

State of Rhode Island Office of the Health Insurance Commissioner
Health Insurance Advisory Council
Meeting Minutes
September 25, 2018, 4:30 P.M. to 6:00 P.M.
St. James Episcopal Church
24 Hamlet Avenue
Woonsocket, RI 02895

Attendance

Members

Co-Chair Commissioner Marie Ganim, Co-Chair Stephen Boyle, Ruth Feder, Teresa Paiva Weed, Sam Salganik, David Katseff, Hub Brennan, Karl Brother, Deb O'Brien

Issuers

Shawn Donahue, Blue Cross & Blue Shield of RI
Gus Manocchia, Blue Cross & Blue Shield of RI
Liz McClaine, Neighborhood Health Plan of RI

State of Rhode Island Office of the Health Insurance Commissioner Staff

Linda Johnson, Jay Garrett

Not in Attendance

Al Charbonneau, Vivian Weisman, David Feeney, Deb O'Brien, Dan Moynihan

Minutes

1. Welcome and Review of June Meeting Minutes

Commissioner Ganim called the meeting to order and welcomed all Health Insurance Advisory Council (HIAC) members and others in attendance.

The minutes from the June 18, 2018 HIAC meeting were accepted unanimously with no changes.

2. Summary of Findings in Market Conduct Examination of BCBSRI

Linda Johnson and Jay Garrett summarized OHIC's report on its market conduct examination of Blue Cross & Blue Shield of RI. The examination focused on BCBSRI's practices relating to coverage of behavioral health services. BCBSRI was found to be non-compliant in certain areas, mostly relating to utilization review procedures. BCBSRI will voluntarily discontinue utilization review for in-network behavioral health services and has also volunteered to contribute \$1 million per year for the next five years to a new behavioral health system improvement fund to be administered by the Rhode Island Foundation.

Linda and Jay said that BCBSRI was fully cooperative and responsive to OHIC throughout the entire market conduct examination process; this was echoed by BCBSRI medical director Gus Manocchia, who was present at the meeting.

Dr. Hub Brennan said that, in his experience, he has never had a problem with getting behavioral health services for his BCBSRI patients and asked how that might be reconciled with OHIC's findings. Linda indicated that they did not see as many issues with utilization review for outpatient services.

Hub asked what the process would be for disbursement of grant dollars from the RI Foundation fund. Commissioner Ganim said that a 5-member review committee would be formed. Two members of the committee will be representatives from the State of Rhode Island (Commissioner Ganim will be one of these); one member will be a representative from BCBSRI; and two members will be community-based behavioral health clinicians. This committee will develop criteria within the RI Foundations basic guidelines.

David Katseff and Teresa Paiva Weed inquired as to why the majority of the data used for the study was from 2014 as opposed to more recent data, and why the examination took over 3 years to complete. Linda answered that the fact that OHIC had only two staff persons to review the 444 cases and temporary suspension in the examination due to a reduction in OHIC's budget were major contributing factors to the examination's timeline. As to the age of the data, Linda said that BCBSRI was afforded the opportunity to demonstrate what may have changed in the years since 2014. Ruth Feder and Sam Salganik noted, based on their research and work with consumers, that many of the report's findings were known to still be issues today.

Karl Brother commended OHIC for their work on the examination and for working cooperatively with BCBSRI to identify, document, and address the issues raised in the report. Steve Boyle and Sam Salganik echoed this sentiment. Sam also said that he would like a future examination on behavioral health parity to look at network adequacy.

Commissioner Ganim responded to some discussion and reports in the press that BCBSRI had been "fined" or was paying a "penalty" by reiterating that this was not the case and the report was very clear that BCBSRI's contribution to the behavioral health system improvement and any other behavioral health investments was not a penalty.

3. OHIC Office Updates

Commissioner Ganim told the Council that OHIC had received what would be the final available grant under the Affordable Care Act. The grant will fund enforcement of ACA consumer protections.

Two grant-funded positions were filled since the last HIAC meeting. Courtney Miner started work at OHIC over the summer. Marea Tumber will start work at OHIC next week under the SIM grant. Marea replaces Libby Bunzli who went to work at the state Medicaid office under EOHHS.

