MINUTES OF THE HEALTH POLICY COMMISSION

Meeting of February 5, 2020

MASSACHUSETTS HEALTH POLICY COMMISSION

Date of Meeting: February 5, 2020

Start Time: 12:02 PM

End Time: 1:53 PM

	Present?	ITEM 1: Approval of Minutes	ITEM 2: 2019 Cost Trends Report	ITEM 3: Drug Pricing Review Regulation	ITEM 4: Executive Session
Stuart Altman*	A	A	A	A	A
Don Berwick	X	X	X	2nd	X
Barbara Blakeney	X	X	2nd	M	M
Martin Cohen	X	X	X	X	X
David Cutler	X	2nd	M	X	X
Timothy Foley	X	ab.	X	X	X
Chris Kryder	X	X	X	X	X
Rick Lord	X	M	X	X	X
Ron Mastrogiovanni	X	X	X	X	2nd
Sec. Marylou Sudders	X	X	X	X	X
Sec. Michael Heffernan	X	X	X	X	X
Summary	**10 Members Attended**	**Approved with 9 votes in the affirmative**	**Approved with 10 votes in the affirmative**	**Approved with 10 votes in the affirmative**	**Approved with 10 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 Health Policy Commission (HPC) was held on February 5, 2020, at 12:00 PM. A recording of the meeting is available here. Meeting materials are available on the Board meetings page here.

Commissioners present included: Mr. Martin Cohen (Vice Chair); Dr. Donald Berwick; Ms. Barbara Blakeney; Dr. David Cutler; Mr. Timothy Foley; Dr. John Christian "Chris" Kryder; Mr. Richard Lord; Mr. Ron Mastrogiovanni; Secretary Marylou Sudders, Executive Office of Health and Human Services; and Ms. Cassandra Roeder, designee for Secretary Michael Heffernan, Executive Office of Administration and Finance.

Dr. Stuart Altman, Chair, participated over the phone.

Mr. Cohen called the meeting to order at 12:02 PM and welcomed Dr. Altman—who was joining by phone—to the meeting. He provided a brief overview of the day's agenda

ITEM 1: Approval of Minutes

Mr. Cohen called for a vote to approve the minutes from the November 20, 2019, Board meeting. Mr. Lord made the motion to approve the minutes. Dr. Cutler seconded it. The vote was taken by roll call. The motion was approved with nine votes. Mr. Foley abstained as he was not present at the November 20 meeting.

ITEM 2: Market Oversight and Transparency

Item 2a: Notices of Material Change

Mr. David Seltz, Executive Director, welcomed the Board members and turned the presentation over to Ms. Megan Wulff, Director of Market Oversight and Monitoring, who provided an update on material change notices (MCNs) received since the last Board meeting. For more information, see slides 7 through 9.

Mr. Mastrogiovanni asked whether staff had noted a change in the number of transactions in Massachusetts since the institution of the MCN requirement. Ms. Wulff said that this had not been specifically examined in a couple of years, but that the number of transactions had remained fairly constant. She said that she could follow up with exact numbers after the meeting.

Mr. Foley asked whether the proposed merger between East Boston Neighborhood Health Center (EBNHC) and South End Community Health Center (SECHC) was the first transaction the HPC had reviewed involving community health centers (CHCs). Ms. Wulff said that it was. Secretary Sudders noted that it was her understanding that the HPC would be deferring on this transaction. Mr. Seltz said that it was still being reviewed.

Item 2b: 2019 Annual Cost Trends Report: Findings and Policy Recommendations

Mr. Seltz introduced the presentation on the 2019 Cost Trends Report (CTR). He turned the presentation over to Dr. David Auerbach, Director, Research and Cost Trends, who presented on the CTR findings. For more information, see slides 11-33.

Mr. Seltz presented on the CTR recommendations. For more information, see slides 34-39.

Regarding the first recommendation on slide 35, Mr. Lord asked if there were any specific steps the HPC suggested that policymakers take regarding the expansion of telehealth services, or whether the recommendation was targeted at providers and insurers. Mr. Seltz said that the recommendation stated that payers should cover telehealth services consistent with their coverage of in-office visits. He noted that there was pending legislation to this effect.

