

**Louisiana Health Care Commission Meeting Minutes  
Poydras Building Hearing Room  
Baton Rouge, Louisiana  
April 29, 2016**

**Members present:** Diane Davidson, Rachel Durel, Rusty Eckel, William Ferguson, John Fraiche, Arnold Goldberg, Faye Grimsley, Korey Harvey, Linda Hawkins, Jesse Lambert, Eva Lamendola, Jennifer McMahon, Barbara Morvant, John Overton, Daniel Paquin, Ed Parker, Debra Rushing, Chris Vidrine and Bryan Wagner

**Members absent:** Robelynn Abadie, Jeff Albright, Eric Baumgartner, Amy David, Lisa Gardner, Lauren Gleason, Thomas "Kyle" Godfrey, Hedy Hebert, Marlon Henderson, Mike Huval, Jesse McCormick, Rachel Moore, Andrew Muhl, Ronnel Nolan, Katie Parnell, Clay Pinson, James "Butch" Sonnier, Senator Rick Ward and Thomas Wright

**Staff present:** Crystal M. Campbell and Julie Freeman

Chairperson Fraiche called the meeting to order at 9:00 a.m. and introduced the new Assistant Director, Julie Freeman, of the Louisiana Health Care Commission.

Dr. Fraiche asked for a motion to approve the minutes from the April 29, 2016 meeting. Mr. Ed Parker moved for approval and Dr. William Ferguson seconded the motion. With no objections, the Minutes were approved.

After roll call, Chairperson Fraiche turned the meeting over to Commissioner Donelon for opening remarks. Commissioner Donelon acknowledged the success of the LDI's Annual Health Care Conference held on April 12 at the Renaissance Hotel in Baton Rouge. Commissioner Donelon further addressed the withdrawal of United Healthcare ("UHC") from the individual market in Louisiana. He stated Kyle Godfrey, Director, Regulatory Affairs and Associate General Counsel for UHC, brought official notification to him about UHC's withdrawal from the individual market in Louisiana based on the fact that it lost \$15 million in the individual insurance market in Louisiana last year on its individual book of business. He stated a report issued by Kaiser revealed if UHC exited the market and no insurance issuer entered the individual marketplace in the 59 Louisiana parishes, there would be two remaining statewide insurers available on the exchange—specifically, Blue Cross and Vantage; the remaining parishes would have three remaining insurers as a result of Humana's participation. Commissioner Donelon advised that insurers must notify regulators by mid-May as to whether they intend to operate on the individual exchange next year; health forms and rate filings are due on May 11. He also stated that Vantage will again offer statewide coverage in the individual market in 2017.

Mr. Korey Harvey, Deputy Commissioner, Office of Health, Life and Annuity, also stated there are not currently any health insurers to recruit to Louisiana, since the amount

of capital required to participate in a major medical business is extraordinary, and by law, an insurer is guaranteed to pay claims. Also, it was difficult for smaller regional carriers to remain in the business as a result of the risk adjusted formula governed by the ACA.

Chairperson Fraiche introduced Mr. Jeff Drozda representing the Louisiana Association of Health Plans, who presented an overview of the bills currently pending in the 2016 Louisiana Legislative Session. Mr. Drozda stated there is greater utilization and more people being covered by health insurance, albeit with increasing premiums, but stated the following regarding legislation that could have a positive impact on the state, if enacted:

- HB 312- Originally drafted to eliminate the Mandated Health Benefits Commission which was not meeting regularly or serving a purpose, but the federal government sought additional information and advised the state that if there would be additional mandates, then the state would pick up the costs of those mandates. There are several mandates in the Legislature, including the TMJ mandate. This bill is pending before the Senate Insurance Committee.
- HB 412- The opponents of this bill reached out to its author and requested a deferral of this bill, so there's been no resolution to balance billing and this bill is pending before the House Insurance Committee.
- HB 836-Provides for the review and approval of health insurance rates. The issue with this bill is the Legislature's concern about the department setting rates in a volatile atmosphere; if the department sets the rate too low, it might have catastrophic consequences on the market and the state, and if the department sets it too high, there will be catastrophic consequences for the consumer in terms of providing access to care. This bill is pending before the House Insurance Committee.
- SB 198 -The issue with NAIC regarding the network adequacy model is each state is different. This bill remains with the Senate Insurance Committee
- SB 199- Provides for approval by the commissioner of insurance for the merger of a domestic insurance or HMO. This bill is currently pending before the House Insurance Committee. Deputy Commissioner Korey Harvey added that the department has significant authority over routine mergers, but if it is a merger of two domestic HMO's, the manner in which the statute is drafted doesn't require the same amount of approval and review, so this bill seeks to correct that.
- SB 200- This technical bill provides authority of the commissioner to address violations. The department continues to review this bill.
- SB 217- Provides for the confidentiality of records during receivership proceedings. This bill is pending before the House Insurance Committee.
- SB 316 - Provides relative to balance billing for non-covered health care services. This bill remains with the Senate Insurance Committee.

