State of Rhode Island Office of the Health Insurance Commissioner
Social and Human Service Programs Review Advisory Council
Meeting Minutes
October 31, 2022
9:30 A.M. to 10:30 A.M.

Attendance

Members

Co-Chair Commissioner Patrick Tigue, Co-Chair Elena Nicolella, Co-Chair Sam Salganik, Beth Bixby, Margaret Holland McDuff, Linda Katz, Tanja Kubas-Meyer, Maureen Maigret, James Nyberg, Nicholas Oliver, Laurie-Marie Pisciotta, Tina Spears, Lisa Tomasso (on behalf of Teresa Paiva Weed), John Tassoni

Rhode Island Office of the Health Insurance Commissioner Staff

Cory King, Molly McCloskey

Unable to attend:

Garry Bliss

Minutes

1. Call to Order

Commissioner Tigue called the meeting to order and introduced his fellow co-chair Sam Salganik, Executive Director of the Rhode Island Parent Information Network (RIPIN). The commissioner asked if Sam wanted to say a few words since he was unable to attend the last meeting. Sam thanked the other members for their advocacy and stated that RIPIN supports a number of different populations who rely on the services advocated for by the people in the room. He stated that people are waiting too long for important services, and the work of this group is very necessary.

2. Review of September Meeting Minutes

The commissioner stated that per the advisory council charter, in general, the council will not be taking votes due to the informal and deliberative nature of the body. However, the council will vote on meeting minutes. The council approved the September meeting minutes.

3. Social and Human Service Programs Review Advisory Council Charter

Molly McCloskey asked if the members had any feedback on the draft charter that was introduced during the September meeting of the advisory council. Elena Nicolella suggested that a short purpose statement be added to the charter. She stated that based on the legislation, she believes that the purpose is to ensure that what and how the state is paying is enabling us to meet the goals of affordability, access, and quality. She asked if the council was open to including a few sentences about that. There was no objection. The commissioner said that OHIC would work on a purpose statement.

4. OHIC Social and Human Service Programs Review Updates

Molly McCloskey stated that the council will likely meet 2-3 times before mid-December on an ad hoc basis. Beginning in January, the council will meet at least monthly with more meetings as necessary.

Molly provided a brief RFP update. The status of the RFP on the state's purchasing website is "under evaluation", and as soon as OHIC is publicly able to share more information they will.

Molly told the council that OHIC has had a number of meetings with its colleagues across state government. OHIC convened an interagency work group with representatives from the Executive Office of Health and Human Services (EOHHS) and the departments under EOHHS. OHIC met with this group to give them an overview of social and human service programs review process and scope. OHIC asked the group members to compile a list of services, how the services are funded, and when/how that funding is determined. Molly shared an example response that OHIC received from the Department of Human Services (DHS). The Vocational Rehabilitative Program, within the Office of Rehabilitative Services, within DHS has 833 services, which is only one unit of one program of one division within DHS. This was shared as an illustrative example of the breadth of information that OHIC will be collecting.

Linda Katz asked if the agencies will be reporting for social services too – for example, DHS's Rhode Island Works Program? The commissioner answered that this does include social services too. This is meant to be a first pass at collecting information form the agencies. This is the process of getting our arms around the full scope, and that is why the advisory council will be so important in helping OHIC work through prioritization. Tina Spears stated that most members have priority codes. She asked if the agencies will be reporting utilization data to OHIC? Molly said that we have not asked for that yet though OHIC did brief the agencies on all of the deliverables, and they are welcome to give us any information at any time, but we realize our first ask was a big one. Cory King stated that we are also learning from some agencies that the services they fund are obtained through competitive procurement process where the vendor proposes their rates, which is useful information to determine what is in and out of scope. He further stated that OHIC will continue to have iterative discussions with agency staff, and the vendor will help us to go deeper into these discussions and narrow things down.

Tanja Kubas-Meyer stated that within the Department of Children Youth and Families (DCYF) some programs are "direct-bill Medicaid" and it is clear, but others are paid through procurements and then there is "back-billing" to Medicaid. A lot of that back-billing isn't transparent to her in terms of what the codes are. She stated that getting that information would be really helpful.

5. January 1, 2023 Deliverables

Molly started a discussion about January 1, 2023 deliverables and stated that because the statute is very broad OHIC wanted to have a conversation with the council to fine-tune the deliverables to make them more actionable. Additionally, the goal of the conversation is to learn what type of reporting would be useful to the council members. Molly stated that as a follow-up to this meeting, she will reach out to all of the council members to offer to meet individually to learn more about the members' perspectives and priorities.

