# HCAi Department of Health Care Access and Information

2020 West El Camino Avenue, Suite 800
Sacramento, CA 95833
hcai.ca.gov

**Health Care Affordability**
**Board December 19, 2023**
**MEETING MINUTES**

**Members Attending:** Secretary Mark Ghaly, David Carlisle, Ian Lewis, Elizabeth Mitchell, Richard Pan, Richard Kronick, Don Moulds

**Members Absent:** Sandra Hernandez

**Presenters:** Elizabeth Landsberg, Director, HCAI; Vishaal Pegany, Deputy Director, HCAI; Sheila Tatayon, Assistant Deputy Director; CJ Howard, Assistant Deputy Director, HCAI; Michael Bailit, Bailit Health.

**Meeting Materials:** https://hcai.ca.gov/public-meetings/december-health-care-affordability-board-meeting/

**Agenda Item # 1: Welcome, Call to Order and Roll Call**
*Secretary Mark Ghaly, chair*

Secretary Mark Ghaly opened the December meeting of California's Health Care Affordability Board. Six voting members were present, establishing a quorum. Director Elizabeth Landsberg provided an overview of the agenda.

Public Comment was held on agenda item 1. No public comment.

**Agenda Item # 2: Executive Updates**
*Elizabeth Landsberg, Director, HCAI*
*Vishaal Pegany, Deputy Director, HCAI*

Director Landsberg and Deputy Director Pegany provided updates on the work of the Department of Health Care Access and Information including:
- Updates on the Health Care Payments Data Program (HPD).
- Enforcement of the Hospital Fair Billing Act and the handling of consumer complaints.
- Reflections on accomplishments of the Board and Office in 2023.

- Highlights from the Centers for Medicare and Medicaid Services report on 2022 health care spending.
- Feedback from the Small Business Majority listening session on November 30th including thoughts from Board member David Carlisle.
- Discussion on the issue of finding providers under the Covered California Gold Plan experienced by both small and large businesses.
- An overview of the 2024 meeting calendar.

Public Comment was held on agenda item 2. No public comment.

**Agenda Item # 3: Approval of October Meeting Minutes**
*Secretary Mark Ghaly, chair*

The Chair introduced the action item to approve the October 24, 2023 meeting minutes. Secretary Mark Ghaly invited a motion to approve. Board member David Carlisle motioned to approve, and member Richard Kronick seconded.

Public Comment was held on agenda item 3 and no public comment.

The Board voted to accept. The motion passed.

**Agenda Item #4: Establish a Subcommittee for the Selection of New Advisory Committee Members**
*Vishaal Pegany, Deputy Director, HCAI*
*CJ Howard, Assistant Deputy Director*

Deputy Director Pegany and Assistant Deputy Director Howard presented on the topic of Advisory Committee membership, its renewal, current membership, and review of the statute. Discussion and comments from the Board included:
- Suggestions to consider a retiree and academic perspective, behavioral health emphasis, rural representation, etc., when making appointments.
- Appointment of a subcommittee of two members to review the application process and collect necessary information.
- Advisory Committee purpose and its role in balancing affordability with quality and equity in health care. Continuity is recommended by appointing the two individuals from the previous subcommittee for better consistency.
- Encouragement of continuity of the non-industry members given the learning curve they experience.

Board member Ian Lewis moved to nominate Elizabeth Mitchell and Richard Pan. David Carlisle seconded.

Public Comment was held on agenda item 3 and 1 member of the public provided comments.

The Board voted to accept. The motion passed.

**Agenda Item #5: Informational Items**
*Vishaal Pegany, Deputy Director, HCAI*
*Sheila Tatayon, Assistant Deputy Director*
*CJ Howard, Assistant Deputy Director*
*Michael Bailit, Bailit Health*

a) **Status Update on Cost and Market Impact Review Regulations, including November Advisory Committee Member Feedback**

Assistant Deputy Director Tatayon presented on the topic of the Cost and Market Impact Review Regulations.
Discussion and comments from the Board included:
- Approval of CMIR regulations, timeline, language review, major provisions, and the Advisory Committee feedback.
- Changes made to the regulations based on comments received, including revisions to filing requirements and confidentiality provisions.
- Discussion about the Public Records Act and the potential need for exemptions in cases where expedited review is requested. This will require further examination to determine the appropriate balance between transparency and confidentiality.
- Clarified the definition of a transaction from an AC member related to materiality thresholds for "in part" transfer of control; CMIR regulations do include "in part' materiality thresholds.
- Consideration of electronic health record and electronic medical record systems in ordinary course of business.
- Addressing concerns about shortened timelines.
- Positive feedback on the completion and implementation of CMIR regulations.
- A request for semiannual reports on notice filings and review timelines.
- A Board member praised the balance achieved in the final changes but raised disappointment about mental health Health Professions Shortage Areas being excluded.

