

HEALTH INSURANCE AND MANAGED CARE (B) COMMITTEE

Health Insurance and Managed Care (B) Committee Aug. 11, 2020, Minutes

Health Insurance and Managed Care (B) Committee April 28, 2020, Minutes (Attachment One)

Health Insurance and Managed Care (B) Committee Feb. 26, 2020, Minutes (Attachment Two)

Consumer Information (B) Subgroup July 9, 2020, Minutes (Attachment Three)

Consumer Information (B) Subgroup Jan. 21, 2020, Minutes (Attachment Four)

Consumer Information (B) Subgroup Jan. 7, 2020, Minutes (Attachment Five)

Health Innovations (B) Working Group July 30, 2020, Minutes (Attachment Six)

Health Innovations (B) Working Group June 23, 2020, Minutes (Attachment Six-A)

Draft Pending Adoption

Draft: 8/21/20

Health Insurance and Managed Care (B) Committee
Virtual Summer National Meeting
August 11, 2020

The Health Insurance and Managed Care (B) Committee met via conference call Aug. 11, 2020. The following Committee members participated: Jessica K. Altman, Chair (PA); Lori K. Wing-Heier, Vice Chair (AK); Michael Conway (CO); Vicki Schmidt (KS); Kathleen A. Birrane (MD); Steve Kelley represented by Grace Arnold and Peter Brickwedde (MN); Mike Chaney (MS); Jon Godfread (ND); Linda A. Laceywell represented by John Powell (NY); Glen Mulready (OK); Andrew R. Stolfi and TK Keen (OR); Hodgen Mainda (TN); Todd E. Kiser (UT); and Mike Kreidler (WA). Also participating were: David Altmaier (FL); Dean L. Cameron (ID); Sharon P. Clark (KY); Eric A. Cioppa (ME); Anita G. Fox (MI); Chlora Lindley-Myers (MO); Bruce R. Ramge (NE); Marlene Caride (NJ); Russell Toal (NM); and Marie Ganim (RI).

1. Adopted its April 28, Feb. 26, and 2019 Fall National Meeting Minutes

The Committee met April 28, Feb. 26, and Dec. 8, 2019. During its April 28 and Feb. 26 meetings, the Committee took the following action: 1) received a report from the Health Actuarial (B) Task Force on its work to develop an outline and eventual 2021 rate pricing resource and guidance document for the states to consider when reviewing initial 2021 rates in light of the COVID-19 pandemic; 2) discussed and heard comments from stakeholders on areas, such as telehealth requirements and form filing requirements, in which state insurance regulators can provide regulatory flexibility due to the COVID-19 pandemic; and 3) adopted the Regulatory Framework (B) Task Force's revised 2020 charges, which added a charge for the newly appointed MHPAEA (B) Working Group.

Commissioner Godfread made a motion, seconded by Commissioner Conway, to adopt the Committee's April 28 (Attachment One), Feb. 26 (Attachment Two) and Dec. 8, 2019, (*see NAIC Proceedings – Fall 2019, Health Insurance and Managed Care (B) Committee*) minutes. The motion passed unanimously.

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

Commissioner Schmidt made a motion, seconded by Ms. Arnold, to adopt the following reports: the Consumer Information (B) Subgroup, including its July 9 (Attachment Three), Jan. 21 (Attachment Four) and Jan. 7 (Attachment Five) minutes; the Health Innovations (B) Working Group (Attachment Six); the Health Actuarial (B) Task Force; the Regulatory Framework (B) Task Force; and the Senior Issues (B) Task Force.

3. Heard a Presentation on Health Equity and Disparities in Health Care and Coverage

Samantha Artiga (Kaiser Family Foundation—KFF) provided an overview of disparities in health and health care. She defined health and health care disparities as: 1) differences in health and health care between populations; 2) arising from a complex and interrelated set of individual, provider, health system, societal and economic factors; and 4) occurring across a broad range of dimensions—race/ethnicity, socioeconomic status, gender, age, disability, sexual orientation or gender identity, geographic location and more. She discussed the implications of such disparities for black and Hispanic populations, including higher infant mortality rates, higher mortality rates due to certain diseases, and a disproportionate share of COVID-19 cases. She described health disparities as a symptom of social and economic inequities.

Ms. Artiga said uninsured rates have declined since the implementation of the federal Affordable Care Act (ACA); but despite that, disparities in health care persist for some populations, such as African Americans and other people of color. She discussed some of the reasons for this occurrence, such as coverage gaps and geography. African Americans make up a larger share of the population in the South, where many states have not expanded Medicaid.

Ms. Artiga ended her presentation with five key takeaways for the Committee to consider: 1) health and health care disparities are a longstanding and persistent issue; 2) the COVID-19 pandemic has highlighted and exacerbated underlying disparities; 3) health disparities are a symptom of broader social and economic inequities rooted in structural and systemic barriers that disadvantage people of color, including racism and discrimination; 4) increased awareness and recognition of disparities provides an opportunity to advance equity; and 5) progress will require long-term efforts across sectors to prioritize equity and address systemic and structural barriers, including racism and discrimination.

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Commissioner Altman said Pennsylvania expanded Medicaid under the ACA as an approach to alleviate the disparities in health and health care. She asked Ms. Artiga if such actions actually make a difference. Ms. Artiga said research has shown that states that have opted to expand Medicaid eligibility under the ACA have improved disparities in health and health care. However, she noted that coverage is one piece of the puzzle because improving access to coverage does not necessarily improve other factors that lead to these disparities, such as access to certain types of foods and reliable transportation to get to health care providers. Director Wing-Heier asked for additional information about disparities in health and health care for Alaska Natives. Ms. Artiga said there is limited data on this population because of the way states report it. She said states report aggregate data on Alaska Natives that includes other populations, such as American Indians. She said this is an ongoing issue, that affects the ability of researchers to understand what is happening, specifically to these populations.

