

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

Meeting of July 23, 2013

MASSACHUSETTS HEALTH POLICY COMMISSION

**THE QUALITY IMPROVEMENT AND PATIENT PROTECTION COMMITTEE OF
MASSACHUSETTS HEALTH POLICY COMMISSION**
Center for Health Information and Analysis
Daley Conference Room
Two Boylston Street, 5th Floor
Boston, MA 02116

Docket: Tuesday, July 23, 2013, 12:00 PM – 1:30 PM

PROCEEDINGS

The fifth meeting of the Massachusetts Health Policy Commission's Quality Improvement and Patient Protection (QIPP) Committee was held on Tuesday, July 23, 2013 at the Center for Health Information and Analysis's Daley Conference Room, Two Boylston Street, Boston, MA 02116.

Members present were Ms. Marylou Sudders (Chair), Dr. Wendy Everett, and Dr. Ann Hwang, designee for John Polanowicz, Secretary of Health and Human Services. Dr. Carole Allen participated via phone.

Ms. Veronica Turner was absent from this meeting.

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

Chair Sudders called the meeting to order at 12:06 PM.

ITEM 1: Approval of Minutes

Since there was not a quorum at the previous meeting, Chair Sudders asked Committee members for approval of the minutes from April 26, 2013 and June 10, 2013. Chair Sudders made no changes to either set of minutes.

Dr. Everett motioned to approve both the minutes from April 26, 2013 and June 10, 2013. Dr. Hwang seconded the motion. Committee members voted unanimously to approve both sets of minutes.

ITEM 2: Status of Behavioral Health Task Force Report

Chair Sudders introduced David Seltz, Executive Director, to give an update on the Behavioral Health Task Force.

Mr. Seltz noted that the Task Force was a critical part of Chapter 224. He stated that the HPC staff has been engaging with the members of the Task Force, noting it has been a

deliberative process with much discussion. Because the Task Force's report to the Committee is imminent, Mr. Seltz suggested discussing the report at the September 9th Committee meeting.

ITEM 3: Overview of Office of Patient Protection and External Review Process

Chair Sudders noted that the transfer of the Office of Patient Protection (OPP) from the Department of Public Health to the Health Policy Commission was an exciting opportunity from Chapter 224. She asked Ms. Jennifer Bosco, Director of the Office of Patient Protection, to provide an overview of OPP and the external review process.

Ms. Bosco noted that the main responsibilities of the OPP are to regulate the internal and external review process for members of fully insured health plans and administer open enrollment waivers. Ms. Bosco emphasized that the priorities of OPP are consumer protection, consumer education, and access to care.

Ms. Bosco gave an overview of the internal and external review process regulated and monitored by OPP. The internal review process is initiated when a consumer has been denied coverage for treatment because their insurance carrier believes it is not medically necessary. At this point, the consumer can file a verbal or written grievance with the insurance carrier. In 2012, 12,783 grievances were filed. Of these, 45% were resolved in favor of the consumer and 53% were denied and/or dismissed.

Ms. Bosco next spoke about the external review process. Once a grievance has been denied or dismissed by the insurance carrier, the individual is able to appeal to an external review agency. The cases are randomly assigned to one of three external review agencies where an expert determines whether the case is medically necessary. After this process, the agency issues a written decision. In 2012, 287 external reviews were filed. Of these, 35% were overturned in favor of the consumer and 62% were upheld.

Mr. Seltz inserted that, moving forward, the HPC is working to raise awareness about the services provided by OPP.

Ms. Bosco next reviewed the definition of a "medical necessity" as it stands under Massachusetts managed care law. She noted that this language is used by reviewers and considered by insurance plans in their criteria.

Ms. Bosco spoke on the effects of the federal Affordable Care Act (ACA) on OPP. She noted that Massachusetts is currently a "NAIC-similar" state, meaning that it fits with the regulations proposed by the National Association of Insurance Commissioners (NAIC). This will only be the case until January 1, 2016. The HPC is in the process of making changes to align OPP procedures with the ACA.

