

Medical Care Advisory Committee

Minutes of Meeting October 15, 2015

Participants

Committee Members Present

Russ Elbel (chair), Andrew Riggle (vice chair), Kevin Burt, Steven Mickelson, RyLee Curtis, Mark Brasher, Mark Ward, Debra Mair, Jonathan George, Pete Zeigler, Michael Hales

Committee Members Excused

Danny Harris, Jackie Rendo, Tina Persels

Committee Members Absent

Sarah Carbajal-Salisbury, Michelle McOmber, Jason Horgesheimer, LaVal Jensen, Donna Singer

UDOH Staff

Craig Devashrayee, Eric Grant, Jason Stewart, Kevin Bagley, Michelle Smith, Julie Ewing, John Curless, Emma Chacon, Josip Ambrenac, Karen Larson

Guests

Randal Serr (Take Care Utah), Dr. William Cosgrove, Dr. Doug Springmeyer, Jessie Mandle (Voices for Utah Children), Justin Allen (Premier Access), Jeff Sheen (Center for Persons with Disabilities) – via phone

Welcome

Russ Elbel called the meeting to order at 1:37 pm.

Introduction of New Member

Russ Elbel introduced the newest member of the committee, Pete Zeigler, who is representing Long Term Care Providers. Pete was nominated by the Nursing Home Association. He is currently the administrator of the George E. Wahlen Ogden Veterans' Home. Pete also serves on the Board of Directors for the Health Care Association.

Nominations to Fill Vacancies

There is still a seat available on the MCAC for a representative from the business community. If anyone has nominations, they should contact Russ Elbel, Michael Hales, or Josip Ambrenac. Michael reviewed the committee bylaws and noted that the requirements for a member of this committee representing the business community were pretty broad.

Suggested nominees: Mark Ward has someone in mind; he will report back next month. RyLee will check with the Hispanic Chamber. RyLee asked about Kumar Shah, a previous member of the committee. Pete will check with his Rotary Club and the Weber Chamber of Commerce to see if there are interested individuals.

Minutes of September 17, 2015 Meeting

Steven Mickelson moved to approve the minutes of the September 17, 2015 meeting. The motion was seconded and unanimously passed.

New Rulemakings

Craig Devashrayee reported on the new rulemakings. (Information on rulemaking has been added to the website at <http://heath.utah.gov/mcac>)

Budget Update

Eric Grant reported.

- **Adult** enrollment growth has been slowing over the past two months and appears to be stabilizing, which is consistent with expectation. Utah's unemployment rate, as of September 2015, is 3.7% while, by comparison, the national unemployment rate is 5.1%. Furthermore, according to the Conference Board, Utah is one of eight states where the number of unfilled jobs exceeds the number of unemployed.
- **Child** enrollment growth slowed down between August and September (this was expected). We expect a slower rate of growth in the coming months as the ACA effects (the tax-penalty and CHIPicaid) have run their course coupled with a growing economy.
- **People over Age 65** enrollment growth depends on a combination of population growth and economic conditions. As such, given Utah's improving economic conditions, the rate of growth in this group is expected to be positive, but at a declining rate in the near future. We did see a jump in September that we will keep an eye on.
- **People with Disabilities** enrollment growth, like the elderly, is dependent on a combination of population growth and economic conditions. And, like the elderly, the rate of growth in this group is expected to be positive, but at a declining rate in the near future.
- **Pregnant Women** enrollment has been declining since May. One factor is declining pregnancies among Utah's teens. Another contributing factor is a growing economy. And although there is an ACA provision that allows individuals to be covered under their parent's health insurance until age 26, monthly enrollment in this age group has not consistently decreased or increased since the inception of the ACA. Meanwhile, monthly enrollment among pregnant women 26 or older has consistently decreased over that period of time, which is likely due to a shift from Medicaid to employer-based health insurance.
- **CHIP** enrollment saw an increase between August and September. More than likely this is simply noise and not the beginning of an increasing trend.
- **PCN** enrollment increased between August and September. This growth may be due to open PCN enrollment for adults with children. However, given that the evaluation process is now month-to-month rather than annual and that PCN eligibility has changed from 150 % FPL to 95 % FPL, which reduces the pool of possible eligibles, this sudden upswing may be an anomaly, so we will continue to monitor.

Russ asked if there are any projections from the Department on what we expect to see with growth with open enrollment. Michael said we will be in a better position to answer that question next month.

