MINUTES OF THE COST TRENDS AND MARKET PERFORMANCE COMMITTEE

Meeting of June 4, 2014

MASSACHUSETTS HEALTH POLICY COMMISSION

THE COST TRENDS AND MARKET PERFORMANCE COMMITTEE OF THE MASSACHUSETTS HEALTH POLICY COMMISSION
Center for Health Information and Analysis
Daley Room, Two Boylston Street, 5th Floor
Boston, MA 02116

Docket: Wednesday, June 4, 2014, 9:30 AM – 11:00 AM

PROCEEDINGS

The Massachusetts Health Policy Commission's (HPC) Cost Trends and Market Performance (CTMP) Committee held a meeting on Wednesday, June 4, 2014 in the Daley Room at the Center for Health Information and Analysis (CHIA) located at Two Boylston Street, 5th Floor, Boston, MA 02116.

Members present were Dr. David Cutler (Chair), Dr. Paul Hattis, Dr. Wendy Everett, Mr. Rick Lord, and Ms. Kim Haddad, representative for Mr. Glen Shor, Secretary of Administration and Finance.

Dr. Cutler called the meeting to order at 9:32 AM.

ITEM 1: Approval of minutes

Dr. Cutler asked for any changes to the minutes from the April 29, 2014 meeting. Dr. Everett noted that the HPC staff had done an incredible job of capturing a very complex discussion. Seeing no further comment, Dr. Cutler called for a motion to approve the minutes as presented. Dr. Everett made the motion and Ms. Haddad seconded. Members voted unanimously to approve the minutes as presented.

ITEM 2: Discussion of Regulatory Definitions for Material Change Notices

Dr. Cutler stated that the day's agenda would be a guided discussion on the process surrounding certain definitions relative to cost and market impact reviews and notices of material change. He noted that this discussion has taken place over many committee meetings with continual input from commissioners and stakeholders. He introduced Mr. David Seltz, Executive Director, to provide a brief summary of items before the Committee.

Mr. Seltz stated that the day's meeting would continue the conversation on notices of material change by proposing the definitions of particular terms under the statute. He stated that these definitions are based on knowledge of the Massachusetts market and may not be easily translatable to the rest of the country. He stated that, after committee approval, the regulations would be taken to the full board for their approval before entering a public comment period.

Dr. Cutler clarified that there would be at least two more periods for public comment. Mr. Seltz affirmed this.

ITEM 2a: Proposed Definitions for Material Change Notices

Ms. Megan Wulff, Project Manager for Cost and Market Impact Reviews, summarized the terms that the HPC is statutorily required to define: Primary Service Area, Dispersed Service Area, Materially Higher Price, Materially Higher Health Status Adjusted Total Medical Expenses (TME), and Dominant Market Share.

Dr. Cutler asked whether the HPC would have to define a threshold for each of these terms. Ms. Wulff affirmed that the HPC would have to come to consensus on a definition and threshold for each.

Dr. Cutler stated that, when conducting a cost and market impact review (CMIR), the statute requires mandatory referral of the HPC's report to the Office of the Attorney General in certain cases. He asked for Ms. Wulff to remind the committee of those requirements. Ms. Wulff stated that mandatory referral is required when a provider organization has Materially Higher Price, Materially Higher TME, and Dominant Market Share.

Ms. Wulff reviewed the definition for Materially Higher Price. She noted that staff had received questions on how one-third of a Provider's revenue would be defined, how the weighted mean would be calculated, and how provider types would be determined.

Ms. Wulff stated that staff had opted to adopt a more restrictive definition of Materially Higher Price by utilizing the weighted mean rather than median or mean.

Dr. Hattis asked whether the price for a hospital included both inpatient and outpatient care. Ms. Wulff responded that the price originated from CHIA's public relative price data, and is a combination of inpatient and outpatient care.

Ms. Wulff reviewed the proposed definition for Materially Higher TME and provided a summary of technical feedback.

Ms. Wulff reviewed the definition of Dominant Market Share. She stated that the HPC planned to define this term descriptively, and then add precise quantitative thresholds as information on this topic became available. She noted that the existing definition has a quantitative threshold for inpatient services.

Ms. Wulff reviewed an example of how the HPC would provide thresholds for Dominant Market Share on certain service other lines as the data became available in these areas. She anticipated being able to define thresholds for primary care services and outpatient and post-acute services as the data evolved.

Ms. Wulff reviewed the definition of Material Change. Mr. Seltz noted that the statute gives guidelines on what constitutes a Material Change, and then allows the HPC to further define it.

