MINUTES OF THE MEETING OF THE

Medical Services Board
The Capitol Center
225 East 16th Avenue, 6th Floor
Conference Room 6A/B
Denver, CO 80203
October 16, 2009

The mission of the Department of Health Care Policy and Financing is to improve access to cost-effective, quality health care services for Coloradans.

Members present: Ginny Riley (President), Paul Melinkovich (Vice President), Linda Andre, Kathleen Chitty, Alan Eisenberg, Richard Markley, Wendell Phillips and Mary Trujillo-Young.

Members Excused: Jeffrey Cain and Sally Schaefer

Staff Present: Joan Henneberry, Executive Director; Sue Williamson, Client and Community Relations Office Director; Sandeep Wadhwa, Medical and CHP+ Program Administration Office Director, Anne Baudino-Holton, First Assistant Attorney General; Judi Carey, MSB Coordinator; and Jennifer Larsen, Support Staff

1. Call to Order: President Riley called the meeting to order at 9:05 a.m.

2. Roll Call and Announcements: The Board Coordinator called the roll. There were sufficient members present for a quorum with eight members participating, two members excused and one vacant position. Dr. Melinkovich and Dr. Young participated by telephone conference call.

   Ms. Riley announced the next Medical Services Board Meeting will be held at the Capitol Center facility in Denver on Friday, November 13, 2009 at 9:00 a.m.

   Ms. Riley reiterated that it is the policy of the Medical Services Board and the Department of Health Care Policy and Financing to remind everyone in attendance that this facility is private property and that sufficient chairs are available to accommodate the size of the room. If no chairs are available, please wait in the lobby until seating becomes available and to please turn off ringers on cell phones.

3. Executive Session: Mr. Eisenberg moved for members of the Board enter into an executive session in order to receive legal advice on specific legal questions pursuant to CRS §24.6-402(3)(a)(2) including legal advice on board members conflict of interest.

This motion was seconded by Mr. Markley and approved, 8:0. Board members entered into executive session at 9:07 am for a period of forty minutes.

4. Approval of Minutes: Mr. Eisenberg moved for the approval of the September 11, 2009 minutes. The motion was seconded by Ms. Andre. There were no comments and the minutes were approved as submitted, 8:0.

5. Rules:

FINAL PERMANENT ADOPTION BY CONSENT AGENDA

Document 01 MSB 09-07-06-A Revision to the medical Assistance Rule Concerning the Mail Order Pharmacy Rule, §8.800

Document 02 MSB 09-07-14-B Revision to the Children's Basic Health Plan Rule Concerning Additional Unemployment Compensation Exemption, §150.1

Document 03 MSB 09-04-16-A Revision to the Medical Assistance Eligibility Rule for the Exemption of the American Recovery and Reinvestment Act of 2009 Unemployment Benefit Increase, §8.100.3

Document 04 MSB 09-08-17-B Revision to the Child Health Plan Plus Rule Concerning Extending Eligibility Period for Afghan Special Immigrants, §150

Document 05 MSB 09-08-07-A Revision to the Medical Assistance Eligibility Rule Concerning Afghan Special Immigrants §8.100.3.G

Document 06 MSB 09-08-17-A Revision to the Child Health Plan Plus Rule Concerning Exemption of Census Income, §150

Document 07 MSB 09-08-04-A Revision to the Medical Assistance Eligibility Rule Concerning the Exemption of 2010 Census Income §8.100.3.L

Ms. Chitty moved for the final permanent adoption by consent of Documents 01, 02, 03, 04, 05, 06 and 07. The motion was seconded by Ms. Andre. The board voted for the final permanent adoption by consent, 8:0.

FINAL PERMANENT ADOPTION AGENDA

Document 08 MSB 09-08-17-D Revision to the Medical Assistance Rule Concerning Elimination of the Colorado Indigent Care Program Health Care Services Payment, §8.903

Mr. Markley moved for the final permanent adoption of Documents 08. The motion was seconded by Mr. Eisenberg. Chris Underwood, State Programs & Federal Financing

Division, presented the proposed rule and explained it provides for the Health Care Services Payment to end one year early to offset the state budget shortfall.

The Board voted for the final permanent adoption of Document 08, 8:0.

