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**Health Care Affordability Advisory Committee
September 18, 2023
MEETING MINUTES**

Members Attending: Joan Allen, Barry Arbuckle, Aliza Arjoyan, Stephanie Cline, Carmen Comsti, Adam Dougherty, Parker Duncan Diaz, Hector Flores, Sara Gavin, Stacey Hrountas, David S. Joyner, Ivana Krajcinovic, Tam Ma, Mike Odeh, Janice O'Malley, Sumana Reddy, Yolanda Richardson, Andrew See, Sarah Soroken, Ken Stuart, Suzanna Usaj, Rene Williams, Anthony Wright, Abbie Yant

Members Absent: Yvonne Waggener, Kiran Savage-Sangwan

Health Care Affordability Board Member Attending: Richard Pan

HCAI: Elizabeth Landsberg, Director; Vishaal Pegany, Deputy Director; Jean-Paul Buchanan, Counsel; Sheila Tatayon, Assistant Deputy Director; CJ Howard, Assistant Deputy Director

Presenters: Elizabeth Landsberg, Director, HCAI; Vishaal Pegany, Deputy Director, HCAI; Sheila Tatayon, Assistant Deputy Director (virtual); CJ Howard, Assistant Deputy Director; Michael Bailit, Bailit Health; Margareta Brandt, Assistant Deputy Director

Facilitators: Jane Harrington, Leading Resources Inc.

Meeting Recording: <https://www.youtube.com/watch?v=IVgVEeCfjNw>

Meeting Materials: <https://hcai.ca.gov/public-meetings/september-health-care-affordability-advisory-committee-meeting/>

Agenda Item # 1: Welcome and Call to Order

Elizabeth Landsberg, Director, HCAI

Jane Harrington, Leading Resources Inc.

The September 28, 2023 Health Care Affordability Advisory Committee meeting began with the Director of the Department of Health Care Access and Information, Elizabeth Landsberg, welcoming the Advisory Committee ("Committee") and thanking them for their work.

No public comment was given on this item.

Agenda Item # 2: Member Oath of Office and Introductions

Elizabeth Landsberg, Director, HCAI

Director Landsberg welcomed new Committee members and led them in reciting the Oath of Office. Richard Pan was introduced as the attending member of the Health Care Affordability Board.

No public comment was given on this item.

Agenda Item # 3: Director's Remarks

Elizabeth Landsberg, Director, HCAI

Director Landsberg provided updates on the work of the Department of Health Care Access and Information including a highlight of a new report by Third Way on medical debt in America.¹ She also commented on the Departments Healthcare Payments Data Program releasing two reports, current applications available under the Office of Health Workforce Development, and the Distressed Hospital Loan Program awarding \$300 million. The criteria for the loans will be developed by the end of 2023.

No public comment was given on this item.

Agenda Item # 4: Cost and Market Impact Review

Sheila Tatayon, Assistant Deputy Director, HCAI

Sheila Tatayon, Assistant Deputy Director, and Heather Hoganson, Assistant Chief Counsel, presented information on Cost and Market Impact Review statute and draft regulations. Discussion and comments from the committee included:

- Factors in considering when to conduct a Cost and Market Impact Review such as differences in negotiated rates of the combining entities.
- Concern over the number of transactions anticipated under the proposed regulations and confirmation from the Office that based on historical research they are comfortable with the anticipated volume based on these regulations.
- Suggestion to utilize a waiver process to mitigate volume of the transactions.
- Consideration of distressed hospitals and merging with larger systems to stay open.
- Inclusion of Management Services Organizations (MSO) as a payer versus MSOs acting on behalf of payers or helping physician organizations with administrative

¹ Murdock, K., Kendall, J., & Kendall, D. (2023, August 21). Medical debt hits the heart of the middle class. Third Way. <https://www.thirdway.org/report/medical-debt-hits-the-heart-of-the-middle-class>

work. Some members advised against including MSO and others encouraged the office to keep MSO.

- For those advising to keep MSO, they encouraged the office to mirror language that applies to staffing levels and number of employees that are required to be reported to MSO.
- Inclusion of transactions of physician groups under 25, contract renewals, and transactions involving electronic medical record systems.
- If healthcare debt, issuance, or refinancing would meet the encumbrance requirements of 20% or more.
- Confirmation that pharmaceutical companies are not included in the statute, but Pharmacy Benefit Managers are and that clinical affiliations or affiliations for the purpose of education are excluded.
- Health Professional Shortage Area (HPSA) inclusion and reference to the updated section in the regulations on these areas.
- Subcontracting out the review process to firms and confirmation from the Office that the review of submissions will be performed by both OHCA staff and consultants.
- Federal Trade Commission (FTC) regulations including a new workforce section in the FTC pre-merger notification and suggestion for the office to mirror.
- Confidentiality and terms in the regulations being overly broad, specifically financial information that is otherwise public and under what circumstances that would be confidential. One member suggested keeping the general filing confidential until the Office has more experience with what information is necessary, given that the extensive documentation and requirements for information are proprietary.
- Multiple members supported broad filing requirements to begin and exploring tightening up those criteria later.
- Understanding how transactions, including large entities acquiring smaller entities, impact consumer affordability, access, and quality of care, and impacts to the state.
- The recourse for not reporting a transaction to the office as required is that being reported to the Attorney General and the Attorney General having the discretion to pursue non-compliance resulting in as much as unwinding a transaction.
- Clinical trials in graduate medical education being excluded and the suggestion to other forms of clinical research.
- Inclusion of Electronic Health Record (EHR) transactions in the transactions captured for filing. Some members were in support of capturing this information and others were not. Those in support detailed the need to understand how these transactions effect quality of care and affordability.

