

MEDICAL CARE ADVISORY COMMITTEE

Minutes of the May 17, 2012 Meeting

IN ATTENDANCE

PRESENT: Lincoln Nehring, Kris Fawson, E. David Ward, Janida Emerson for LaVal B. Jensen, Michelle McOmber, Judi Hilman, Russ Elbel, Tina Persels, Mark E. Ward, Pasu Pasupathi, Michael Hales

EXCUSED: Gerald R. Petersen, LaPriel Clark, LaVan B. Jensen, Warren Walker

ABSENT: Jason J. Horgesheimer, Mauricio Agramont, Kevin Burt, Rebecca Glather

STAFF: Tracy Luoma, John Curless, Craig Devashrayee, Tonya Hales, Josip Ambrenac, Kolbi Young, Gayle Coombs

VISITORS: Emily Mitchell, Scott Larson, Jabrina Aery, Heidi Petersen, Joyce Dolcourt, Karen Warren, Polina Konuchkova, Amy Bingham, Dr. Steven Steed

1. Welcome – Lincoln Nehring

Vice-Chairman Nehring called the meeting to order at 1:32 p.m.

Approve Minutes for the March 15, 2012 MCAC Meeting

Vice-Chairman Nehring said we now have a quorum. Kris Fawson made the motion that the minutes from the March 15, 2012 MCAC Meeting be accepted as written and Mark Ward seconded the motion. The minutes were approved by everyone.

2. MCAC Business – Lincoln Nehring

Appreciation to Kris Fawson for Serving on the MCAC Since 2006

Vice-Chairman Nehring then gave a plaque to Kris and thanked her for all her years of service on the MCAC.

Vice-Chairman Nehring said we are still looking for some committee members to replace some vacant positions on the committee. He told anyone who knew of any possibilities for any of these positions to let Kolbi Young know.

3. New Rulemakings – Craig Devashrayee

Craig then went over the DMHF Rules Matrix 5-17-12.

Rule; (What It Does); Comments.	File	Effective
R414-305 Resources; The purpose of this change is to clarify language in the text and to make other minor corrections.	11-15-11	2-6-12
R414-308 Application, Eligibility Determinations and Improper Medical Assistance; This change includes provisions that treat certain actions by a recipient as an application for medical assistance when a recipient cannot complete a timely request for verification. It	11-15-11	2-6-12