Document 09 MSB 09-08-17-E Revision to the Medical Assistance Rule Concerning Reimbursement for Outstationing Administrative Costs, §8.700

Mr. Eisenberg moved for the final permanent adoption of Document 09. The motion was seconded by Mr. Phillips. Chris Underwood, State Programs & Federal Financing Division, presented the proposed rule and explained that this changes how the Department finances the outstationing administrative costs to Denver Health Medical Center.

The Board voted for the final permanent adoption of Document 09, 8:0.

Dr. Young announced that she had to leave the meeting at this time.

Document 10 MSB 09-08-17-F Revision to the Medical Assistance Rule Concerning Elimination of the Colorado Indigent Care Program Rural and Public Hospital Payments, §8.903

Mr. Eisenberg moved for the final permanent adoption of Document 10. The motion was seconded by Ms. Chitty. Chris Underwood, State Programs and Federal Financing Division, presented the proposed rule and explained that it eliminates a portion of the payment to rural and public hospitals for uncompensated costs with no impact to Medicaid clients.

The Board voted for the final permanent adoption of Document 10, 7:0.

Document 11 MSB 09-08-17-C Revision to the Medical Assistance Pharmacy Rule for Determining Reimbursement Rates for Pharmaceuticals, §8.800

Ms. Chitty moved for the final permanent adoption of Document 11. The motion was seconded by Mr. Phillips. Tom Leahey, Pharmacy Section, presented the proposed rule and explained that it is to make permanent the emergency rule adopted in August.

Board Discussion
Board discussion included an explanation of the cost of dispensing fee paid to pharmacy providers in addition to the reimbursement.

The Board voted for the final permanent adoption of Document 11, 7:0.

Document 12 MSB 09-08-20-B Revision to the Medical Assistance Rule Concerning the Reduction to FQHC Reimbursement, §8.700

Mr. Markley moved for the final permanent adoption of Document 12. The motion was seconded by Ms. Chitty. Jessica McKeen, Rates Section, presented the proposed rule and explained that it will reduce the FQHC encounter rate and make permanent the emergency rule adopted in August. Ms. McKeen also stated that the Department is in discussion the CCHN to find an alternate solution to this reduction method.

Testimony

Colorado Community Health Network (Written)

The Board voted for the final permanent adoption of Document 12, 7:0.

Document 13 MSB 09-08-20-C Revision to the Medical Assistance Rule Concerning Outpatient Hospital Reimbursement, §8.700

Ms. Chitty moved for the final permanent adoption of Document 13. The motion was seconded by Mr. Markley. Jessica McKeen, Rates Section, presented the proposed rule and explained that it reduces hospital outpatient services reimbursement by 1.5%.

The Board voted for the final permanent adoption of Document 13, 7:0.

Written testimony concerning multiple rules that was received from Ms. Julie Reiskin, Colorado Cross Disability Collation, was distributed and entered into the record.

Document 15 MSB 09-08-26-B Revision to the Medical Assistance Rule Concerning Durable Medical Equipment and Medical Supplies, §8.590

Mr. Eisenberg moved for the final permanent adoption of Document 15. The motion was seconded by Ms. Andre. Doug Van Hee, Program Performance Section, presented the proposed rule and explained that it changes reimbursement rates paid to DME provider and that this is the same rule presented for emergency adoption in August with the exception of a slight change in the reimbursement calculation.

Board Discussion

Board discussion included that the concerns to this proposed rule raised by Ms. Reiskin regarding the rate and the extreme negative impact this could have on a few providers was the adjustment identified by Mr. Van Hee in the current version of the rule.

The Board voted for the final permanent adoption of Document 15, 7:0.

Testimony

Julie Reiskin, Colorado Cross Disability Coalition (Written)

Document 16 MSB 09-08-26-A Revision to the Medical Assistance Rule Concerning Ambulatory Surgery Centers, §8.570

Ms. Chitty moved for the final permanent adoption of Document 16. The motion was seconded by Mr. Markley. Eric Wolf, Benefit Management Section, presented the proposed rule and explained that it changes the description of an ambulatory surgery center and reduce they are rate paid. Mr. Wolf also stated this rule was presented in August as an emergency rule.

Testimony

Megan A. Boelter, Colorado Ambulatory Surgery Center Association

Testimony included: appreciation to Mr. Wolf and the Department for their assistance and accessibility in this process; the Associations concerns regarding the cuts; and their desire to work with the Department in the future.

