

## **HEALTH INSURANCE AND MANAGED CARE (B) COMMITTEE**

Health Insurance and Managed Care (B) Committee April 12, 2021, Minutes

Consumer Information (B) Subgroup April 1, 2021, Minutes (Attachment One)

Health Innovations (B) Working Group March 26, 2021, Minutes (Attachment Two)

## Draft Pending Adoption

Draft: 4/15/21

Health Insurance and Managed Care (B) Committee  
Virtual 2021 Spring National Meeting  
April 12, 2021

The Health Insurance and Managed Care (B) Committee met April 12, 2021. The following Committee members participated: Jon Godfread, Chair (ND); Jessica K. Altman, Vice Chair (PA); Lori K. Wing-Heier (AK); Michael Conway (CO); 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 represented by Molly Nollette (WA); and James A. Dodrill (WV). Also participating were: Jim L. Ridling (AL); Ricardo Lara (CA); David Altmaier (FL); Doug Ommen (IA); Dana Popish Severinghaus (IL); Vicki Schmidt (KS); Sharon P. Clark (KY); Eric A. Cioppa (ME); Mike Chaney (MS); Mariano A. Mier Romeu (PR); Elizabeth Kelleher Dwyer (RI); Larry D. Deiter (SD); Mark Afable (WI); and Jeff Rude (WY).

### 1. Heard a Presentation from the Biden Administration on its Federal Legislative and Administrative Initiatives and Priorities

Jeff Wu (federal Centers for Medicare & Medicaid Services—CMS) updated the Committee on the Biden Administration's legislative and administrative priorities. He discussed the history of health insurance marketplaces with respect to the number of uninsured, enrollment and insurer participation. He said there was a sharp decrease in the uninsured after 2010, followed by an increase since 2016. He also pointed out that minority rates of the uninsured were persistently higher in 2019 than for whites. He discussed the effects of the COVID-19 pandemic on the number of uninsured. He explained that the Biden Administration's initial fears of increases in the uninsured was driven by the high unemployment rate during the beginning months of the COVID-19 pandemic. However, he noted that pre-pandemic research suggests that the federal Affordable Care Act (ACA) plays a critical role in helping people maintain coverage after job losses, which may have mitigated coverage changes due to unemployment. In addition, he said the uninsured rate did not increase dramatically because many individuals who lost some form of employment had low incomes or were in jobs without health benefits, and some were either enrolled in Medicaid or were already uninsured before their job loss. He said economic relief and other COVID-19 measures provided in the federal Families First Coronavirus Response Act (FFCRA) and the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act were contributing factors in stabilizing the number of uninsured.

Mr. Wu said enrollment in the health insurance marketplaces has steadied over time and insurer participation in the marketplaces has improved, but premium cost remains a challenge. He discussed how provisions in the federal American Rescue Plan Act of 2021 (ARPA) could address some of the marketplace premium cost issues. President Biden signed the ARPA into law on March 11. He said the ARPA makes major improvements in access to and affordability of health coverage through the marketplace by increasing eligibility for financial assistance to help pay for marketplace coverage. The ARPA also lowers premiums for most people who currently have a marketplace health plan and expands access to financial assistance for more consumers because of the increased tax credits to reduce their premiums. Mr. Wu also described other provisions in the ARPA, including: 1) subsidies to cover 100% of the cost of premiums for Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) continuation coverage; and 2) funding for grants to states to assist state-based marketplaces (SBMs) with implementation, covering information technology (IT) changes, and outreach.

Mr. Wu provided an update on the number of individuals who have enrolled to date in the marketplaces using the current special enrollment period (SEP), which has been extended to Aug. 31. He discussed the Biden Administration's National Consumer Outreach Campaign to increase awareness among the uninsured about the existence of the SEP and the affordability and availability of assistance to pay for premiums. He announced that the CMS is making approximately \$2.3 million in additional funding available to current navigator grantees in federally facilitated marketplace (FFM) states to support the outreach, education and enrollment efforts around the 2021 SEP.

