

**MINUTES OF THE QUALITY IMPROVEMENT AND
PATIENT PROTECTION COMMITTEE**

Meeting of November 13, 2013

MASSACHUSETTS HEALTH POLICY COMMISSION

**THE QUALITY IMPROVEMENT AND PATIENT PROTECTION COMMITTEE OF
MASSACHUSETTS HEALTH POLICY COMMISSION**
Center for Health Information and Analysis, Daley Room
Two Boylston Street
Boston, MA 02116

Docket: Wednesday, November 13, 2013, 9:30 AM – 11:00 AM

PROCEEDINGS

The seventh meeting of the Massachusetts Health Policy Commission's Quality Improvement and Patient Protection (QIPP) Committee was held on Wednesday, November 13, 2013 at the Center for Health Information and Analysis located at Two Boylston Street, Boston, MA.

Members present were Ms. Marylou Sudders (Chair), Ms. Veronica Turner, Dr. Carole Allen, and Dr. Ann Hwang, designee for Mr. John Polanowicz, Secretary of Health and Human Services.

Commission Chair Stuart Altman participated via phone.

Dr. Wendy Everett was absent from this meeting.

Executive Director, Mr. David Seltz, and the Director of the Office of Patient Protection (OPP), Ms. Jenifer Bosco, also participated in the meeting.

Chair Sudders called the meeting to order at 9:37 AM.

ITEM 1: Approval of Minutes

Chair Marylou Sudders asked if any Committee members had changes to the minutes. Seeing none, she asked for a motion to accept the minutes. Dr. Carole Allen made the motion and Ms. Veronica Turner seconded. Members voted unanimously to approve the minutes.

ITEM 2: Discussion of Proposed Updates to the Office of Patient Protection (OPP) Regulations

Chair Sudders commented that a responsibility of the Quality Improvement and Patient Protection (QIPP) Committee is the oversight of the Office of Patient Protection (OPP). She highlighted the staff's extensive work to create new proposed OPP regulations that are more protective of consumers and user-friendly. Chair Sudders noted that a public hearing would be held on the proposed regulations in mid-December.

Ms. Jennifer Bosco, Director of the Office of Patient Protection (OPP), provided an overview of the proposed changes to the OPP regulations. She noted that the changes are motivated by the federal Affordable Care Act (ACA) and Massachusetts State Law (Chapter 35 of the Acts of 2013). Ms. Bosco commented that the goal of the proposed regulations was to make OPP more user-friendly and to build protections for consumers. If adopted, the proposed regulations would go into effect in January, 2014.

At this point, Dr. Ann Hwang arrived at the meeting.

Ms. Bosco next provided an overview of the main areas that would be changed under the proposed regulations.

The first area of proposed change is the internal review process. The proposed regulations establish one level of appeal for internal grievances, mandate that insurance carriers share new information or rationale with the consumer before the decision on the consumer's grievance is issued, and mandate that the insurance carrier share with consumers information that the carrier reviewed while considering the member's grievance. Many of these changes are based in federal regulatory changes in the ACA.

Ms. Bosco then reviewed changes to the external review process. The proposed OPP regulations provide shorter timetables for external review decisions, fewer fees to consumers, an expansion of external review categories, and further guidance to consumers about material that must be submitted during a review.

Next, Ms. Bosco stated changes to the expedited review process. These changes include a shorter timetable for decisions (amended from 4 days to 72 hours) as well as the ability to simultaneously file an internal and external review. Both of these changes stem from ACA regulations.

Additionally, the proposed OPP regulations make changes to information provided to consumers. The proposed regulation would provide more detailed adverse determination notices, a broader spectrum of languages, and further analysis of the information used to make the external review decision (i.e. an analysis of medical evidence, medical literature, or the medically necessary standard).

