges for the Health Actuarial (B) Task Force, the Regulatory Framework (B) Task Force, and the Senior Issues (B) Task Force. The Health Actuarial (B) Task Force adopted its 2022 proposed charges during its Sept. 14 meeting. The Regulatory Framework (B) Task Force adopted its 2022 proposed charges during its Nov. 9 meeting. The Senior Issues (B) Task Force adopted its 2022 proposed charges during its Oct. 6 meeting.

Commissioner Mulready made a motion, seconded by Director Fox, to adopt the 2022 proposed charges for the Health Actuarial (B) Task Force, the Regulatory Framework (B) Task Force, and the Senior Issues (B) Task Force (see NAIC Proceedings – Fall 2021, Executive (EX) Committee and Plenary, Attachment Four). The motion passed unanimously.

5. **Heard an Update from the CCIIO**

Jeff Wu (Center for Consumer Information and Insurance Oversight—CCIIO) provided an update on the Biden administration’s current and future activities of interest to the Committee. He discussed the status of the 2022 open enrollment period noting a strong volume of enrollment both in the marketplace plans through HealthCare.gov and the state marketplaces. He highlighted the Biden administration’s $80 million in grants for outreach and enrollment assistance provided to assisters and navigators to assist consumers in their 2022 open enrollment plan selections. He also said approximately 2.8 million people enrolled in marketplace plans during the special enrollment period (SEP). He said approximately 2.1 million people have enrolled in federal marketplace plans, and approximately 700,000 enrolled in state-based exchange plans. He said these enrollments are in addition to the approximately 82 million people enrolled in Medicaid and the Children’s Health Insurance Program (CHIP). He discussed the Biden administration’s plans for unwinding the process and preparing for the end of the COVID-19 public health emergency to smoothly transition people from Medicaid and CHIP to other forms of coverage.
said the CCIIO is working with its fellow centers, particularly the federal Center for Medicaid and CHIP Services (CMCS), and exploring all available options to limit coverage gaps and coverage losses for those consumers who will be going through the redetermination process. He noted that the NAIC and state insurance regulators will play a huge role in this process. He encouraged state insurance regulators to reach out to the CCIIO with any suggestions and concerns related to this unwinding process.

Mr. Wu discussed the CCIIO’s efforts related to the implementation and enforcement of the federal No Surprises Act (NSA), including the issuance of several sets of interim final and proposed rules. He highlighted the CCIIO’s creation of an NSA website with focus pages for specific stakeholders, such as providers and consumers. He said the CCIIO recognizes the need for extensive outreach and education to stakeholders about the NSA’s provisions and its consumer protections and responsibilities.

Mr. Wu said the CCIIO recognizes that the states are in different positions as far as enforcement when the NSA becomes effective Jan. 1, 2022. He discussed how the federal agencies charged with implementing the NSA can work together with the states to address any implementation and enforcement issues. He said the CCIIO has held meetings with the states to discuss NSA enforcement and has begun sending out letters to the states outlining whether the federal agencies or the states will be responsible for enforcing which provisions of the NSA.

Mr. Wu said despite the necessary focus on the NSA and its implementation, the CCIIO is continuing its work with the states on implementation and enforcement of the provisions of the federal Consolidated Appropriations Act of 2021 (CAA), which amended the federal Mental Health Parity and Addiction Equity Act (MHPAEA) to provide important new protections. He also noted the concerns state insurance regulators have had and have discussed with the CCIIO related to producer and plan marketing and enrollment practices.

Mr. Wu highlighted Kentucky, Maine, and New Mexico’s successful transition from federal marketplaces to full state-based marketplaces for 2022. He noted that these transitions create great opportunities for these states to have really focused specific programs for their residents. He also said the federal Affordable Care Act’s (ACA’s) section 1332 waiver program is still available and open for state applicants interested in pursuing new waivers that expand coverage and access; in particular, waivers that have a focus on underserved populations. He said the CCIIO plans to distribute approximately another $450 million to support the efforts of 14 states that have existing section 1332 waivers.

Mr. Wu said in addition to these initiatives, the federal Centers of Medicare & Medicaid Services (CMS) plans to focus on issues related to health equity as part of its work. He said such health disparities have particularly come to light with the COVID-19 public health emergency. However, he noted that the federal government cannot work on these issues alone, and it needs the help of all stakeholders to address these issues. He highlighted Colorado’s essential health benefit benchmark initiative, which the CMS approved earlier this year. He explained that this new benchmark plan is intended to promote access to coverage for gender affirming care by discouraging the use of a one-size-fits-all framework for transgender persons. He said this initiative is a great example of the important and innovative work the states can do. He said the CCIIO is open to engaging other states regarding these types of and other important and innovative initiatives that a state feels is appropriate for their residents.

