Primary Care Reform Collaborative Meeting

Monday, March 8, 2021 5:00-7:00 p.m. Webex Meeting ID: 179 790 6753, Meeting password: TRdAQ8t3Kt3 Audio/Call-In Number: (408) 418-9388 Access Code: 179 790 6753

Meeting Attendance

Collaborative Members:

Present: Dr. Nancy Fan, Co-Chair Senator Bryan Townsend, Co-Chair Representative David Bentz, Co-Chair Kevin O'Hara Dr. James Gill Sasha Brown Steven Costantino (Proxy for Secretary M. Magarik) Leslie Ledogar (Proxy for Commissioner Navarro) Steve Groff Dr. Dan Elliott (Proxy for Dr. C. Donohue Henry) Dr. Michael Bradley Dr. Susan Conaty-Buck (Proxy for Leslie Verucci) Dr. Veronica Wilbur Faith Rentz Dr. Megan Werner (Proxy for Margaret Norris-Bent) Westside Family Healthcare

Absent:

Dr. Jeffrey Hawtoff John Gooden Mike Gilmartin

Staff:

Read Scott

Attendees:

Anthony Onugu Ayanna Harrison Deborah Bednar Bettina Riveros Christina Haas Cindy Ward Cheryl Mongillo Christine Schiltz

Organization:

Delaware Health Care Commission Senate Health & Social Services Committee House Health & Human Development Committee Highmark Delaware Medical Society of Delaware Aetna Department of Health & Social Services (DHSS) Department of Insurance (DOI) Division of Medicaid & Medical Assistance Christiana Care/Delaware Healthcare Association Dover Family Physicians/Medical Society of Delaware Delaware Nurses Association Next Century Medical Care/ Delaware Nurses Assoc. State Benefits Office/DHR

Organization:

Beebe Healthcare/ Delaware Healthcare Association MDavis, Inc./DSCC MDavis, Inc./DSCC

Read.Scott@delaware.gov

Organization:

United Medical ACO Department of Health and Social Services/DHCC Aetna ChristianaCare Department of Insurance Mercer Family Medicine at Greenhill PGS Legal

D. Hamilton Eunji Elizabeth Staber E. Lawson Elisabeth Massa Elizabeth Collins Katherine Impellizzeri Jamie Clarke Jennie Echols John Fink Joe Fitzgerald Kiki Evinger Dr. Kathleen Willey Kim Gomes Kristen Hathaway Dr. Karen Antell Lauren Graves Lincoln Willis Lisa Zimmerman Lori Ann Rhodes Mary Jo Condon Meredith Tweedie Matthew Swanson Michael North Pam Price Patricia Redmond Dr. David Krasner Senator Sarah McBride Dr. Sarah Mullins Tyler Blanchard Vinayak Sinha Wayne Smith Wendy Beck

Hamilton Goodman Partners Aetna AmeriHealth Caritas Delaware Department of Health and Social Services Mercer Aetna Nemours Mercer Bayhealth Fitzgerald Department of Health and Social Services Quality Family Physicians PA Byrd Gomes America's Health Insurance Plans ChristianaCare AmeriHealth Caritas The Willis Group DMMA Medical Society of Delaware Freedman Healthcare ChristianaCare Delaware Center for Health Innovation Aetna Highmark Nemours Family Medicine Senate Health & Social Services Committee Stoney Batter Family Medicine Aledade Freedman Healthcare DEHA Highmark

The meeting was called to order at 5:06 p.m.

Welcome

The meeting convened at approximately 5:06p.m. via the State of Delaware Webex system. Dr. Fan welcomed all attendees and reminded them the meeting would be recorded. Members announced their presence as record of attendance. Dr. Fan confirmed that Dr. Susan Conaty-Buck would be serving as proxy for Leslie Verucci of the Delaware Nurses Association, Dr. Megan Werner would serve as proxy for Maggie Norris-Bent. A quorum was confirmed. Public attendees were asked to submit their name and affiliation to Read Scott via email (Read.Scott@delaware.gov).

Dr. Fan reminded members to identify themselves before speaking and utilize WebEx features if they would like to make a comment. Members were also asked to turn their cameras on while making comments. She

then briefed members on the meeting agenda, explaining that the discussion will focus on the potential legislation. Dr. Fan transitioned the meeting to the approval of the January minutes.

