

**MEETING MINUTES:
MARKET OVERSIGHT AND TRANSPARENCY COMMITTEE**

Meeting of February 10, 2021

MASSACHUSETTS HEALTH POLICY COMMISSION

Market Oversight and Transparency Committee
Health Policy Commission
50 Milk Street, 8th Floor
Boston, MA

Docket: Wednesday, February 10, 2021, 9:30 AM

PROCEEDINGS

The Massachusetts Health Policy Commission's (HPC) Market Oversight and Transparency (MOAT) Committee held a virtual meeting on Wednesday, February 10, 2021, at 9:30 AM.

Members attending remotely included Dr. David Cutler (Chair); Mr. Timothy Foley; Ms. Patricia Houpt; Mr. Ron Mastrogiovanni; and Ms. Cassandra Roeder, designee for Secretary of Administration and Finance Michael Heffernan.

Dr. Stuart Altman (HPC Chair), Mr. Martin Cohen (HPC Vice Chair), Dr. Donald Berwick, and Ms. Barbara Blakeney were also in attendance virtually.

The meeting notice and agenda can be found [here](#).
The presentation from the meeting can be found [here](#).
A video of the meeting can be seen [here](#).

Dr. Cutler called the committee to order and turned the presentation over to Mr. David Seltz, Executive Director, who provided a brief introduction to the meeting.

ITEM 1: APPROVAL OF MINUTES FROM THE SEPTEMBER 30, 2020 MEETING

Dr. Cutler called for a motion to approve the minutes from the May 6, 2020, meeting. Ms. Roeder motioned to approve the minutes. Mr. Mastrogiovanni seconded the motion. The vote was taken by roll call. The minutes were approved four votes in favor and one abstention.

ITEM 2: OUT-OF-POCKET SPENDING DATAPOINTS

Mr. Seltz introduced the presentation on the DataPoints entry on high out-of-pocket (OOP) spending. He turned the presentation over to Dr. David Auerbach, Director, and Mr. Lyden Marcellot, Senior Research Associate, Research and Cost Trends, who walked through the findings in the high OOP DataPoints entry. For more information, see slides 6-10. The DataPoints entry is available [here](#).

Mr. Mastrogiovanni asked whether there was data on the composition of high OOP spending among employees across firms of different sizes. Dr. Auerbach referred to an interactive graphic in the DataPoints showing that employees of small firms had nearly double the rate of OOP spending as those of large firms. He noted that this was mostly due to the higher deductibles and cost-sharing in smaller firms not due to the composition of the workforce.

Regarding the findings listed on slide 10, Dr. Cutler noted that the percentage of commercially-insured Massachusetts residents that had OOP spending in the top 10 percent annually was about 30 times what one would expect if it were a random distribution. He noted that this represented a real failing of insurance for those with certain chronic conditions.

Ms. Houpt asked if the HPC would continue to track this data. Dr. Auerbach said that the data would be continuously tracked and that staff were just looking at the 2018 data now. Ms. Houpt asked if staff had the ability to study larger employers or self-funded arrangements to see if trends were tracking similarly. Dr. Auerbach said that there were some larger employers in the database. He asked if she was interested in the self-insured side of the market. Ms. Houpt said that she was and that this data would be important for employers to see what was happening on the ground. Dr. Auerbach said that the HPC had some of this data including from the Group Insurance Commission (GIC) but said that it would be very helpful to get more self-insured data in the All-Payer Claims Database (APCD). Ms. Houpt asked if part of the objective of this line of research was to make recommendations on plan design changes. Dr. Auerbach said yes and that this was touched on somewhat in the DataPoints, noting that part of the objective was to spread awareness of the Massachusetts Health Connector to small businesses as it offers a number of low-deductible options.

Dr. Berwick asked if Dr. Auerbach could make any conjectures as to why the Cape and the Islands were particularly vulnerable to high OOP spending. Dr. Auerbach said that he believed it was due to the firm size distribution and that there were a lot of smaller employers on the Cape. Mr. Marcellot said that he agreed with that theory.