Commissioner Mainda asked Ms. Artiga what types of stakeholders she believed could come together to address disparities in health care and coverage. Ms. Artiga said she envisions the states coordinating across multiple agencies and sectors to address not only health and health care disparities, but other issues that underlie them, such as housing and transportation. She said this also includes more data collection to better understand the problems and setting certain outcomes. Commissioner Birrane asked Ms. Artiga whether expanded access to telehealth services has had an impact on health and health care disparities. Ms. Artiga said the KFF has data on telehealth services and its use, but it has not analyzed it specifically with respect to health and health care disparities. However, she said anecdotally, given the unequal access to telehealth service coverage and attitudes on using such services, in addition to probable issues with having access to compatible equipment and broadband for certain populations, in the short-term, telehealth most likely has not improved health and health care disparities.

Commissioner Altman said the NAIC consumer representatives recently published an issue brief, “Protecting Consumers During COVID-19: Recommendations for State Policymakers,” which can be found at https://healthyfuturega.org/wp-content/uploads/2020/08/NAIC.Cons_Reps_Protecting.Cons_during.C19_FINAL.pdf.

4. Heard a Presentation on COVID-19 and Employer-Sponsored Insurance

Daniel Meuse (State Health and Value Strategies (SHVS), Princeton School of Public and International Affairs) discussed COVID-19 and the resulting recession’s effect on employer-sponsored insurance (ESI) coverage. He raised the following questions for the Committee’s consideration: 1) what do we know about how the COVID-19 recession is affecting ESI; 2) where do people go if they lose ESI, and what does that mean for consumers and providers; and 3) what are the larger policy considerations for state insurance regulators. He walked the Committee through these issues, describing the differences in ESI coverage pre-COVID-19 and post-COVID-19 because of the COVID-19 driven recession. He discussed federal and state policymakers’ responses to the recession, such as enacting the federal Paycheck Protection Program (PPP) and new special enrollment periods (SEPs) established by state health insurance exchanges. He also highlighted what policymakers do not know with respect to ESI coverage, such as who is actually losing ESI coverage, where consumers go to get coverage, and whether the loss of ESI coverage disproportionately affects people of color or patients at risk for increased morbidity.

Mr. Meuse touched on the options consumers have after losing ESI coverage, such as Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA), Medicaid/Children’s Health Insurance Plan (CHIP), non-compliant plans like short-term, limited-duration (STLD) plans, or becoming uninsured. He also discussed what consumers consider in choosing what option to take after losing ESI coverage, including premium costs, deductibles and provider networks. He discussed the policy opportunities and lessons to be learned. He said because this is the first widespread coverage loss since full ACA implementation, it provides an opportunity for policymakers to consider existing and new options to address it. Those options include: 1) Medicaid expansion; 2) reconsidering the timing of enrollment and outreach; and 3) alternative payment models.

Commissioner Altman asked Mr. Meuse for any best practices he would suggest to assist people in moving from ESI coverage to other coverage, particularly with assisting consumers in obtaining sufficient information to make informed decisions. Mr. Meuse said the states should partner with community-based organizations that may already have a relationship with certain populations to assist in providing outreach and distributing information. Commissioner Conway asked Mr. Meuse if he has any recommendations on what state insurance regulators could use to assist consumers in transitioning to other coverage in addition to SEPs. Mr. Meuse suggested additional marketing campaigns particularly targeted at individuals transitioning on and off Medicaid coverage. Health Insurance Commissioner Ganim asked Mr. Meuse if any states that have an individual mandate are considering changes to that mandate, considering the COVID-19 driven recession resulting in consumers losing ESI coverage. Mr. Meuse said he is not aware of any such activity, but he anticipates that the states would relax their hardship exemption documentation requirements in order for consumers to meet the requirements of a state’s hardship exemption from having to have health insurance coverage.

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5. Heard a Presentation on COVID-19 Testing and Costs

Matt Eyles (America's Health Insurance Plans—AHIP) discussed expanding access to COVID-19 testing and the need for additional federal funding for such testing. He discussed the purposes of COVID-19 testing—guiding care and treatment, public health surveillance, and occupational health—and its essential components. He explained that with respect to COVID-19 testing, federal agencies have a critical responsibility to ensure quality, support appropriate use, and prioritize affordable solutions. He also outlined the role that insurers, governmental and public health agencies, and employers play in the COVID-19 testing framework.

Mr. Eyles said AHIP and 48 other organizations believe that COVID-19 testing is one of the most important tools the U.S. has to combat the pandemic, both for identifying the virus and for preventing its spread. He said it is vital that the federal government designate the resources to support expanded access to testing. He discussed AHIP's recommendations related to COVID-19 testing: 1) ensure all Americans have access to testing regardless of coverage status; 2) ensure federal funding accounts for the magnitude of tests required to get the economy back on track and reduces the risk of transmission in different settings and the progression of the disease; 3) solidify comprehensive strategies that incorporate testing to achieve occupational and public health goals; 4) ensure that testing does not lead to premium spikes in 2021; and 5) protect against fraud.

6. Heard an Update on ACA Federal Court Cases

Katie Keith (Out2Enroll) gave an update on ACA federal court cases. She discussed U.S. Supreme Court (Court) decisions from its 2019 session, including the Court's 8-1 decision in favor of insurers in *Maine Community Health Options v. United States*, which challenged the legality of the federal government withholding full risk corridor payment amounts to participants. She also discussed cases scheduled for oral arguments during the Court's upcoming 2020 session, including the *California v. Texas* case, which challenges the constitutionality of the ACA's individual mandate and its potential impact on other key ACA provisions, as well as the *Rutledge v. PCMA* case, which challenges the state regulation of pharmacy benefit managers (PBMs).

