

HEALTH POLICY COMMISSION

Meeting Minutes



Friday, November 16, 2012
9:30 AM to 12:00 PM
Massachusetts State House
Boston, MA 02108
Gardner Auditorium

Attendees: Carole Allen, Stuart Altman, JudyAnn Bigby, David Cutler, Wendy Everett, Jay Gonzalez, Paul Hattis, Rick Lord, Marylou Sudders, Veronica Turner, Jean Yang

The meeting was called to order at 9:30 AM.

- I. **Board Member Introductions:** Governor Deval Patrick swore in the members of the Health Policy Commission (HPC).

Dr. Stuart Altman greeted the board and the audience with opening remarks regarding the Health Policy Commission and its charge. The board members briefly introduced themselves.

- II. **Review of Open Meeting Law:** Mr. John Sclarsic, Assistant Attorney General, provided the HPC board with an overview of the open meeting law and its related definitions and conduct requirements. During the overview, Mr. Sclarsic covered the open meeting law's following components: the definition of deliberation, the establishment and requirements of sub-committees, contents of the meeting minutes, public participation rights, closed executive sessions, remote participation rules, and the public complaint process. Mr. Sclarsic also directed the board to the Attorney General Office's Web site regarding the open meeting law, <http://www.mass.gov/ago/government-resources/open-meeting-law/>, as well as their hotline, 617-963-2540, also devoted to the open meeting law.

Dr. Altman noted that the board will try to allot time for comments and questions from the public.

- III. **Review of Public Records Law and Ethics Law:** Janet Fogel, Deputy General Counsel of the Executive Office for Administration and Finance, provided an overview of the public records law and its requirements for record retention, as well as the ethics law.

Question: Are all of the board's emails pertaining to the HPC subject to the public records laws?

Answer: Email correspondences are subject to public records laws. Board members will have state email addresses set up for communication regarding HPC business.

IV. Overview of Chapter 224 of the Acts of 2012: Mr. David Seltz, Special Advisor for Health Care Cost Containment, provided a summary of the key provisions of Chapter 224 and how they will apply to the HPC.

Question: Does the overall health cost goal apply to all health care expenditures?

Answer: Yes. Specifically, this cost applies to all services in MA for residents in Massachusetts.

Question: Is the growth benchmark a per capita comparison of growth in health care costs?

Answer: Yes, it is a target and a benchmark based on per capita comparison. In the context of the total system, this benchmark is a systems issue rather than provider-by-provider approach to containing costs. We have to recognize that we are under-resources in very important areas and some areas should grow faster than the benchmark, meaning that other areas should grow at a lower rate.

Question: Is there anything in Chapter 224 that makes the market more evenly distributed?

Answer: There are a number of provisions within the bill regarding price variation. The Center for Health Information and Analysis (CHIA) provides a report on price variation to understand where the inequalities in the system are occurring and if they are being reduced. The HPC board will solicit testimony under oath at an annual hearing about these inequalities. In Chapter 224 there are a number of tools to help consumers understand what the difference in cost and quality may be for different providers. There is an emphasis in the law on health status total medical expenses and not just the prices.

Dr. Altman commented on the responsibilities of the HPC, stating that the legislation carefully orchestrates a movement of state government to oversee the functioning of the system but to leave alive the individual decisions to the market place. Dr. Altman noted that there are a number of good systems already in place in Massachusetts, and said that the HPC does not want to get into the middle of these systems, rather that its place is to watch, comment upon and make recommendations on what changes should be made overtime. He stressed that the HPC is an oversight body to watch the functioning of the system and not a regulatory body, except in a few specific areas as specified by Chapter 224.

V. Overview of the Center for Health Information and Analysis: Mr. Aron Boros, Executive Director of CHIA, provided an overview of CHIA's charge, vision statement, and mission statement. Mr. Boros noted that CHIA has begun some preliminary thinking on timelines, work product, how it can provide support to the HPC as it builds its staff.