Molly began to review the presentation slide deck, and prompted the commission members to discuss the first two deliverables – reporting on program rates, including the date of the last rate increase, and reporting on eligibility standards. Additionally, Molly shared that OHIC created a draft provider data collection form that she will send out to the members after the meeting. The form will collect information on the first two deliverables. The goal of the form is to understand which codes and services are a priority for this group, and to learn about eligibility criteria. OHIC will be looking for feedback on the form the advisory council members.

The council began to discuss the first two deliverables. Elena Nicolella asked about the definition of "assessment"? The commissioner responded that the office is called to make recommendations about

rates in the September 1, 2023 deliverables, which will be a part of the biennial process that feeds into the state budget process. The January deliverables are foundational information that will create a framework of shared understanding about what the status quo is. The commissioner stated that he sees the first deliverable as a catalog of what currently exists. For the January deliverable, we are envisioning that we will look at as many rates as we can and when they were last increased, to the extent that data is available. For the January 1 report, we are not envisioning that we would make a valuative judgement because that would be duplicative to what we will produce in September. The commissioner said that his understanding of the intent, which he is open to discussing with the council, is that this all the rates and when they were last increased is not widely known by the community. This is to create a shared basis of understanding of how long it has been since certain rates have been increased.

Lisa Tomasso asked if this deliverable will include whether the service being delivered is an evidence-based practice or best practice. She stated that some of the services being delivered have been significantly under-funded over time. Due to that, it has been more difficult to deliver evidence-based practices because the funding is not there to support what needs to be done. The commissioner responded that that information is applicable, but it is a question of where it belongs in the reporting – under what deliverable does it makes sense?

Margaret Holland McDuff asked about eligibility standards and the provider data collection form – will OHIC be asking the state departments similar questions? Molly answered that yes, OHIC will be doing that. The commissioner added that OHIC is going to work to get as much information as possible, and it is helpful if council members can identify which codes they are most concerned about so that we have a qualitative and quantitative understanding of priorities.

Tina Spears asked who is going to develop the initial list of codes/services. Will council members be informing this list? The commissioner said yes. Tina said she thinks that that might be complicated because if there are 800+ codes within The Vocational Rehabilitative Program at DHS – which ones do you want us to start with? Cory King responded that he envisioned two separate streams occurring. One is the internal interagency stream – what are the programs? What are the rates? We will catalog that. The other stream is council members – what are your priority areas, given your particular place within the delivery system? Then we can superimpose that onto the broader agency information. The purpose of this is for you to help us identify the most critical services because you are all experts in your own areas. Tina asked about how members should prioritize because each provider will have their own interest at heart. Cory responded that in addition to service codes that are priority areas for providers, it is helpful for members to share information on critical access issues – this is important contextual information for us to have. The commissioner agreed and stated that he wants to hear about peoples' rationale for what they think is a priority. For example, rationale might look like identifying critical access issues for certain codes or service areas. Then we can sort through all that and talk about what should inform OHIC's prioritization decisions.

Tanja Kubas-Meyer stated that there are many providers who are doing a lot of private fundraising to expand their capacity. She thinks that that needs to be captured to understand the full picture. John Tassoni stated that we also need to look at uncompensated care. The commissioner agreed with Tanja and John, stating that these things are important to understand. He stated that what he heard from them is that the current rate structure in certain areas isn't actually supporting the current capacity, and services are being funded through different sources, but we still need that capacity in the system to serve people.

Laurie-Marie Pisciotta pointed out that the language in the statute says, "social and human service program rates", and asked if we are only looking at programs from the state, or from community-based organization, or is it private practice provider rates? Cory King stated that the way we have interpreted this is that programs are comprised of services, so we are looking at different types of services regardless of whether they fit into a pre-existing program classification. That is why we are starting with the Medicaid fee-for-service fee schedule and then building out from there. Laurie-Marie recommended that we look at psychotherapy, counseling, psychiatric evaluations, and psychiatric medication management.

Sam Salganik asked to clarify that the January 1 deliverable, related to reporting all social and human service program rates, will be a report that includes the thousands of codes that are identified. The commissioner said that the report will be as broad a list as we can do. Sam asked to confirm that there probably won't be prioritization done for the first deliverable before January 1, but we have to start building that information for later. The commissioner agreed. Sam asked if there won't be MCO rates in the January 1 deliverable because that will be a benchmarking exercise. The commissioner said that that was correct. Sam asked if eligibility standards include clinical eligibility standards or financial eligibility standards. The commissioner stated that he thinks it's broad, it might be both, and asked the council for their thoughts on what that should look like conceptually. Sam stated that he doesn't think the state needs a report on financial eligibility rules for Medicaid. The commissioner responded that we are not looking at Medicaid eligibility broadly speaking but at the service level there are certain programs, or sub-sets of services, where people are eligible under certain sets of criteria – clinical or financial. The commissioner stated that he thinks that we want to capture that.