Ms. Keith also discussed other pending ACA cases in the federal circuit courts, including a case pending in the D.C. Circuit Court of Appeals, *Association of Community Affiliated Plans, et al. v. U.S. Department of Treasury, et al.*, which upheld the legality of the federal STLD plan regulation, and a case pending in the U.S. Court of Appeals for the Second Circuit, *UnitedHealthcare of New York, v. Lacewell*, which ruled that New York's risk adjustment rule is preempted by the ACA.

7. Received an Update on the Work of the Pharmacy Benefit Manager Regulatory Issues (B) Subgroup

Mr. Keen updated the Committee on the Pharmacy Benefit Manager Regulatory Issues (B) Subgroup's work to complete its charge to develop a new NAIC model establishing a registration or licensing process for PBMs. He said after the Subgroup was appointed in late 2018, the Subgroup decided during its first meetings in early 2019 that it wanted to obtain more information on the issues before beginning its work to draft the new model regulating PBMs and potentially including additional provisions related to PBM prescription drug pricing and cost transparency. The Subgroup held a series of conference calls throughout the summer and early fall of 2019 to hear from various stakeholders on the issues the Subgroup wanted to hear more about, such as rebating, discounts, prescription drug pricing, and how PBMs are currently regulated.

Mr. Keen said during these meetings, the Subgroup heard presentations from consumers, economists, the PBM industry, insurers, and the states on these issues and suggestions on how the Subgroup might address them. He said after finishing these information-gathering sessions, the Subgroup decided that it had obtained sufficient information to move forward with its charge. In November 2019, the Subgroup established an ad hoc technical drafting group to develop an initial draft for the full Subgroup's review.

Mr. Keen said after a series of meetings late last year and early this year, the ad hoc group developed a draft for the Subgroup's review. He said the ad hoc group based its draft on the National Council of Insurance Legislators (NCOIL) model and made changes based on the Subgroup's charge to the ad hoc group.

Mr. Keen said the Subgroup met July 16 via conference call to discuss the ad hoc group's draft. He said there was robust discussion among the Subgroup members about the draft, particularly about a proposed provision that lists potential provisions, such as PBM network adequacy requirements and rebates, that states could include in any regulations adopted to implement the proposed model's provisions. At the end of the discussion, the Subgroup agreed that the draft was just the beginning of the drafting process, not the end of the process, and it exposed the draft for a public comment period ending Sept. 1. Mr. Keen said after the public comment period ends, the Subgroup will begin meeting via conference call to discuss and consider changes to the draft based on the comments received.

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8. Heard a Federal Legislative Update

Brian Webb (NAIC) provided a federal legislative update on Congressional activity of interest to the Committee. He discussed the current status of surprise billing legislation, saying that the NAIC sent yet another letter to Congressional leaders urging them to pass federal surprise bill legislation and extend protections to air ambulances. He explained that the COVID-19 health emergency has stymied a lot of action in Congress on this issue despite bi-partisan support and support from the Trump Administration to address the issue. NAIC staff will continue to monitor this issue.

Mr. Webb said the U.S. House of Representatives (House) Committee on Appropriations passed its package of fiscal year 2021 appropriations bills, which included additional funding in the U.S. Department of Labor (DOL)/U.S. Department of Health and Human Services (HHS) bill in the amount of \$2.9 million for state health insurance assistance programs (SHIPs), bringing the total appropriation to \$55 million. He said the U.S. Senate (Senate) Committee on Appropriations has not acted yet.

Mr. Webb said with respect to the administrative action, the NAIC has requested additional guidance on a number of issues, such as COVID-19 testing and the insurer payment responsibilities. He said the federal Centers for Medicare & Medicaid Services (CMS) did issue guidance on the issue, but state insurance regulators still have questions. NAIC staff are working with CMS representatives to seek answers to those questions. Mr. Webb said the NAIC also requested guidance on premium holidays, particularly with respect to the individual market and its potential impact on advance premium tax credit (APTC) payments. The CMS released additional guidance on that issue last week, as announced during the Regulatory Framework (B) Task Force's meeting on Aug. 4. Mr. Webb said the guidance did not answer all the questions, and NAIC staff will be working with CMS staff to receive answers on the outstanding issues.

Mr. Webb said one issue still awaiting additional guidance concerns the risk corridor payments owed to insurers as a result of the 8-1 Court decision of the *Maine Community Health Options v. United States* case that Ms. Keith mentioned during her presentation. However, he said he recently learned that one state's insurer has received its payment after completing the Court of Federal Claims process and receiving a final certification of payment from the Judgement Fund. Therefore, payments are being made, but the CMS has not provided guidance on how it will be accounted for for the purposes of medical loss ratio (MLR) refunds.

Mr. Webb said the NAIC sent a comment letter, like many other states, on the Internal Revenue Services' (IRS') proposed regulations on health reimbursement arrangements (HRAs) that would permit an individual to use an HRA to fund health care sharing ministry (HCSM) payments. He said the letter expressed concern with adverse selection and other potential issues that could affect the stability of the individual market. He said NAIC staff will be closely tracking what happens with this proposed regulation.

Mr. Webb said NAIC staff continues to work closely with the CMS and DOL on mental health parity implementation. He said NAIC staff also has been working with the CMS and its federal Center for Program Integrity (CPI) on improper marketing concerns. NAIC staff have also had numerous discussions with the CMS on its new requirement that the states annually submit a report to the CMS on state mandates. The states still have many questions on this new requirement.

Mr. Webb said a new issue has arisen concerning telehealth and the ability for the states and insurers to continue to provide access to this expanded coverage after the COVID-19 health emergency declaration ends because of Health Insurance Portability and Accountability Act of 1996 (HIPAA) privacy concerns. NAIC staff are working with the CMS and the federal Office of Civil Rights (OCR) to find a solution to address this concern. NAIC staff are also working with the CMS and state insurance regulators on issues related to outreach with the upcoming open enrollment for plan year 2021 during the COVID-19 health emergency and discussing alternatives to what the states have traditionally done to educate and inform consumers about open enrollment in lieu of face-to-face meetings and forums.