Dr. Cutler noted there have been calls to adjust the definition of Material Change. He welcomed the day's discussion on this definition.

ITEM 2b: Points of Consensus

Ms. Wulff reviewed the areas in which stakeholders had reached consensus pertaining to the definitions of Materially Higher Price, Materially Higher TME, and Dominant Market Share. Ms. Wulff stated that all points of consensus had been agreed upon by expert consultants.

Ms. Wulff reviewed the first four points of consensus around the definitions for Materially Higher Price and TME.

Ms. Wulff stated there was consensus for using the weighted mean when defining Materially Higher Price and TME. She noted that price would be weighted by volume and TME weighted by member months.

Dr. Hattis asked if volume was defined by dollar flow or overall visits and discharges. Ms. Wulff responded that there is no exact volume metric reported publicly. HPC measures a proxy for volume by assessing the percentage of payments for each provider and standardizing it by relative price.

Dr. Hattis asked if volume thus refers to a financial flow as opposed to discharges. Dr. Cutler responded that the definition of volume is a quantity weight. This ensures that price is always weighted by quantity. Ms. Wulff clarified that percentage payments is a revenue figure (price multiplied by volume), which is then divided by price to arrive at volume.

Ms. Wulff reviewed the remaining points of consensus. A full list can be found in the day's presentation.

Ms. Wulff reviewed the points of consensus around the definition of Dominant Market Share. National experts agreed that markets should be examined by service line. She noted that the CTMP committee approved a definition for Primary Service Area (PSA). She stated that markets for other service lines would be modeled similarly as data became available.

Dr. Everett noted that the current and proposed service line definitions were very high level. She asked whether there would be a benefit to looking at more specific service lines. Ms. Wulff stated that staff was considering looking at specific service lines later in the process. Dr. Hattis reiterated the importance at looking at various service lines when assessing Dominant Market Share.

ITEM 2c: Stakeholder Feedback

Ms. Wulff reviewed a list of stakeholders who provided feedback on the HPC's proposed definitions. She stated that these comments had been separated into two parts: (1) straightforward technical questions that were easily addressed and (2) questions that required more extensive review.

Ms. Wulff summarized the technical questions that the staff was able to address. She reviewed the first comment: whether, if a provider organization does not trigger a mandatory referral, the HPC

would still have the ability to electively refer its cost and market impact review (CMIR) report to the Attorney General. Ms. Wulff confirmed that the HPC can electively refer reviews.

Ms. Wulff reviewed a comment that asked whether the one-third threshold of provider's revenue would be calculated by book of business. She affirmed that it would.

Ms. Wulff reviewed a comment on how the threshold for Materially Higher Price and TME would be weighted. She noted that the threshold for Materially Higher Price will be weighted by provider volume and the threshold for Materially Higher TME will be weighted by provider HMO and/or point of service member months. Dr. Hattis noted that current data on TME is only obtained from HMO and point of service.

Ms. Wulff noted that CHIA standardizes their relative price data and, therefore, was concerned about the HPC's proposed weighting of its prices. She stated that the purpose of HPC's weighted mean price calculation is only to determine where to set the threshold for Materially Higher Price. Mr. Seltz added that each individual hospital's price would not be weighted, but rather their pure price would be compared to the weighted mean threshold.

Ms. Wulff reviewed a comment asking how the HPC would determine "similar providers," a term from the definitions of Materially Higher Price and TME. She stated that, at a minimum, providers of the same service type would be compared (i.e. hospitals compared with other hospitals, professional services with other professional services). She noted that general acute care hospitals cannot be compared with specialty hospitals. She stated that examples of HPC's choice of "similar providers" can be found in the HPC's two published CMIRs.

Dr. Everett asked for an explanation of patient flow patterns, one of the characteristics that the HPC examines in determining similar providers. Ms. Wulff stated that the HPC looks at a group of peers or competitors to determine where patients would go for services if a particular provider were no longer available. Mr. Seltz noted that the proposed definitions, by employing a comparison of "similar providers," allow for flexibility within the regulation.

Dr. Hattis stated that an example of "similar providers" can be found in the HPC's Lahey-Winchester CMIR Report, which presented data that compared Lahey Clinic to other academic medical centers and also to nearby community hospitals.

Dr. Hattis asked if there would be a single state figure, in addition to the market-specific figures, for Materially Higher Price and TME. Ms. Wulff stated that the purposefully vague definition of "similar providers" allows for the possibility of using a statewide threshold for hospitals where there is not a good comparison group.