ITEM 3: OFFICE OF PATIENT PROTECTION ANNUAL REPORT

Mr. Seltz turned the presentation over to Ms. Nancy Ryan, Director, Office of Patient Protection (OPP), who provided an overview of the annual report. For more information, see slides 12-21. The full report is available [here](#).

Dr. Berwick asked whether it might be worthwhile doing a deeper dive into why external reviews and open enrollment waivers get denied. He noted that there many consumers who were having their external reviews denied. Ms. Ryan said that she would be happy to take a deeper look and walk through the processes followed by OPP and the external review agencies with Dr. Berwick.

Dr. Altman asked if there were any trends in the data year-over-year such as specific appeal types that were commonly upheld or overturned and whether the behavior of insurance companies was changing based on the cases being referred to OPP. He said that at some point there needed to be an examination beyond the surface of the data to get a sense of these bigger trends. Ms. Ryan noted that the annual report does provide some detail into the particular treatments at issue in the external reviews but that the treatments at issue appeared to be fairly consistent from year to year. She said that cases referred to OPP were very fact specific, thus making broad categorization difficult. She welcomed Dr. Altman's inquiry and said that she would be happy to walk him through carrier data on internal appeals, OPP external review processes and the external review agency decisions. Dr. Altman said that ideally the insurance companies would be able to handle fact-specific issues and make correct determinations. Dr. Cutler recommended that there be a small, ad-hoc committee formed, with Dr. Altman and Dr. Berwick to meet with Ms. Ryan and discuss these issues further. Dr. Altman and Dr. Berwick said that they would appreciate that opportunity. Mr. Seltz said that the data showed that of patients who went through the insurance companies' internal appeal processes and were ultimately denied only a small number then choose to avail themselves of the OPP external review process. Ms. Ryan said that only about 10 percent of patients denied at the internal appeal level because of medical necessity then came to OPP to challenge that denial in 2019.

ITEM 4: INTERIM COVID-19 IMPACT STUDY

Mr. Seltz provided an introduction to the presentation on the interim COVID-19 Impact Study. For more information, see slides 23-25.

Dr. Berwick noted that the summary of the study did not appear to include an analysis of the vaccine and testing rollout. He asked whether it might be within the boundaries of the study to include that. Regarding the overview on slide 22, he said that he would like to see the final bullet amended to include outcome disparities in addition to disparities in the delivery of health care. He added that some of the trends he was observing suggested there would be somewhat of a lull in COVID cases over the summer but that a fall/winter resurgence was not unlikely given how coronaviruses behave. He asked if something prescriptive could emerge from the report before the final version to advise the response to a potential subsequent surge. He also asked whether the study would include information on how the insurance market had fared. Mr. Seltz said that health plan impact and spending trends would be included in the report. He said the health care disparity analysis would include examination of outcomes and that this was contemplated in some of the language of the legislative mandate. He said that he appreciated the comment on the timeline and said that it was his hope to release updates and findings over the course of the year before delivering the final report including having something ready prior to the winter to help inform policy decisions. He said that the real challenge of the timeline prescribed by the legislation was that the pandemic was ongoing. He said the continued analysis and reporting on the impact of COVID would likely continue well beyond the January 2022 deadline. On the question regarding vaccines and testing, he noted that this was not an area of inquiry included in the legislative mandate.

Mr. Foley noted that it was difficult to conduct an analysis on the impact of a pandemic that was still ongoing. He asked what information gathering tools the HPC would be utilizing in conducting this study and whether the HPC Advisory Council might have a role in providing pertinent information. He also asked whether there was any portion of the study that would look beyond hospitals and acute care settings to nursing facilities and home care providers to give a full-spectrum view of the impact on the health care system. Mr. Seltz said the goal was to provide a full assessment of the whole health care system and not just hospitals and consider the impact on all kinds of providers, including in the long-term care space. He said that for each part of the study, staff would be looking carefully at what data sources would help answer the pertinent questions and this would help determine where there were information and data gaps. He said that staff would look at a variety of avenues to acquire the necessary information including surveys, stakeholder outreach, and engaging associations and other organizations that might be able to help. He noted that the Advisory Council was a potential tool for getting some of this information and that the study would be the primary agenda item at the next Advisory Council meeting.