also clarifies the limitations for these circumstances and clarifies agency procedure for eligibility when a recipient reports a change. It also makes other technical changes to the rule text.		
R414-61-2 Incorporation by Reference; The purpose of this amendment is to incorporate by reference changes to the Waiver for Individuals with Physical Disabilities, effective July 1, 2011. This amendment, therefore, clarifies extraordinary circumstances that must exist for parents or step-parents to act as paid providers of personal assistance services and amends the number of visits between participants and administrative case managers. In addition, this change allows the Department of Health to explain quality improvement strategies in further detail that relate to participant direction of services, participant rights, participant safeguards, and systems improvements.	12-1-11	1-24-12
R414-14A Hospice Care; The purpose of this change is to implement by rule H.B. 230, which replaces outdated terms for persons with a disability with updated terms. The other purpose is to implement new provisions for the concurrent care of Medicaid recipients who are under 21 years of age.	12-1-11	2-1-12
R414-1-5 Incorporations by Reference; The purpose of this change is to implement penalties on nursing facilities that do not pay their Nursing Care Facility Assessment mandated by Utah Code Title 26, Chapter 35a on a timely basis. This amendment outlines the penalties for delinquent deficiency assessments that include a suspension of all Medicaid payments, a negligence penalty, an intentional disregard penalty, and an intent to evade penalty.	12-27-11	2-21-12
R414-1-5 Incorporations by Reference; Subsection 26-18-3(2) requires the Medicaid program to implement policy through administrative rules. The Department, in order to draw down federal funds, must have an approved State Plan with the Centers for Medicare and Medicaid Services (CMS). The purpose of this change, therefore, is to incorporate the most current Medicaid State Plan by reference and to implement by rule both the definitions and the attachment for the Private Duty Nursing Acuity Grid found in the Home Health Agencies Provider Manual, and to implement by rule ongoing Medicaid policy for services described in the Utah Medicaid Provider Manual, Medical Supplies Manual, and List; Hospital Services Provider Manual; Speech-Language Services Provider Manual; Audiology Services Provider Manual; Hospice Care Provider Manual; Long Term Care Services in Nursing Facilities Provider Manual; Personal Care Provider Manual; Utah Home and Community-Based Waiver Services for Individuals 65 or Older Provider Manual; Utah Home and Community-Based Waiver Services for Individuals with Acquired Brain Injury Age 18 and Older Provider Manual; Utah Home and Community-Based Waiver Services for Individuals with Developmental Disabilities and Mental Retardation Provider Manual; Utah Home and Community-Based Waiver Services for Individuals with Physical Disabilities Provider Manual; Utah Home and Community-Based Waiver Services New Choices Waiver Provider Manual; and Utah Home and Community-Based Waiver Services for Technology Dependent, Medically Fragile Individuals (HCBWS) Provider Manual (Updates to January 1, 2012).	12-27-11	2-21-12
R414-10 Physician Services (Five-Year Review); This rule is necessary because it sets forth eligibility requirements for Medicaid clients to receive physician services, sets forth program access requirements for physicians, specifies service coverage criteria, and directs Medicaid clients to the Department's copayment policy.	1-24-12	1-24-12
R414-45 Personal Supervision by a Physician (Five-Year Review); The Department should continue this rule because it increases access to physician services by allowing a nurse practitioner or a physician assistant to perform services under the supervision of a physician.	1-24-12	1-24-12
R414-10A Transplant Services Standards (Five-Year Review); This rule is necessary because it establishes standards and criteria for tissue and organ transplantation services. The criteria in this rule provide safe and cost effective services for Medicaid recipients who meet the standards of care.	1-24-11	1-24-12
R382-10 Eligibility (CHIP); This change allows the Department to provide medical assistance to a child under the age of 19 during a presumptive eligibility period. It also clarifies that the Department may complete a simplified eligibility review that does not require a recipient to provide additional information.	2-1-12	4-1-12
R414-303 Coverage Groups; This change allows the Department to provide medical assistance to a child under the age of 19 during a presumptive eligibility period. It also specifies criteria for presumptive eligibility and makes other clarifications.	2-1-12	4-1-12
R414-308 Application, Eligibility Determinations and Improper Medical Assistance; This change defines the application requirements and enrollment period for pregnant women and children under the age of 19 who are determined to be eligible during a presumptive eligibility period. This change also clarifies and simplifies eligibility review requirements.	2-1-12	4-1-12
R410-14 Administrative Hearing Procedures; The purpose of this change is to clarify definitions, hearing procedures, hearing availability, and notice requirements for the administrative hearing process.	2-29-12	4-23-12
R414-1-2 Definitions; The purpose of this change is to clarify that a provider is solely an individual or entity that provides medical, behavioral or dental care services under the Medicaid program.	2-29-12	4-23-12
R414-1 Utah Medicaid program (Five-Year Review); This rule is necessary because it sets forth services and eligibility requirements for the entire Medicaid program. It also specifies provider and recipient policy, specifies the role of certain entities within the Medicaid program, specifies the availability of program manuals and policies, and serves as the basis for all other rules in the Medicaid program.	3-2-12	3-2-12
R414-21 Physical and Occupational Therapy (Five-Year Review); This rule is necessary because it provides physical and occupational therapy for Medicaid recipients who need these services. It is also important because it specifies eligibility requirements and service coverage for Medicaid recipients, and specifies how physical and occupational therapists are reimbursed for their services.	3-2-12	3-2-12
R414-38 Personal Care Services (Five-Year Review); This rule is necessary because it provides cost effective and quality personal care services for Medicaid recipients. It provides these services through its eligibility requirements, service coverage, provider qualifications, plan of care requirements, physician recertification, and supervision requirements for licensed registered nurses.	3-7-12	3-7-12
R414-1-5 Incorporations by Reference; Subsection 26-18-3(2)(a) requires the Medicaid program to implement policy through administrative rules. The Department, in order to draw down federal funds, must have an approved State Plan with the Centers for Medicare and Medicaid Services (CMS). The purpose of this change, therefore, is to incorporate the most current Medicaid State Plan by reference and to implement by rule both the definitions and the attachment for the private Duty Nursing Acuity Grid found in the Home Health Agencies Provider Manual, and to implement by rule ongoing Medicaid policy for services described in the Utah Medicaid Provider Manual, Medical Supplies Manual and List; Hospital Services Provider Manual; Speech-Language Services Provider	3-29-12	5-22-12