Approval of January 2021 Minutes

Dr. Fan asked the members if they had any comments on the draft minutes from the Primary Care Reform Collaborative meeting, held on January 25, 2020. Dr. Susan Conaty-Buck made a motion to accept; the motion was seconded by Steven Costantino. Dr. Fan called for points of discussion and oppositions to accepting the minutes, hearing none the motion to approve was unanimously carried. Approved minutes for the January meeting can be viewed here: <u>https://dhss.delaware.gov/dhss/dhcc/files/pcrcmtgminutes012521.pdf</u>.

Proposed Legislation to Increase Primary Care Investment

Dr. Fan opened transitioned the meeting to discussion of the proposed legislation to increase Primary Care investment. Dr. Conaty-Buck began with the discussion by asking if language could be included to allow members the ability to appoint a proxy in their absence. Dr. Fan shared that the Co-Chairs plan to include language stating that the Collaborative will serve as an advisory committee to the Delaware Health Care Commission. She added that the goal is to streamline membership, reducing the number from the current 17.

Senator Townsend informed members that Senate Bill 59 clarified the appointment language and he agreed to research options. He reported that he was not sure designee language could be included. He added that voting will not hold the same weight when the Collaborative becomes an advisory committee to the DHCC. He agreed that he and the Co-Chairs will work with the legislative attorneys.

Dr. Veronica Wilbur emphasized the importance of ensuring that a registered nurse was included as an appointee. She added that the appointee should understanding billing, work in the community within Primary Care, and be currently seeing patients. She concluded by stating that it may be necessary to work directly with the Delaware Nursing Association. Senator Townsend agreed to research the situation. He added that while organizations have provided their suggestions and input, under the constitution, organizations are unable to assign specific individuals. The appointments must be governed. He assured Dr. Wilbur that organizations will have an opportunity to submit recommendations. He also agreed to research and meet with Co-Chairs to consider amending the current language.

Dr. Wilbur asked an additional question about term limitations. Dr. Fan responded by sharing that terms will continue to be two years. This language was added in SB227 and will likely remain as is. She also added that there was not a limit on consecutive terms held by members.

Dr. Bradley stated that he felt the proposal was strong and incorporated topics discussed during past meetings. He mentioned the need for immediate assistance for Primary Care providers. He asked for clarity regarding the language in the draft, charging DHCC with developing and submitting a plan to the Governor's office that outlines strategies that will provide immediate assistance to Primary Care providers. He asked the Co-chairs if the recommendation to include a target increase of 150% of Medicare would be considered or if the plan would be delayed until September or longer, depending on how the increase is legislated or regulated.

Dr. Fan stated that there was some concern with the implementation and the use of Medicare as a benchmark and how this would affect revenue stream for a lot of payors. She added that everyone recognized that helping practices as soon as possible is beneficial and optimal. It was understood that it would be difficult to implement the 150% with health plans, so instead of including a caveat and increasing the fiscal note, a decision was made for the Delaware Health Care Commission to research strategies to provide immediate assistance with current funds, possibly through the CARES Act. The funding could not come from the general fund because a fiscal note is not attached to this proposal. She encouraged members to identify strategies that could help practices in the near future.

Dr. Gill stated that he agreed with the terms of the overall draft legislation. He shared a concern with the short-term funding, and the fact that the 150% was not included. He added that he did not believe a particular percent of fee-for-service charge needs to be included but that something needed to be included. He added at the Medicare increase is small and should not be relied upon. The Medical Society recommended including a required care coordination fee. He stated that this was a strategy that could be used to provide practices with funding in the short term. He asked if the Health Care Commission would be developing a plan to outline how to reach the 7.5%. He emphasized the importance of including specifics in the bill, providing payors with instructions on how to increase their investments of Primary Care.

Dr. Gill suggested that the regulatory process within the Commission could be specified. He also recommended that the increase in investment begin with a required \$20/per patient, per month care coordination fee. He also recommended the bill specific who is included in primary care definition because the state law does not require self-insured to share data, especially since this includes 2/3rds of the commercial market. He added that entities (i.e., State Employee Plan and Medicaid) that are not under the regulation, be listed to avoid confusion.