4. OHIC's Regulation of Short-Term Health Plans

David had requested that this topic be discussed at by the HIAC in light of recent changes to federal regulations and OHIC's response. David started by saying that he realized many people had been "burned" by inadequate coverage under a short-term plan. But he also said he felt that we don't always spend as much time as we should advocating for those who might benefit from a short-term plan—

individuals who do not get employer-sponsored insurance, are more or less healthy, and whose income is too high to qualify for a subsidized plan under the ACA.

Commissioner Ganim reminded me the Council of the recent federal rules change – short-term plans had previously been limited to 90 days, but can now have an initial term up to 364 days, renewable for up to 3 years. Short-term plans are not subject to ACA requirements like essential health benefits or pre-existing condition exclusions.

However, short-term plans are still subject to state regulations and requirements. In the case of Rhode Island, that includes OHIC requirements on medical loss ratio as well as benefit mandates and the requirement not to have any pre-existing condition exclusions. Since OHIC requires short-term plans to be filed and to meet these requirements, there are currently no known short-term plans that are approved for sale in Rhode Island.

Commissioner Ganim said that OHIC and HealthSource RI had, in the Spring, jointly convened a Market Stability Workgroup to study and make recommendations as to how to ensure stability in Rhode Island's health insurance market, particularly the individual market. One of the Workgroup's recommendations was that short-term plans be regulated the same as individual market plans. As a result, legislation to codify OHIC's current regulation of short-term plans into state law was introduced but did not pass. OHIC expects similar legislation to be introduced in the General Assembly in 2019.

Commissioner Ganim also pointed out that New York and New Jersey treat short-term plans similarly, effectively regulating them out of the market, and that other states are seeking to do the same.

Ruth Feder commented that Mental Health America, of which her organization, Mental Health Association of RI, is an affiliate, has joined litigation in Washington against the new federal rules.

David said that when he saw the news of the federal rules change, he felt that he was finally seeing something that would help middle class families who do not qualify for tax credits or subsidies and who have to pay \$1500 to \$1800 a month for health insurance. He acknowledged, in light of the conversation, that short-term plans may not necessarily help address the issue but reiterated that it is still very much a problem.

Commissioner Ganim and others agreed, and the Commissioner mentioned work being done by OHIC and HealthSource RI to establish a state-based reinsurance program to help control premium rates, another recommendation by the aforementioned Market Stability Workgroup.

5. Update on Cost Trends Project and Market Stability Workgroup

Steve Boyle spoke briefly about the Market Stability Workgroup. Members included business, provider, insurer, and consumer representatives as well as state legislators. The Workgroup was jointly convened by OHIC and HealthSource RI to examine what could be done at the state level to counter federal policy changes meant to undermine the Affordable Care Act and that threatened the stability of Rhode Island's health insurance market.

The Workgroup's top recommendations included regulating short-term health plans and immediately seeking authorization from General Assembly to apply for a federal 1332 innovation waiver to establish a state reinsurance program. Legislation granting this authorization was passed in June. With the details

of how such a reinsurance program might be funded and structured still to be determined, the Market Stability Workgroup will be reconvened to make further recommendations. The Workgroup will also examine what action the state should take to codify ACA protections into state law. The Workgroup will meet bi-weekly from October through December, aiming to have a set of recommendations ready before the General Assembly begins its 2019 legislative session.

Commissioner Ganim updated the Council on the Cost Trends Project. A steering committee of insurers, providers, state healthcare policymakers and others was formed as part of this project. The goal is to set a target for health care cost growth for the state. The project is supported by a \$550,000 grant from the Peterson Center on Healthcare; this funding is primarily for Brown University to perform the data analysis on cost trends, using the state's All Payer Claims Database.

Teresa Paiva Weed commended the Commissioner and OHIC for their work on the cost trends project and Steve Boyle and Karl Brother also expressed appreciation for this work, both noting that they and other HIAC members have been advocating for such a cost trends analysis and potential spending target for some years.

6. Public Comment

No members of the public offered comment.

Next Meeting

The next meeting of the Health Insurance Advisory Council will be Tuesday, October 16, 2018, from 4:30 – 6:00 PM at the State of Rhode Island Department of Labor and Training, 1511 Pontiac Avenue, Building 73-1, Cranston, RI, 02920-4407.