Manual; Audiology Services Provider Manual; Hospice Care Provider Manual; Long Term Care Services in Nursing Facilities Provider Manual; Personal Care Provider Manual; Utah Home and Community-Based Waiver Services for Individuals 65 or Older Provider Manual; Utah Home and Community-Based Waiver Services for Individuals with Acquired Brain Injury Age 18 and Older Provider Manual; Utah Home and Community-Based Waiver Services for Individuals with Intellectual Disabilities or Other Related Conditions Provider Manual; Utah Home and Community-Based Waiver Services for Individuals with Physical Disabilities Provider Manual; Utah Home and Community-Based Waiver Services New Choices Waiver Provider Manual; and Utah Home and Community-Based Waiver Services for Technology Dependent, Medically Fragile Individuals (HCBWS) Provider Manual (Updates to April 1, 2012).		
R414-307 Eligibility for Home and Community-Based Services Waivers (Five-Year Review); This rule is necessary because it establishes general eligibility requirements for home and community-based services waivers, establishes eligibility requirements for institutionalized individuals, establishes eligibility requirements for medically needy waiver groups, establishes eligibility criteria for the New Choices Waiver, and sets forth other waiver provisions.	4-17-12	4-17-12
R414-1-29 Provider-Preventable Conditions; This amendment clarifies legal authority and reporting requirements for provider-preventable conditions. It also specifies the federal statute that prohibits reimbursement for provider-preventable conditions, and the sections of the Medicaid State Plan that implement that authority.	4-27-12	7-1-12
R414-2A Inpatient Hospital Services; This amendment updates the 30-day hospital readmission policy to refer to Section R414-1-12. It also clarifies the limitations of inpatient hospital services as they relate to medical necessity.	4-27-12	7-1-12
R414-9-5 Alternative Payment Methods; This amendment clarifies that a FQHC must calculate only covered beneficiary charges when it calculates the Ratio of Beneficiary Charges to Total Charges Applied to Allowable Cost as part of its agreement with the federal government.	4-27-12	7-1-12
R414-49 Dental Services; The purpose of this change is to comply with mandates set forth in the 2012 General Session of the Utah Legislature, which reinstate emergency dental services to non-pregnant adults who are 21 years of age or older.	4-27-12	7-1-12
R414-50 Dental, Oral and Maxillofacial Surgeons; The purpose of this change is to comply with mandates set forth in the 2012 General Session of the Utah Legislature, which reinstate emergency dental services to non-pregnant adults who are 21 years of age or older.	4-27-12	7-1-12
R414-401-3 Assessment; The 2012 Utah Legislature increased appropriations for this program through an increase to the assessment on Medicaid beds in nursing facilities. This change implements that assessment increase.	4-27-12	7-1-12
R414-506 Hospital Provider Assessments; The purpose of this change is to implement the Hospital Provider Assessment Act in accordance with S.B. 179 of the 2012 General Session of the Utah Legislature and to update the rule to allow new providers.	4-27-12	7-1-12
R414-1A Medicaid Policy for Experimental, Investigational or Unproven Medical Practice (Five-Year Review); This rule is necessary because it implements the policy to cover only services and procedures that are proven to be effective. This rule, therefore, ensures that Medicaid recipients receive quality and cost effective services.	4-30-12	4-30-12
R414-60 Medicaid Policy for Pharmacy Program (Five-Year Review); This rule is necessary because it establishes requirements and limitations for eligibility, program access, and Medicaid drug coverage. It is also necessary because it implements the copayment policy for prescription drugs and directs pharmacy providers to the methodology used for reimbursement.	4-30-12	4-30-12

Michael explained the five-year review and why some rules are done with a five-year review. There were a lot of questions in regard to R-414-49 – Dental Services. Craig also gave some more information in regard to R414-1A – Medicaid Policy for Experimental, Investigational or Unproven Medical Practice. He also explained R414-60 – Medicaid Policy for Pharmacy Program. Craig also clarified R414-9-5 – Alternative Payment Methods. Judi Hilman had a question in regard to R414-1A. The wrong information was shown on the summary page that Craig passed out to everyone. The correct information was sent to the Committee in a follow-up email.