Dr. Cutler reviewed the notice of material change and CMIR processes, detailing how the day's definitions fit into them.

Dr. Cutler opened discussion for public comment. Ms. Stacey Ober of the Coalition of Nurse Practitioners offered public comment.

ITEM 2d: Remaining Questions and Next Steps

Ms. Wulff stated that staff had received four questions that they believed warranted further discussion. The first question was whether the Herfindahl-Hirschman Index (HHI), a measurement of market concentration, should be included as a threshold in defining Dominant Market Share.

Mr. Lord asked if the HHI has been used in previous CMIRs. Ms. Wulff confirmed this and noted that the question before the committee was whether to include it in the regulatory definition of Dominant Market Share.

Dr. Cutler asked why the HPC would not include the HHI in the regulatory definition. Ms. Wulff stated that, after consultation with experts, it had been determined that a certain level of share already corresponded to a minimum level of concentration (measured by the HHI), and thus the HHI should not be utilized twice in the process. Mr. Seltz responded that adding the HHI to the regulation would complicate and cloud the issue, since the 40% threshold is sufficient to meet the HPC's statutory requirements.

Mr. Lord asked if including the HHI threshold would yield a different result. Ms. Wulff stated that it likely would not.

Dr. Cutler stated that he is comfortable with a high threshold for a mandatory referral and the HHI still being used within the CMIR process overall.

Ms. Wulff reviewed the second question: why the HPC provides a quantitative threshold for Dominant Market Share for inpatient services, while describing dominant market share for other service lines qualitatively. She stated that the HPC is committed to developing quantitative thresholds for dominance across service lines, but that data is not yet available in many areas. Ms. Wulff added that providers would only be labeled as having a Dominant Market Share under this metric if they met a previously defined quantitative threshold.

Dr. Cutler asked Dr. Marian Wrobel, Director for Research and Analysis, to provide a tentative timeline for defining dominance in other service lines. Dr. Wrobel stated that thresholds for primary care data are expected in 2015, with outpatient data following six months later. She stated that the All-Payer Claims Database (APCD) is a work in progress, especially for public payers. She noted that initial work would be done with commercial payers only.

Dr. Hattis asked whether the absence of a threshold prevents the HPC from electively referring a CMIR to the Attorney General. Ms. Wulff confirmed that it does not.

Dr. Everett stated that the proposed plan of iterative quantitative definitions allows for development as data become available.

Ms. Wulff reviewed the third question: whether the HPC should establish a fixed threshold above the median when defining Materially Higher Price or TME to account for future potential that provider rates will converge. She noted that the HPC recommended an approach of defining a

threshold for materially higher at the weighted mean, which is significantly above the median, and already responsive to market changes. She added that the staff could rely on the regulatory process to amend this definition if there was a substantial market change.

At this point, Dr. Everett left the meeting.

Ms. Wulff reviewed the fourth question: whether the HPC should add the closure of a health care facility or service line to the definition of Material Change.

Mr. Seltz noted that the HPC is updating the form for filing a notice of material change to ask providers to detail variations in services. He stated that the question is whether a closure itself triggers a notice of material change.

Dr. Cutler stated that the HPC should refer this question to Mr. John Polanowicz, HPC commissioner and Secretary of Health and Human Services. He noted that the Department of Public Health (DPH) is responsible for handling these closures, but that recent closures show gaps in this system. Mr. Seltz stated that he would be happy to follow up with Mr. Polanowicz. He added that closures of service lines have broad impacts for the HPC to consider with regard to quality and the cost growth benchmark.

Mr. Seltz stated that staff would continuously engage with DPH and EOHHS. He added that the HPC must strike a balance between receiving notice on all changes of importance and the burden of reviewing such notices.

Ms. Wulff reviewed next steps, including a discussion and vote on proposed regulations at the August 6, 2014 CTMP Meeting. She stated that following endorsement from CTMP, staff would seek a vote from the board on the proposed regulations in early September.

Mr. Lord confirmed that stakeholder feedback would continuously be sought until the vote at the August 6th CTMP meeting.

Dr. Cutler opened the discussion for public comment.

Public comment was offered by Ms. Laura Haynes-Russell, Mr. Eric Linzer of the Massachusetts Association of Health Plans, and Ms. Karen Granoff of the Massachusetts Hospital Association.

ITEM 3: Adjournment

Dr. Cutler announced the next meeting of the Cost Trends and Market Performance Committee (August 6, 2014) and adjourned the meeting at 10:58 AM.