Mr. Wu briefly discussed the federal No Surprises Act (NSA) and provisions in the NSA that provide consumer protections regarding surprise bills. He also touched on the Biden Administration's efforts to address the COVID-19 pandemic through provisions in the FFCRA, the CARES Act, and other policy initiatives, including releasing additional guidance and toolkits on COVID-19 vaccine and testing coverage.

Commissioner Altman asked Mr. Wu about any initiatives the CMS might be pursuing to address the gap in the number of uninsured among minority groups versus the number of uninsured among whites and whether there would be opportunities for the NAIC to partner with the CMS to address the issue. She also asked how the CMS plans to coordinate with SBMs if it is working on this issue. Mr. Wu acknowledged the issue of health equity in health insurance coverage. He explained that one way the Biden Administration is working to initially address this gap is through significant investment in the navigator program.

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Commissioner Godfreed said state insurance regulators have reached out to the CMS for clarification on how the ARPA and reinsurance programs that states have implemented through the ACA's Section 1332 waiver program are to work together with respect to pass through payment calculations moving forward. Mr. Wu said the CMS is aware of this issue and is working to provide answers on this issue to the states soon.

### 2. Adopted its 2020 Fall National Meeting Minutes

Superintendent Toal made a motion, seconded by Director Cameron, to adopt the Committee's Dec. 7, 2020, minutes (*see NAIC Proceedings – Fall 2020, Health Insurance and Managed Care (B) Committee*). The motion passed unanimously.

### 3. Adopted its Subgroup, Working Group and Task Force Reports

Commissioner Conway made a motion, seconded by Director Cameron, to adopt the following reports: the Consumer Information (B) Subgroup, including its April 1 minutes (Attachment One); the Health Innovations (B) Working Group, including its March 26 minutes (Attachment Two); the Health Actuarial (B) Task Force, including its 2021 revised charges; and the Senior Issues (B) Task Force.

### 3. Adopted the Regulatory Framework (B) Task Force Report and Received the Draft PBM Model Act

Commissioner Conway said the Regulatory Framework (B) Task Force met March 25 and took the following action: 1) adopted its March 18, March 1, and 2020 Fall National Meeting minutes; 2) received an update from Georgetown University's Center on Health Insurance Reforms (CHIR) on its work related to the ACA and two recently enacted federal laws; i.e., the NSA and the ARPA; 3) heard a presentation on the NSA; and 4) heard a discussion of the recent U.S. Supreme Court decision in *Rutledge vs. Pharmaceutical Care Management Association (PCMA)*.

Commissioner Conway said the Task Force met March 18 and adopted the draft NAIC [State] Pharmacy Benefit Manager Licensure and Regulation Model Act (PBM model). He said after an almost year-long drafting process, the Pharmacy Benefit Manager Regulatory Issues (B) Subgroup adopted the proposed new NAIC model in late October 2020, completing its charge to "consider developing a new NAIC model to establish a licensing or registration process for pharmacy benefit managers (PBMs)" and "consider including in the new NAIC model provisions on PBM prescription drug pricing and cost transparency." During its meeting at the 2020 Fall National Meeting, the Task Force deferred immediate adoption of the draft PBM model and exposed it for an additional public comment period ending Dec. 22, 2020.

Commissioner Conway said the Task Force discussed the comments received on the draft PBM model during its March 1 meeting and adopted it during its March 18 meeting with non-substantive changes based on the comments received. He explained that at its core, the draft PBM model is a PBM licensing model. He said after a lot of discussion and given the lack of national consensus on some issues, particularly issues related to PBM pricing and cost transparency, the Subgroup decided on this framework. As a compromise, to address those topics that it felt there was not a national consensus to include in the substantive provisions of the draft PBM model, Commissioner Conway said the Subgroup decided to add a drafting note to Section 8—Regulations. The drafting note includes state statutory citations for 15 topic areas involving certain PBM business practices that some states might want to consider when developing their state legislation regulating PBMs.

