MINUTES OF THE HEALTH POLICY COMMISSION

Meeting of March 2, 2016

MASSACHUSETTS HEALTH POLICY COMMISSION

Date of Meeting: Wednesday, March 2, 2016
Start Time: 12:02 PM
End Time: 2:24 PM

	Present?	ITEM 1: Minutes from January 20, 2016	ITEM 2: Approving 2017 Cost Growth Benchmark	ITEM 3: Interim Guidance on PIPs	ITEM 4: Cost and Market Impact Review	ITEM 5: Community Hospital Study	ITEM 6: Contract Extension
Carole Allen	X	X	X	X	X	X	X
Stuart Altman*	X	X	X	X	X	X	X
Don Berwick	X	X	X	X	X	X	X
Martin Cohen	X	X	X	X	X	X	X
David Cutler	X	X	X	X	X	X	X
Wendy Everett	X	X	X	X	X	X	X
Rick Lord	X	X	X	X	X	X	X
Ron Mastrogiovanni	X	X	X	X	X	X	X
Marylou Sudders	X	X	X	X	X	X	X
Kristen Lepore	X	X	X	X	X	X	X
Veronica Turner	X	X	X	X	X	X	X
Summary	**11 Members Attended**	**Approved with 11 votes in the affirmative**	**Approved with 11 votes in the affirmative**	**Approved with 11 votes in the affirmative**	**Approved with 11 votes in the affirmative**	**Approved with 10 votes in the affirmative**	**Approved with 11 votes in the affirmative**

Presented below is a summary of the meeting, including time-keeping, attendance, and votes.
*Chairman
(M): Made motion; (2nd): Seconded motion; (ab): Abstained from Vote; (A): Absent from Meeting

Proceedings

A regular meeting of the Massachusetts Health Policy Commission was held on Wednesday, March 2, 2016 at 12:00 PM.

Commissioners present included Dr. Stuart Altman (Chair); Dr. Wendy Everett (Vice Chair); Dr. Donald Berwick; Dr. Carole Allen, Dr. David Cutler; Mr. Martin Cohen; Mr. Rick Lord; Mr. Ron Mastrogiovanni; Ms. Veronica Turner; Secretary Kristen Lepore, Executive Office of Administration and Finance; and Secretary Marylou Sudders, Executive Office of Health and Human Services.

Chair Altman called the meeting to order at 12:10 PM and reviewed the agenda.

ITEM 1: Approval of Minutes from January 20, 2016

Dr. Altman solicited comments on the minutes from January 20, 2016. Seeing none, he called for a motion to approve the minutes, as presented. **Mr. Lord** made a motion to approve the minutes. **Dr. Allen** seconded. Voting in the affirmative were the eleven members present. There were no abstentions and no votes in opposition.

ITEM 2: Executive Director's Report

Mr. David Seltz, HPC Executive Director, provided an update on the HPC's patient-centered medical home (PCMH) and accountable care organization (ACO) certification programs. He noted that PCMH PRIME certification launched on January 1, 2016. To date, the HPC had received four applications. More information can be found on slide 6.

Dr. Allen thanked the organizations who provided feedback during the public comment period for ACO certification criteria.

Mr. Seltz provided an update on Phase 2 of the CHART Investment Program. He noted that all awards have launched. More information can be found on slide 7.

Mr. Seltz provided an update on the HPC's innovation investment programs. He stated that requests for proposals (RFPs) for all three opportunities are live on the HPC's website. More information can be found on slide 8.

Dr. Everett provided the Board with an update on the Supreme Court case regarding state all-payer claims databases (*Gobeille v. Liberty Mutual Insurance Co.*). She discussed potential ramifications of the decision for Massachusetts and on the HPC initiatives and research as well as price transparency and price variation.

Ms. Lois Johnson, HPC General Counsel, discussed how the *Gobeille* case may impact the HPC and Massachusetts.