Linda Katz said that because this this information is going to be going to the general assembly members, it's important to provide some basic information about Medicaid eligibility and talk about the managed care organization (MCO) issue. This process is an opportunity to educate the legislators who charged OHIC with doing this review. Sam responded that he thinks that January 1 deliverable four is a good opportunity to do that.

Tina Spears stated that regarding the eligibility deliverable, her interpretation of "mandatory and discretionary social and human service programs" is that it includes mandatory federal requirements, and discretionary programs are programs that are provided but aren't required to be provided. Margert Holland McDuff agreed that that was also her understanding. Based on conversations she had with legislators, this deliverable was included because there is no inventory of mandatory federal programs currently. She clarified that legislators will want to know what program is in which category. Linda Katz cautioned that we need to be really careful about that – even in the Medicaid program, there are some mandatory populations and mandate services and some that are not mandated. The Commissioner agreed and said a good example of this is that prescription drugs are an optional benefit under Medicaid. Most people would not consider prescription drugs to be an optional service, but it technically is optional under federal rules. Margaret agreed that what Linda flagged could be a concern but that her understanding of the intent is that it is more about awareness. Linda stated that this relates to the point she made earlier that this is an opportunity to educate decision-makers and for all council members to work together on this.

Elena Nicolella stated that related to the comment made earlier on evidence-based practices – we need to think about a process as opposed to tinkering with the nuances of individual state agency programs. So instead of saying, "what is an evidence-based practice that is currently paid for?" Maybe we should be

thinking about recommendations around methodologies and procedures that state agencies should follow – before funding or before continuing to fund a service, agencies ask themselves "is this an evidence-based practice?" Sam Salganik responded that there is very poor evidence for a lot of interventions for very small populations with rare diseases. Evidence-based is sometimes in the eye of the beholder. It takes a large group of people with clinical expertise working together to decide whether something is evidence-based or not. There can be debate about certain services and what constitutes quality evidence and what doesn't. It's important but it may not be the work that this group wants to dig into too deeply.

Cory King stated that we are not going to be making claims about eligibility for Medicaid writ large. We should keep it confined to the services outlined in the law. The final deliverable is to make recommendations around rates and each of the forgoing reports must support that. Cory offered that the council is welcome to debate this thought.

The council began a discussion on deliverable three – reporting on utilization trends. Beth Bixby commented that prioritization is important otherwise it could be overwhelming, and we don't want legislators to shut down and say that we are paying for too much – that could be an unintended consequence. Tina Spears stated that it is not clear to her why utilization trends would be a difficult to report on because MCOs and the MMIS system has a very distinct ability to report out utilization trends. The commissioner responded that conceptually Tina is right. The commissioner went on to ask, practically speaking, is listing out tens of thousands of services useful? Maybe it is. The question is, how can we produce a report on utilization that has the most utility for the legislature, for community members, and for the governor's office. Over time we could produce a highly granular report, but I am not sure that would tell a story that would be useful for advocacy or evaluation. I am not saying we know what the alternative is, but we are trying to get advice on that – do we report at a higher level? Do we aggregate certain things? Do we prioritize things? We are posing all those questions. Sam Salganik stated that there are two challenges that make utilization complicated– one is that there are tens of thousands of data, and we want to highlight what is most important. The other is that we need to put utilization trends in context – what does it mean? If utilization is flat or down what does that mean? Does it mean there is less demand? Or is there less supply because rates are inadequate? Circumstantial context is important.

Maureen Maigret stated that part of the challenge is that we had a pandemic and tremendous workforce shortages in some areas. The commissioner agreed and stated that OHIC is very cognizant of that. In OHIC's cost-trends work, we have had to work through the effects of the pandemic on data and contextualize that data. We found that healthcare spending went down on a per capita basis during 2020, without the pandemic as clear context, that data tells a very different story.

Elena Nicolella reiterate that the deliverable is due on January 1, 2023, and we are still waiting on a consultant. She stated that she thinks we should recognize that at this point there is not going to be any new utilization monitoring possible within a month and a half. She proposed that the council recommend an analysis of what could be reflected in future reports. For example, identify where we currently have utilization data. How is that utilization data collected? Why is it collected? What does it look like? What is missing? We could include all of the existing utilization data, but the report should probably talk about what needs to be done.

