MINUTES OF THE HEALTH POLICY COMMISSION

Meeting of June 7, 2023

MASSACHUSETTS HEALTH POLICY COMMISSION

Date of Meeting: June 7, 2023

Start Time: 12:00 PM

End Time: 3:00 PM

	Present?	Vote 1: Approval of Minutes (April 12, 2023)
Deborah Devaux*	X	X
Don Berwick	X	X
Barbara Blakeney	X	X
Matilde Castiel	X	X
Martin Cohen	X	M
David Cutler	X	X
Timothy Foley	X	X
Patty Houpt	X	X
Ron Mastrogiovanni	X	X
Karen Tseng (Designee)	X	X
Martha Kwasnik (Designee)	X	2nd
Summary	**11 Members Attended**	**Approved with 11 votes in the affirmative**

Presented below is a summary of the meeting, including timekeeping, attendance, and votes.

*Chairman

(M): Made motion; (2nd): Seconded motion; (ab): Abstained from Vote; (A): Absent from Meeting

Proceedings

A hybrid meeting of the Health Policy Commission (HPC) was held on June 13, 2023, at 12 PM. Commissioners attended both in-person at the HPC office (50 Milk St. 8th Floor) and via Zoom. A recording of the meeting is available here. Meeting materials are available on the Board meetings page here.

Participating commissioners who attended in-person at the HPC office included: Ms. Deborah Devaux (Chair) and Dr. David Cutler.

Participating commissioners who attended virtually included: Mr. Martin Cohen (Vice Chair); Dr. Don Berwick; Ms. Barbara Blakeney; Ms. Patricia Houpt; Dr. Matilde Castiel; Mr. Timothy Foley; Mr. Ron Mastrogiovanni; Secretary Kate Walsh, Executive Office of Health and Human Services; Ms. Karen Tseng, designee for the Executive Office of Health and Human Services; and Ms. Martha Kwasnik, designee for the Executive Office of Administration and Finance.

Ms. Devaux began the meeting at 12 PM and welcomed the commissioners, staff, and members of the public viewing the meeting live on the HPC's YouTube channel.

ITEM 1: Approval of Minutes

Chair Devaux introduced Ms. Hannah Kloomok, Acting Chief of Staff, to call for a vote to approve the minutes from the April 12, 2023, Board meeting. Mr. Cohen made the motion to approve the minutes and Ms. Kwasnik seconded it. The vote was taken by roll call. The motion was approved with 11 votes in favor.

After the approval of the minutes, Chair Devaux recognized Dr. Berwick who announced to the Board that he will be retiring from his role as a commissioner on the HPC Board. Dr. Berwick had submitted his resignation after seven years on the HPC Board and will be retiring from the Board of Commissioners effective immediately. Commissioners and Executive Director David Seltz provided remarks to Dr. Berwick and thanked him for his role and tenure on the HPC Board.

ITEM 2: Findings from the 2023 Health Care Cost Trends Report

Mr. Seltz introduced the portion of the meeting on the Findings for the 2023 Health Care Cost Trends Report. Mr. Seltz introduced Dr. David Auerbach, Senior Director for Research and Cost Trends, to present the latest findings from the HPC's 10th annual health care cost trends report and the corresponding chartpacks.

Dr. Auerbach presented the key findings from the first three chapters of the 2023 health care cost trends report, and the accompanying chartpacks, which covered primary care and behavioral health in Massachusetts, trends in prices, hospital, and post-acute care use, and provider organization performance variation. For more information see slides 6-59.

Secretary Walsh asked if the Medicare hospital readmission rates in the presentation were adjusted for behavioral health since to her knowledge the behavioral health readmission rate for patients on Medicare was about 30 percent for inpatient and asked for a point of clarification if it

was all cause including. Dr. Auerbach confirmed that the data was all cause including behavioral health care and that it is an important factor when looking at readmission rates.

Mr. Mastrogiovanni asked about the process of determining whether an admission is unnecessary when comparing them to other states and how those conclusions could be made. Dr. Auerbach responded that most the data in the utilization chapter of the Cost Trends Report is challenging to categorize as unnecessary or not and that is more suggestive. Dr. Auerbach noted that we are continuing to have these conversations with clinical experts, but we are not able to be as definitive as we would like, however, it can be more clear-cut when looking at the category of low-value care.