Dr. Fan responded by clarifying that the bill will not include Medicaid or State Employees Benefits. She also added that the regulatory authority under the DHCC is held with Primary Care Reform Collaborative advisory board. She also shared that the implementation of where the PC spend target is going every year will be in cooperation with Office of Value Based Health care, using their data collection and analyses. Lastly, she stated that DHCC welcomes recommendations for strategies to employ immediate relief to Primary Care doctors. She concluded her response by addressing Dr. Gill's inquiry regarding care coordination fees. She stated that this would fall under a capitation model within the primary care delivery model presented by Mercer.

Dr. Gill asked if the absence of State Health Employee Benefits relieves them of complying with the SB227 rules/regulations. Dr. Fan stated that SB227 will be extended and all the regulations will be in place. She added that SEBC has worked closely with the OVBHCD to ensure they have met primary care spend requirements and in implementing primary care spend targets. They have also encouraged their patients to use value-based health care. They seem very committed to several of the components. She added that the State Employee Benefits Committee (SEBC) has attended the legislation meetings regarding increasing primary care investment and they are meeting value-based care targets. Dr. Fan invited Faith Rentz to provide additional information.

Faith Rentz agreed with the comments and shared that it would be the intent of the SEBC to align with the legislation as it is drafted. She invited other payors to provide insight on how the State Employee Health

Plan carriers would operationalize the bill and realistically exclude the State Employee Plan and other selfinsured employers including potentially having to negotiate different reimbursement rates with providers.

Mr. O'Hara reported that Highmark has not had a lot of time to fully digest the draft legislation. He shared that they have significant concerns with several aspects. He shared that their first concern is regarding the plan to set a target that does not take into account the growth and total cost of care and other areas. He added that the idea of 11% of total cost of care really is manipulated by the total cost of care growth over time. There was also some concern with the rate filling aspect of the legislation and what appears to be a limitation on what could be included or excluded. Highmark intends to robustly and formally respond to the legislation. He added that Ms. Faith Rentz was correct, when SB227 was implemented one of the largest hurdles was identifying a strategy to exclude self-funded groups. That was not something that Highmark could quickly do, which lead to some of the decision making regarding this group. He continued to state that they are researching their ability to operationalize and exclude self-funded. He added that the State is their largest client, but it is not their only self-funded client. Before concluding he asked Ms. Rentz for clarification on her question regarding negotiation of different rates.

Ms. Rentz responded by asking for confirmation that the insurers negotiate the same payment or reimbursement rate with providers in Highmark's and Aetna's network, more specifically, fully insured business and self-insured clients. Mr. O'Hara confirmed. Ms. Brown stated that Aetna shares the same challenges outlined by Mr. O'Hara and then asked the group how "total cost of care" is being defined.

Dr. Fan stated that the bill has not specifically defined or placed a target on total cost of care. She shared that the State benchmark process looks closely at targets with the goal to not exceed certain percentages. However, with information from the OVBHCD, it has been recognized that an increase in primary care by a certain percentage may overshoot the benchmark, but it does take into account the cost of the total cost of care. She concluded by asking if members were confused with any of the details between lines 62 and 78. She pointed out that information in this section address total cost of care through nonprofessional spend and limiting them with specific calculations that align with the recommendation put forth by OVBHCD in their healthcare report. She asked that members share any confusion they may have. Steven Costantino commented that it was his understanding that total cost of care would be controlled through restrictions on the nonprofessional category, which will place pressure on total cost of care. Mr. O'Hara shared that lines 66 through 71 detail rate filings under chapter 33, 35 and 63 and may not include aggregate unit price growth for nonprofessional services. Highmark is currently incentivizing in efforts to reach low rates. He reported that Highmark has consistently employed several incentives to negotiate rates, however they have not successfully negotiated a limit to increases on nonprofessional spending to 3% per annum. Mr. O'Hara concluded his comments by sharing that his comments were preliminary and based on a brief review of the legislation.

Representative Bentz commented that the language was drafted with the intention to recoup some of the added cost that Primary Care may incur. Mr. O'Hara acknowledged his understanding and stated that outside of using legislation, he was uncertain about a mechanism that could be implemented to achieve the desired outcomes.