Dr. Cutler agreed on the importance of engaging the Advisory Council. He said something else that might be worth looking at in the study was an examination of the underlying health status of residents of the Commonwealth. He noted that there was already some literature that could be drawn on including studies on overall change in mortality in each state during the pandemic compared to what would ordinarily be expected. He said that from what he had seen, Massachusetts had relatively fewer excess deaths beyond COVID-19 deaths than the rest of the country. He said another crucial component of this examination would be a dive into BH and what the impact of the pandemic had been on rates of anxiety and depression. Mr. Seltz said that this was a very helpful suggestion.

Ms. Roeder said that regarding health care disparities, it would be important to understand where race and ethnicity data was missing and that this data was crucial to understanding where disparities exist with regard to both care and outcomes. Mr. Seltz agreed and said he hoped research would uncover areas where the HPC could recommend that this data be collected.

Dr. Altman asked whether this data would be presented to the Care Delivery Transformation (CDT) Committee as well. Mr. Seltz said that he would make sure he connected with all the commissioners on this topic.

Mr. Seltz introduced Dr. Laura Nasuti, Associate Director, Research and Cost Trends, who presented on the telehealth portion of the interim COVID-19 Impact Study. For more information, see slides 27-37.

Dr. Nasuti turned the presentation over to Ms. Yue Huang, Senior Research Associate, Research and Cost Trends, who presented on the pediatric behavioral health (BH) portion of the interim COVID-19 Impact Study. For more information, see slides 39-49.

Dr. Cutler said that he hoped some of the gains made in telehealth for BH services during the pandemic could be maintained moving forward while also ensuring that those who needed in-person BH care could access it. He asked if there were regions of the Commonwealth that suffered from poor broadband connectivity. Mr. Cohen said that parts of Western Massachusetts had limited access to high-speed internet.

Mr. Cohen said that the ability of BH providers to pivot so quickly to telehealth in the pandemic was extraordinary. He said that examination of this topic over the course of the coming year would be crucial as the need for BH services increased with the continuation of the pandemic. He said that literature on BH surrounding natural disasters suggested that impacts generally came some time after the precipitating event.

ITEM 5: MASS GENERAL BRIGHAM DETERMINATIONS OF NEED

Mr. Seltz introduced Ms. Katherine Mills, Senior Director, Market Oversight and Transparency, who presented on the Mass General Brigham Determinations of Need (DoNs). For more information, see slides 51-53.

Dr. Cutler noted that the HPC would be examining the proposed proposed transactions closely and produce something similar to not a formal cost and market impact review (CMIR) and asked whether staff had already begun working on this. Ms. Mills confirmed that staff were actively reviewing the DoN applications as filed and that many of the analyses staff were planning to do were similar to those conducted in a CMIR. Mr. Seltz added that, at this point, it was premature to determine whether or not the HPC would offer comment since the filings had not yet been deemed complete. He said that he expected to bring this to the full Board for a further conversation at a future meeting. Dr. Cutler agreed but said that once a decision was made, the HPC would have to move expeditiously. He said that it would be prudent to begin work at this early stage. Mr. Seltz said that staff were working to learn as much as possible about the projects at this point. He noted that the parties participating in the application had been helpful, offering additional information when requested. Dr. Cutler asked if the department of public health (DPH) would ever request input from the HPC on these DoNs. Mr. Seltz said that, to date, that had not been the practice. He noted that the one time the HPC had commented into the DoN process was for a capital expansion at Boston Children's Hospital.

Mr. Foley asked what the timeline was for the HPC to determine whether or not to comment and if this would be a decision at the next Board meeting. Mr. Seltz said that he believed that was a fair timeline for when it would come to the full Board for discussion.

Dr. Kryder asked if it was possible for the HPC to request or schedule some kind of public hearing on the DoNs ahead of time to lock a date in place and cancel if necessary. Mr. Seltz said public hearings on the DoN applications would be run by the DPH and that there is a separate DPH process for scheduling it. He noted that there may need to be an additional Board meeting scheduled to address commenting when the time came to make that decision.

ITEM 6: ADJOURNMENT

Dr. Cutler adjourned the meeting at 11:15 AM.