Ms. Kwasnik asked if there was a correlation between the drop in emergency department visits and telehealth usage between 2019 and 2022 and implementation of telehealth to triage these emergency department visits. Dr. Auerbach commented that in another set of analysis, in the Massachusetts APCD and see the settings of care being used and that the use of telehealth seems to be used as a supplement for these settings during those times.

Dr. Castiel asked about the respective outcomes of specific hospitalization for certain conditions, such as heart disease. She noted that data suggests that Massachusetts is one of the healthiest states so seeing the outcomes of these hospitalized conditions would be helpful. Dr. Auerbach noted that he would like to be able to look at the direct measurable outcomes of certain hospitalizations. Mr. Seltz also noted that with data suggesting that Massachusetts is one of the healthiest states, but the HPC would like to explore whether that is because our residents are using the health care system more or if we should expect a lower utilization of the health care system given that we have a healthier population. Mr. Seltz noted that good health is not necessarily derived predominantly from the health care system and usually goes beyond access to health care and noted that he would like to continue this conversation with commissioners.

Secretary Walsh asked about how Massachusetts has the 6th lowest per capita number of independent ambulatory surgical centers (ASCs) of all states and if that was related to the Determination of Need (DoN) regulations in the state compared to how that is done in other states and how some physicians can own ASCs. She also commented on how EOHHS could work with the Department of Public Health (DPH) on looking at this from a regulatory standpoint. Ms. Lois Johnson, General Counsel, confirmed that there was under the DoN program that a regulatory determination of there was no need for the period time Dr. Auerbach noted in the presentation. Ms. Johnson also noted that there was an expansion of allowances for ASCs to be built if they were connected with a hospital system, so there were various regulatory avenues to pursue an ASCs. Secretary Walsh commented that this could be a consequence of well-intended regulation and the ability to care of people in these settings and she commented that EOHHS could look over as well.

Dr. Auerbach then introduced Dr. Laura Nasuti, Director, Research & Analytics to present the key findings from the primary care and behavioral health chartpack. For more information on the chartpacks, see slides 33-59.

Mr. Mastrogiovanni asked a question related to the health care costs and the financials of hospitals systems. He asked if cutting back on costs would impose a negative impact on the hospital's financials and quality of care provided and if could possibly reduce the hospital's share of the costs. Dr. Auerbach answered that in an example comparing Massachusetts and Rhode Island hospitals, there was, initially, comparable hospital revenue between hospitals in Rhode Island in 2010. Rhode Island then implemented a cap on hospital price growth and data indicated that after eight years Rhode Island hospital revenue grew half as fast as it did in Massachusetts. He continued on to note that in Rhode Island the costs also grew half as fast as they did in Massachusetts. In Rhode Island, the hospitals were able to cut costs without any noticeable impact on a number of aggregate quality measures.

Dr. Auerbach noted exploring this subject more to see if cutting costs harms overall quality of care. Mr. Mastrogiovanni commented on how critical it would be to see hospitals lower costs, hospitals still maintain their margins and the quality of care remains consistently high.

Secretary Walsh commented that the varying cost of labor being factored into the context of hospital costs due to the cost of living in Rhode Island differing from the cost of living in Massachusetts. Dr. Auerbach noted that the HPC is working on taking a closer look at what costs grew more quickly or slowly than in Massachusetts.

Dr. Cutler also commented on how we have seen experience personnel leaving their jobs for better pay and conditions and how the HPC could evaluate the differences in the conditions between states.

Mr. Seltz noted that with regarding the ASCs, they provide comparable care to patients than an HOPD but at a lower price for patients, there is not a variation in quality as there is a variation in price. He noted that redirecting revenue to services that provide that greatest value for patients.

Secretary Walsh noted when discussing adults and children and communities without access to primary care that it could be helpful include information regarding the commercial payments to the hospitals since hospitals that treat and serve people of color often have lower reimbursement rates which therefore results in negative circumstance for the hospitals, employees, and the patients.

Mr. Seltz then posed a question to the Research and Cost Trends team regarding the implications for risk adjustment and what we project communities spend, stating that if we did risk adjustment based on strictly on the various community utilization rates then we would be missing crucial information and possible even negatively skew the data. Secretary Walsh concurred.

Mr. Seltz noted during the presentation the 131 percent increase in psychotherapy business for 18–25-year-old between 2017 and 2021 that the statistic was very striking as it related to telehealth service and looking at these utilization trends, seeing these increases in services. He posed the question to the Board to think about how much telehealth has increased ease of access to care during the pandemic and how much is an increased demand in psychotherapy health care and what they think of these statistics.