Ms. Ledogar asked for clarification regarding lines 66 through 78. She thanked the Co-Chairs for reading the report produced by the Office of Value Based Health Care Delivery. She added that the statute proposed in

the draft legislation is based heavily on the scheme laid out in the report. She pointed out the representation of all three Affordability Standards in the proposed legislation. She continued by sharing the importance of the conclusion of the OVBHCD's report that states all three Affordability Standards should be implemented at the same time. She pointed out that the statute splits the duties, housing some within the Health Care Commission (Affordability Standards 2 and 3), the rate review process (Affordability Standard #1) is set to be housed with the Insurance Commissioner. She also emphasized the importance of documenting the requirement to implement all three standards at the same time to avoid interpretation of future generations. Ms. Ledogar emphasized the importance of providing future generations with direction and documentation of the requirement to simultaneously implement the three standards. She explained that because it is possible for either entity to experience staffing changes and because statutes are permanent, the history and background of the recommended implementation plan, should be documented. Before concluding her comments, she expressed her gratitude to the Ch-Chairs for adding details regarding the rate review process. She reported that the Department of Insurance has already started implementing the rate review process under their legislation for the Office of Value Based Health Care Delivery. She added that the DOI will be requiring the carriers to submit a comprehensive questionnaire. Carriers will provide information on whether on not they met the targets that have been set forth in the report. She reported that the targets they have implemented are in the draft legislation and were based on their research and data collection.

Ms. Ledogar expressed some concern with including the targets in the legislation, stating that if unexpected circumstances occur, it would be difficult to amend the targets. She shared that the DOI had already had some experience establishing the OVBHCD. She commented that they had taken the statutory authority very seriously and have even provided financial support. They have worked closely with the plans to provide guidance on how to implement the plan. She mentioned the alternatives to bolster primary care. They support these efforts. She once again emphasized the importance of implementing all three affordability standards at the same time. Lastly, DOI financially supported the original statute, Ms. Ledogar respectfully requested a fiscal note be added to this statute.

Dr. Fan thanked Ms. Ledogar and provided some clarity regarding the role of monitoring Affordability Standard #3. Dr. Fan brought the members attention to lines 7 through 12 and stated that the authority to monitor primary care providers with the actual value-based care delivery would fall under the Health Care Commission. She continued to add that lines 66 through 78, and 89 to 93 would fall under the authority of Department of Insurance. She asked if these details needed to be clarified within the legislation. She added that the work would be in close conjunction and cooperation. Ms. Ledogar expressed her gratitude and shared that DOI does not have the expertise to guide the providers on how to transform their practices. She does want to have conversations with the carriers. She added that they are beginning to research different methodologies to use for alternative payment models. She is confident that obtaining this knowledge will allow them to better support the carriers and answer questions about successfully incentivizing payment models.

Dr. Fan asked if any members had comments or questions on items that have been discussed or on the actual legislation that has not been covered. Ms. Ledogar had an additional question regarding the proposed legislation opening up Title 16 to allow the Health Care Commission to regulate compliance with value-based care. She commented that if regulatory authority will be given to DHCC, why not include DOI to have the same authority. Senator Townsend responded by sharing that the draft legislation outlines statutory

and legal authority to DOI regarding rate reviews and rate application. He added that the Health Care Commission was included based on their expertise and dedication to addressing the issue. He asked if there was additional authority that needed to be granted or specifically stated in the draft legislation. He apologized if there were any omissions. Dr. Fan stated that the Co-Chairs believed the language was clear, however hearing there are some questions they will work on tightening the language surrounding regulations.

Dr. Dan Elliott asked Ms. Ledogar to expand on her comments, regarding her support of the legislation. Ms. Ledogar shared that DOI is very supportive of the fact that the report was considered when developing the legislation. She continued to state that they are not in support of propagating the actual targets, rather they would prefer to have regulatory authority in case changes are encountered in the future. She also added that splitting the duties and placing primary care spend at a definitive rate but leaving rate review for Affordability Standard #2, can cause confusion. She suggested the draft language be tightened. Ms. Ledogar also reported that the Department of Insurance has implemented the standards through this year's rate review which is currently underway. She added that Insurance Commissioner Navarro expressed his desire to complete the process fully. She emphasized the Commissioner's and DOI's support of the State's primary care providers and added that the DOI is dedicated to identifying solutions to correct the issues they are facing. She suggested the group consider accessing CARES Act funding through federal statutes to identify support for primary care providers. She reminded the members that the OVBHCD's report acknowledges that primary care is in dire straits.