4. New Rulemakings – Tracy Lumoa

A copy of the Utah Cases Served Report Number of Persons was passed out to everyone. Tracy said we are beginning to see Medicaid enrollment growth slowdown. She said the case load growth is also slowing down a little bit. On the report it shows that as of the end of April 2012, the number of People over age 65 went up by 29, the number of People with Disabilities went up by 132, the number of Children went up by 126, the number of Pregnant Women did not change, and the Adults went up by 5. The total enrollment as of the end of May was 254,394. Tracy said we are beginning to see Medicaid enrollment growth slowdown. She said the case load growth is also slowing down a little bit. Tracy explained how we should be closing out at the end of this fiscal year.

Michael gave some information on the number of applications that had been coming in. This was as a result of a report from DWS. Judi Hilman said she would like it if Michael could get the number of

applications that are received each month. Michael said he will talk to DWS to see what meaningful information we can get off of the application. Whether applications for Medicaid have slowed down because of the data breach was mentioned by Judi.

5. **Medicaid Autism Waiver Update** - Tonya Hales

Tonya said the Medicaid Autism Waiver is in regard to HB-272. DSPD will be working with this program, also. Tonya went over the HB-272 requirements, which are shown below:

- Serve children in rural and underserved areas
- Serve children aged 2 through 5 years
- Admit children through an open enrollment process
- Covered services must be “proven effective”
- Funding allows an average of 200 children to be continuously served during the two year pilot period
- Department to report program effectiveness to Legislature in October 2013

Tonya then went over the public input in regard to the waiver development process, which is shown below:

- Series of six public meetings: Logan, Ogden, Price, Provo, Salt Lake City and St. George
- Met with Utah Indian Health Advisory Board
- Convened a work-group of families, providers and State agencies
- Draft application will be available for a two-week review period beginning May 24, 2012
- Created Autism Waiver Website (Listserv and Public Comment Tabs)
<http://health.utah.gov/autismwaiver/>

Tonya went over key policy points in regard to this waiver. The key policy points were in regard to Entrance Requirements and Open Enrollment.

Tina Persels had a question in regard to the ASD diagnoses requirement. She mentioned how the autism service works much better when the family of the autism child works with the team on this. The expectation would be five hours a week.

Tonya mentioned how they have to have enrollment for this program through an open-enrollment process. They are anticipating that the open enrollment should last for about two weeks. Tonya said they want to get information out to everyone on this and also let them know about the autism link on the web site. Rural and underserved areas are the areas Tonya wants to reach on this for enrollment. R414-509 is the rule in regard to this.

Tonya also went over the Covered Services for this program, which are shown below:

- Intensive Individual Support – Consultation Service “Established Treatments” as defined by National Autism Center’s National Standards Report, 2009 (ABA for example)
 - ^ Reiterate – HCBS Waiver – payer of last resort
- Intensive Individual Support – Direct Service
- Respite (Self-Administered and Traditional Provider)
- FMS
- Case Management – Administrative through DSPD

Tonya again mentioned that this is just a two-year pilot program. Applications for this program will be taken on line, by mail, etc.

Tonya said the Draft Autism Waiver Application should be posted next week and there will be a two-week period for people to submit comment on the application to CMS. This will begin May 24th and go through June 14th.

Michael mentioned different things we are still trying to work through in regard to this in response to a comment from Russ. Michael said we are looking at a minimum of six months eligibility to be eligible for this program.