The Board voted for the final permanent adoption of Document 16, 7:0.

Document 17 MSB 09-01-20-A Revision to the Medical Assistance Rule Concerning Hospital Services, §8.300

Mr. Markley moved for the final permanent adoption of Document 17. The motion was seconded by Ms. Chitty. Eric Wolf, Benefit Management Section, presented the proposed rule and explained the purpose is to update the rule to be consistent with current practice.

Mr. Wolf presented an "R" page[1] for consideration.

Board Discussion
Board discussion included an explanation of the term "never events."

Mr. Phillips moved for the approval and inclusion of page R 6/7. The motion was seconded by Ms. Chitty and approved, 7:0

The Board voted for the final permanent adoption of Document 17, 7:0.

Document 18 MSB 09-07-17-A Revision to the Medical Assistance Eligibility Rule Concerning the State-Only Prenatal Program, §8.100

Mr. Eisenberg moved for the final permanent adoption of Document 18. The motion was seconded by Ms. Andre. Ann Clemens, Eligibility Section, presented the proposed

[1] "R" pages are pages of the rule that contain revisions submitted to the Board for approval after the rule has been published or otherwise made available to the public.

rule and explained that this rule provides prenatal services for pregnant legal immigrants within their first five years in the United States and receives a federal match.

The Board voted for the final permanent adoption of Document 18, 7:0.

Dr. Melinkovich announced that he was leaving the meeting at this time.

INITIAL APPROVAL AGENDA

Document 19 MSB 08-11-21-A Revision to the Medical Assistance Rule Concerning Recipient Appeals, §8.057

Ms. Chitty moved for the initial approval of Document 19. The motion was seconded by Mr. Eisenberg. Jean Hohn, Appeals Officer, presented the proposed rule and explained that the purpose of this rule is to increase the number of days allowed to request a hearing.

Board Discussion
Board discussion included: an explanation of the reasoning for the number of days identified to file an appeal beginning with the date on the notice of action not the mailing date; that notices generated from CBMS are batch notices which would require an individual evaluation of each to alter this; that weekends, holidays and state furlough days are factored into the timeline; and that the ten day extension provision in this rule was meant to address these time issues.

Testimony
Julie Reiskin, Colorado Cross Disability Coalition (Written)

Written testimony included strong support of this rule.

The Board voted for the initial approval of Document 19, 6:0

Document 20 MSB 09-07-14-A Revision to the Medical Assistance Rule Concerning Technical Corrections to the Provider Participation Rules to Require Providers to Screen Employees and Contractors for Excluded Individuals and Entities, §8.130.35

Ms. Chitty moved for the initial approval of Document 20. The motion was seconded by Mr. Markley. Robert Douglas, Legal Division, presented the proposed rule and explained this revision provides a technical correction to the rule as presented earlier.

Board Discussion
Board discussion included: that there is support for this rule; that concerns regarding the potential problems with the employment of unsupervised care givers raised by

stakeholders are not be addressed in this rule; that the Department is in communication with stakeholders to identify methods to manage this issue; and that the Department does not have the authority or resources to expand oversight.

Testimony
Julie Reiskin, Colorado Cross Disability Coalition (Written)

The Board voted for the initial approval of Document 20, 6:0.

Ms. Chitty moved to place Documents 19 and 20 on the consent agenda. The motion was seconded by Mr. Eisenberg and approved, 6:0.

Ms. Chitty moved to close the rules portion of the agenda. The motion was seconded by Ms. Andre. The motion was approved, 6:0.

6. Department Updates:

   a. Ms. Henneberry, Executive Director, provided Department updates.

   b. Chris Underwood, State Financing and Federal Funding, provided a HB 09-1293 update.

   c. Sue Williamson, Deputy Director provided a HRSA-SHAP grant presentation

7. Open Comments: No one signed up for the public forum portion of the agenda.

8. The meeting was adjourned at 12:15 p.m.

The next scheduled meeting of the Medical Services Board will be held on Friday, November 13, 2009 at 9:00 a.m. in the 6th floor conference room at 225 East 16th Avenue, Denver, Colorado 80203.

Reasonable accommodations will be provided upon request for persons with disabilities. Please notify Judi Carey at 303-866-4416 *or Judith.carey@state.co.us* at least one week prior to a meeting if you need special accommodations in order to participate.