Mr. Lord asked for clarification on the role of the Labor Secretary's in APCD reporting. Ms. Johnson responded that, under ERISA, the Secretary of Labor can impose reporting requirements on employer sponsored plans by regulation. Mr. Lord asked whether third party administrators provide data for self-insured populations. Ms. Johnson responded in the affirmative.

Dr. Cutler asked if third party administrators would be subject to the data reporting requirements. Ms. Johnson responded in the affirmative, but noted that the issue would have to be determined between the employers and the third party administrator.

Dr. Altman said that this is not the first time national law has prevented states from managing their healthcare system. He said the law was well-meaning when it was created to protect pensions.

ITEM 3: Cost Trends and Market Performance

Dr. Cutler provided an update on recent activities of the CTMP Committee and outlined the agenda relative to the Committee.

ITEM 3a: Approval of 2017 Health Care Cost Growth Benchmark

Mr. Seltz reviewed the Commonwealth's processes to set the potential gross state product and health care cost growth benchmark. More information on these processes can be found on slides 12-13.

Dr. Altman motioned to establish the 2017 health care cost growth benchmark at 3.6%. **Dr. Everett** seconded. The motion passed unanimously.

ITEM 3b: Discussion of Out-of-Network Billing

Dr. Cutler noted that the Board asked HPC staff to complete an in-depth analysis of out-of-network billing after the publication of the 2015 Cost Trends Report.

Mr. Seltz stated that staff would present research relative to out-of-network billing at the day's meeting with the intention of releasing a policy brief on the matter in the coming weeks.

Ms. Johnson provided background on out-of-network billing, detailing how it impacts consumers, what Massachusetts is doing about it, and what other states have done about it. More information can be found on slides 17-23.

Dr. Altman stated that out-of-network billing is an extremely important issue.

Dr. Everett clarified whether balance billing is prohibited in "surprise billing" scenarios (i.e., when patients receive care from out-of-network providers after seeking treatment at an in-network facility). Ms. Johnson confirmed that balance billing is prohibited in such instances. Ms. Johnson continued giving a background on out-of-network billing.

Dr. Altman asked about the roles of payers and providers with respect to being out-of-network. Ms. Johnson responded that she believes that this is an issue of tension, noting recent disputes between payers and ambulance providers. She said this could be resolved with contracts in some cases, but it usually leaves the patients in the middle. Dr. Altman said the need for a state law which overrides the market is contingent on whether the market can function.

Dr. Berwick asked if the HPC believes that disclosing information would help in situations relative to emergency care. Ms. Johnson responded that it would not. She noted that New York's law requires hospitals to post in which insurance plans and physicians practice they participate.

Noting the examples of state policies to address out-of-network billing concerns, Mr. Cohen asked whether the other states manage the independent dispute process. Ms. Johnson responded that the management of the dispute process varies, citing New York and California as examples.

In connection with a discussion on disclosure and transparency requirements in New York's law, Secretary Sudders provided an example of a New York hospital for which it was difficult to locate any of the required information on the hospital's website. She noted that consumers have to click through multiple pages to find a physician list, on which the hospital directs consumers to call individual physician group to determine whether they are covered. Ms. Johnson stated that such a website would likely be compliant with New York law and demonstrates the limitations of notice requirements.

Dr. Berwick asked if any states have measured the impact of out-of-network policy solutions. Ms. Kate McCann, Associate Counsel, responded by noting that Maryland did such a review, including findings of decreased financial burden for patients and no adverse effect on providers joining networks when expanding out-of-network billing protections to PPO plans.

Dr. Berwick asked for clarification on the approach. Ms. McCann explained Maryland's law in more detail, noting that rate setting in Maryland is important context to keep in mind.-She added that the assignment of benefit provision in the Maryland law was so effective that they removed the 2015 sunset provision.

Dr. Altman stated that out-of-network billing is only partly about patient protection. He said the HPC needs to focus on protecting the consumer and market from surprise out-of-network billing.