Commissioner Altman noted that NSA implementation starts Jan. 1, 2022. She asked Mr. Wu about his thoughts on how the states and the CCIIO can work together to share information on any issues that arise as NSA implementation begins. Mr. Wu said he believes implementing the NSA will be a different and more challenging process than what has occurred before, such as the process for implementing the ACA. He said he believes it will be a gradual, ongoing process. He said particularly in the early months of implementation, communication with stakeholders will be key. He noted the current education and outreach efforts the CCIIO is conducting, particularly with providers.

Commissioner Conway said as one of the states that had a balance billing law prior to the NSA’s enactment, Colorado has been examining ways to align its law with the NSA to streamline provisions and make the implementation and enforcement process as efficient and effective for stakeholders—heath care providers, consumers, and hospitals—as possible. He said one of the areas Colorado is finding it difficult to align relates to the arbitration process, particularly in a situation when a provider enters into the federal independent dispute resolution (IDR) process, but later it is determined that the plan involved is state regulated. Upon discovery of this, the provider is kicked out of the federal IDR process and referred to the state IDR process. He acknowledged that Mr. Wu most likely has no immediate answer to his concern. He urged the CCIIO to keep this issue in mind; and as NSA implementation moves forward, the CCIIO should consider and explore ways to address this issue, including allowing in such situations, a state-regulated plan to use the federal IDR process and having the arbitrators follow state law.
requirements to conduct the IDR. Mr. Wu acknowledged the potential operational complexity of Commissioner Conway’s suggestion, but he agreed that it would be worthwhile to discuss this issue further in the future.

Commissioner Kreidler asked Mr. Wu when the proposed federal Notice of Benefit and Payment Parameters for 2022 rules would be released. Mr. Wu noted that the CCIIO’s timing for releasing the rules in the past has been challenging for stakeholders to incorporate all its requirements. He said the CCIIO hopes to release the proposed rules by the end of the year or shortly thereafter.

Commissioner Godfread reiterated the NAIC’s and state insurance regulators’ commitment to work with the CCIIO and other federal agencies regarding NSA implementation. He said he anticipates that this collaboration and Committee discussions on the NSA will continue in the coming year.

6. Discussed the Committee’s NSA Consumer and Provider Outreach Materials

Commissioner Godfread said at the Committee’s meeting during the Summer National Meeting, the Committee discussed developing consumer-facing and provider-facing outreach and education materials on the NSA to assist state insurance departments in educating and reaching out to consumers, providers, and insurers about the NSA, prior to its Jan. 1, 2022, starting date. He said based on that discussion, NAIC staff prepared a template that state departments of insurance (DOIs) can tailor to their needs to educate and inform providers in their state about their responsibilities under the NSA for plans starting in 2022. He also said based on those Committee discussions, the Consumer Information (B) Subgroup developed a consumer-facing document tailored to educate consumers on the NSA and the new protections it offers for balance bills. The Subgroup discussed and approved that document during a meeting on Dec. 2. Commissioner Godfread asked the Committee if it believes any additional materials would be needed at this time, such as specific materials for insurers. After discussion, the Committee decided that the current materials were sufficient and could also be used as part of a state DOI’s education and outreach to insurers.

7. Heard a Presentation from the KFF on Findings from the 2021 EHBS

Gary Claxton (Kaiser Family Foundation—KFF) and Matthew Rae (KFF) provided a summary overview of the findings from the KFF’s 2021 Employer Health Benefits Survey (EHBS). For the 2021 survey, the KFF revised it to ask about changes employers and health plans made to address potential issues and uncertainties related to the COVID-19 pandemic. Mr. Claxton said one expected finding related to this issue was an increase by some employers in the use of telemedicine to provide some health care services. He said many employers have also taken steps to assist employees and family members with the stress caused by the COVID-19 pandemic by offering enhanced mental and behavioral health benefits. Employers have also made changes to their health promotion and wellness programs. Mr. Claxton highlighted another survey finding; i.e., the increase in the number of small employers offering level-funded premium plans. He explained that these arrangements combine a relatively small self-funded component with stop-loss insurance, which limits the employer's liability to low attachment points that transfer a substantial share of the risk to insurers.