VI. Overview of the Health Policy Commission: Mr. Seltz provided an overview of the operations and governance of the HPC. He then briefly discussed each of the following elements of the HPC's charge: Patient-Centered Medical Home certification, Accountable Care Organization (ACO) certification, designation status for model ACOs, the performance improvement plan, provider organization registration, market impact reviews, the one-time assessment on certain acute care hospitals and surcharge payers of up to \$225 million, and the administration of the distressed hospital fund.

Question: Will CHIA identify the providers that are over the benchmark target in 2013?

Answer: There is no cost benchmark for 2012, so it will not be until calendar year 2014 that CHIA will report on the previous year's cost growth to see how it measures against the 3.6 percent cost growth benchmark. Chapter 224 only makes the identity of the providers who were notified that they exceeded the benchmark public if they are subject to a performance improvement plan, otherwise the notifications to providers will be confidential so they can put in place their innovative strategies to bring their cost growth down before that time in which the performance improvement plans may be necessary.

Question: How were the second two benchmarks set?

Answer: There was the recognition of inefficiencies in the system and that over time a growth rate slightly below the economic growth rate was possible. But over time the law pegs the growth rate to the potential growth rate of the gross state product.

Question: Regarding the market impact review, is the material change filing public and if so, are other organizations able to comment on the filing?

Answer: There is a public hearing process as part of the market impact review that allows for other participants to testify to the HPC on what they see as the impact of the proposed change. As far as the initial notice, the law does not state one way or the other as to if this should be public or confidential.

Question: Since there is a rule making function of the commission with respect to defining what material changes is, is there also a rule making function regarding the criteria under which a market review would be conducted?

Answer: There is a fair amount of regulatory process the HPC will have to do on this specific function, both identifying what it means to have dominant market share, materially higher prices, material change. Some key terms the HPC, per Chapter 224, will have to provide regulations on these points. The trigger for the initial review would also be part of these regulations.

VII. Office of Patient Protection Interdepartmental Service Agreement (ISA): Mr. Seltz provided an overview of the functions of the Office of Patient Protection, which Chapter 224 transferred from the Department of Public Health (DPH) to the HPC.

By unanimous vote, the board approved the proposal to enter into an agreement with the DPH to allow the DPH to continue providing the functions of the Office of Patient Protection for a period of 120 days on behalf of the HPC. The contract would provide for a transfer of \$33,000 from the HPC back to the DPH to continue this functionality.

VIII. Executive Director: Dr. Altman appointed himself along with Dr. Wendy Everett, Dr. Paul Hattis, and Mr. Rick Lord to a sub-committee on selection of the Executive Director. The sub-committee plans to present a final candidate to the full board by the next HPC meeting.

IX. Risk-Bearing Provider Organization Certification: Mr. Kevin Beagan, Deputy Commissioner of the Health Care Access Bureau in the Division of Insurance, presented the requirements for new risk-bearing provider certification process for providers that take on downside risk.

Question: With regards to small practices, what does risk-bearing mean for them?

Answer: When a carrier has entered into a contract with providers, there is some risk that the cost of treating the patients is greater than the budgeted treatment amount.

Dr. Allen emphasized the necessity of launching a campaign to educate providers on terms such as “downside risk” that relate to new payment models.

X. Distribution of Draft By-Laws: A draft copy of the HPC by-laws, modeled after the Commonwealth Connector Authority’s by-laws, was made available to the HPC board. Mr. Seltz encouraged the board to review the draft document and be prepared to finalize the by-laws for adoption at the next HPC meeting.

XI. Office Space: Mr. Seltz reported that office space at 2 Boylston Street has been identified for the HPC. The space will be ready in the near future.

XII. Schedule for Next Board Meeting: Dr. Altman announced that the HPC will have one more meeting before the end of the calendar year.

The meeting was adjourned at 12:00 PM.

Respectfully submitted,
Margaret K. Anshutz