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

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Draft: 6/1/20

Health Insurance and Managed Care (B) Committee
Conference Call
April 28, 2020

The Health Insurance and Managed Care (B) Committee met via conference call April 28, 2020. The following Committee members participated: Jessica Altman, Chair (PA); Lori K. Wing-Heier, Vice Chair (AK); Michael Conway (CO); John F. King represented by Teresa Winer (GA); Vicki Schmidt (KS); Al Redmer Jr. (MD); Steve Kelley represented by Grace Arnold and Sherri Mortensen Brown (MN); Mike Chaney represented by Bob Williams (MS); Jon Godfread (ND); Linda A. Lacewell represented by John Powell and Frank Horn (NY); Glen Mulready (OK); Andrew R. Stolfi represented by TK Keen (OR); Hodgen Mainda (TN); Todd E. Kiser represented by Jaakob Sundberg (UT); and Mike Kreidler represented by Molly Nollette and Jane Beyer (WA). Also participating were: David Altmaier (FL); Chlora Lindley-Myers (MO); Russell Toal (NM); Barbara D. Richardson (NV); and Marie Ganim (RI).

1. Received a Report from the Health Actuarial (B) Task Force

Mr. Sundberg provided a brief overview of the Health Actuarial (B) Task Force's April 23 meeting. He said the Task Force heard presentations from the American Academy of Actuaries (Academy), America's Health Insurance Plans (AHIP), Blue Cross and Blue Shield Association (BCBSA), and the Society of Actuaries (SOA) on COVID-19's potential effects on health care spending and the health insurance system, particularly with respect to the federal Affordable Care Act (ACA) 2021 premium rate assumptions. He said each presenter emphasized the uncertainty in 2021 pricing assumptions due to COVID-19 because of several factors, including 1) the rate of COVID-19 testing; 2) treatment rate, including treatment setting and treatment services provided; 3) treatment cost; 4) rate of services deferred from 2020; and 5) cost of services deferred from 2020. Mr. Sundberg said some presenters also suggested that the states assess their current rate filing deadlines and delay them if possible. Specifically, they recommended that the states target July 22 to give issuers time to incorporate the most recent data on the impact of COVID-19 when finalizing 2021 rates and strongly encouraged the states to allow issuers to revise their rate filings using the latest information available prior to states finalizing rates. He said presenters also stressed the importance of state insurance regulators working collaboratively with the industry to address these issues.

Mr. Sundberg said that among its next steps, the Task Force is meeting May 1 via conference call in regulator-to-regulator session to begin development of an outline and eventual 2021 rate pricing resource and guidance document for the states to consider when reviewing initial 2021 rates. He said the Task Force also will be discussing potential impact on risk corridors, particularly in light of the recent U.S. Supreme Court decision in *Maine Community Health Options v. United States*, which ruled that, in accordance with the ACA, the federal government illegally withheld full risk corridor payment amounts to insurers for significant losses to their health plans incurred during the first three years of the ACA's health marketplaces and that the insurers could sue for nonpayment of approximately \$12 billion in the U.S. Court of Federal Claims.

Commissioner Altman asked Mr. Sundberg about the Task Force's timeline for completing the resource and guidance document. Mr. Sundberg said he anticipates the Task Force completing this work and sending out a draft of the document within the next few weeks for comment given that some states have initial filing deadlines in May.

2. Discussed and Heard Comments from Stakeholders on Regulatory Flexibility Requests Due to COVID-19

Brian R. Webb (NAIC) said the NAIC has received letters from various stakeholders requesting state insurance regulatory relief due to COVID-19 in a number of categories, including: 1) telehealth and telebehavioral health access expansion and flexibility, including parity in payment and not limited to COVID-19; 2) administrative flexibility related to grace periods and continuity of coverage policies and requirements; 3) filing requirement flexibility; and 4) reducing administrative barriers, particularly related to prior authorization, provider credentialing, timely claim and payment requirements. He said many of these requests have already been addressed by the states, the federal government and industry itself. He noted that AHIP and the BCBSA recently submitted a letter to the Committee recommending that the states assess their current rate filing deadlines and delay them if possible to July 22 to give carriers time to incorporate the most recent data on the impact of COVID-19 when finalizing 2021 rates. Specifically, AHIP and the BCBSA are encouraging the states to allow issuers to revise their rate filings using the latest information available prior to states finalizing rates in the Health Insurance and Oversight System (HIOS).

Mr. Webb said another outstanding issue some stakeholders have raised is the creation of a new special enrollment period (SEP) for individuals who obtained their health insurance coverage through the individual market, but lose income and become

eligible for subsidized individual market coverage through the health insurance marketplaces. He said there is no existing SEP that addresses this situation. Mr. Webb said the federal Center for Consumer Information and Insurance Oversight (CCIIO) is relying on its existing SEPs to address loss of health insurance coverage issues due to COVID-19.

Commissioner Altman said NAIC staff prepared a summary compilation chart of the stakeholder letters submitted to the NAIC (Attachment ?), which she will go through section-by-section to provide each stakeholder the opportunity to provide any additional comments. Allison Ivie (Eating Disorders Coalition for Research, Policy & Action—EDC), on behalf of the Mental Health Liaison Group (MHLG), said that, as stated in its letter to the NAIC, the MHLG's most pressing concern is ensuring the continuity of care for its stakeholders via telehealth due to COVID-19. She said it is important that the states provide access to this benefit regardless of the type of insurance and ensure that consumers can receive this benefit from out-of-network providers, including providers across state lines, if the consumer's health benefit plan does not have an in-network specialty provider to treat the covered person.

Kate Gilliard (American Physical Therapy Association—APTA) said the APTA realizes that most states have already expanded telehealth to provide physical therapy-related services. She said, however, that this benefit has been provided with respect to established patients, not for new patients requiring an initial evaluation. She said that unless this issue is addressed, it could be problematic moving forward.