Mr. Claxton noted that health insurance coverage remains expensive; but generally, over the past few years, premiums and annual deductibles have remained steady or flat. He said the survey also found that the level of employee cost-sharing has remained flat after previous years of increases. He suggested that this may be due to employers not wanting to make drastic plan changes because of the COVID-19 pandemic.

Commissioner Godfread explained that the reason the Committee invited the KFF to discuss its 2021 EHBS survey findings was because the Committee over the past few years has focused its discussion on the individual market and individual health plans. He said it is also important for the Committee to understand what is happening in the employer market, particularly the small employer market. He encouraged Committee members to view the full 2021 EBHS report on the KFF’s website.

Commissioner Altman noted that as Mr. Claxton stated, although the level of employee cost-sharing has leveled off over the past few years, prior to that level of employee cost-sharing, particularly with respect to deductibles, it has increased over the years. She asked Mr. Claxton if he could discuss empirically or anecdotally about how the current state of coverage in the small group market from a generosity and affordability perspective compares to the individual market taking into consideration the provisions of the federal American Rescue Plan Act of 2021 (ARPA) focusing on lowering the cost of premium for individuals obtaining coverage through the health insurance marketplaces. Mr. Claxton discussed options small employers might take to make coverage more affordable, including not offering coverage, particularly if the employees have lower incomes and can obtain coverage through the health insurance marketplaces and the use of level-funded plans. With respect to level-funded premium plans, Mr. Claxton explained that these plans might have less generous benefits than ACA-compliant plans because
they are not subject to the ACA’s essential health benefit requirements and mental health parity requirements. These plans would also probably be more affordable because they are medically underwritten as well. Mr. Claxton said it is important for state insurance regulators to be aware of these potential trends in the small group market and any possible impact of these types of plans being offered in the small group market versus the plans being offered in the ACA-compliant market.

8. Received an Update on the Special (EX) Committee on Race and Insurance Workstream Five’s Work

Commissioner Altman and Commissioner Lara, co-chairs of the Special (EX) Committee on Race and Insurance Workstream Five, provided an update to the Committee on Workstream Five’s work to date. Commissioner Altman said since the Workstream’s last update, it met Dec. 3, Nov. 18, Oct. 14, Sept. 9, and Aug. 26. She said most of these meetings focused on the Workstream’s work related to its “Principles for Data Collection” document. She said during its Dec. 3 meeting, the Workstream almost completed its work on the document. The Workstream plans to meet Dec. 20 to consider final revisions to the document and, if finalized, forward it document to the Special Committee for its consideration.

Commissioner Lara said in addition to the Workstream’s work on the “Principles for Data Collection” document, during some of the other meetings, the Workstream discussed a draft outline for its proposed white paper on provider networks, provider directories, and cultural competency, and it exposed it for a public comment period ending Nov. 8. He said the Workstream anticipates holding a meeting early next year to discuss the comments received and assign Workstream members to begin drafting sections of the proposed white paper.

Having no further business, the Health Insurance and Managed Care (B) Committee adjourned.
Agenda Item #2

Consider Adoption of its Subgroup, Working Group and Task Force Reports
—Commissioner Glen Mulready (OK)
Virtual Meeting

CONSUMER INFORMATION (B) SUBGROUP
March 22, 2022

Meeting Summary Report

The Consumer Information (B) Subgroup of the Health Insurance and Managed Care (B) Committee met March 22, 2022. During these meeting, the Subgroup:

1. Discussed potential work for 2022.

2. Heard a presentation on consumer understanding of surprise medical bills.
Meeting Summary Report

The Health Innovations (B) Working Group met April 4, 2022. During this meeting, the Working Group:

1. Adopted its 2021 Fall National Meeting minutes.

2. Heard a presentation from the federal Centers for Medicare & Medicaid Services (CMS) on its approach to the expected end of the COVID-19 public health emergency.

3. Heard presentations from the Oregon Health Authority (OHA) and the Massachusetts Health Connector about state preparations for the expected end of the COVID-19 public health emergency.

4. Heard a presentation from consumer representatives on suggested priorities to protect underserved consumers after the expected end of the COVID-19 public health emergency.