Andrew asked if the increase in CHIP applicants had anything to do with the start of the school year. Eric said we do not have evidence to support that. Michael said this could be due the differing systems that the schools use for outreach during enrollment. RyLee said we could talk about outreach and enrollment during Randal Seer's presentation.

RyLee is wondering if we are getting closer to opening enrollment to adults without children. Michael said we are getting close to that. The waiver has a targeted 2:1 ratio for enrollment between individuals with dependents versus individuals without dependents. Right now the desired mix is not ideally where it should be. We most likely will allow continual enrollment for those with dependents but may have another enrollment for those without dependents shortly.

RyLee asked about any word on the renewal of the PCN waiver. It has previously extended through December, 2015. We have submitted information for another one year provisional extension. There will be a public

hearing on October 22 to discuss the extension. CMS is asking for more information to be submitted this year than they have in past years when we have asked for an extension. They may only extend for another six months depending on what happens with Medicaid expansion discussions.

RyLee asked if UPP is counted on PCN, and if so, is there a way to know the breakdown of this? Kevin Burt said he would be able to get information on that. Emma said we currently have a little over 900 individuals on UPP. We have been working with screeners to make sure that those people get to the proper staff to talk about the program.

Continuous Eligibility Pilot

Kevin Burt presented.

DWS is developing a process for getting people who are being released from the prison system to apply and be enrolled in Medicaid by the date of their release. This process begins when prison/jail staff are aware of an impending release date. Previous to this if an individual applied prior to being released the application would have been denied due to residency concerns. With the new process, if a person applies within 30 days of being released, the application is flagged and will be accepted. The new process started in September; it is difficult to say how successful it is at this point, but DWS will keep looking at the trends and will report back within a couple of months. The process is working smoothly between the Department of Corrections and DWS. Utah State Prison is trying to screen the individuals so applications are submitted only for those individuals would be eligible. The process will serve the people it benefits, but the numbers will not be high. If PCN is opened to individuals without children, or if a Medicaid expansion decision is made, those numbers might change.

Jonathan asked what kind of time savings there is to the individual. Kevin said most people have had their benefits in place within a couple of days of being released, compared to 13-14 days in the past. Some programs require an even longer wait time.

PRISM/ICD-10 Updates

Jason Stewart reported.

The current focus is on Release 3 which involves the provider portal. Providers will be able to submit applications online. The provider credentialing service will be attached to that which will now be automated. eMIPP will replace HIT. Aiming for a February, 2016 go-live date. User acceptance testing is being done at this time. The group is working through bugs to see if go-live date is reachable. Release 4 will be the final release - claims will be paid out of this system. We are wrapping up design and going into development. CMS will review the system and give us certification. Knowledge transfer will happen after the system is certified. Once internal provider testing is complete, we will open it up to external provider testing. 173 providers are set up to be beta testers. Outreach is being done via trainings, MIB articles, updates at the MCAC, information on web pages, and additional provider trainings. There is an opportunity for providers to look at the system and for them to see the materials that will be coming out. Anyone interested in participating in provider testing or for questions about PRISM should contact prism@utah.gov.

Russ asked how the eligibility tool has been working. Jason said each week utilization increases. Usage is looked at daily. One of our outreach specialists is going to provider trainings each week and is hearing positive comments from users.

ICD-10

Went live with ICD-10 on October 1. There have not been many major issues. We are paying claims using the new codes. The biggest issue right now is with the submission of claims – some providers are using wrong codes or qualifiers as they relate to the date of service. We are reaching out to providers who have a high number of denied claims to do education with them. We are also seeing issues with ZIP codes; we are recommending that

providers use the 5 digit ZIP rather than attempting to complete a 9 digit ZIP when the extension is not verified. Russ asked if the old system required this. Jason said he does not know if ICD-9 required the ZIP extension.

Jonathan asked if pharmacies have to make conversions with providers. Jason will check on this.

Introduction of Dr. Joseph Miner

Dr. Miner was unable to attend today's meeting.

Take Care Utah

Randal Serr, Director of Take Care Utah, presented.

Take Care Utah is a Utah Health Policy Project that helps people find and understand their new options for affordable healthcare coverage by connecting them with trained enrollment specialists in their communities and neighborhoods.

Take Care Utah is a partnership between the [Association for Utah Community Health \(AUCH\)](#), the [Utah Health Policy Project \(UHPP\)](#), and the [United Way 2-1-1](#). They offer outreach and enrollment assistance to Utah residents across the state. In addition, they provide training and resources to community based organizations that assist Utah's diverse populations and needs. All services are provided free of charge.