Emily Carroll (American Medical Association—AMA) said that as state insurance regulators continue to debate how best and responsibly to address the myriad of health insurance issues that have arisen due to COVID-19, the AMA urges the states to examine current policies that establish or fail to remove roadblocks between patients and their physicians that could threaten continuity of care or access to care, such as policies involving prior authorization and step therapy. She suggested that the states consider suspending such policies during the COVID-19 emergency because physicians are: 1) caring for COVID-19 patients; and 2) physician support staff are not in the office to process these requirements. Kim Horvath (AMA) stressed the need for plan flexibility for telehealth benefits, particularly for consumers with chronic health conditions. She noted the new requirements the U.S. Department of Health and Human Services (HHS) issued expanding telehealth services for Medicare enrollees. She said the AMA encourages all states to adopt telehealth policies that reflect those now being required under Medicare.

Justine Handelman (BCBSA) stressed the importance of extending the final rate filing deadline for plan 2021 rates, at least until August, because of the uncertainty insurers have in determining rates due to COVID-19. She urged state insurance regulators to use their influence with the CCIIO to move the date. Kristin Hathaway (AHIP) discussed the work the health insurance industry has done to date related to COVID-19, such as COVID-19 testing and fast-tracking providing credentialing and audits. She said AHIP appreciates the NAIC's and state insurance regulators' work providing flexibility in financial filing requirements and collaboration among the states in data requests.

Jessica Adams (American Society for Radiation Oncology—ASTRO) said the ASTRO has similar issues and concerns as those discussed by the AMA, particularly with respect to prior authorization requirements. She urged state insurance regulators to direct insurers to suspend prior authorization requirements for radiation therapy services for the duration of the COVID-19 health emergency because non-treating provider staff members, who would be processing these requests, are working remotely and treating provider staff members are being diverted to COVID-19 response activities, reducing staff manpower to process prior authorization requests. Molly Collins Offner (American Hospital Association—AHA) said the AHA's comments are similar to those already expressed. She said the AHA is working with its members to discuss additional operational challenges and areas where state insurance regulatory flexibility would be helpful. Robert Still (Radiology Business Management Association—RBMA) said the RBMA's comments are similar to the ASTRO's, the AMA's and the AHA's comments.

Sarah Lueck (Center on Budget and Policy Priorities—CBPP) said that as state insurance regulators encounter challenges in their states and continue to advocate for policy changes to federal law due to the COVID-19 emergency, the NAIC consumer representatives urge state insurance regulators to: 1) maximize access to comprehensive health coverage so people can access the care they need. More limited coverage or coverage that triggers only if a person becomes ill will be less successful at achieving the goals of getting people to proactively seek testing and treatment; 2) find ways to ease financial strain and support people's ability to comply with social distancing measures, such as ensuring easier access to prescription drug refills, telehealth services and mental health services—especially as the crisis continues; 3) ensure coverage of important health benefits, as well as cost protections, related to treatment and detection of the virus, including protection from surprise medical bills; and 4) continue to protect consumers from fraud and scams.

Katie Morgan (National Infusion Center Association—NICA) said the NICA supports patients' access to non-hospital non-oncology infusion centers, where they can receive provider-administered medical benefit drugs for the treatment of autoimmune diseases, immunodeficiency disorders, rare and genetic disorders, and other chronic, complex conditions. She said these patient populations are at high risk of severe COVID-19 disease should they be exposed. She said the NICA urges state insurance regulators to provide needed insurance flexibility and consider policy options that proactively facilitate continuity of care for these patients, such as: 1) allowing patients to use an out-of-network site of care at the in-network benefit level in the event they are unable to get treatment in their usual care setting due to a drug shortage or closure related to COVID-19; 2) waiving prior authorization requirements for established patients currently on therapy that are switching site of care; and 3) waiving step therapy policies and formulary restrictions in the event of drug shortages.

Rodney Peele (American Optometric Association—AOA) said the AOA urges state insurance regulators to provide the same regulatory flexibility for vision plans that is being provided for health benefit plans. He said the AOA suggestions for regulatory flexibility include: 1) extending contract renewal deadlines; 2) delaying claims audits and recoupments; 3) extending deadlines for filing claims and appeals; and 4) expanding access to telehealth services. He said state insurance regulators also should promote and respect the role of optometrists in the COVID-19 health emergency, including acknowledging that optometrists: 1) may order or perform COVID-19 testing; 2) provide essential eye health and vision care; and 3) have the autonomy to follow the advice of local, state and public health authorities, and best meet the needs of patients. Mr. Peele said optometrists take a leading role in patient care with respect to eye health and vision care, as well as general health and well-being. As primary health care providers, optometrists have extensive, ongoing training to examine, diagnose, treat and manage ocular disorders, diseases and injuries, and many of these treatments are essential. He said studies show that the same groups burdened by COVID-19 complications, such as those with hypertension and respiratory conditions, also suffer more vision problems. He said ensuring patient access to urgent and emergency eye care provided by optometrists is critical to ensuring that patients, particularly from at-risk populations, do not needlessly end up in an emergency room and potentially exposed to COVID-19 during this current public health emergency.

Commissioner Altman requested comments from Committee members. Director Lindley-Myers said she could support the NAIC requesting the federal Centers for Medicare & Medicaid Services (CMS) to push the final 2021 rate filing back to sometime in September to provide additional time for insurers to factor in any changes related to COVID-19. Superintendent Toal expressed support for Director Lindley-Myers' comments. The Committee members discussed whether to make such a request to the CMS. Some Committee members explained that they are maintaining their initial rate filing deadlines, but typically they permit carriers to revise their rate assumptions many times during the rate review process before the rates are final. After additional discussion, Commissioner Altman said the next step is for this issue to be discussed by the Government Relations (EX) Leadership Council. The Committee agreed.