5. Heard a presentation from the Center for Insurance Policy and Research (CIPR) on updates to its research on the health disparity impacts of telehealth services and alternative payment models.
Meeting Summary Report

The Health Actuarial (B) Task Force met March 29, 2022. During this meeting, the Task Force:

1. Adopted its March 2 and Feb. 1 minutes, which included the following action:
   A. Adopted its proposal to revise the instructions for the health Statement of Actuarial Opinion (SAO).
   B. Discussed its proposal to revise the instructions for the health SAO.

2. Adopted the report of the Long-Term Care Actuarial (B) Working Group, including its March 9 minutes. During this meeting, the Working Group took the following action:
   A. Discussed the American Academy of Actuaries (Academy) and Society of Actuaries (SOA) Research Institute’s final *Long-Term Care Insurance Mortality and Lapse Study*.

3. Heard an update from the federal Center for Consumer Information and Insurance Oversight (CCIIO) on Uniform Rate Review Template (URRT) submissions via the System for Electronic Rates & Forms Filing (SERFF).

4. Heard an update on SOA research.

5. Heard an Academy Health Practice Council update.

Meeting Summary Report

The Regulatory Framework (B) Task Force met March 23, 2022. During this meeting, the Task Force:

1. Adopted its 2021 Fall National Meeting minutes.

2. Adopted the report of the Accident and Sickness Insurance Minimum Standards (B) Subgroup, including its March 21, March 7, and Feb. 14 minutes. During these meetings, the Subgroup took the following action:
   A. Continued discussion of revisions to Sections 1–7 of the Model Regulation to Implement the Accident and Sickness Insurance Minimum Standards Model Act (#171) based on the comments received by the July 2, 2021, public comment deadline.
   B. Discussed its approach for reviewing and considering revisions to Model #171, including whether to begin its review of potential revisions for supplemental products first and then consider potential revisions for short-term, limited-duration (STLD) plans.
   C. Discussed how to address indemnity products in Model #171 given the different plan designs for this product, differing state approaches to regulating this product, and complex federal law and regulations related to the product.

3. Adopted the report of the Employee Retirement Income Security Act (ERISA) (B) Working Group, including its March 22 minutes. During this meeting, the Working Group took the following action:
   B. Agreed to continue the discussion of potential updates and issues to consider, including within the ERISA Handbook.
   C. Adjourned into regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities or individuals) of the NAIC Policy Statement on Open Meetings.

4. Adopted the report of the Mental Health Parity and Addiction Equity Act (MHPAEA) (B) Working Group, which met March 1 and Jan. 25 in regulator-to-regulator session, pursuant to paragraph 8 (consideration of strategic planning issues relating to federal legislative and regulatory matters) of the NAIC Policy Statement on Open Meetings. The Working Group plans to meet April 5 at the Spring National Meeting to walk through an example comparative analysis that health benefit plans provide
to indicate compliance with the MHPAEA parity requirements. Following this discussion, the Working group will adjourn into a regulator-to-regulator session.

5. Adopted the report of the Pharmacy Benefit Manager Regulatory Issues (B) Subgroup, which met March 16 and took the following action:
   A. Adopted its 2021 Fall National Meeting minutes.
   B. Heard an update from Montana on its pharmacy benefit manager (PBM) law and steps it is taking to implement its provisions.
   C. Heard an update from the ERISA (B) Working Group on its work to revise the ERISA Handbook to add a case analysis of the Rutledge decision. The update included a commitment to work with the Subgroup as it begins work on its 2022 charge to develop a white paper that will include a discussion of state laws regulating PBM business practices, including the implications of the Rutledge decision—i.e., its progeny and impact—if any, on the state regulation of PBM business practices.
   D. Heard an update on work to compile state PBM laws and regulations to support the Subgroup’s 2022 charge to develop a white paper.
   E. Discussed its proposed agenda for its April 4 meeting at the Spring National Meeting and future meeting plans.

6. Heard an update from the Center on Health Insurance Reforms (CHIR) on its work on various projects of interest to the Task Force. The CHIR has developed an interactive map on the roles of federal and state officials on various aspects of the federal No Surprises Act (NSA). The CHIR is working on an issue brief based on interviews with 12 state departments of insurance (DOIs) on their approaches to NSA implementation. The CHIR is also studying the impacts of the COVID-19 public health emergency (PHE), including assessing preparations by the states for the end of the PHE and the impact of COVID-19 on small business health insurance. The CHIR also examined issues related to alternative types of coverage in lieu of federal Affordable Care Act (ACA)-compliant coverage. One issue focused on the misleading marketing of non-ACA compliant coverage during the COVID-19 special enrollment period (SEP). The CHIR’s future work includes: 1) studying state-based marketplace (SBM) outreach and advertising efforts during the most recent open enrollment period; 2) comparing network adequacy rules across the marketplaces and Medicaid managed care organizations (MCOs); 3) state efforts to improve compliance with the MHPAEA; and 4) SBM efforts to improve health equity.