Additional opportunity to comment on revised draft regulations is available in October, 2023

For public comment on this agenda item, see the [recording](#).

Agenda Item #5: Total Health Care Expenditures (THCE) Measurement including Risk Adjustment; Overview of OHCA Draft Decisions for the Baseline Report; and Introduction to Methodology Considerations for the Statewide Spending Target

Vishaal Pegany, Deputy Director, CJ Howard, Assistant Deputy Director, and Michael Bailit, Bailit Health

Vishaal Pegany provided a recap of the June Advisory Committee meeting and an overview of the agenda item. Michael Bailit presented on the topic of risk adjustment and provided examples of the experience of spending targets in other states.

Discussion and comments from the committee included:

- The distinction between the statewide spending target and the requirement to establish sector targets by 2028.
- Risk adjustment by age/sex only. Some members were in support and others preferred to use of clinical risk adjustment.
 - Those who supported clinical risk adjustment stated that risk adjustment needs to go beyond age/sex factors, so there is the same incentive across all payer types. Additionally using age/sex only factors will not achieve one of the primary goals of achieving health equity across California.
 - Those who supported age/sex risk adjustment explained that this is measuring the change in year over year for an entity and not for comparing across entities and for this purpose age/sex will capture some of the risk while avoiding the issue seen with upcoding.

Deputy Director Pegany and Michael Bailit presented on health plans will be required to submit data, and which provider organizations will be measured when the data is submitted, and OHCA's proposed approach to attributing spending to provider entities through primary care relationships. Discussion and comments from the committee included:

- The inclusion of Third-Party Administrators (TPAs), or self-insurer data, and if this was a large enough portion of the population to be collected.
- The growing aging population and suggestion for the office to investigate PACE program trends.
- Inclusion of county facilities and the office working with DHCS to figure out that financing and how to report that data.
- Workers' compensation and alternative medical being out of the scope for this work because they are not associated with a health plan.
- A member informed the office about some urgent care providers being mistakenly attributed as primary care physicians and medical directors at skilled nursing facilities being primary care physicians.
- Spending and out-of-pocket spending in relation to Health Saving Accounts (HSAs) and Flexible Spending Accounts (FSAs) and HCAI only having access to what health plans are required to track, in terms of co-pays, deductibles and

cost-sharing.

For public comment on this agenda item, see the [recording](#).

Overview of OHCA Draft Decisions for the Baseline Report

Vishaal Pegany and CJ Howard presented on this item. Discussion and comments from the committee included:

- Suggestion to look at encounter data and cost shifting with capitated payments in the form of higher copays and lower capitation rates.
- Using the full allowed amount for measurement purposes in relation to truncation and stop loss insurance. One member suggested the office to consider reinsurance arrangements in the measurements.
- The first baseline report submission focusing on retail pharmacy as that is what is available in the aggregate collected data. Future analysis under consideration is a cost driver analysis for other pharmaceutical spend.

No public comment was given on this item.

Introduction to Methodology Considerations for the Statewide Spending

CJ Howard and Michael Bailit presented this item. Discussion and comments from the committee included:

- A request to learn more about the decision process for the requirement of the Board to adjust cost targets to account for actual projected employee organized labor costs. One member suggested different consideration be given for providers with non-unionized workforce and providers with unionized workforce. Another member expressed concern over adjusting the spending target on bargaining agreements that may not end up happening.
- High value care versus inefficient spending being addressed through the office measuring administrative costs and profits, as well as goal setting to invest in primary care, which improves outcomes and decreases costs.
- Quality adjustments not having a statutory deadline. The office will be using existing data on measures of health plans and equity to develop an approach through the stakeholder and Board process for the quality adjustment.
- One member suggested using drug costs as an adjustment factor.
- Gross Domestic Product (GDP) and Gross State Product (GSP) as an indicator for the spending target. Multiple members suggested using measures that reflect individual and family's actual experiences like median household income. One member suggested measuring how much premium contributions are changing in relation to the workers' paycheck, deductibles, and copays. Several members expressed support of using medians, rather than means/averages in any

adjustments.

Vishaal Pegany presented potential factors to adjust future targets. Discussion and comments from the committee included:

For public comment on this agenda item, see the [recording](#).

Agenda Item # 6: Alternative Payment Models, Primary Care and Behavioral Health Investment, and Workforce Stability

Margareta Brandt, Assistant Deputy Director

Assistant Deputy Director Brandt presented on this agenda item. Discussion and comments from the committee included:

- A request to spend more time discussing Alternative Payment Models in the future.
- A request that HCAI look into workforce stability and behavioral health.

For public comment on this agenda item, see the [recording](#).

Agenda Item # 7: General Public Comment

For public comment on this agenda item, see the [recording](#).

Agenda Item # 8: Adjournment

Leading Resources Inc. facilitator adjourned the meeting.