6. Medicaid Chronic Disease Management Pilot Program – Emma Chacon

Emma said \$700,000 was given to the State for this. Healthy Kids and Healthy Families is the name of the program they are working on. Emma said they will be issuing an informal RFP to the rural health departments. They will be asking them to collaborate with family practices in their area to come up with a plan for this program. Emma said they would like to have at least two pilot areas for this. She said they hope to have this out by the middle of next week and then people will have six weeks to respond. This will be an amendment to an existing contract with a health department. This will be an on-going contract.

7. Director's Report – Michael Hales

State of Utah Data Breach

Michael said over the weekend of March 30th through April 2nd, a Department of Technology Services (DTS) server was breached which contained personal health information. It is believed that the cyber thieves were from Romania. Michael said at first UDOH was told 24,000 records were breached. Because of one server being breached, other servers connected to this server also had the potential of being breached. DTS then found out that it wasn't records but rather 24,000 files, containing information including 180,000 CHIP and Medicaid claims records. About 25,000 individuals' Social Security numbers (SSN) had been compromised through this. Only one out of every seven individuals who were impacted by this had their SSN compromised.

Michael said DTS then found other data on the server that was breached. Michael said right away UDOH worked on getting credit monitoring for these people who had their SSN breached. He said DTS then found that 202,000 new files were found to have been breached. Michael said it then looked like there were a total of 780,000 people who had their information breached. Of those, 280,000 people lost their SSN. About 500,000 other people lost less sensitive information but not their SSN. Some people who had never been on Medicaid or CHIP were included in the breach. About 130,000 people had a history with Medicaid before but there were 125,000 that we had no association with Medicaid or CHIP. Experian is the company that is offering the credit monitoring services. Michael said there are still about 3,000 people that we have not been able to find addresses for. These were people who had their SSN breached.

Michael explained that this was a new server that DTS had been worked on by using test data. Additionally, some people who had their information breached had never been on Medicaid but

providers had sent in queries to the Medicaid program to see if they did have Medicaid coverage. That is why a lot of people's information was breached. Michael explained that the hacker was also able to get in by using a default password. The initial breach occurred on March 10th. No information was taken off the server until March 30th. This was detected on April 2nd. Michael said we engaged a company to help with the calls that were coming in regarding this. This was a toll free hotline which people could call to see if their SSN was compromised.

Mark Ward asked if there were still people out there who have not been notified yet. Michael said some people did get both letters that were sent out because there were problems matching some of the information. Michael said most of the notifications have gone out but we are still working through 10,000 to 20,000 to addresses so we can send these out. The toll free number for people to call in on is 855-238-3339. Michael said people can go to this number to find out if their information SSN was breached.

Judi Hilman thanked Michael for setting up the Ombudsman's Office. Michael said we have also tried to get out to a lot of public groups to make them aware of what is going on. Michael said the Governor had announced a new Office of the Ombudsman within the Department of Health. Sheila Walsh-McDonald has been appointed to this position. This office will be offering credit counseling and other services.

Michael said that a contractor has been hired to assess that all state servers are secure and make sure that this does not happen again.

Michael said they have not received any information yet that any of the SSNs compromised have been illegally used. He said we are working with the FBI on this. Michael said the FBI is really working on trying to find these people who hacked in and bring them to justice.

Michael said right now we know that only 10% of the people who were offered credit monitoring have signed up or activated their service. Michael mentioned all the costs that the State would be responsible for in regard to this. He mentioned different services that the State is offering to people to help with this. Michael said right now we are in the hundreds of thousands of dollars that we will be paying out on this. Michael said if someone has not received a letter to date, it is likely that the less sensitive information on the server was so incomplete that it would likely be of little use to a thief. Michael said there have been some questions in regard to the letter that was sent out.

8. Other Business – MCAC Members

Vice-Chairman Nehring mentioned that Kris Fawson is leaving the MCAC and needs someone to take her position. He said we need nominations for someone to take her place and be on the MCAC Executive Board. Michelle McOmber mentioned that possibly moving the time the MCAC meets due to conflicts with other regular meetings.

Michael mentioned the June MCAC Meeting will be the Public Hearing and will be from 4:00 to 6:00 p.m.

There was no other business, so the meeting was adjourned at 3:30 p.m.