Navigators and certified application counselors are trained to help individuals make an informed decision about their health care coverage.

Over 84,000 people signed up during the first open enrollment period in 2013-2014. Year two saw enrollment numbers grow to 126,000 people. The difference between Take Care Utah and a broker is that Take Care Utah works more with middle/lower income families. They were in contact with over 300,000 people during the first couple of years. Staff is going to events daily as part of their outreach. They are expanding efforts into other communities and counties. Historically, 7 of 10 of the ZIP codes where the most applicants live are outside of Salt Lake County. Between 2014 and 2015, the largest growth in enrollment was in Utah and Washington counties. The organization expected a bigger in drop in uninsured individuals, but this could be due to the expansion not happening. The next open enrollment period is November 1, 2015 through January 31, 2016. A specific concern was voiced regarding outreach to Hispanic and minority communities. Four common themes for uninsured Hispanic population: 1) They don't know who qualifies, 2) Fear - they are scared information will be shared that will compromise their status, 3) Cost, 4) No Medicaid expansion. They are also confused about when to sign up. 95% of the staff at Take Care Utah speak Spanish and do the outreach.

Request from Randal Serr: Have someone from the State send a message to the Hispanic population that this is a safe program to participate in. Those interested in using the services can make contact via the website takecareutah.org or call 2-1-1.

Russ asked how many individuals were served last year. Randal's ballpark estimate is 100,000 people.

RyLee asked Randal to talk about the outreach they do at schools. Randal said they did outreach at approximately 23 schools during enrollment. The school districts determine if outreach is allowed during this time. The Granite school district is one of the biggest users of services.

Jonathan asked how Take Care Utah is funded - Navigators are funded by a grant through the federal government. Certified Application Counselors are funded in a variety of ways, or they may just be paid through their organization to do that job. Any organization can have a Certified Application Counselor.

Pete asked if there is outreach at employers. Randal said they are in contact with some area Chambers of Commerce, and hope to make connections that way. Pete said he is aware of a high number of uninsured at his place of employment.

Russ asked Michael to comment on involvement with the Latino community. Michael said they have tried to look at ways where we would be able to do more targeted outreach maybe within existing resources given that we don't have any appropriation for doing outreach; historically Medicaid has never been funded to do outreach. There may be some opportunities within our existing resources to build inroads to our Hispanic community. Randal said he would like to be part of that.

Kevin said Take Care Utah and DWS have been able to share resources at several events and found the experience to go well. Randal said they a very unique relationship with the Medicaid Eligibility office in the State of Utah that they have not seen in any other state, so they are very grateful that.

Department of Labor Home Care Rule

Kevin Bagley presented.

This is a Rule regarding overtime (OT) and minimum wage protection for home care workers. In the past there was a fairly broad-based exemption for home care workers related to those two protections. The Rule was originally issued in October, 2013, with an effective date of January, 2015. In 2014 a law suit took place, so the US District Court vacated many of the provisions. That was appealed to the US Court of Appeals, and recently the US Supreme Court denied the opportunity to bring that before them. The US Court of Appeals decision that upheld the Rule will now be effective October 13, 2015, with enforcement starting on November 12, 2015. Implications for the State Medicaid program are mostly with our home and community service based waivers and situations where we have self-directed services with our participants. In those cases our participants are able to select personal care attendants and other types of services for individuals to come and provider care to them. The Home Care Rule created provisions for third party employers. The Department of labor could identify, for the purposes of minimum wage and OT protections, multiple employers for a single participant. They have now extended that provision to the home care workers. What are the implications for "joint" employment? We don't believe the State is a joint employer for any of the home care workers. This means that the responsibility for OT and minimum wage protections falls to the sole employer who is the participant. That doesn't mean that we don't plan to help these participants through those requirements. Michael said if we are aware that a person is providing care to multiple clients, we would intervene to try to ensure that they are limited to a 40 hour work week to reduce liability. There is a much bigger potential for financial impact in states where the state is a joint employer. We are looking at the impacts right now with the Division of Services for People with Disabilities (DSPD) to see how we are structuring our home and community-based waiver program so we don't anticipate our impact will be substantial. There may be other impacts, but we are trying to work within the spirit of what was interpreted by the courts and restructure as needed to try to maintain peoples' employment at a 40 hour work week and not get into OT circumstances where there may be a liability.