7. Heard a discussion of the issue of health savings accounts (HSAs), high-deductible health plans (HDHPs), and prescription drug copayment accumulators. The discussion provided background information on prescription copayment assistance and its role in lowering patient out-of-pocket costs for prescription drugs. The speakers also discussed state laws with copayment accumulator policies, including states that ban copayment accumulators. The speakers discussed potential conflicts of state copayment accumulator ban laws with federal requirements related to HSA-qualified HDHP plans and continued eligibility to contribute to an HSA in light of such a law. The speakers discussed potential solutions and options to address this issue, including a suggestion that the Task Force consider developing a model bulletin that state DOIs can use to educate consumers on the issue. The speakers also suggested model language for those states that may be contemplating enacting legislation banning copayment accumulator use as a carve out for HSA-qualified HDHP plans to address any potential conflict with federal HSA-qualified HDHP plan requirements.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 NAIC Meetings/Spring National Meeting/Summaries/RFTF.docx
MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT (MHPAEA) (B) WORKING GROUP
Tuesday, April 5, 2022
8:00 – 9:00 a.m.

Meeting Summary Report

The MHPAEA (B) Working Group met April 5, 2022. During this meeting, the Working Group:


2. Heard a presentation from the U.S. Department of Labor (DOL) on mental health parity enforcement activities.

3. Heard a presentation from the American Psychiatric Association (APA) that outlined an example of how insurers may document compliance with mental health parity regulations.
The Pharmacy Benefit Manager Regulatory Issues (B) Subgroup met April 4, 2022. During this meeting, the Subgroup:

1. Heard an update from Oklahoma on its pharmacy benefit manager (PBM). The update included information on the status of Mulready v. the Pharmaceutical Care Management Association (PCMA) in the courts, as well as information on the number of settlements the Oklahoma Department of Insurance (DOI) has reached with PBMs for violations of certain provisions of its PBM law. The update also discussed the Oklahoma DOI’s challenges, lessons learned, and successes in implementing the PBM law.

2. Heard a presentation from Oregon on PBM regulation and beyond. The presentation discussed Oregon’s PBM law and its implementation, as well as the work being done in Oregon related to PBM transparency and the anticipated work of the Oregon Prescription Drug Affordability Board (PDAB) related to PBM transparency. The PDAB is also tasked with conducting affordability reviews and studying the entire prescription drug distribution and payment system in Oregon and the policies adopted by other states and countries that are designed to lower the list price of prescription drugs.

3. Heard a presentation on the consumer perspective of the Subgroup’s 2022 charge to write a white paper on PBMs and PBM business practices. The presentation focused on the role of PBMs in prescription drug access and affordability for consumers and potential solutions.
Date: 3/22/22

Virtual Meeting
(in lieu of meeting at the 2022 Spring National Meeting)

SENIOR ISSUES (B) TASK FORCE
Thursday, March 17, 2022
3:00 – 4:00 p.m. ET / 2:00 – 3:00 p.m. CT / 1:00 – 2:00 p.m. MT / 12:00 – 1:00 p.m. PT

Meeting Summary Report

The Senior Issues (B) Task Force met March 17, 2022. During this meeting, the Task Force:

1. Adopted its Feb. 25, 2022; Feb. 8, 2022; and 2021 Fall National Meeting Minutes, which included the following action:
   B. Heard a discussion about the CMS’s Proposed Rule on Stricter Marketing Guidelines for MA Plans and Medicare Part D Plans.

2. Adopted a letter to the CMS regarding the treatment of nonparticipating Durable Medical Equipment (DME) suppliers under Medicare’s “Limitation on Beneficiary Liability.”

3. Heard a discussion about Medicare Part D beneficiaries being crosswalked from one Medicare Prescription Drug Plan (PDP) to another.