Dr. Cutler stated that the HPC should be mindful of whether providers will make more treatments out-of-network if such a change will be harmless to the consumer while adding burden to the payer.

Ms. Johnson provided a summary of recommendations on out-of-network billing in Massachusetts.

Secretary Sudders asked whether the recommendations are from the Cost Trends Report or Special Report on Provider Price Variation. Mr. Seltz responded that the recommendations are in the 2015 Cost Trends Report.

Dr. Altman said he would like to obtain comments from insurers and provider groups on out-of-network billing. Dr. Everett noted that this is an opportunity for a joint CTMP and QIPP committee meeting.

Dr. Berwick asked about the HPC's authority on the topic. Mr. Seltz responded that the HPC has the authority to make recommendations to the legislature.

Dr. Cutler asked if the Legislature would take action on this during the current session. Secretaries Sudders and Lepore and Mr. Seltz responded that they could not speak for the legislature.

ITEM 3c: Update on Performance Improvement Plans

Mr. Seltz stated that the Board would be asked to approve the issuance of interim guidance for Performance Improvement Plans (PIPs). He provided an overview of PIPs and the staff's recommendations for interim guidance. For more information, please see slides 26 - 27.

Ms. Kate Scarborough Mills, Policy Director for Market Performance, provided background on how the Center for Health Information and Analysis (CHIA) identifies payers and providers in the PIP process. For more information, see slide 28.

Ms. Mills reviewed the role of HPC Board members in the PIPs process. For more information, see slide 29.

Mr. Lord noted that many organizations have the potential to surpass the benchmark. He asked how the HPC would determine which organizations receive a PIP. Ms. Mills responded that the HPC will review data from 2012-2013 and preliminary findings from 2013-2014. Dr. Cutler affirmed that the HPC would need to assess the list with some scrutiny to determine the number of entities who actually require a PIP.

Mr. Lord asked whether an organization would be on CHIA's list if they exceeded the benchmark during one of the aforementioned periods, but not the other. Ms. Mills responded that CHIA will provide the HPC a list for each period.

Dr. Everett asked for clarification on the distinction between PIPs and cost and market impact reviews (CMIRs). Ms. Mills responded that, for years in which the state exceeds the health care cost growth benchmark, any provider on CHIA's list may be subject to a CMIR.

Ms. Turner asked for clarification on the ramifications if a provider fails to implement a PIP. Mr. Seltz responded that the HPC can levy a fine of up to $500,000, noting that this is a last resort.

Dr. Berwick asked how the PIP process ensures that lower costs are not achieved by offering lower quality care. Ms. Mills responded that the HPC will work closely with organizations subject to a PIP to ensure that this is not the case. Mr. Seltz added the statute does not foreclose the HPC to lay out additional factors for assessing a PIP.

Dr. Allen asked whether staff will examine total medical expenditures (TME) as well as spending in distinct service areas. Ms. Mills responded in the affirmative.

Dr. Altman stated his appreciation that the HPC will not be assessing organizations based on changes in profit margins. He noted the importance of cost growth and TME as measures.

Dr. Berwick asked whether the PIP interim guidance allows the HPC to include variables related to patient protection. Ms. Mills responded in the affirmative.

Dr. Altman made a motion to approve the interim guidance for Performance Improvement Plans. **Dr. Cutler** seconded. The motion passed unanimously.

ITEM 3d: Update on Material Change Notices and Continuation of Cost and Market Impact Review

Ms. Megan Wulff, Deputy Director of Market Performance, provided an update on material change notices and the continuation of cost and market impact reviews (CMIR). For more information, please see slides 38 - 44.

Dr. Cutler asked whether the two CMIRs including Beth Israel Deaconess Medical Center (BIDMC) would be assessed in one report. Ms. Mills responded that the HPC anticipates only releasing one report.

Dr. Cutler asked whether the single report could reach two different conclusions about the impact on cost, quality, and access (one for each CMIR). Ms. Mills responded in the affirmative.