Commissioner Conway said there has been a lot of debate and discussion, including during the Task Force's March 18 meeting, on the appropriateness of including such options in an NAIC model, given the potential for the lack of uniform adoption by the states. However, the Task Force decided to move forward with adoption and forward the draft PBM model to the Committee for its consideration and additional discussion, as the Committee deems appropriate. Commissioner Conway explained that during its March 18 meeting, the Task Force discussed and decided to move forward with developing a new 2021 charge directing the Subgroup to develop a white paper to further detail state options in regulating PBM business practices with respect to some of the 15 topic areas included in the proposed Section 8 drafting note. He said the white paper also is to touch on how the *Rutledge vs. Pharmaceutical Care Management Association (PCMA)* decision may or may not affect state options in this area.

Director Cameron made a motion, seconded by Director Wing-Heier, to adopt the Regulatory Framework (B) Task Force's report. The motion did not include adoption of the draft PBM model. After discussion, the Committee decided to defer adoption of the draft PBM model until it could further discuss the issues Commissioner Conway highlighted in his report, particularly the issues related to the Section 8 drafting note. The Committee will meet sometime after the Spring National Meeting to continue the discussion.

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### 5. 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 (Special Committee) Workstream Five, provided an update to the Committee on Workstream Five's work to date. Commissioner Lara said since the Special Committee created Workstream Five last year, the Workstream has been meeting in open and regulator-to-regulator sessions to work on its charge to "examine and to determine which practices or barriers exist in the insurance sector that potentially disadvantage people color and/or historically underrepresented groups in the health insurance line of business" and "make recommendations on action steps." He said one of the first actions the Workstream took was to meet Dec. 2, 2020, to hear from various stakeholders to help the Workstream members identify and understand more fully disparities in health insurance affecting racial and historically underrepresented groups and what questions the Workstream members should be asking themselves and considering as it moves forward.

Commissioner Lara said the testimony provided during that Dec. 2, 2020, meeting confirmed the Workstream's initial thoughts that access to care and network adequacy is an ongoing and persistent issue for people of color and/or historically underrepresented population groups. He said Workstream Five also believes the other issues it has identified merit discussion and examination as well, including affordability.

Commissioner Altman said as reported during the Special Committee's meeting April 12, following its Dec. 2, 2020, meeting, Workstream Five met in regulator-to-regulator sessions to develop and finalize its initial report and recommendations to the Special Committee for its consideration. She said the Special Committee discussed 2021 proposed charges that included Workstream Five's recommendations included in its initial report and exposed them for a 30-day public comment period ending May 14.

Commissioner Altman said the 2021 proposed charges include charges to the Committee and two of its groups; i.e., the Mental Health Parity and Addiction Equity Act (MHPAEA) (B) Working Group and the Health Innovations (B) Working Group. She said the 2021 proposed charges also direct Workstream Five to continue its work in various areas the Workstream identified in its initial report as areas for more discussion, including network adequacy and consumer education.

Commissioner Altman said as the Workstream moves forward with its work related to network adequacy, the Workstream plans to focus its research on measures to remedy impacts on historically marginalized groups, as well as examination of the use of network adequacy and provider directory measures to promote equitable access to culturally competent care. She said as the Workstream continues its work related to consumer education targeted toward people of color and/or historically underrepresented population groups, Workstream Five plans to monitor opportunities and identify strategies for consumer education to address equity issues. The Workstream will make referrals, as appropriate, to the Consumer Information (B) Subgroup to develop educational materials after identifying areas and strategies believed to help increase awareness in communities of color and among other underrepresented groups.

Commissioner Altman said during the NAIC/Consumer Liaison Committee's April 8 meeting, there were two presentations that reflected core areas Workstream Five is discussing with respect to health equity and communities of color and/or historically underrepresented groups; i.e., maternal health outcomes and coverage for children. She said the Workstream plans to continue to act as a forum for discussion of these issues as it continues its work.

### 6. Heard a Discussion on the 2021 Work of the Committee's Subgroup, Working Group and Task Forces

Jolie H. Matthews (NAIC) discussed the 2021 work of the Committee's subgroup, working group and task forces. She said included in the Committee meeting materials is a document that summarizes the 2021 charges for each of the groups that report to the Committee. The document also lists each group's chair and, as appropriate, vice chair and NAIC staff support.