Public Comment was held on agenda item 5a and 2 members of the public provided comments.

b) **Total Health Care Expenditures (THCE) Data Collection Proposed Emergency Regulations, including Overview of Public Input and November Advisory Committee Member Feedback**

Deputy Director Pegany and Assistant Deputy Director Howard presented on the topic of Total Health Care Expenditures (THCE) Data Collection Proposed Emergency Regulations.
Discussion and comments from the Board included:
- A question about OHCA's ability to collect federal data for inclusion in total health care expenditures.
- Discussion about capturing out-of-pocket expenditures and public health spending in future reports.
- Conversation about distinguishing between medical expenses and administrative

costs at different levels of health care organizations and the need for more granular data. Efforts to capture outpatient expenses were also highlighted.

- Discussion about member responsibility and collecting copays and deductibles. The need to collect information on primary care and behavioral health was emphasized.
- Patient liabilities, administrative burden, transportation costs related to health care access, collaboration with DHCS (Department of Health Care Services), 340B programs, and capturing health care-adjacent expenditures that impact health care spending in the population.
- The need for more information and research, particularly in areas such as transportation services and targeted home care.
- Challenges of budget neutrality and data sources in health care expenditure analysis.
- Attribution of total medical expenditures (TME) to provider organizations concerns raised, with requests for clarity and standardized methodologies.
- Feasibility of capturing data on primary care spending and development of definitions and methodologies for measuring primary care spending.

Public Comment was held on agenda item 5b and 3 members of the public provided comments.

**c) Spending Target Methodology and Statewide Spending Target Value, including November Advisory Committee Member Feedback**

Deputy Director Pegany, Assistant Deputy Director Howard and Michael Bailit presented Advisory Committee feedback on Board discussions of the spending target methodology, the consideration of an adjustment to the spending target for technology-related factors, and the proposal for multi-year statewide health care spending targets.
Discussion and comments from the Board included:
- The need to factor in the impact of new health care technologies on costs and patient care. It was suggested that an annual analysis of technological advances and their costs should be conducted, and targets should be reviewed accordingly.
- Mention that other states have created provisions to revisit their spending targets based on unexpected events or triggers. Some members suggested to review what other states have done in terms of adjusting targets for technology and learn from their approaches.
- One member suggested that the wording "price of health care technologies" should be amended to "expenditure on new health technologies" to capture both price and volume.
- The impact of technology on health care costs, with examples given of technologies that may increase or decrease costs. Some members suggested evaluating the actual impact of technology on lowering costs rather than assuming cost increases.
- One member recommended regularly reviewing and analyzing trends in technology, including potential game-changers and advances, to ensure that health care systems can adapt and provide access to beneficial treatments.
- The Chair requested clarification for the staff recommendation to ensure that it is understood that while there is no adjustment to the spending target at present, there is an openness to consider the impact of technology in the future.

- The importance of access to new technologies, particularly in the case of gene therapy for sickle-cell, was emphasized. It was suggested that denying coverage for such treatments could raise equity issues.
- For median household income, a member suggested taking a five-year running average and analyzing the variation. Additionally, suggested to include the year 2022 in the analysis and calculate the average variation for the previous five years.
- Consideration of the economic events and factors that occurred in 2019 to understand why it may be an unusual year.
- Assessing the impact of health care demand on projections, as it may not decrease even when economic conditions decline.
- Communicating with health plans and entities about the enforcement of targets and provide guidance on how to adjust operations.
- Development of a plan for enforcement that avoids harmful and dysfunctional behaviors in response to targets.
- Considering the timing and indications given during the approval process to help entities prepare for enforcement.

Public Comment for this item was combined with Agenda Item #6: general public comment.

**Agenda Item #6: General Public Comment**
The Chair invited public comment for Agenda Item #5 and general public comment and 12 members of the public provided comments.

**Agenda Item #7: Adjournment**
Secretary Mark Ghaly adjourned the meeting.