Finally, Ms. Bosco reviewed proposed changes to insurance carrier reporting requirements. The first change allows insurance carriers to electronically submit documents to OPP. An example of documents submitted by insurance carriers is the number of reviews received and their outcomes. The proposed regulations would also require insurance carriers to submit detailed information on internal grievances.

Having summarized the proposed regulatory changes, Ms. Bosco paused for questions from the Committee.

Chair Sudders commented that the proposed regulations would ensure that OPP is in compliance with the federal ACA. Additionally, she noted the great opportunity the

proposed regulations posed to take a fresh look at the regulations and glean public input. Chair Sudders then summarized the changes, noting a decreased timeline for appeals, a change in the structure of the internal and external appeal process, and the addition of data from insurance carriers without burdening the plans.

Dr. Allen asked whether an appeal could be made before or after a service was rendered. Ms. Bosco noted that OPP receives appeals for both services that are planned and have been completed. Dr. Allen asked what percentage of appeals were filed after the service had been rendered. Ms. Bosco responded that OPP does not have that data.

Dr. Altman asked to what extent staff had communicated with stakeholders when crafting the proposed regulations. Chair Sudders responded that the staff held a public hearing in the early fall and invited comments throughout the drafting process. Lois Johnson, HPC's General Counsel, noted that the HPC would continue to accept written comments on the proposed regulations through December 24, 2013.

Dr. Altman asked whether the Committee intended to vote on the proposed regulations at its December 16 meeting. Chair Sudders responded that the vote would take place in January.

Dr. Altman asked whether the Committee knew of any major concerns from the insurance industry. Ms. Johnson stated that the regulations are still in the early phase. Chair Sudders commented that she would predict some concern over the amount of information requested from insurers to individuals filing reviews. Ms. Bosco noted that the insurance companies are aware of changes necessary under the ACA.

Dr. Allen asked whether reviews could be filed for services rendered outside of Massachusetts. Ms. Bosco responded in the affirmative.

Dr. Hwang asked Ms. Bosco to distinguish between internal and external reviews. Ms. Bosco responded that members may file an internal review (grievance) about any aspect of their coverage. When the internal review results in an adverse determination, i.e., the insurance company states that the requested service is not medically necessary, an individual may file an external review.

Dr. Hwang requested time to review the proposed regulations to understand small changes. This time, she noted, would ensure that there were no unintended consequences from the regulatory changes.

Chair Sudders noted that the current OPP laws go back to the managed care law of 2000, stating that a large portion of the redlining in the proposed regulations is a restructuring of the current regulations. Ms. Turner asked staff to provide more information on which changes stem from restructuring and which originate with the ACA or changes to MA state law.

Seeing no further comments from Committee members, Chair Sudders opened the meeting for public comment.

Kathy Keough, a representative of Atrius Health, asked whether a redlined version of the proposed regulations would be provided online. Ms. Johnson responded that the staff would post both the clean and redlined version. She once again reminded those present that the redlined changes are not always additions or changes, but may also be just a restructuring of text.

Elena Eisman, a representative from the Massachusetts Psychological Association, asked whether reconsideration was addressed in the proposed regulations. If so, she wanted clarification as to how reconsideration differed from external review. Ms. Bosco stated that, under the ACA, there is reconsideration for members of group plan. Individual plans, however, can only have one external review.

See no further comments, Committee members endorsed the proposed regulations and planned to spend further time reviewing the changes.

Chair Sudders announced a public hearing on the proposed OPP regulations on November 16, 2013 at 9:00 AM at the Center for Health Information and Analysis.

The Committee briefly discussed recent events regarding behavioral health services in the Commonwealth, and Mr. Seltz provided an overview of the recent Mental and Behavioral Health Summit held at Southcoast Hospital. Chair Sudders noted that the HPC has many outlets through which it can influence behavioral health issues in the state, including the Health Planning Council and the CHART Investment Program.

ITEM 3: Closing

Chair Sudders thanked everyone for coming and adjourned the meeting at 10:42 AM.