Vice Chair Cohen commented that all of those reasons suggested are responsible for the increase in telehealth use of psychotherapy. He noted that these statistics are a direct result of the increase in need for care and in the increase in depression, suicidal thoughts, and excessive stress resulting from COVID.

Secretary Walsh asked if the data surrounding the psychotherapy telehealth visits included all-commerce telehealth and regular physical visits, since that may be driving some of the increase in usage.

Dr. Nasuti responded that the data comes from whatever the commercial payer has claimed for and here we are looking at what is coming in through the claims data. Mr. Seltz noted that this is an important thing for the HPC to keep track of as we see more companies doing direct to patient advertising around online mental health support which many not be being paid out by an insurance company. Mr. Seltz stated that he thinks this demand for psychotherapy will maintain consistent and that's why it's important to maintain these telehealth services.

Ms. Houpt noted that the impact of social media on younger adults and teenagers which is likely a large contributor to mental health issues among young adults and the utilization of private services that provide better access to these people, but we cannot track that data.

Secretary Walsh asked about the data showing the share of patients admitted to acute-care hospitals for mental health conditions who stayed for more than 14 days and if those numbers included patients admitted for substance abuse and detox.

Dr. Nasuti responded that these admissions did not include patients whose primary reason for admission was substance abuse, but the HPC does have that data available. Dr. Nasuti noted that we are currently only reporting behavioral health stays in acute-care facilities and that CHIA is working to releasing a behavioral health discharge data base, so this has been a hole in our data points but hopefully CHIA is able to disseminate that data beyond acute care settings.

Ms. Blakeney asked a question regarding the HPC knowing the diagnoses of the patients with extended hospitalization and do we know if there is a delay in discharge and if that is reflected in nursing home and extended care programs.

Dr. Nasuti responded that looking at the top diagnosis codes shows diagnosis like severe mental illness including schizophrenia, bipolar disorder, and major depressive disorder. In terms of discharge status, we need to dig deeper there and we need to explore further.

Mr. Seltz noted that especially during 2020-2021 inpatient hospital stays did increase in length of time and we are not sure if it's entirely because of a difficultly to discharge patients in timely manner and if that was also the case here for acute-care hospitalizations.

Ms. Blakeney thanked Mr. Seltz and expanded on her interest in the subject area as it pertains to relationship of comorbidity to addictions and behavioral health issues and what that does for the length of one's stay.

Dr. Auerbach continued on with presenting the key findings from three remaining chartpacks.

Vice Chair Cohen asked Dr. Auerbach about the provider organization variation data and if it was able to tease out information regarding the workforce and how much more organization had to pay as a result of those workforce challenges.

Dr. Auerbach responded that we would be able to get a little more information about that from hospitals but from a primary care standpoint, I am not sure if we could find that. Mr. Seltz also commented that what we see in that data is the spendings and differentials, so it does not necessarily indicate the difference in operational costs, so if organizations are negotiating higher commercial spending to make up for labor costs.

Chair Devaux wrapped up the conversation and moved onto the next presentation topic.

ITEM 3: Reducing Unnecessary Administrative Complexity: Policy Options

Chair Devaux addressed the next topic of the presentation who then introduced Mr. Seltz to further introduce the topic. Mr. Seltz introduced Ms. Kara Vidal, Director of Health System Planning & Performance. Ms. Vidal provided an overview of the presentations by staff and experts from the Network for Excellence in Health Innovation (NEHI) and the Massachusetts Health Data Consortium (MHDC) at the May 10, 2023, Market Oversight and Transparency Committee meeting. Ms. Vidal provided additional background on the issue of reducing unnecessary administrative complexity. For more information see slides 61-76.

Mr. Seltz opened up a conversation with the commissioners to discuss the possibility of making a recommendation around automation of prior authorization and other HPC priorities for addressing complexity in prior authorization and more broadly.

Chair Devaux echoed Mr. Seltz's points and initiated the conversation with commissioners for their input.

Dr. Cutler commented that he has followed this subject for a number of years and had spoken with staff from NEHI and others regarding this subject. Dr. Cutler stated that automation of the prior authorization process should be done rapidly, though state legislature intervention may be needed to make it happen. He recommended that the HPC Board make a strong recommendation to the legislature to enact prior authorization reforms. He also stated that the Commonwealth shouldn't limit its focus to administrative complexity that occurs at the intersection of payer and provider interactions. He noted that the Board could do a lot to improve other areas of complexity, including benchmarking or providing technical assistance to various organizations.