Ms. Matthews highlighted a few of the additional projects some of the groups, including the Committee itself, most likely will have to take on in addition to the work in their 2021 ongoing charges. She said the Consumer Information (B) Subgroup most likely will be tasked with preparing new consumer-facing materials related to health equity and diversity based on recommendations from Workstream Five. She said the Subgroup also anticipates completing additional work related to the NSA and the ARPA as it discussed during its April 1 meeting.

Ms. Matthews said the Health Innovations (B) Working Group will continue its work to gather and share information, best practices, experience and data to inform and support health innovation at the state and national levels with respect to the ACA and other health policy initiatives. She said over the last year, in part, because of the COVID-19 pandemic and how the federal

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government and the states have used telehealth to address issues with access, the Working Group has been focusing on telehealth issues. She said based on a new 2021 charge from the Special Committee, as recommended by Workstream Five, it is anticipated that the Working Group will continue its focus on telehealth, but with respect to health equity and diversity issues.

Ms. Matthews said the Health Actuarial (B) Task Force will continue its work related to the ACA; but in addition to that work, the Task Force could take on additional work related to recently enacted federal legislation, such as the NSA and the ARPA. She said the Task Force recently submitted its recommendations to the CMS for the definition of “Geographic Regions” in the NSA.

Ms. Matthews said the Regulatory Framework (B) Task Force will continue to supervise the work of its working groups and subgroups. She said as Commissioner Conway discussed during this report to the Committee, the Task Force will be meeting soon to finalize a new charge for the Pharmacy Benefit Manager Regulatory Issues (B) Subgroup for it to begin work on a white paper that will discuss options for the states to regulate certain PBM business practices and the effect, if any, the decision the *Rutledge vs. Pharmaceutical Care Management Association (PCMA)* case may have on those options. She said the Employee Retirement Income Security Act (ERISA) (B) Working Group is also anticipated to meet to discuss the *Rutledge vs. Pharmaceutical Care Management Association (PCMA)* decision from the ERISA preemption perspective and consider revising the *Health and Welfare Plans Under the Employee Retirement Income Security Act: Guidelines for State and Federal Regulation* (ERISA Handbook), as appropriate, to include a discussion of the case. The MHPAEA (B) Working Group will begin work related to its anticipated new charge from the Special Committee to examine health equity and diversity in the mental health and substance use disorder (MH/SUD) treatment context during a meeting on April 21.

Ms. Matthews said the Senior Issues (B) Task Force will continue its core mission to examine issues affecting older Americans. She said like last year, it is anticipated that the Task Force will focus on long-term care insurance (LTCI) issues. The Task Force established a new subgroup, the Long-Term Care Insurance Model Update (B) Subgroup, to review the existing NAIC LTCI models to determine if any changes need to be made. She said that in addition to this work, the Subgroup will also consider any additional changes to these models as a result of the Long-Term Care Insurance (EX) Task Force’s discussions.

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

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## Draft Pending Adoption

Attachment One  
Health Insurance and Managed Care (B) Committee  
4/12/21

Draft: 4/7/21

### Consumer Information (B) Subgroup Virtual Meeting April 1, 2021

The Consumer Information (B) Subgroup of the Health Insurance and Managed Care (B) Committee met April 1, 2021. The following Subgroup members participated: Mary Kwei, Chair, Joy Hatchette, and Paul Meyer (MD); Debra Judy, Vice Chair (CO); Anthony Williams (AL); Randy Pipal and Weston Trexler (ID); Michelle Baldock (IL); LeAnn Crow, Brenda Johnson, and Craig Van Aalst (KS); Judith Watters (ME); Carrie Couch, Jo LeDuc, and Michelle Vickers (MO); Kathy Shortt (NC); Laura Arp and Martin Swanson (NE); Cuc Nguyen and Mike Rhoads (OK); Katie Dzurec and Lars Thorne (PA); Candy Holbrook and Jill Kruger (SD); David Combs, Brian Hoffmeister, Jennifer Ramcharan, and Vickie Trice (TN); Heidi Clausen, Shelley Wiseman, and Jaakob Sundberg (UT); and Christina Keely and Jennifer Stegall (WI). Also participating was Emily DeLaGarza (MI).