Dr. Kryder asked whether there was more specificity to the recommendation that there be greater spending on primary and behavioral health (BH) care. Mr. Seltz said that the recommendation did not lay out a specific target for spending but rather outlined a principle that policies should be implemented to track and potentially set improvement goals in this area. He noted that this was a signature part of the Baker Administration's proposed health care bill. He said that the recommendation was broad and was meant to signal that this was an important goal for the Commonwealth. Dr. Kryder noted that data supported the idea that care could be improved by increasing reimbursements for comprehensive visits. He said that he hoped that MassHealth was exploring this and looking at effective models both locally and nationally. Secretary Sudders noted that Medicaid played a major role in the governor's health care bill. She said that she appreciated this recommendation regarding primary and BH care. She said that a cornerstone of the governor's bill was the setting of a benchmark for spending on these services at 30 percent for providers and payers, including MassHealth. She noted that telehealth had been rolled out in the Medicaid program but that a challenge was that not all payers were participating. She said that telehealth requires a certain amount of infrastructure within providers and that having MassHealth, commercial payers, and Medicare all participating would increase the incentives to build this infrastructure. Mr. Seltz added a clarification that the exact text of the recommendation stated that payers and providers should increase both direct spending on services and indirect spending on things such as care management, infrastructure, and care coordination. He said that this was informed in part by the experience of Rhode Island which had found that, as the proportion of spending on primary care increased, a good deal of that increase went towards non claims-based payments to support the primary care infrastructure. He said the recommendation also focused on the need to strengthen the non-clinical workforce, including community health workers, social workers, and recovery coaches.

Mr. Mastrogiovanni asked what the specific provisions of the governor's bill were with regards to increasing spending on primary and BH care. Secretary Sudders noted that the CTR recommendations were separate from the health care bill. She said that the bill set a 30 percent aggregate spending level across payers and providers over a three-year period for these services.

Mr. Foley said that during the cost trends hearing, the panelists from Rhode Island had discussed the interaction between their state's price cap and their spending goals. He said that it would be

an interesting challenge for the Commonwealth to adhere to the cost growth benchmark without a price cap in the context of trying to increase spending in these areas. He echoed Mr. Seltz's point about the need to invest in the workforce while moving towards these goals.

Dr. Kryder said that it would be important to examine procedure-specific spending down the road. He said that the amount spent on individual procedures was a key factor impacting total spending. He added that this data is relatively easy to capture. Mr. Seltz said that the Center for Health Information and Analysis (CHIA) was beginning to implement some data collection modifications that will allow it to better track and understand some sub-categories of spending. Mr. Cohen asked whether the performance improvement plan (PIP) process could include an examination of this issue at some point in the future. Mr. Seltz said that the recommendation does include language on holding entities accountable for this specific spending but does not lay out the specific mechanism for that accountability. He said that a strength of this concept is that it builds off the concept of the cost growth benchmark by beginning to look at the idea of sub-benchmarks in the components of overall spending.

Mr. Cohen and Mr. Foley said that the recommendation to scrutinize ambulatory care settings was an important one. Mr. Foley said that it was important to look at both where urgent care centers (UCCs) were located and also where there was an absence of these centers. He said this was crucial to examining the issue of access. Mr. Seltz said that there was a lot more to be examined in the area of outpatient care.

Dr. Cutler asked whether it might make sense to be more specific with the second recommendation on slide 35, particularly regarding what the legislature should do in the realm of ambulatory care centers. Mr. Seltz said that the recommendation was crafted broadly because there were multiple state agencies with roles in this area. He noted that the governor's bill included provisions related to the regulatory framework for UCCs in particular. Dr. Kryder said that at some point this year, the HPC would receive an MCN from Partners HealthCare related to its plans to construct four new ambulatory care centers. Mr. Seltz said that was likely not to be a direct notice to the HPC. He said that he did not have all the details, but, if it was an expansion, it would likely go through the Department of Public Health's (DPH) determination of need (DoN) process. He said that the HPC is a party of record to this process and there may be an opportunity to examine the specifics of the case and potentially provide a comment. He said that it was likely premature to say at this point whether that would be appropriate. Secretary Sudders noted that, to-date, nothing had been filed with DPH.

Regarding the third recommendation on slide 35, Dr. Berwick asked whether the HPC should be working with the Attorney General's Office (AGO) to look into organizations' coding practices. Mr. Seltz said that the HPC's examination of this issue suggested that it was not unique to Massachusetts and that this dynamic existed nationally. He noted that there were laws and rules in place related to this and that payers do audits. He said that he deferred to other commissioners on Dr. Berwick's point, but that he would recommend proceeding with caution and perhaps conducting a deeper investigation into the data before pursuing that option.