Chair Devaux asked the group about their thoughts on the current barriers to moving rapidly on this prior authorization work. She questioned if it could be an issue of funding.

Mr. Seltz commented that he agreed that the legislature would need to take action on the prior authorization front for progress to be made. The HPC can still do voluntary research on prior authorization and automation, and the Board can make policy recommendations to the legislature regarding prior authorization in the 2023 Cost Trends Report.

Dr. Cutler noted that he believes that in order see the benefits from prior authorization, more insurers would need to commit to automation because if only some insurers automate, providers would have to retain staff to perform manual operations. He stated that the payers would need to be able to see the record of the patients and providers would need to have standards to follow so the payers can automate authorization. Dr. Cutler noted that this process is really about all entities involved and that's where the legislature would come in and make this process more universal for all involved.

Chair Devaux commented that she understands there to be a general agreement amongst providers, payers, and patients that standardizing and automating prior authorization would be a plus. However, the likelihood of that happening across every payer and provider voluntarily at the same time is low absent a legislative mandate. She then asked the Board if they would like to make a policy recommendation to the legislature regarding the automation of prior authorization. Chair Devaux noted that this is an area of concern and has been a priority for the HPC since 2019, and the issues have been amplified by workforce issues, as providers are under increased pressure to use their staff resources efficiently and clinician burnout is high. . Chair Devaux stated that she believes this is more important now than in 2019 and is worthy of the Board's recommendation.

Mr. Foley agreed that the Board should recommend automation of prior authorization to the legislature. Mr. Seltz noted that Commissioners were nodding.

Ms. Vidal highlighted one of the final slides in the presentation focused on other example areas of administrative complexity in the health care system.

Chair Devaux asked Ms. Vidal which examples have a high impact but feasible solution to other administrative complexity issues.

Ms. Vidal commented that focusing on electronic health record interoperability spans many different topics and relates to prior authorization automation. She stated it would have a significant impact on some administrative complexity issues ongoing in the health care space.

Dr. Castiel also agreed with focusing next on electronic health record interoperability. Providers and physicians that utilize different electronic medical records sometimes end up repeating labs or other procedures if the patient's information is not accessible to the physician.

Vice Chair Cohen commented on another area of complexity which is provider credentialing, particularly among mental health clinicians. He noted that clinicians feel the frustration around credentialing and noted that while progress has been made, there's still room for improvement.

Dr. Cutler stated that he thinks that the Board should have a plan on next steps for these complexity issues. He noted that the in terms of potential savings, billing and claims processing issues and denial process present the greatest opportunity. He acknowledged that because there is a lot of the money in those reforms, addressing other issues like provider credentialing, would be a simpler. Dr. Cutler suggested the MOAT committee try to formulate a framework for deciding which topic area to focus on after prior authorization.

Chair Devaux agreed and said that she hopes the Board can explore the different impacts of the various administrative complexity issues and provide a more well-rounded recommendation to the legislature. She recommended the MOAT committee members work with other organizations to come up with recommendations for the legislature.

Ms. Blakeney commented that she agreed with these next steps and encouraged the Board to explore ways to engage with the people doing this work and hear about changes in the process that they can recommend.

Chair Devaux wrapped up the discussion with the commissioners. Mr. Seltz noted that this is a top priority for the HPC and thanked the commissioners for their input. He commented that he agreed with Commissioner Blakeney's point to engage with front line workers and noted that the HPC had site visits planned in March of 2020, which had to be postponed. He stated there appears to be consensus on moving forward with formal recommendations for reforming prior authorization.

ITEM 4: Implementation of the Federal No Surprises Act

Mr. Seltz introduced the next topic of the meeting and turned the presentation over to Ms. Mr. Seltz introduced the next topic of the meeting and turned the presentation over to Ms. Katherine McCann, Assistant General Counsel, Office of the General Counsel to introduce and discuss the implementation of the federal No Surprises Act, the law addressing surprise billing that went into effect in 2022. Ms. McCann first shared background information on the HPC's past work on out-of-network billing. She then reviewed the No Surprises Act updates, including highlights regarding the independent dispute resolution process (IDRP) established under the law for determining out-of-network provider payment. She also provided out-of-network billing reminders regarding Chapter 260 of the Acts of 2020 in Massachusetts and concluded with a summary of updates pertaining to ground ambulances. For more information, see slides 78-86.