As part of this alignment, the Commonwealth passed ACA compliance laws (Chapter 35 of the Acts of 2013) which will go into effect on January 1, 2014. These laws include shortened timespans for decisions on external reviews and changes to the fee structure.

More broadly, these laws also increase the scope of review to include insurance rescissions and instructions to carriers to give notices in other languages.

Dr. Everett asked whether the changes will bring OPP into full ACA compliance. Ms. Bosco responded that OPP may not be fully compliant but will likely only need small changes that can be addressed through regulation. Dr. Everett noted that it would be helpful to see what the ACA requires at a practical level so that the staff can better understand what gaps exist in the current regulations. She highlighted that the HPC should strive to be better than the ACA instead of playing catch-up with the regulations.

Mr. Seltz asserted that the ACA will strengthen consumer protection and noted that the recent statutory changes reflect the best information available to staff at the moment. Dr. Hwang echoed that OPP is very close to ACA compliance.

Ms. Bosco next briefly outlined what the Office of Patient Protection does *not* do. She noted that a large part of the staff's work is referring consumers to the right places to meet their needs.

Ms. Bosco next reviewed the specific issues that OPP faces relating to behavioral health. She noted that mental health and substance abuse are the largest categories of claims filed with OPP.

Chair Sudders asked if OPP staff tracked the volume of calls. Ms. Bosco noted that this information is not formally recorded, but is something that staff is researching. Mr. Seltz commented that the HPC is interested in enhancing the data collection completed by OPP to help inform a variety of work across the agency.

Dr. Allen asked if OPP was able to receive the results of claims referred to other agencies. Ms. Bosco responded that this information is not readily available.

Dr. Everett commented that she was interested to hear ideas from the staff and public about marketing OPP to consumers. Mr. Seltz mentioned the possibility of working with other community organizations to spread the word.

Dr. Allen asked whether the data presented was from fiscal year or calendar year 2012. Ms. Bosco responded that it is a relatively complete dataset from calendar year 2012.

Chair Sudders asked for any further questions or comments, seeing none she moved to the next agenda point.

ITEM 4: Listening session on Office of Patient Protection internal and external review procedures

The Quality Improvement and Patient Protection (QIPP) Committee held a listening session on the Office of Patient Protection (OPP).

Mr. David Matteodo from the Massachusetts Association of Behavioral Health Systems spoke first. He also submitted written testimony. Mr. Matteodo noted that OPP serves as an umpire to level the playing field between treatment needs and payment for services. He highlighted that he has received good feedback from the OPP staff. He commented that the biggest problem is that the parameters for OPP are too narrow, excluding MassHealth and self-insured plans. His organization filed two bills, S.518 and H.2028, to expand the charge of OPP and allow the organization to glean federal waivers when necessary. Mr. Matteodo noted that with the transition to the HPC, OPP should revisit and reengage the public on its services.

Dr. Allen asked whether a third party could file a claim on behalf of a patient. Ms. Bosco answered that this is possible if authorized by the patient.

Ms. Clare McGorrian from Health Law Advocates presented second. Ms. McGorrian also submitted written testimony. She spoke on the quality of denied notices, carrier reconsiderations, clinical reviews, and appeals. She discussed the need for forms and procedures in multiple languages. Ms. McGorrian also commented on the barriers to mental health and substance abuse care.

Ms. Elena Eisman from the Massachusetts Psychological Association spoke on the criteria for medical necessity. She also submitted written comments on this subject.

Ms. Susan Fendell from the Mental Health Legal Advisors Committee provided oral testimony. She noted that it is helpful when OPP conducts informal advocacy with carriers. She echoed early sentiments that the "denial of claim" letters from carriers are boilerplate and could use more information. Additionally, she noted that the continuation of coverage during the appeal process is crucial.

Seeing no further comments, Chair Sudders ended the listening session.

ITEM 5: Closing

Chair Sudders thanked everyone for coming and adjourned the meeting at 1:36 PM.