



MINUTES OF THE MEETING OF THE

Medical Services Board

The Capitol Center
225 East 16th Avenue, 6th Floor Conference Room
November 18, 2011

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: Mary Trujillo-Young (Vice President), Jeffrey Cain, Kathleen Chitty, Brenda LaCombe, Richard Markley, Wendell Phillips, Ginny Riley, Mike Stahl and vacant.

Members Excused: Paul Melinkovich and Linda Andre

Staff Present: Susan E. Birch, Executive Director; Suzanne Brennan, Medical and CHP+ Program Administration Office Director; Jennifer Weaver, First Assistant Attorney General; Judi Carey, MSB Coordinator; and Natalie Bishopp, Rules Administrator

1. Call to Order: Vice President Young called the meeting to order at 9:00 a.m.
2. Roll Call and Announcements: The Board Coordinator called the roll. There were sufficient members for a quorum with eight members participating, two members excused, and one vacant position. Dr. Cain and Mr. Phillips participated by telephone conference call. Ms. Birch also participated by telephone conference call.

Dr. Young announced the next Medical Services Board Meeting will be held at the Capitol Center facility in Denver on Friday, December 9, 2011 at 9:00 a.m.

Dr. Young 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 the capacity of the meeting room is 38. Sufficient chairs are available to accommodate the size of the room. Please do not block the doors or stand around the edges of the room. Please be respectful of others on the floor and do not congregate in the hall outside the meeting room. Please turn cell phones off while in the meeting room as they interfere with the recording equipment.

Dr. Young announced that, if needed, an overflow room was available with testimony signup sheets, listening capabilities via audio stream and a Department staff person to assist.

3. Approval of Minutes: Mr. Markley moved for the approval of the October minutes. The motion was seconded by Ms. Riley. Ms. Riley stated she would abstain from the vote since she was not in attendance at the October meeting. There were no comments and the minutes were approved as submitted, 7:0.

4. Rules

FINAL PERMANENT ADOPTION AGENDA

Ms. Riley made a motion to remove Document 02 and Document 03 from the consent agenda for additional consideration. The motion was seconded by Ms. Chitty and approved, 8:0.

Document 02 MSB 11-05-26-A Revision to the Medical Assistance Rule Concerning Electronic Health Record Incentive Payment Program, Section 8.015

Ms. Chitty moved for the final permanent adoption of Document 02. The motion was seconded by Mr. Stahl. Jeanine Draut, Medicaid & CHP+ Programs Cross Policy Unit, presented the proposed rule and explained that this rule was approved in October as a new rule, that the track changes in the current document reflect changes made since then and are mostly stylistic. Ms. Draut explained that the language originally used for the Incorporation by Reference is insufficient and would require an amendment by the Board.

Ms. Riley moved to amend the rule to read "Title 42 of the Code of Federal Regulations, Part 495 (2010) is hereby incorporated by reference into this rule. Such incorporation, however, excludes later amendments to or editions of the referenced material. These regulations are available for public inspection at the Department of Health Care Policy and Financing, 1570 Grant Street, Denver, CO 80203." The motion was seconded by Ms. LaCombe. The motion was approved, 8:0.

Board Discussion

There was no Board discussion on Document 02.

Public Testimony

Colorado Community Health Network (written)

The Board voted for the final permanent adoption of Document 02, 8:0.

Document 03 MSB 11-08-30-A Revision to the Children's Basic Health Plan Rule Concerning Enrollment Fees & Cost Sharing, Section 300

Mr. Stahl moved for the final permanent adoption of Document 03. The motion was seconded by Ms. Chitty. Jeanine Draut, Medicaid & CHP+ Programs Cross Policy Unit, presented the proposed rule and explained that it is the same rule as last month with the removal of text referring to no co-payments for lab work as this contradicts the new rule requirements.

Mr. Stahl stated that he works for an agency that is a CHP+ enrollment site. Ms. LaCombe stated that she works for an agency that determines eligibility for CHP+.

Board Discussion

There was no Board discussion on Document 03.

Testimony

There was no public testimony on Document 03.