- SB 343- Provides an opportunity for an entity to seek clarification on a statute or bulletin relative to the issuance of private letter rulings by the commissioner. This bill is pending before the House Insurance Committee.
- HB 663- Provides requirement for notice to a non-captive insurance producer prior to an insurance company terminating the producer's appointment. This bill is likely on its way to the governor within the next week.
- HB 746-Provides for licensing and regulation of insurance consultants by the commissioner of insurance. This bill is currently under House consideration.

### **Pharmacy/PBM Legislation**

- HB 845- Provides relative to pharmacy benefit managers. There was some discussion prior to the session as to whether independent pharmacists wanted to move the jurisdiction of PBM's from the LDI to the Board of Pharmacy but this concept is not similar to other states. This bill is not likely going anywhere but will presumably be reintroduced again next year.
- HB 849- Provides a time frame for appeals of adverse determinations made regarding the medical necessity of prescription drugs and intravenous infusions. Modifications are being made to contractual language in policy which entities want to statutorily codify, prompting cause for concern from industry across the state due to the fact that each time there is a change in contract or in policy, it would be necessary to codify the statute which could be potentially damaging to both consumers and industries. This bill is currently pending for House floor action.

### **Telemedicine Legislation**

- HB 570-Provides for making the standard of care equal, whether in person or not, and provides for more flexibility of specialty positions for those who are out of state. This bill is currently pending before the Senate and Welfare Committee.
- SB 328: Provides for telehealth access. This bill is pending before the House Health and Welfare Committee and will be heard this week.
- HB 705-Prohibits specific contractual provisions for contracts with health insurance issuers. This bill would prohibit dual contracting and preclude forcing physicians to participate in Medicaid.
- HB 613- Provides relative to genetic information obtained by health insurers. This bill is pending before the Senate for action.

- HB 754-Provides for the time of modification of drug coverage by health insurance issuers. This bill is pending before the House Insurance Committee.
- HB 816-Provides for the implementation of Medicaid managed long term care services. This bill is pending before the House Health and Welfare Committee.
- HB 961-Requires educational or marketing materials for prescription drugs directed to healthcare providers to include price information. This bill will be heard next week before the Health and Welfare Committee.

Chairperson Fraiche introduced Mr. Jeff Reynolds representing the Department of Health and Hospitals (“DHH”), who provided an update on DHH’s status with Medicaid expansion for state fiscal year 2016 and the budget for fiscal year 2017.

Mr. Reynolds reported that Governor Edwards signed an Executive Order to move forward with Medicaid expansion, which moved through the administrative process and an oversight hearing before the Senate Health and Welfare Committee. He advised that the state is currently on track for July 1 Medicaid expansion to go into effect, and with the approval of the federal government, Medicaid expansion cards will be issued on July 1.

Mr. Reynolds stated anyone with a household income below 138 percent below the federal poverty level will qualify for Medicaid expansion, as follows:

- Household of one, with an income of \$16,242/year
- Family of four, with an income of \$33,465/year
- Family of five with an income of \$44,946/year

Mr. Reynolds further stated projected enrollment for state fiscal year is 200,000 people. He reported there is a Take Charge Plus Clients Program for those who have applied for but did not qualify for Medicaid but did qualify for family planning services. He stated there are 132,000 people enrolled for this limited benefit who would also qualify for expansion. Mr. Reynolds stated that on May 15, DHH will start accepting applications for those who do not meet the criteria. According to Census data, out of 375,000 people, there are 275,000 new adults who could potentially enroll in the program. Currently, 46 percent of those are enrolled for fiscal year 2016. Also, 32,000 parents of children on Medicaid who do not have health insurance will be able to qualify for the program.

Mr. Reynolds advised there are “Employer Crowd Out” and “Individual Crowd Out” plans consisting of people who currently have insurance through their employer or self through the individual market. Projections by DHH show an additional 30,000 clients this year. He stated while this number may seem low, a stigma exists with Medicaid; it would be more financially feasible for consumers who have private insurance to opt for Medicaid, but they instead choose to maintain their health insurance coverage provided through their employer.

Mr. Reynolds further stated that DHH is considering bringing back the former Louisiana Health Insurance ("LaHIP") Program and implementing it as part of the expansion in order to keep the "crowd out effect" down.

Chairperson Fraiche questioned Mr. Reynolds as to how DHH would entice physicians to join the Medicaid program. Mr. Reynolds stated that on average, DHH pays 66 percent of costs when reimbursed on a per diem basis, so when physicians are treating a Medicaid client, physicians are losing money and there is currently no monies available to raise Medicare rates which is what will attract primary care physicians' participation in the program.