Dr. Altman asked whether the HPC would conduct a historic review of the BID system. Ms. Mills stated that the goal of a CMIR is to review the system and how it will be impacted by the transaction.

Secretary Sudders expressed concern over a historic review of the BID system, noting that the HPC must stay within its statutory authority and remain unbiased in the CMIR process. Ms. Mills noted that the best predictor of future behavior is past behavior. As such, she stated that reviewing historic data is a necessary component of all CMIRs, but not the sole indicator.

Dr. Altman stated that no single transaction causes concern, but looking at the big picture can cause concern.

Ms. Turner asked for clarification on the number of MCNs relative to the BID system since January 2013. Ms. Wulff responded that the HPC has received seven MCNs, all of which were contracting affiliations.

Dr. Everett expressed her understanding that combining the two CMIRs into one report would provide a better picture of the collective market, reducing the need for a historic review. Ms. Mills stated that the history of the organization provides context for the review and allows the HPC to project forward on the behavior of the organization.

Ms. Johnson stated that the decision as to whether the HPC should enter into a CMIR includes a holistic contextual discussion.

Dr. Cutler urged the HPC to complete a review of past MCNs to determine the impact of the transactions.

Dr. Cutler motioned to authorize the continuation of a cost and market impact review of the proposed material change to BIDMC, Harvard Medical Faculty Physicians, and MetroWest Medical Center. **Ms. Turner** seconded. The motion passed unanimously.

ITEM 3e: Discussion of Public Process for Provider Price Variation

Mr. Seltz provided background on the HPC's Special Report on Provider Price Variation. He noted that the HPC would be convening a series of stakeholder discussions on the topic. For more information, see slides 46 -48.

Dr. Cutler noted the importance of disseminating the facts on price variation.

Dr. Everett asked for clarification on the next steps after the stakeholder discussions. Mr. Seltz responded that staff would report to the Board on the discussions. He noted that any further deliverables would stem from the discussions.

At this point, Ms. Lauren Peters joined the meeting for Secretary Lepore and Undersecretary Alice Moore joined the meeting for Secretary Sudders.

ITEM 4: Community Health Care Investment and Consumer Involvement

ITEM 4a: Discussion of Community Hospital Study

Mr. Seltz provided an overview of the HPC's study on the Commonwealth's community hospitals. For more information, see slides 51 - 77.

Mr. Mastrogiovanni asked if the HPC identified best practices from community hospitals around the country that could be successful in serving communities in Massachusetts. Mr. Iyah Romm, Director of Care Delivery Innovation and Investment, said community hospitals are successful when they align to the needs of the community. He added some themes included participating in larger systems and ACOs, and focusing on community oriented services.

Dr. Cutler asked for examples of well-functioning, low cost community hospitals. Mr. Romm responded that Lowell General is such a hospital.

Dr. Everett commented that she was struck by how nicely recommendations were tied back to the data.

Dr. Everett motioned to release the report, *Community Hospitals at a Crossroads*, on March 21, 2016. **Dr. Allen** seconded. The motion passed unanimously.

ITEM 5: Administration and Finance

ITEM 5a: Contract Extension

Mr. Seltz stated that the ANF Committee heard a proposal to increase the contract for one of the HPC's project management consultants, Accenture, LLP. He provided background on the contract extension. For more information, see slides 80 – 81.

Dr. Altman said the ANF committee has reviewed the recommendation and endorsed the contract extension. **Dr. Altman** motioned to extend the contract. **Dr. Allen** seconded. The motion passed unanimously.

ITEM 6: Schedule of Next Meeting (April 27, 2016)

Dr. Altman concluded the formal agenda. He stated that the next board meeting will take place on April 27, 2016 at the Health Policy Commission's offices.

ITEM 7: Public Comment

Dr. Altman asked for public comment. Seeing none, he adjourned the meeting at 2:24PM.