The Board voted for the final permanent adoption of Document 03, 8:0

Document 05 MSB 11-08-05-A Revision to the Medical Assistance Rule Concerning Early and Periodic Diagnosis, Screening, and Treatment, Section 8.280

Ms. Riley moved for the final permanent adoption of Document 05. The motion was seconded by Ms. LaCombe. Marcy Bonnett and Annie Lee, Medicaid and CHP+ Benefit Policy Section, presented the proposed rule and explained that it specifies the medical necessity criteria for orthodontic services and that with a provider outreach process will serve as a skeleton on which to build a substantive rule change in the future.

Board Discussion

Board discussion and questions included: an explanation that the purpose of the proposed rule is to provide clarification of a very complex benefit, provide more transparency and clean up some technical issues with the rule; that the Department plans to seek extensive stakeholder input on substantial changes which is estimated to require up to a year to complete; and that this rule will correct some minor issues with the rule and act as a placeholder for a more extensive change later.

Testimony

Owen Nieberg, All About Braces
Larry Oesterle, University of Colorado Department of Orthodontics
Hilary Baskin, Orthodontist
Jennifer Goodrum, Colorado Dental Association

Public testimony included: that there is no clear indication the revisions improve clarity; changing rule text from orthodontist to provider is a substantive change; a belief that the changes are a budget action not just a rule change; this revision does not have the power to impact budgets but future changes could include cost savings; that the preference is to find cost savings in reimbursement methodology not a reduction in services; that the Department would be agreeable to striking the change from orthodontist to provider; that priority was given to orthodontists and dentists for the December 7th retreat, but attendance is not restricted because it is an open meeting; that currently the Department is reimbursing up front for orthodontia treatments; a point system is up for consideration in the planned stakeholder process for a comprehensive rule change; taking away upfront payments will not provide a substantial cost saving; that the monthly administrative expenses for providers are tremendous; a suggestion that the current wording be retained and simply be moved to a new section; Medicaid is repaid if services are discontinued during treatment; monthly reimbursement can be handicapping to kids; that Medicaid is attempting to mirror commercial entities, is the payer of last resort and this change would lessen the administrative costs to the Department; a request that rule change be postponed until after the stakeholder retreat; that, in order to participate, orthodontists typically require about eight weeks advance notice of meetings; providers have many suggestions for cost savings that are not tied to orthodontia; it is important to provide the best possible care to clients; there has been a lot of support from the community for the way the rule is written today; a lot of work has been done and the Department has been very responsive to stakeholders,

the Colorado Dental Association will provide assistance to get information out to stakeholders; that the understanding from the October meeting was that this rule would go to stakeholders and come back as a clarified rule and this is not a clarified rule; and in order to honor the integrity of the stakeholder process and input received from providers, the Department would like to move the rule forward as written..

Mr. Stahl made a motion to use the current language, moving it to Section 8.280.5.F and striking everything else. The motion was seconded by Ms. Chitty.

Ms. Riley stated she would be interested in tabling this rule, allowing the Department and stakeholders an opportunity to agree on a revision that works for both sides and bringing the revision back as soon as possible.

Mr. Stahl withdrew his motion to revise the rule. Ms. Chitty withdrew her second.

Ms. Riley moved to table a vote on the rule until January. The motion was seconded by Dr. Cain and approved; 7:1. Mr. Phillips voted no.

Document 04 MSB 11-09-20-B Revision to the Children's Basic Health Plan Rule Concerning the Implementation of the Long Bill Provision on CHP+ Pre-HMO Period, Section 430

Ms. Chitty moved for the final permanent adoption of Document 04. The motion was seconded by Ms. Riley. Alan Kislowitz, Medicaid and CHP+ Managed Care Section, presented the proposed rule and explained it eliminates the pre HMO period and enrolls eligible children directly into HMO upon determination of eligibility. This rule change is intended to implement cost savings in the legislative budget items.