Chairperson Fraiche also addressed Mr. Reynolds about the national problem with opiate dependence. Mr. Reynolds stated that the Medicaid population problem predominantly exists in the rural south for those patients with incomes less than \$40,000 per year and stated there are limited resources to remedy this problem but DHH continues to monitor it.

Mr. Reynolds then discussed the budget for state fiscal year 2016 that concludes on June 30. DHH is projected to reach June 30 without any reductions. Thus, payment of claims or fees for services are projected to be made through June 30 without issue for the fiscal year. Regarding the budget for fiscal year 2017, following the special session, the state's deficit went from \$2 billion to \$750 million, and out of a \$750 million deficit, \$408 million was assigned to DHH for fiscal year 2017. He also reported \$23.6 million of the state's general fund reductions will come from DHH. Those reductions include the Office of Public Health for reductions in restaurant inspections; Office of Behavioral Health for reductions of forensic patients, defined as the "criminally insane" at the Jackson, Louisiana facility; and the Office of Aging Services for Hospice, etc. He also stated that in the Bayou Health program, there is a downward trend in enrollment and projected growth decreases in state fiscal year 2017, with \$62.5 million in savings. Also, when looking at expansion adjustments, there will be another \$176,000 in savings being applied to state fiscal year 2017.

Mr. Reynolds also reported additional savings would occur through expansion by refinancing the health care of pregnant women through Uncompensated Care Costs Disproportionate Share Hospital ("DSH") Program expenditures to the public private partners from within the expansion population from July through December 2016. Another budget measure Mr. Reynolds reported would be to eliminate funding for in-home services. He stated the federal government is promulgating a rule for those employers who provide in-home care services, who would be subject to the Fair Labor Standards Act.

Additionally, there will be a reduction in Prescribed Minimum Benefit payments to five Bayou Health plans based on an actuarially sound range.

Regarding public private partner hospitals, Mr. Reynolds stated there is not any funding available to the four public private hospitals in Lake Charles, Chabert, Bogaloussa, Houma and Alexandria for state fiscal year 2017. In individual markets, this will be

catastrophic to those Medicaid clients and the uninsured, also having a profound effect on the private insurance sector, consequently inundating other hospitals. According to Mr. Reynolds, the biggest optional, remaining DHH program is the DSH Program with currently no mandate from the federal government to proceed with this program that is entirely at the discretion of the state. He advised he's spoken to Governor Edwards who is in favor of shutting down these hospitals which provide valuable services to the state and is working with the Legislature to identify what funding is necessary in order to continue these vital services. However, there is an anticipated 20 percent reduction in DSH expenditures at the aforementioned hospitals, thus the formerly uninsured will have a Medicaid card to file their claims with Bayou Health and receive a daily per diem dollar amount from the program. Mr. Reynolds stated there is projected movement from DSH to Bayou Health, but even with these savings, DHH will still come up short.

Lastly, Mr. Chris Vidrine with LSU Health Sciences Center gave a presentation on the Louisiana Physician Workforce.

Mr. Vidrine reported there will be a total physician shortfall between 61,700 and 94,700 by 2025. However, according to the Institute of Medicine, there is no shortage of physicians but rather a maldistribution. He stated Louisiana is close to the national average and ranks 42nd in the country. However, due to medical advances, utilization rates, available supply and other advances, Louisiana has a shortage of primary care physicians, as well as internal medicine and mental health providers, though the population is increasing and there is an increase in health care coverage as a result of the ACA.

Mr. Vidrine also reported the age percentage change between 2003-2014 with respect to Louisiana Direct Patient Care Physicians:

- 34 years old and younger – 10 percent increase
- 35-44 years old - 2 percent increase
- 45-54 - 9 percent decrease
- 55-64 years old – 47 percent increase

Based on practice location, there was a 12 percent increase in urban populations and a 19 percent increase in rural populations. Based on practice type, there was an 11 percent increase in primary care physicians; a 14 percent increase in non-primary care physicians; a 3 percent increase in males and a 54 percent increase in females.

Overall, Vidrine reported medical school and resident enrollments have increased as well as programs targeting primary care; public medical school retention of medical students and residents is among the top in the country; shortages exist in primary and specialty care; there is a projected increasing demand for primary care physicians and continued support for medical schools in order to have the requisite number of health care providers to care for our citizens.

With no further business Chairperson Fraiche asked for a motion to adjourn the meeting. Mr. Jesse Lambert made a motion to adjourn and Dr. Faye Grimsley seconded the motion. Hearing no objections, the meeting was adjourned at 11:00 a.m.