Dr. Fan shared that CARES Act funding may provide some short-term relief and reiterated the desire to identify long standing solutions for increasing primary care investment. The goal is to move towards alternative payment models and value-based care, and eliminate the need to itemize telehealth visits, phone calls and co-pays.

Senator Townsend stated that non-binding frameworks do not have the capacity to address the current crisis. He reminded members that many providers have been faced with closing their practices and the providers that are still practicing need immediate assistance that will not happen within a non-binding framework. He understood Ms. Ledogar's concern regarding setting targets amid a pandemic and suggested language be added to mitigate the issue. He emphasized the importance of members commitment to a system of binding more explicit targets, versus waiting another year to review the process. He stated that while the oversight of all three standards are not shared by one entity, he was confident all three could be addressed in coordination. He also shared that oversight under one entity did not guarantee coordination. He emphasized the importance of identifying entities that have expertise with the different aspects of the three standards. He agreed that language should be included to provider clarity, define areas of flexibility, and provide direction for emergency regulations.

Dr. Bradley stated that from his personal experience he has noted that insurance companies have trouble negotiating with the hospital systems because there is no competition. Without legislation to help the carriers negotiate rate reductions at the hospital level, primary care will not be funded properly. He added that to support increasing primary care reimbursement, movement needs to happen sooner rather than later. He ended by stating that legislation is the only way to be certain hospitals and insurance carriers uniformly fund the rate reductions back into primary care.

Public Comment

Dr. Fan opened the meeting to accept public comment. Dr. Elliott shared a concern that the current crisis still lacks a solution. He expressed concern with setting specific targets based on moving proportions. He suggested the members consider implementing care coordination and care management fees to increase primary care reimbursement. He asked if the Delaware Health Care Commission's role will include monitoring targets for primary care reimbursements. He revisited Ms. Ledogar's comment concerning the meeting the numerical target without reaching the desired solution. Before concluding his comment, he acknowledged that he had not had the opportunity to review the draft fully and his comments are based on a very preliminary understanding.

Ms. Ledogar agreed with Dr. Elliott's comments and added that her original concern with splitting oversight authority of the three standards. She reiterated that it was her belief they should remain under one umbrella. She added that codification should be moved out of the rate filing section. A better alternative would be to place it within the section that includes primary care spend because that is also where contractual provisions have been included. If carriers are required to restrict their spending the other two targets should be placed there as well. Another alternative would be to concentrate the targets by including primary care spending within the rate review section plus the APMs. Separating them as is and dividing them between two different agencies will cause them to be lost. She encouraged the Co-chairs to consider placing all three targets in one statute and then including provisions for the Health Care Commission to work with primary care providers to identify the APMs and how they can be funded. She ended her comments by stating that including these changes would increase clarity and avoid meeting only one target, while not meaningfully meeting the others.

Senator Townsend expressed his gratitude for Ms. Ledogar's input. He asserted his desire to avoid contributing to confusion and agreed to review the recommendation to shift all three standards into one section. He asked Ms. Ledogar if she felt it was necessary to include a reference to the rates and review chapter in the writing section. He agreed that placing them all in one section could provide clarity. He also agreed to circle back with Ms. Ledogar after identifying the legal and technical aspects. Ms. Ledogar expressed her gratitude and agreed to a follow up meeting. She added that consolidating the provisions would ensure they don't get lost. She also reminded members that the OVBHCD report states that meaningful reform comes if all three are implemented. Mr. Costantino commented that cross coordination between DHCC and DOI happens consistently. Ms. Ledogar agreed. They both agreed that their partnership has been key in several state initiatives like Delaware's Reinsurance program and the Health Care Spending and Quality Benchmark project. Mr. Costantino concluded by stating that he did not want the members and the public to believe there were any barriers within the partnership. Ms. Ledogar agreed and stated that her main concern included the loss of integrity of the legislation after years and years have passed, and the originators of the Collaboration are no longer present. Dr. Fan responded to Dr. Elliot's comment by sharing that the goal is to have the Collaboration and DOI work to develop targets and not to include specific metrics in the legislation. She shared her belief that including specific metrics could remove flexibility and the possibility of implementing innovative strategies in the future.