Dr. Cutler asked if CHIA could prescribe the risk adjustment tool used by organizations when submitting their numbers. Mr. Seltz said that he would have to get back to Dr. Cutler on this question. He noted that, in some cases, the systems used by organizations for risk adjustment were proprietary. He said that there had been conversations with CHIA to see whether it might be possible for them to receive unadjusted numbers from entities and then do some normalization at an aggregate basis across plans. He said that it might be worth having a conversation about whether there were better ways to accept data than those currently used. Dr. Cutler said that he believed it was the providers and not the plans that were doing this. He said it might be worth it for the state to require a different method of reporting data than what providers use internally. Dr. Auerbach noted that there were different risk adjustment methodologies in development that would be less prone to manipulation. He said that he was unsure of how much power CHIA had to mandate what risk adjustment was used. Mr. Mastrogiovanni said that it was a major issue that providers could choose whatever algorithm they wanted to calculate their risk adjusted score. He said the rate that Massachusetts was becoming sicker based on these risk adjustment codes clearly did not reflect reality. Dr. Berwick asked if the HPC had the staffing and resources to make judgments about the propriety of the coding being done by providers in Massachusetts. Mr. Seltz said that the HPC had engaged with experts to examine different risk adjustment methodologies. He said there was more work that could be done here and that he would take their recommendations and look into the best way to move forward on this issue.

Mr. Lord said that he thought that recommendation number six on slide 36 was extremely important. He asked what actions policymakers should take to broaden employer access to a range of insurance products. Mr. Seltz noted that there were provisions in the governor's health care bill that were related to ensuring that health plans create different types of innovative products and make those products available to employers across the Commonwealth. He said that the recommendation for policymakers to take action referred mainly to provisions that require plans to make more products available. Secretary Sudders noted the governor had signed an executive order to create the Merged Market Advisory Council which brings together employers and representatives from insurance companies to examine the underlying trends contributing to growing costs for individuals and small and mid-size employers in Massachusetts. She said that the council was putting together a report due to be published in April and that she would ensure that the HPC received that report to help inform this conversation. Mr. Seltz thanked Secretary Sudders and noted that there were additional legislative proposals beyond the governor's bill that touched on many of the recommendations contained in the CTR. Secretary Sudders noted that the HPC was not endorsing the governor's bill. She said, however, that it was helpful to see that there were common themes and shared priorities.

Mr. Foley asked if there were any outputs from the Massachusetts Employer Health Coalition (MEHC) that might speak to recommendation number six. Mr. Seltz noted that MEHC had been doing a great deal of work around strategies to reduce avoidable emergency department (ED) utilization. He said that MEHC was planning for a public event sometime in the spring to discuss some of the work that had been done and the plan moving forward.

Dr. Berwick noted that the CTR outlined a fairly ambitious path forward. Regarding recommendations 14 and 15, he said that it was important to keep in mind the implications of provider price variation (PPV) and overall affordability on the budgets of consumers and small businesses in Massachusetts. He noted that the HPC's mandate was related to the rate of cost growth but said that it was important to remember that many organizations in the state were starting at problematically high spending levels. He asked that the HPC spend some time discussing what it might be able to do to address PPV. Dr. Kryder agreed with Dr. Berwick. He noted that the Centers for Medicare & Medicaid Services (CMS) had promulgated a new set of rules that were being resisted by both payers and providers in this realm. He said that these rules appeared reasonable to him. He suggested that more conversation about this would be beneficial. Mr. Seltz noted that the HPC was working on a five-year market retrospective study to look at trends in the marketplace since the HPC's establishment. He said that PPV was one of the areas of examination in this study and that that information could help to inform this discussion. He said that this issue had not gotten any better during the last decade. Dr. Berwick asked if the HPC was restricted to applying the benchmark evenly across all providers or if there was a different model that could employed to take PPV into account. Mr. Seltz said that the HPC did not have the authority to do this under the current statute. He said that this was a reason that the HPC was recommending removing some of these restrictions which would make it possible to have a broader conversation around these issues. He added that the HPC did consider relative prices when an entity was referred as a part of its review. He said that a high-priced provider with a high rate of growth may be considered more concerning than a low-price provider with a similar rate of growth.

Mr. Cohen voiced his appreciation for the report. He thanked the staff for drafting recommendations that were timely and relevant to the work of the HPC. He called for a motion to authorize the release of the 2019 CTR. Dr. Cutler made the motion to approve the release of the report. Ms. Blakeney seconded the motion. The vote was taken by roll call. The motion passed unanimously.

Dr. Altman thanked the staff for their work on the report. He noted that there were a number of groups at the federal level looking into the coding issue and suggested that staff touch base with some of them to help inform this work moving forward.

Item 2c: Drug Pricing Review and Final Regulation

Mr. Seltz provided a brief introduction to the presentation on the final drug pricing review regulation. He turned the presentation over to Ms. Katherine Mills, Senior Director, Market Oversight and Transparency, Ms. Lois Johnson, General Counsel, and Ms. Celia Segel, Associate Director for Pharmaceutical Policy and Pricing. For more information, see slides 42-54.