Sam Salganik stated that it's hard for utilization data to be meaningful without MCO data. Tina Spears asked if we are going to be including utilization data from the MCOs. Cory King clarified that MCOs are out

of scope for purposes of rate recommendation, but MCOs are not necessarily out of scope for the purposes of broader data reporting. He agreed that MMIS should have utilization data.

Tina Spears asked if the committee might pick some areas within each segment of the social and human service sector that are priority areas and look at related utilization trends. She went on to say that for her providers there are probably 20-30 codes, out of about 500, that are priorities or are utilized more regularly. Tina asked if there was a way to shrink the universe of what we are reporting on, from a trends perspective, so we can hone in on what is most relevant, and then we could report on a broader scope down the road. The commissioner agreed and stated that that would be the kind of guidance and advice from this council that OHIC would find immensely valuable. The commissioner clarified that prioritization doesn't meant things are never going to happen. It means certain things might be focused on earlier, because there is a greater need, and certain things will be focused on later. The commissioner stated that we know we have set timelines in the statute, and we are going to adhere to that subject to available resources, time, council members' advice, and our own deliberations. We will produce the deliverables that meet the criteria for January 1, but it may be that we then go deeper with supplementary reports in February or March, or some other time frame. We don't want this report to just check boxes, but we want it to be useful.

The advisory council began a discussion about the 4th deliverable – "…reporting on the structure of the state government as it relates to the provision of service by social and human service providers including eligibility and functions of the provider network…" Molly McCloskey stated that OHIC thought that this deliverable might look like a map or chart – a visual representation of state government, EOHHS, programs within that, services, and how that interacts with providers. It could function as a reference guide to be in service to the person reading the report. Molly asked if that is that a good idea or if members have a different idea about what deliverable four might look like. Sam Salganik suggested adding MCOs to that because they are a part of the structure of state government as it relates to these services. Tanja Kubas-Meyer asked if we could include which functions are being carried out by state workers and which functions are carried out by the community provider network because that is not clearly captured anywhere. Margaret Holland McDuff stated that she was unsure if this deliverable was the right place for this, but we might address if the system is set up in a way that streamlines the services a person receives. She asked, what does the state structure look like from a consumer's standpoint?

Cory King asked the council, given your understanding of what this report seeks to do, how do you see this deliverable influencing recommendations around rates? Sam Salganik stated that he thought it would be useful for this section of the report to talk about how rates are set – how they are set in the MCO context, how they are set in the state context, how the annual budget process influences rates, and how that all fits together. Tina Spears added that there are unionized services and they are typically paid at a higher rate than the community providers are paid. She thinks that that comparison is likely going to be requested. John Tassoni stated that he thinks we need to look how rates for the same service varies regionally and/or due to agency size and resources. When MCOs negotiate pricing, if agencies don't have the capabilities of having a good attorney, they get a smaller rate. He thinks that rates for the same services should not differ between providers.

Elena Nicolella stated that this is the most challenging deliverable for her because it is unclear what the general assembly is asking. Elena agreed with Margaret – the most important question is, what is the impact on the person who needs services and how does the governmental structure affect a person's

ability to access services easily. It is not clear that that was the question that the generally assembly wanted answered. Elena said that she thinks our goal is to make recommendations around access, affordability, quality, and then match that up to the way that state agencies make rate decisions. Maybe for now it is just important to document the process, and then at a later date we can say "what is the impact of that process?"

Nicholas Oliver stated that the rates aren't always the rates. Nicholas said that one major issue is that there is a rate schedule, but it is compromised by the fact that a number of Medicaid beneficiaries have beneficiary liability payments. He stated that that is a barrier that should be described in this process. If rates are $24/hour for a CNA, a provider might only get reimbursed $17/hour because there is a $7/hour beneficiary liability payment. This affects how provider networks function.

Elena Nicolella suggested that we move to public comment instead of deliverable five due to timing. The commissioner stated that the council would discuss recommendation five at the next meeting.

6. Public comment

Someone from the public suggested that the rate of inflation be taken into consideration and that OHIC should look at how the purchasing power of the dollar impacts services purchased.

Dub Buffi from DCYF stated that DCYF has done a lot of work on rate setting and the state of Massachusetts has recently issued a good road map to look at. Deb recognized that OHIC will be getting a consultant and that OHIC has to answer to the GA, but DCYF worked on rate setting for about 2-years and found that there were a lot of really good concepts in Massachusetts that apply to the child welfare service array.

7. Adjournment