Russ asked if the 40 hour work week was for an individual serving multiple clients. Michael said the intent is that the state or another employer will need to look at all the individuals served by a single personal attendant. If that PCW is working over 40 hours a week across multiple participants and try to figure out who is liable to pay overtime. If the State is interpreted to be a dual or joint employer, then the State may have an actual liability to pay OT. Kevin said that if an individual is employed by multiple people but they are considered to be joint employers, then there would be OT protection afforded to that worker. The state does not want to be liable for paying OT in these situations. For individuals on our program who receive over 40 hours of care per week, we are reaching out to those people to see if the time can be spread over multiple workers. These are being looked at on a case by case basis. In terms of the waivers for which the DOH receives appropriations, we expect the financial impact to be nominal.

Andrew said he appreciates the fact that individuals who need over 40 hours per week are being looked at. He asked if the Department sees a need to reduce hour for individuals at this time. Kevin said that a reduction of hours for the sole purpose of reducing financial responsibility would be a violation of rights, unless the reduction is based on medical necessity. Andrew also asked if we are anticipating the need to request additional funding

to support the rule. Kevin said that the budgetary impact would be nominal. Andrew asked that the information be brought back to this group once an evaluation is completed.

Michael said there are still details being worked out.

Andrew asked what the process is for the conversation with those individuals whose services will change. Kevin said they are still working on the specifics. Andrew asked Kevin to share those processes with the group.

Pete asked for clarification about which individuals will be affected. Kevin gave an explanation. Michael said he would encourage all employers to review the rule carefully.

Josip talked about the FLSA - companionship exemption. A provider would need to understand if they were using that exemption in order to exempt that employee.

Andrew asked what kind of outreach is being done to help people understand the rule and if there are any implications/impact. That is still being worked out.

Director's Report

Michael Hales gave a detailed report.

Medically Complex Children's Waiver

Half way through open enrollment for medically complex children's waiver; enrollment closes on October 29. There are currently 27 applicants for 165 open slots. This waiver is for those individuals who have severe or complex medical needs (involving three or more organ systems). It is open to individuals who have medical expenses that end up being a hardship to the family; not only for Medicaid eligible.

Russ asked if someone had to qualify for Medicaid in order to qualify for this waiver. Michael said it is based only on the child's income and medical necessity, not the parental income. The medical complexity requirements, as specified in the State's targeting guidelines (House Bill 199), are also computed. Unless there is an inheritance or dividends coming to the child, they most likely will qualify. The children would be put on traditional Medicaid fee for service until we establish a baseline for expenditures.

Mark asked if the ACOs would know who these people are. Michael said we know of some who are already in Medicaid who may qualify. We are estimating the average cost the State would pay would be approximately \$18,000 per year. This is assuming the family already has some type of insurance. We would pick up the co-payments, deductible and other costs that a primary insurance would not pay for.

Medicaid Expansion Updates

The Group of 6 worked throughout the summer to come up with the current proposal. On September 29 the House and Senate Majority caucuses met and heard the proposal. On October 6 there was a public hearing for the providers who were anticipated to be taxed; there was a majority of opposition from the provider community. On October 13, the majority caucus reconvened; 7 were in support, the Senate as a body was not in support. Media accounts show that next steps are being explored for other options. Michael handed out a document to show the Cost of Options to Extend Coverage. *UtahAccess+* did not have as good of a reception as the governor's Healthy Utah plan.

RyLee asked to clarify the difference between the 31,000 people in need of the program per Speaker Hughes compared to the 63,000 figure in Michael's handout. Michael said the 63,000 is the count of individuals under poverty level. Milliman estimated that about 20,000 of the 63,000 may already have some type of insurance (i.e. employer-sponsored insurance). Rather than have them drop coverage with that program, we would take over paying their premium assistance for them in order to free up expenditures in those households and provide a subsidy where the employee was paying the employee share, but we would continue to receive the employer's contribution to the health care.

RyLee also asked if any of the 20,000 individuals are currently receiving insurance through the UPP program. Michael said some maybe, but they were not counted that way. It was most likely not more than 1,000 people. Even with the expansion, there is a line item for the UPP program to provide individuals who have employer sponsored insured with a subsidy that would stay with them outside of the coverage.

Other Updates

Andrew said that CMS recently released their feedback to the State on the Home and Community-Based Services Settings Transition program. Andrew handed out copies of the letter. He would like to see this as an agenda item for the next meeting.

Adjourn

With no further business to consider, Mark Ward motioned to adjourn the meeting. Russ adjourned the meeting at 3:33 pm.