Dr. Fan once again called for additional public comment. Hearing none, she began to address comments shared in the WebEx chat box. Anthony Onugu asked about the lack of ACO representation on the Collaborative, more specifically the lack of physician led ACOs. Dr. Fan stated that Collaborative members consist of providers, payors, and legislators. She added that ACOs work in a very specific framework for

providers. She also stated that physician led ACOs are likely one of the primary frameworks for value-based care. The structure of the work will not be included in the statute but instead be determined by the new convening Collaborative.

Dr. Dan Elliot, spoke on behalf of eBrightHealth ACO, shared that all ACOs in the state have consistently beat Medicare benchmarks year over year, with sizeable amounts. He continued to emphasize the importance of their contributions to the net savings at a total cost of care basis. He stated that this fact is worth noting in the context of legislative targets. He added that this is good evidence and important to remember when considering changing trajectory of cost and payments and capitation. He reiterated the relevancy of the substantial contribution ACOs have made over time to cost savings that include healthcare associated goals.

Mr. Wayne Smith expressed his appreciation for the discussion and the work that has gone into the draft legislation. He added that everyone present agrees with the goal to ensure Delaware citizens have access to a robust system of primary care. He added that the bill includes some strong sections, particularly the continued emphasis on movement towards value-based care. He added that the bill also has some deficiencies that have potential to create unanticipated consequences. He stated that the introduction of rate regulation for hospitals is arbitrary and highlighted the lack of ability to correctly forecast rates of increase due to the pandemic. He also shared that the pandemic has caused a cost increase factor that is close to inflation and it does not account for the fact that Delaware residents are older. He shared details from a recent Wall Street Journal that listed Delaware as the 2nd leading state for attracting retirees. He stated that Delaware hospital primary care are the safety net primary care providers. He reminded the members that the hospitals are nonprofits and they take Medicaid, Medicare in addition to commercial insurance. He pointed out that not all private primary care providers accept Medicaid and/or Medicare. He offered to share a recent Kaiser Foundation study on Primary Care Physicians Accepting Medicare with Dr. Fan after the meeting. The study of 2015 data indicates that 9 in 10 primary care providers accept Medicare similar to private insurance, however acceptance of new Medicare patients is comparably lower. He stated that Delaware hospital's primary care services lose money and underwrite the losses with billings in other parts of the health care system. He added that capping hospital's ability to underwrite threatens access to care with providers who uniformly accept Medicaid. He suggested caution be exercised when considering radical changes in contracting for health care costs in the state.

Dr. Fan thanked Mr. Smith for his comments and invited other public attendees to comment. Hearing none she invited Representative Bentz and Senator Townsend to provide closing remarks. She added that the next meeting will be determined by the progress of the bill.

Chris Haas asked if the Health Care Commission has been given an opportunity to review the draft legislation. Dr. Fan reported that the Health Care Commissioners have not had the opportunity to review but as the Chair of the Commission, she is aware. She added that when the legislation is introduced, they will bring it to the Health Care Commissioners.

Representative Bentz expressed his appreciation for the discussion. He shared that some input was surprising. He shared that after three years of work, including stop gap legislation and lifting sunsets, the Collaborative is now at an inflection point. He stated that the Collaboration has taken some important incremental steps and it is now time to decide to either take swift action or continue to take a soft approach. He added that all evidence suggests taking a soft approach will not produce the desired outcomes. He shared that things are not improving. He also acknowledged the need to tighten the language but added that

the best option is to continue forward with the legislation. Senator Townsend agreed with Representative Bentz's statement and stated that the Co-Chairs will begin working on the follow up items. and contacting some of the Collaborative members (Ms. Ledogar, Mr. O'Hara, etc.).

Dr. Fan once again thanked the members of the Collaborative for their work and patience during discussions to address the primary care crisis in Delaware and work towards improving the healthcare delivery system. She added that Co-Chairs will update members on the status of the legislation. She also asked members to send the Co-Chairs additional comments or recommendations to assist with tightening the language on any of the items that were discussed during the call.

Hearing no additional requests for comment by the Collaborative members or public, Dr. Fan thanked participants and adjourned the meeting at approximately 6:31 p.m.

Next meeting

The next Primary Care Reform Collaborative meeting date is TBD.