4. Heard a discussion on the sale of access to home care masquerading as insurance.

5. Heard a federal legislative update report.

SharePoint/NAIC Support Staff Hub/Member Meetings/Spring 2022 National Meeting/
Agenda Item #3

Receive an Update on the Special (EX) Committee on Race and Insurance Workstream Five’s Work—Commissioner Kathleen A. Birrane (MD) and Commissioner Grace Arnold (MN)
Agenda Item #4

Hear an Update from the Federal Centers for Medicare & Medicaid Services’ (CMS) Center for Consumer Information and Insurance Oversight (CCIIO)—Jeff Wu (CCIIO)
Agenda Item #5

Discuss Any Other Matters Brought Before the Committee

—Commissioner Glen Mulready (OK)
No Surprises Act Topics

Center for Consumer Information & Insurance Oversight (CCIIO)
No Surprises Act: January 1st Launch Accomplishments

Consumer Protections
Ban on balance billing, Good Faith Estimates, notice & consent waivers when applicable

Investigation of Complaints
No Surprises Help Desk, online resources

Payment Dispute Resolution Processes
Processes for uninsured/self-pay consumers and for payers/providers

Stakeholder and Consumer Outreach & Education
Webinars, social media outreach, technical trainings
The No Surprises Help Desk is available from 8 am to 8 pm EST, 7 days a week. Questions or complaints can be submitted by calling 1-800-985-3059. Consumers and providers can also submit a complaint online.

- **Consumer Web Form**
  - [https://cmsitsm.servicenowservices.com/x_g_cfm_nshd_NSA%20Privacy%20Policy%20Consumer.do](https://cmsitsm.servicenowservices.com/x_g_cfm_nshd_NSA%20Privacy%20Policy%20Consumer.do)

- **Provider Web Form**
  - [https://cmsitsm.servicenowservices.com/x_g_cfm_nshd_NSA%20Privacy%20Policy%20Provider.do](https://cmsitsm.servicenowservices.com/x_g_cfm_nshd_NSA%20Privacy%20Policy%20Provider.do)

- For helpful tips on how to complete the complaint form, please visit:
  - Most recent information on provider FAQs, good faith estimates FAQs and IDR updates can be found here: [No Surprises Act | CMS](https://www.cms.gov/nosurprises/consumers/complaints-about-medical-billing).

**Resolving billing disagreements between consumers and providers**

- To initiate the patient-provider dispute resolution process (PPDR), you can start a dispute online, mail, or fax.
The **good faith estimate** (or GFE) is a notification that outlines an uninsured (or self-pay) individual’s expected charges for a scheduled or requested item or service.

Providers and facilities must give this estimate to an uninsured (or self-pay) individual (or their **authorized representative**) who requests it or who schedules an item or service.

The good faith estimate will also include items or services reasonably expected to be provided along with the **primary item(s) or service(s)**, even if the individual will receive the items and services from another provider or another facility.

These requirements are applicable for good faith estimates requested on or after January 1, 2022 or for good faith estimates required to be provided in connection with items or services scheduled on or after January 1, 2022.
Scope of care included in good faith estimates

Under the NSA, uninsured (or self-pay) individuals should receive a single, comprehensive good faith estimate that includes expected charges for:

- The primary item or service that will be furnished by the convening provider or convening facility and that is the initial reason for the visit.
- All items and services that are reasonably expected to be provided in conjunction with the primary item or service, provided during a defined period of care.

These items or services can include any of the following:

- Encounters;
- Procedures;
- Medical tests;
- Supplies;
- Prescriptions drugs;
- Durable medical equipment; or
- Fees (including facility fees).
Enforcement and interaction with State law

• Under the statute, CMS will only enforce a provision with respect to the applicable regulated parties if CMS determines that a state is not substantially enforcing that provision. This can occur, for example, when a state lacks authority to enforce, or requests that CMS enforce, one or more provisions.
Enforcement and interaction with State law (continued)

• CMS recently published a series of CAA Enforcement letters that outline CMS’s understanding of the PHS Act provisions, as extended or added by the CAA, that each state is enforcing either directly or through a collaborative enforcement agreement, and the provisions that CMS will enforce.

• https://www.cms.gov/CCIIO/Programs-and-Initiatives/Other-Insurance-Protections/CAA

• These letters also communicate whether the federal independent dispute resolution process and the federal patient-provider dispute resolution process apply in each state, and in what circumstances.
Agenda Item #6

Adjourn into Regulator-to-Regulator Session, Pursuant to Paragraph 3 (Specific Companies, Entities or Individuals) and Paragraph 8 (Consideration of Strategic Planning Issues) of the NAIC Policy Statement on Open Meetings