Commissioner Godfreed said the states have addressed on an individual basis the issues stakeholders raised in their letters to the NAIC. He said he thinks the next issue the state insurance regulators will have to address concerns payment for COVID-19 antibody testing. He said it would be nice if there could be some uniformity on how this issue is addressed across the states. Commissioner Mulready said he also is concerned and has reach out to Oklahoma's U.S. Senate delegation to obtain guidance on this issue and others. Commissioner Conway said it would be helpful to receive clarification from the CMS on the issue. Mr. Webb said the CMS anticipates providing additional guidance on the issue, but it has not set a time frame on when such guidance will be released.

3. Heard an Update from the CCIIO

Randy Pate (CCIIO) updated the Committee on the CCIIO's recent activities, particularly its activities related to the COVID-19 health emergency. He said the CCIIO recently released guidance related to the expansion of telehealth services in response to COVID-19. He said that as part of the Trump administration's efforts to combat the COVID-19, the CMS has postponed the 2019 benefit year HHS Risk Adjustment Data Validation (HHS-RADV) process in order for issuers and providers to focus on the health and safety threats currently faced by enrollees, participants and other impacted individuals due to the COVID-19 pandemic.

Mr. Pate said the CCIIO is working on establishing a new SEP for consumers enrolled in individual health insurance plans off the health insurance marketplace, but due to reduction of income because of job loss or some other event become eligible for subsidized individual health insurance coverage on the health insurance marketplace. He said the CCIIO is working quickly to operationalize this new SEP, but, currently, it does not have a specific date when it will be operational. Mr. Pate said the CCIIO also is considering providing additional time for submission of final 2021 rates consistent with the Committee's discussion.

The CCIIO is helping to disseminate information to individuals and employees to assist them in taking advantage of SEPs they might be eligible for due to COVID-19 through the HealthCare.gov website.

Mr. Pate said the HHS, through the Health Resources and Services Administration (HRSA), has launched a new COVID-19 Uninsured Program Portal, allowing health care providers who have conducted COVID-19 testing or provided treatment for uninsured COVID-19 individuals on or after Feb. 4 to submit claims for reimbursement. Providers can access the portal at <https://COVIDUninsuredClaim.HRSA.gov>.

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

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Draft: 3/6/20

Health Insurance and Managed Care (B) Committee
E-Vote
February 26, 2020

The Health Insurance and Managed Care (B) Committee conducted an e-vote that concluded Feb. 26, 2020. The following Committee members participated: Jessica K. Altman, Chair (PA); Lori K. Wing-Heier, Vice Chair (AK); Michael Conway (CO); John F. King (GA); Vicki Schmidt (KS); Steve Kelley represented by Grace Arnold (MN); Mike Chaney represented by Bob Williams (MS); Jon Godfread (ND); Glen Mulready (OK); Andrew R. Stolfi (OR); Hodgen Mainda represented by Rachel Jade-Rice (TN); and Mike Kreidler represented by Molly Nollette (WA).

1. Adopted the Regulatory Framework (B) Task Force's 2020 Revised Charges

The Committee conducted an e-vote to consider adoption of the Regulatory Framework (B) Task Force's 2020 revised charges, which add 2020 charges for the newly appointed MHPAEA (B) Working Group (*see NAIC Proceedings – Summer 2020, Regulatory Framework (B) Task Force, Attachment One-A*). A majority of the Committee members voted in favor of adopting the Task Force's 2020 revised charges. The motion passed unanimously.

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

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Draft: 7/28/20

Consumer Information (B) Subgroup
Conference Call
July 9, 2020

The Consumer Information (B) Subgroup of the Health Insurance and Managed Care (B) Committee met via conference call July 9, 2020. The following Subgroup members participated: Mary Kwei, Chair, (MD); Debra Judy, Vice Chair (CO); Alex Peck, Jenifer Groth and Claire Szpara (IN); LeAnn Crow (KS); Judith Watters (ME); Carrie Couch, Marjorie Thompson, Camille Anderson-Weddle and Amy Hoyt (MO); Laura Arp and Barbara Peterson (NE); Cuc Nguyen (OK); Katie Dzurec and Elizabeth Hart (PA); Gretchen Brodkorb and Jill Kruger (SD); Jennifer Ramcharan (TN); Tanji Northrup, Heidi Clausen, Shelley Wiseman and Jaakob Sundberg (UT); Jennifer Stegall, Julie Walsh, Mary Kay Rodriguez and Christina Keeley (WI). Also participating were: Chelsey Maller (AK); William Rodgers (AL); Vanessa Darrah (AZ); Stephen Kim (CA); Howard Liebers (DC); Pamela White (FL); Teresa Winer (GA); Arlene Ige (HI); Cynthia Banks-Radke and Angela Boston (IA); Kathy McGill and Kristen Finau (ID); Jill Mitchell and Daniel McIlwain (KY); Emily DeLaGarza (MI); Candace Gergen (MN); Kathy Hall (MS); Robert Kurzydowski and Jennifer Grady (NC); Chanell McDevitt (NJ); Jessica Baker (NM); Tynesia Dorsey (OH); Teresa Luna, Valerie Brown and Scott Helmcamp (TX); Jackie Myers (VA); Barbara Hudson and Joylynn Fix (WV); and Mavis Earnshaw, Denise Burke and Tana Howard (WY).

1. Discussed the Subgroup's 2020 Work Plan

Ms. Judy outlined a few potential work products the Subgroup could take up next. She mentioned the consumer guide to the claims process, which had been planned by the Subgroup since last year; materials related to the COVID-19 pandemic; and Frequently Asked Questions about Health Care Reform (FAQ), which the Subgroup has worked on in each of the last several years and should be updated for plan year 2021. Some Subgroup members supported consumer-facing documents related to COVID-19, but they were unsure exactly what form they should take. Others suggested a consumer guide related to short-term plans and coverage that is not comprehensive health insurance, like health care sharing ministries (HCSMs).