#### 1. Discussed Potential Areas of Work for 2021

Ms. Kwei said the group would work on products to help both state insurance regulators and consumers. She asked the Subgroup to consider the different topics it would like to cover during 2021, including direction from the Health Insurance and Managed Care (B) Committee to work on the federal No Surprises Act. She said some No Surprises Act topics likely fit into the group's plan to develop a guide for consumers on the claims process.

Ms. Kwei asked whether changes to premium tax credits and COBRA subsidies are the key topics to cover from the federal American Rescue Plan. Subgroup members agreed that they are. Ms. Judy asked whether the Subgroup should work on individual coverage health reimbursement arrangements as part of its work on the American Rescue Plan, but the Subgroup concluded that it is not relevant to that law.

Eric Ellsworth (Consumers Checkbook) asked if the Subgroup would consider working on data products that could be incorporated into consumer materials, like in an app. He said consumer understanding of networks should also be considered.

Kris Hathaway (America's Health Insurance Plans—AHIP) asked how the Subgroup would address the proposed topic of CPT codes. Ms. Kwei responded that consumers frequently encounter the codes as part of a denial, but do not understand them. She said a product could explain what a CPT code is and why they are important.

#### 2. Discussed the Sequencing of Work Products

Ms. Kwei asked where materials on the claims process fit in with materials on new federal legislation. She asked whether revising the document Frequently Asked Questions on Health Care Reform should be done sooner than in past years. Ms. Arp said the FAQ responses would be useful in other materials, so either one could come first. Ms. DeLaGarza said the American Rescue Plan changes are temporary, so the full FAQ should not necessarily be updated. Subgroup members voiced support for starting with updates to the FAQ, in a separate addendum, to reflect changes made by the American Rescue Plan.

Mr. Ellsworth said exchanges will make a lot of information available to consumers about expanded tax credits, so the FAQ should incorporate existing materials. He said there is less available on the No Surprises Act.

Ms. Kwei said No Surprises Act work will need to be informed by rules expected from federal agencies over the summer, so the Subgroup should wait to develop related materials until those are available.

The Subgroup discussed the timeline for completing new questions for the FAQ addendum related to the American Rescue Plan.

Jeff Klein (McIntyre and Lemon) said the Virginia Corporation Commission recently released a helpful consumer document on health savings accounts.

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Attachment One  
Health Insurance and Managed Care (B) Committee  
4/12/21

Harry Ting (Consumer Representative) said the Subgroup is not reaching as many people as it should with its products. He said the Subgroup should discuss strategies for how to make more people aware of the group's products. Sylvia Yee (Disability Rights Education and Defense Fund—DREDF) said new networks have been formed by community organizations around COVID-19 vaccination and they could be used to disseminate insurance consumer information. Mr. Ellsworth said the Subgroup should work to gather feedback on whether its products are useful and understandable for consumers.

Ms. Judy said that the Subgroup should take advantage of existing documents and mentioned one from Beyond the Basics on American Rescue Plan provisions.

The Subgroup decided that it would consider new questions for the FAQ addendum drafted by Ms. Kwei and Ms. Kruger.

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

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## Draft Pending Adoption

Attachment Two  
Health Insurance and Managed Care (B) Committee  
4/12/21

Draft: 4/5/21

Health Innovations (B) Working Group  
Virtual Meeting (*in lieu of meeting at the 2021 Spring National Meeting*)  
March 26, 2021