Board Discussion

Board discussion and questions included: that there are no fees assessed for Presumptive Eligibility (PE); fees are assessed at the time the application is processed and eligibility is determined; emergent services will be covered for children via the PE process; the proposed changes do not effect reimbursement for services; rather than the Department paying a capitation rate from the date of application, it will now be paid the first of the month following eligibility determination; that some communities have unique relationships which offers the opportunity for communication between the PE site and providers; this relationship helps to ensure applications are completed; the Department understands the necessity and is working on a process that will provide quality communication in the manual process between PE sites and providers and will adequately cover all situations; that not all Department policies require the authority of rule-making; all rules are reviewed by the Attorney General to ensure there is proper authority and they are not in conflict with other rules, laws, etc.; currently when an application is submitted, the Department pays a per member per month capitation rate from the date of application; the new process would pay for services rendered; and that Board members want to know services for kids are getting paid for.

Public Testimony

Adela Flores Brennan, Colorado Center on Law & Policy

Public testimony and questions included: that reports indicate some CHP+ cases are not being processed in a timely manner resulting in a longer period of time to determine eligibility; under the current system, the Department is paying capitation rates over longer periods of time; and that, while the capitation rates are being paid, many clients are not receiving services.

Board members requested an update in December on the Department's progress in developing an operational plan to ensure clients are being served.

The Board voted for the final permanent adoption of Document 04, 8:0

Document 06 MSB 11-08-19-A Revision to the Medical Assistance Rule Concerning the Hospital Provider Fee Collection and Disbursement, Sections 8.2003 and 8.2004

Ms. Riley moved for the final permanent adoption of Document 06. The motion was seconded by Mr. Stahl. Nancy Dolson, Safety Net Programs Section, presented the proposed rule and explained that it is the same rule presented in October and adopted on an emergency basis which establishes provider fees to be collected and payments to be made between October 2011 and February 2012.

Board Discussion

There was no Board discussion on Document 06.

Testimony

There was no public testimony on Document 06.

The Board voted for the final permanent adoption by consent of Document 06, 8:0:

Document 07 MSB 11-09-06-A Revision to the Medical Assistance Rule Concerning Express Lane Eligibility – Free and Reduced Lunch Application, Section 8.1004.J

Mr. Stahl moved for the final permanent adoption of Document 07. The motion was seconded by Ms. Chitty. Holly Heartso, Eligibility Policy Section, presented the proposed rule and explained this rule was adopted in October on an emergency basis and provides children who are eligible for free and reduced lunches a streamlined application process for Medicaid benefits.

Ms. Lacombe stated that she works for agency that is participating in the express lane eligibility process.

Board Discussion

There was no Board discussion on Document 07.

Testimony

There was no public testimony on Document 07.

The Board voted for the final permanent adoption of Document 07; 8:0.

Document 08 MSB 11-09-20-A Revision to the Children’s Basic Health Plan Rule Concerning Express Lane Eligibility – Free and Reduced Lunch Application, Section 180

Mr. Markley moved for the final permanent adoption of Document 08. The motion was seconded by Ms. Chitty. Holly Heartso, Eligibility Policy Section, presented the proposed rule and explained this is the counterpart rule to streamline the CHP+ application process for children who are eligible for free and reduced lunches.

Mr. Stahl stated that he works for an agency that runs a CHP+ site.

Ms. Lacombe stated that she works for an agency participating in the express lane eligibility process for the CHP+ program.

Board Discussion

Board discussion and questions included that this is an awesome way to identify children who would not come into an office to submit an application.

Testimony

There was no public testimony on Document 08.

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

Ms. Riley moved to close the rules portion of the agenda. The motion was seconded by Mr. Markley. The motion was approved, 8:0.

5. Department Updates:

- HB 09-1293 Update – Chris Underwood, Financial & Administrative Services Office (written)
- Legislative Updates - Carrie Cortiglio, Legislative Liaison
- Department Update – Suzanne Brennan, Medical and CHP+ Program Administration Office Director

6. Open Comments:

No one signed up for the public comment portion of the meeting.

7. The meeting was adjourned at. 11:50 a.m.

The next scheduled meeting of the Medical Services Board is at 9:00 a.m. on Friday, December 9, 2011 in the 6th floor conference room at 225 East 16th Avenue, Denver, CO.

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