Harry Ting (Consumer Advocate Volunteer, Chester County Department of Aging Services – Apprise Program) also suggested a guide focused on short-term plans. Bonnie Burns (California Health Advocates—CHA) said that guides developed by the Subgroup should reference Medicare. Kris Hathaway (America's Health Insurance Plans—AHIP) said that enrollment materials, like the FAQ, should be updated with COVID-19 in mind. Chris Petersen (Arbor Strategies) said that any materials from the Subgroup related to short-term plans should be aligned with the minimum standards for such plans being developed in other NAIC groups.

Ms. Kwei said the group plans to work on the FAQ closer to the beginning of open enrollment and encouraged Subgroup members and interested parties to submit further feedback via e-mail.

Having no further business, the Consumer Information (B) Subgroup adjourned.

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Draft: 2/4/20

Consumer Information (B) Subgroup
Conference Call
January 21, 2020

The Consumer Information (B) Subgroup of the Health Insurance and Managed Care (B) Committee met via conference call Jan. 21, 2020. The following Subgroup members participated: Angela Nelson, Chair, Camille Anderson-Weddle, Carrie Couch and Jessica Schrimpf (MO); Anthony L. Williams (AL); Weston Trexler (ID); Michelle Baldock, Ryan Gillespie and Eryn Krueger (IL); LeAnn Crow (KS); Mary Kwei and Joy Hatchette (MD); Kathy Shortt (NC); Cuc Nguyen and Rebecca Ross (OK); Elizabeth Hart (PA); Gretchen Brodkorb and Jill Kruger (SD); Vickie Trice and Jennifer Ramcharan (TN); and Jennifer Stegall, Julie Walsh and Shannon McNally (WI). Also participating were: Chelsey Maller (AK); Julia Yee (CA); Adam Boggess (CO); Matthew Smith and Justine Sorrentino (DC); Matthew Guy and Bryan Peters (FL); Cynthia Banks Radke and Sonya Sellmeyer (IA); Shawn Boggs (KY); Sherri Montana Brown (MN); Bob Williams (MS); Jeannie Keller (MT); Jason Dexter (NH); Jana Jarrett (OH); Scott Helmcamp and Valarie Brown (TX); Yolanda Tennyson (VA); and Dena Wildman, Joylynn Fix and Ellen Potter (WV).

1. Discussed a Consumer Guide on Using Health Insurance

Ms. Nelson noted that the current guide under review is in very good shape, and she expressed her hope that after a final walk-through during today's conference call, the document could be finalized.

The Subgroup then proceeded to go through the draft guide, page by page, and discussed any comments received prior to the call or that participants wanted to raise. On the page entitled "Choose a Primary Care Provider in Your Network," Ms. Shortt asked whether OB-GYN practitioners should be listed as primary providers. NAIC staff noted that other providers (e.g., pediatricians) could also be added. The Subgroup decided that listing types of providers could be too confusing, and no such references were added. It was also noted that the last paragraph of the page did not seem to belong, so it was deleted.

Additional minor edits were made to the document to make it clearer and more readable.

The Subgroup then approved the amended guide.

Ms. Nelson said that the next module the Subgroup will be working on is "Claims Process." She asked call participants to send any existing documents on internal/external review that they think would be helpful to the Subgroup. She said the next call will be in mid-February.

Having no further business, the Consumer Information (B) Subgroup adjourned.

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Draft: 1/14/20

Consumer Information (B) Subgroup
Conference Call
January 7, 2020

The Consumer Information (B) Subgroup of the Health Insurance and Managed Care (B) Committee met via conference call Jan. 7, 2020. The following Subgroup members participated: Angela Nelson, Chair (MO); Anthony L. Williams (AL); Weston Trexler (ID); Michelle Baldock and Eryn Krueger (IL); LeAnn Crow (KS); Judith Watters (ME); Mary Kwei (MD); Laura Arp and Martin Swanson (NE); Cuc Nguyen and Rebecca Ross (OK); Elizabeth Hart (PA); Gretchen Brodkorb and Jill Kruger (SD); Jennifer Ramcharan (TN); Tanji Northrup, Shelley Wiseman, Heidi Clausen and Jaakob Sundberg (UT); and Jennifer Stegall (WI). Also participating were: Chelsy Maller and Jacob Lauten (AK); Debra Judy (CO); Matthew Guy, Bryan Peters and Carolyn Diggs (FL); Cynthia Banks-Radke and Sonya Sellmeyer (IA); Sherri Mortensen-Brown (MN); Bob Williams (MS); Pam Koenig (MT); Tynesia Dorsey (OH); John Garrett (RI); Scott Helmcamp and Douglas Danzeiser (TX); Michelle McNamee (VA); Todd Dixon (WA); and Dena Wildman and Joylynn Fix (WV).

1. Discussed a Consumer Guide on Using Health Insurance

Ms. Nelson reviewed the plan of the Subgroup to produce a series of modules for consumer assistance. The one currently under development is to help consumer understand their plans, the next would be to help consumers use their plans, including claims and appeals. She said she hopes to release the guide on understanding plans as early as possible in the year. She asked Subgroup members to focus on the edits suggested by consumer representatives who had reviewed the latest draft.

The Subgroup discussed the section on different network types. It considered whether to list network types so that the more commonly used types are listed first. Ms. Watters observed that the most common types in one state may not be the same in other states. Ms. Nelson suggested that preferred provider organizations (PPOs), exclusive provider organizations (EPOs), and health maintenance organizations (HMOs) be listed first. Others agreed.

The Subgroup discussed the section on prescription drugs. Kris Hathaway (America's Health Insurance Plans—AHIP) suggested that the section reference the Summary of Benefits and Coverage (SBC), since that document describes whether a plan has a formulary. She also said the section should be clear that four formulary tiers is an example; plans could have more or fewer tiers.