The Health Innovations (B) Working Group of the Health Insurance and Managed Care (B) Committee met March 26, 2021. The following Working Group members participated: Andrew R. Stolfi, Chair (OR); Laura Arp, Co-Vice Chair (NE); Nathan Houdek, Co-Vice Chair, Barbara Belling, Diane Dambach, Darcy Paskey, Mark Prodoehl, Rebecca Rebholz and Richard Wicka (WI); Philip Barlow and Howard Liebers (DC); Angela Burke Boston, Andria Seip and Cynthia Banks Radke (IA); Claire Szpara (IN); Craig Van Aalst, Julie Holmes and Tate Flott (KS); Robert Wake and Marti Hooper (ME); Renee Campbell and Karen Dennis (MI); Grace Arnold, Helen Bassett, Galen Benshoof and Peter Brickwedde (MN); Camille Anderson-Weddle, Carrie Couch, Chlora Lindley-Myers, Jo LeDuc and Amy Hoyt (MO); Chrystal Bartuska, Angie Voegelé and Karri Volk (ND); Michelle Heaton and Maureen Belanger (NH); Christine Machnowsky (NJ); Paige Duhamel (NM); Mark Garratt (NV); Jessica K. Altman and Katie Dzurec (PA); Doug Danzeiser, Essi Eargle, R. Michael Markham, Ryan Jaffe, Debra Diaz-Lara and Angelica Garza (TX); Shelly Wiseman, Tanji Northrup and Jaakob Sundberg (UT); Jane Beyer, Jennifer Kreitler and Molly Nollette (WA); and Joylynn Fix (WV).

### 1. Heard Presentations on Regulations Regarding Coverage for Telehealth Services

Mei Wa Kwong (Center for Connected Health Policy—CCHP) gave a presentation on recent activity by the federal government and states to regulate coverage for telehealth services. She described changes made to allow and encourage greater use of telehealth in Medicare, Medicaid and by private payers. She identified state trends in 2021, including activity related to mental health and substance use disorder services, allowing telephone-only connections, requirements on regulatory boards to consider telehealth, and discussions on what to make permanent. She shared resources available from CCHP that continue to track changes in telehealth policy. Commissioner Stolfi asked about lists of state legislative activity. Ms. Kwong said the CCHP website has a section devoted to state COVID-19 responses, as well an annual legislative roundup. Commissioner Stolfi asked what states might see from the federal level going forward. Ms. Kwong said federal programs have significant influence, but they are in the same position of a lot of states, deciding which changes to make permanent. She said her expectation is that some but not all of the federal telehealth changes will be extended.

Tim Clement (American Psychiatric Association—APA) provided a presentation on the use of telehealth by psychiatrists. He noted the sharp increase in telehealth services provided during the pandemic and shared study results that he said indicate the quality of telehealth services matches that of in-person services. He said the APA has supported state insurance regulators' efforts to expand access to telehealth. He said even though APA members strongly prefer in-person services, they recognize some patients prefer or need telehealth services, both during the pandemic and after. He cited the APA's model legislation on telehealth, which requires payment parity, allows telephone-only connections in limited circumstances, and prohibits insurers from employing utilization review that is not used for in-person services. He noted that physicians' overhead costs are not lower because of telehealth unless they completely shut down their offices and only offer telehealth. He said the APA is open to payment parity requirements that might require a provider to maintain an office location.

Dr. Drew Oliveira (Regence BlueShield) presented on his plan's experience with telehealth, as well as virtual and digital care. He said telehealth had previously been focused on urgent care visits and provider-to-provider consultations in rural areas. He said the majority of patients who used telehealth during the pandemic would do so again, and about 20% prefer virtual over in-person services. He said up to half of primary care and 85% of behavioral health care could potentially be delivered virtually. He described digital and in-home care as treatment methods in addition to synchronous telecommunication. He gave examples of physical therapy visits and orthopedic exams as new types of care that are starting to be delivered by telehealth. He said telehealth can support better access to care in rural and underserved areas, but it may require audio-only services until gaps in broadband access can be closed. He said he worries about fragmentation in care due to telehealth and said information sharing is important. He said there is also some worry about high-frequency, low-value care—like texting back and forth—that may not be beneficial. He said payment parity can perpetuate fee for service payments, and it would be helpful to put telehealth into a prospective payment system. He said a federal Health Insurance Portability and Accessibility Act (HIPAA)-compliant system would be preferable to audio-only, but it may take a while to get there.