Dr. Cutler asked whether receiving information in different formats worked well for the HPC in cost and market impact reviews (CMIRs). Ms. Johnson said that the HPC had developed a standard template for CMIR submissions that was adjusted over time. Ms. Mills said that this

was correct and said that the expectation with the reporting form for the drug pricing review process was to provide a standard way to collect information from manufacturers and to engage with them when under review to understand what information they had, in what format they keep the information, and the timeline on which they could provide it. She noted that in the CMIR process, staff were very flexible when it came to the format in which they received information from entities and that they would accept information in the manner in which a given entity could most easily provide it. Dr. Cutler noted that in the CMIR process the HPC had never fined an organization for submitting information in the incorrect format. Ms. Mills said that this was correct. She said that staff had been able to work collaboratively with entities throughout the MCN, Performance Improvement Plan (PIP), and CMIR processes, and that she also envisioned that approach for the drug pricing review process. Ms. Johnson noted that the language around the fines in this review process was similar to that in the CMIR process.

Mr. Cohen said that he appreciated the thoroughness with which the staff worked to incorporate the feedback from the public comment period.

Dr. Berwick asked what the next step in the review process was following the HPC's issuance of its determination on whether the manufacturer's pricing of the drug is unreasonable or excessive in relation to HPC's proposed value for the drug. Ms. Johnson said that this was the end of the HPC's process. She said that, not unlike the CMIR process, this review concluded with a public determination by the HPC that may be considered by other parties. Secretary Sudders added that a given drug would still be available in the MassHealth program, but that it would mean that MassHealth was unable to negotiate a supplemental rebate for that drug.

Dr. Cutler noted that public agencies around the world were effectively implementing processes like this one. He said that the concept of a drug pricing review like this was not particularly novel. He said that the HPC was on reasonably solid ground with this process in the sense that there was a great deal of literature to support it.

Regarding slide 46, Ms. Roeder asked if New York's process was public. Ms. Mills said that there were aspects of New York's process that were public and aspects that were confidential. She said that staff were communicating with experts to understand how best to decide what should be public and what should be confidential in the HPC's process.

Dr. Kryder said that it was complicated to try and determine value in a market that includes gene therapies and precision medicine. He noted that many highly effective treatments are also very expensive. Regarding the note on slide 53 stating that the regulation does not apply to the value of a drug for an individual patient, he asked how that would work in practice were there to be a single patient with a condition that could only be treated by a single, very expensive drug. He asked whether that drug would not be subject to this review. Secretary Sudders said that she appreciated the HPC's close coordination with MassHealth in the creation of this regulation. She said that, at this point, MassHealth has finalized agreements with six manufacturers for 12 drugs for an approximate net savings of $13 million and gross supplemental rebates of $34 million to the Commonwealth. She said there were 14 more drugs in various stages of negotiation, some of which would be finalized soon. She said that four of these drugs would have met the threshold

for referral to the HPC. She noted that several drug manufacturers had approached MassHealth after the legislation passed to begin negotiations before the regulatory framework was constructed. She said that nothing in this process would restrict drugs in the MassHealth program but that the process was geared towards increasing value and lowering the cost for the Commonwealth by negotiating supplemental rebates with drug manufacturers. She said that this was an effective way to ensure access to drugs on the MassHealth program and simultaneously bring down costs. Dr. Kryder asked if any states had permission to restrict formularies in Medicaid. Secretary Sudders said that some states were exploring restrictive formularies with the federal government and that recent CMS guidance would allow states interested in block-granting to explore formularies. She said that this is not something that MassHealth is interested in pursuing. Dr. Kryder asked if the successful negotiations Secretary Sudders outlined had included any value-based contracts. Secretary Sudders said that two of the agreements were value-based payment systems. Dr. Kryder asked if the regulation would be amended to include the exception for a drug for an individual patient. Ms. Johnson said that the review was going to be conducted at a population level and that nothing about the review would implicate the ability of a MassHealth patient or a patient in another health plan to access a specific drug. Mr. Cohen said that the message was that the review information should not be used for clinical decisions for any individual patient. Dr. Cutler asked whether it would be prudent to change the language in the regulation to that effect. Ms. Johnson said that the language was drafted at a high level and did not get into questions of clinical or medical necessity determinations. She said that this had been previewed with disability advocates who welcomed the language in the regulation.

Mr. Cohen called for a motion to approve the final drug pricing regulation. Ms. Blakeney made the motion. Dr. Berwick seconded it. The vote was taken by roll call. The motion passed unanimously.

ITEM 3: Executive Director's Report

Mr. Seltz provided a brief update on agency activities and publications. For more information, see slides 57-59.

ITEM 4: Executive Session

Mr. Cohen called for a vote to enter into executive session to discuss the confidential list provided by the Center for Health Information and Analysis (CHIA) identifying entities with spending in excess of the health care cost growth benchmark from 2016 through 2017. Ms. Blakeney made the motion. Mr. Mastrogiovanni seconded it. The vote was taken by roll call. The motion passed unanimously.

The open session of the meeting concluded at 1:53 PM.