Chair Devaux asked a clarifying question regarding the more than 334,000 initiated disputes in the IDRP, asking what percentage they represent of services rendered under the scope of the law. Ms. McCann answered that she did not know the overall denominator of services but noted that the percentage of payment decisions rendered in initiated disputes was included in the presentation.

Chair Devaux noted that she was interested in what percentage of disputes were ineligible and asked about a related statistic presented.

Ms. McCann responded that the 37 percent figure represented instances in which the non-initiating party in the IDRP challenged eligibility but noted that eligibility has to be determined in every dispute. She stated she believed the number of cases that were closed due to ineligibility was initially high but the quarterly data has shown a decrease in the number of such cases.

Mr. Seltz asked Ms. McCann about the 30-day window to negotiate before initiating the IDRP and if the federal government was reporting out on how many cases are resolved in that 30-day window. Ms. McCann responded that there is mandatory reporting regarding the IDRP, but to

her knowledge, that data is not included. Mr. Seltz noted that it seems like the government assumed more disputes would be resolved in that 30-day negotiation window, but more people are opting into the IDRP and therefore adding cost to the system.

Mr. Seltz addressed some questions to the Board regarding the recommendations for a default payment rate in Massachusetts made by EOHHS and echoed in the HPC's 2022 Cost Trends Report. He recapped the EOHHS report's consideration of the potential benefits of not having to go through an IDRP, which adds time, complexity, and cost in the system. He continued on to say that some of the early evidence from the No Surprises Act raises some questions around the level of a recommended default at the median in-network rate, which was in part to align with the emphasis on the qualifying payment amount (QPA) in the No Surprises Act, and now the QPA plays a reduced role. Mr. Seltz raised a few additional points for consideration, ultimately asking the Board for feedback about whether it continues to see a role for state policy in streamlining and clarifying these processes and possibly providing coverage for remaining gaps (e.g., ground ambulance).

Ms. Houpt asked a clarifying question regarding the process when a health plan receives a claim under the No Surprises Act. Is the payment taken care of for the patient?

Ms. McCann responded that the patient should see nothing more than a bill for their in-network cost-sharing. The law does require the payer to make a payment within a specific time frame or deny initial payment and then there would the negotiation period before a dispute could be initiated.

Mr. Seltz asked about the transparency regarding what their health plan paid in situations covered by the No Surprises Act and how that would be interesting for patients. Ms. McCann noted that the protections under the No Surprises Act can mean consumers do not necessarily know where, when, and how their plan pays for their services.

Mr. Foley raised the notion of state and federal law interaction and asked about looking at other states to learn what lessons they have learned.

Ms. McCann noted that are 22 states that have laws in place in conjunction with the federal No Surprises Act, and six of those states have laws that allow self-insured plans to opt in. She agreed that Massachusetts could learn from other states and their models.

Dr. Castiel expressed concern about the amount of time providers are spending on IDRP and suggested that a default rate may be preferrable. She asked Mr. Seltz a clarifying question regarding the recommendation to set a default payment rate, and he recapped that the EOHHS recommendation was to set a default rate tied to the median, in-network commercial rates. He noted that while the HPC had spoken with a few health plans to get their initial reactions, he stated that speaking with providers to get their feedback is worthwhile.

Dr. Cutler emphasized the importance of not adding administrative costs to the system.

Chair Devaux agreed that having a default rate would reduce confusion and raised some questions regarding the specific level of a default rate. She reiterated the central question for the

Board, which is whether the Board agrees that a default rate is preferred over arbitration and whether the HPC should further recommend one.

Mr. Seltz wrapped up the discussion, summarizing the support expressed for this remaining a policy topic of interest for the Commission, and transitioned into presenting the Executive Director's report.

Item 5: Executive Director Report

Chair Devaux turned the meeting over to Mr. Seltz who presented the Executive Director's report portion of the meeting. This included a review of the material change notices, a mid-year status update on the HPC's 2023 Action Plan, a look at the HPC Summer Fellowship program, and upcoming events. For more information, see slides 89-111.

Chair Devaux reviewed the schedule of upcoming public meetings for the Board members.

The meeting adjourned at 3:00 PM.