Commissioner Stolfi asked whether there is any difference in effectiveness in telehealth for first visits and also about health equity. Mr. Clement said studies he is aware of did not break out first versus subsequent visits. He said research shows telehealth can increase access to underserved communities and that more research is ongoing. Dr. Oliveira said behavioral health services have been underused in the past and that telehealth can encourage more appropriate use. Ms. Kwong said there has been a lack of studies on the impact of telehealth on communities of color. She said impacts are likely to vary from place to place.

Mr. Houdek asked how the payment parity issue has worked in other states and what state insurance regulators should think about. Mr. Clement said alternative payment models should be developed specifically for telehealth and that providers are willing to compromise on pure payment parity. Ms. Kwong said quality levels are comparable and questioned whether lower payments for telehealth would discourage its use after the pandemic. She said telehealth utilization dropped as states opened up. Dr. Oliveira said Medicare's relative value calculation took overhead costs into account, and they should be considered with telehealth going forward, but closer to 80% of in-person costs than one-third. He said some telehealth visits are replacements for in-person, and others are in addition.

Commissioner Stolfi asked how health plan thinking about telehealth has shifted due to the pandemic. Dr. Oliveira said access to trained practitioners needs to be expanded. He said there can be cost savings if a practitioner can monitor someone who gets better faster because they complete physical therapy at home rather than waiting for an office visit. He said the biggest concern is connecting back to the practitioners who are providing care in person.

## 2. Discussed State Responses to the COVID-19 Pandemic

Commissioner Stolfi asked state insurance regulators how they have innovated and changed how they do business in the last 13 months due to the pandemic. Ms. Nollette and Ms. Kreitler responded for Washington. They described how the provider network access program responded to a proposal from an issuer to offer a product with a telemedicine-only network tier. Ms. Kreitler described the questions state insurance regulators asked the carrier and said the network was approved when the carrier agreed to the same cost-sharing for the telemedicine-only tier and the second tier of in-person providers. Commissioner Stolfi asked about the scope of Washington's provider contract reviews and the staff resources devoted to it. Ms. Kreitler said four staff members work on the reviews for about 8,000 contracts per year, and it takes approximately two hours per contract. Contracts are reviewed for the protection of the enrollee, including hold harmless, clean claim and grievance provisions.

Ms. Arp said Nebraska received many complaints from the behavioral health community regarding telehealth near the beginning of the pandemic. The state surveyed carriers on their policies and posted the answers on its website.

The Working Group discussed payment parity laws in their states.

## 3. Discussed Other Matters

Commissioner Arnold raised the impacts of increased premium tax credits on state reinsurance programs run with Section 1332 waivers. She said Minnesota and other states with reinsurance programs sent a letter to the federal Centers for Medicare & Medicaid Services (CMS) asking it to revise the pass through amounts it will pay states for 2021. She said insurers' rates have already been set, but tax credits are changing, so the federal government will save more and should recalculate to share savings with states. She said there are other complex issues for 2022, but the letter was focused on 2021. Commissioner Stolfi asked how much movement there could be and whether states might adjust their reinsurance parameters. Commissioner Arnold said Minnesota is likely at the high end of how much additional funds it would receive because it has a lower percentage of subsidized enrollees compared to other states. She said states will likely have to provide additional information to CMS to justify revised amounts.

Wayne Turner (National Health Law Program—NHeLP) pointed out two resources for the Working Group. One was an article in *Health Affairs* on disproportionately low use of telehealth by patients with limited English proficiency. The second was a set of principles from a consortium of citizens with disabilities on how best to serve persons with disabilities with telehealth.

Kris Hathaway (America's Health Insurance Plans—AHIP) noted that AHIP and the Blue Cross and Blue Shield Association (BCBSA) have initiated a vaccine community connector program to enhance vaccinations among vulnerable groups. She said state insurance regulators with questions could reach out to her or to the BCBSA through Randi Chapman or Clay McClure.

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

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