The Subgroup discussed the section on coordination of benefits. Members discussed how commonly plans impose a surcharge when covering an enrollee's spouse who could be covered by his or her own employer insurance plan. Mr. Trexler pointed out that the presence or absence of a surcharge does not relate to coordination of benefits between two plans on enrollee is enrolled in. He suggested removing the reference to the surcharge and others agreed.

The Subgroup discussed the section on leaving a group plan. Ms. Watters said that COBRA should not be the only option mentioned, individual market coverage should also be presented as an option for those leaving a group plan. Mr. Swanson said it would also be worth mentioning the different continuation options available depending on the size of the employer. The Subgroup agreed that a few options should be referenced.

The Subgroup discussed circulating a revised version of the guide and considering the latest version in its next call.

Having no further business, the Consumer Information (B) Subgroup adjourned.

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Draft Pending Adoption

Attachment Six
Health Insurance and Managed Care (B) Committee
8/11/20

Draft: 8/21/20

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. Ramage, Michael Muldoon, Tracy Burns, and Laura Arp (NE); Sarah 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 Viara 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 Boban, 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 Benschopf, 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 Dembowski, 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).

1. Adopted its June 23 Minutes

Ms. Northrup made a motion, seconded by Ms. Bailey, to adopt the Working Group's June 23 minutes (Attachment Six-A). The motion passed unanimously.

2. 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.

3. 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

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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.

4. 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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Draft: 7/27/20

Health Innovations (B) Working Group
Conference Call
June 23, 2020

The Health Innovations (B) Working Group of the Health Insurance and Managed Care (B) Committee met via conference call June 23, 2020. The following Working Group members participated: Marie Ganim, Chair (RI); Martin Swanson, Vice Chair, and Laura Arp (NE); Andrew R. Stolfi, Vice Chair (OR); Sarah Bailey and Jacob Lauten (AK); Anthony L. Williams (AL); Howard Liebers (DC); Cynthia Banks Radke and Sonya Sellmeyer (IA); Julie Holmes and Tate Flott (KS); Carrie Couch, Jessica Schrimpf, Michelle Vickers, Chlora Lindley-Myers, Amy Hoyt and Cynthia Amann (MO); John Arnold, Sara Gerving and Chrystal Bartuska (ND); Tyler Brannen and Maureen Belanger (NH); Philip Gennace and Chanell McDevitt (NJ); Brittany ODell, Paige Duhamel and Viara Ianakieva (NM); Jeremy Christensen and Jack Childress (NV); Sandra L. Ykema, Jessica K. Altman and Katie Dzurec (PA); Doug Danzeiser, Rachel Bowden and Kenisha Schuster (TX); Molly Nollette (WA); Jennifer Stegall, Diane Dambach, Barbara Belling, Mary Kay Rodriguez, Nathan Houdek, Jody Ullman, and Darcy Paskey (WI); and Joylynn Fix and Vanessa George (WV). Also participating were: Erin Klug and Mary Boatright (AZ); Debra Judy (CO); Chris Struk and Carolyn Diggs (FL); Ian Robertson, Arlene Ige and Mavis Okihara (HI); Kristen Finau (ID); Ryan Gillespie (IL); Claire Szpara and Alex Peck (IN); David Cooney (MD); Grace Arnold (MN); Jeannie Keller (MT); Rosemary Gillespie (NC); Marjorie Ellis (OH); Andrew Dvorine (SC); Jill Kruger, Gretchen Brodkorb and Candy Holbrook (SD); Shelley Wiseman (UT); Julie Blauvelt (VA); and Denise Burke and Tana Howard (WY).

1. Discussed the Regulation of Coverage for Telehealth Services

Health Insurance Commissioner Ganim introduced Joel Ario (Manatt Health) and Jared Augenstein (Manatt Health). Mr. Augenstein presented on state and federal law and regulatory actions related to telehealth. He showed the growth in states with telehealth private payor laws prior to the COVID-19 pandemic. He reviewed federal and state actions taken to expand access to telehealth during the pandemic.

Commissioner Stolfi described Oregon's recent actions on telehealth and he observed that payment parity can be limited by state authority and disparate access to telecommunications technology is an issue. Mr. Swanson said Nebraska had not issued emergency orders, but the issuers stepped up themselves. He said some fraud issues were emerging. Ms. Arp added that provider groups are asking for extensions of relaxed telehealth policies and for reimbursement parity to be required for at least 12 months. She said stakeholders should be clear that states cannot relax requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Mr. Augenstein shared statistics on the utilization of telehealth during the pandemic. He described equity issues raised by telehealth and several other policy considerations for the states. He also outlined an array of policy levers that states and other policymakers could use to regulate telehealth, including coverage, originating and distant sites, eligible services and providers, eligible communications modes, utilization management, and networks.

Ms. Arnold said some insurance carriers have preferential contracts with telehealth providers that are distinct from the carrier's contracts with other providers, which can make it difficult for traditional providers to engage in telehealth. She said Minnesota changed state law so that payment parity requirements are agnostic to the existence of a preferential contract between carriers and telehealth providers. She said carriers have not resisted this change.

Ms. Judy said preferential networks may also exist for dental care or preventive services. She questioned how network adequacy should be determined with prevalent telehealth, and she said Colorado's law specifies that telehealth providers do not modify an issuer's obligation to meet in-person network requirements. She also mentioned concerns about inequities in access.

Silvia Yee (Disability Rights Education and Defense Fund—DREDF) asked whether issuers offer help for people with disabilities who cannot utilize telehealth services without assistance. Mr. Augenstein said North Carolina allows providers to bill for telehealth, and it provides an evaluation and management code for assistive services in the patient's home.

2. Discussed Potential Topics for the Summer National Meeting

Health Insurance Commissioner Ganim asked the Working Group which topics it should address at the Summer National Meeting. Because time was short, she encouraged Working Group members to submit ideas via e-mail.

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

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