

MINUTES
Health and Human Services Commission Council Meeting
June 14, 2013

Agenda Item 1. Calling the Meeting to Order

The Health and Human Services Commission Council met at the Health and Human Services Commission (HHSC) headquarters, Brown-Heatly Public Hearing Room, 4900 North Lamar, and Austin Texas.

Cindy Mendl called the roll.

Council members present:

Mr. Jerry Kane
Dr. Maryann Choi
Ms. Karen Harris
Pastor Manson Johnson
Mr. Leon Leach
Mr. Thomas Wheat
Ms. Kathleen Angel
Mr. Richard Barajas

There were eight members physically present, a quorum was held. Also present was Kyle Kamrath from the Governor's office, Heather Fleming from House Appropriations and other HHSC executive staff.

Agenda Item 2. Approval of Council Minutes from February 28, 2013

May the minutes reflect that this meeting convened at 10:10 a.m., on June 14, 2013. The February 28, 2013 minutes were reviewed. Pastor Johnson made a motion to approve the minutes and Leon Leach seconded the motion. All were in favor and the February 28th minutes were approved.

Agenda Item 3. Executive Commissioner's Report

Dr. Janek began by noting that Mr. Richard Barajas, our newly appointed council member, was in attendance for the meeting and that he had replaced Ms. Sharon Barnes whose term expired in February of this year.

The Commissioner then began to give the Council a post session overview. He reminded the council that the Regular Session adjourned Sine Die on May 27th, but a Special Session was called hours later. He noted that HHSC tracked 872 bills in the Regular Session, of which 178 made it all the way through the legislative process and have now been sent to the Governor for his approval. Dr. Janek let the council know that the Governor has until this Sunday to veto bills or line items of the budget. By our best estimates, with the information we have right now, we believe we will be responsible for implementing about 100 bills, and about 30-40 key budget riders.

Dr. Janek continued boasting that the Enterprise as a whole had a very good session. He mentioned that there was a 6.4 percent increase in GR and a 7.1 percent increase in AF over last biennium and that 17 of the agency's 21 exceptional item requests were funded, including various information technology projects, improved building security projects, and fraud detection and integrity projects in the Office of the Inspector General.

Dr. Janek continued to speak about session and that SB 7 and SB 8 were both legislative initiatives for the agency and were adopted by the legislature. SB 7 changes how medical and long-term services and supports (LTSS) are provided through Medicaid and SB 8 allows Texas to take a more proactive approach to prevent Medicaid fraud, and transitions the non-emergency medical transportation program to a managed care delivery model.

Dr. Janek reminded the council that during the last meeting he mentioned the shortfall the state was facing to fund Medicaid, but the Legislature adopted two supplemental appropriations bills that contain funding needed to continue operations and fund the Medicaid provider for the remainder of the current biennium. The Commissioner concluded his session update by informing the council that Agenda Item numbers 5.a through 5.d are expedited because they're direct results of bills or riders that passed out of the 83rd Regular Session and need to be implemented by September 1, 2013.

The second part of the EC status update was regarding DSRIP. Under the Medicaid 1115 Transformation Waiver, \$11.4 billion AF available over five years (December 12, 2011 – September 30, 2016) to support projects that improve healthcare delivery in Texas; targeting the Medicaid and low-income uninsured populations. The EC noted HHSC submitted 1322 projects for federal review to the Centers for Medicare and Medicaid Services (CMS) earlier this year. CMS has provided initial feedback on all 20 RHP plans. About 85 percent of the projects received initial federal approval and CMS agreed to 71 percent of the proposed funding levels (almost \$3.2 billion) for the first two years of the projects (demonstration years 2-3). Many projects are underway and will be eligible to begin reporting performance in August 2013 to earn DSRIP funds for demonstration year 2. Project reporting and payment will take place twice a year.

Full CMS approval for most projects, which will include approval for the latter two years of waiver funding (demonstration years 4-5), is targeted for September 1, 2013. The first DSRIP payments for demonstration year 1 have been made (totaling about \$500 million all funds statewide). This first payment is for the development and successful submission to CMS of the regional plan and the projects within each plan. The first reporting opportunity for project achievement will be in August with the next round of associated payments made to DSRIP providers in October-November.

Agenda Item 4.a. Lisa Subia, HHSC Budget Director, gave an update on the FY 2014-2015 Budget, Senate Bill 1, from the 83rd Legislative Session. Lisa covered the base budget, plus exceptional items, and some changes the agency will see due to the Affordable Care Act. Commissioner Janek noted the reduction in CHIP was due to ACA. A lot of those clients will go to Medicaid.

Chairman Kane asked if next time the line item numbers she gave could be listed on the presentation as well instead of just spoken.

Ms. Karen Harris asked for the definition of an Exceptional Item. Lisa responded that they are items (funds) we ask for outside of the base budget.

Pastor Johnson asked what All Funds meant. Lisa informed him that All Funds equals State plus federal revenue.

There was no public comment.

Agenda Item 5.a. Carolyn Pratt presented an informational rule regarding inpatient hospital reimbursement. These rules describe the reimbursement methodology for inpatient hospital reimbursement. The amendments and repeals are being proposed to comply with the 2014-2015 General Appropriations Act. Basically it's consolidating 3 rules into 1.

There was no registered testimony for this agenda item or questions from the Council.

Agenda Item 5.b. Carolyn Pratt presented an informational rule regarding payment for hospital services. This rule describes the reimbursement methodology for hospital outpatient services. These amendments are being proposed to comply with the 2014-2015 General Appropriations Act to effectively monitor and reduce costs. Specifically these rider sections direct HHSC to: 1) continue to adjust outpatient Medicaid payments to a fee schedule that is a prospective payment system and that maximizes bundling of outpatient services, including hospital imaging rates, and 2) expand efforts to develop more appropriate emergency department hospital rates for non-emergency related visits.

Chairman Kane made a statement about non-emergent care. Said it's been predicted for years that doctors are going to stop being able to get away with closing offices at 3pm and making patients go to ERs where there are 12 hour waits. Has there been any discussion about subcontracting with triage centers that would divert patients who have emergencies. The EC answered by stating that MCOs will incentivize docs to stay open later. If doctors take care of a patient in an ER setting but it was not an emergent situation then we are not reimbursing them at an emergent rate.

There was no public comment.

Agenda Item 5.c. Laurie Van Hoose presented the third informational rule regarding Out-of-State-Medicaid Provider Eligibility. Senate Bill 1401 requires enrollment of laboratories in Texas Medicaid as in-state providers, regardless of where the facility is located if the laboratory or its parent entity maintains laboratories in Texas; the laboratory and associated entities employ at least 1,000 people in Texas; and the laboratory is qualified to provide services and not prohibited from participating as a provider based on activities that constitute fraud, waste, or abuse.

Chairman Kane asked for clarification on where the providers have to be under this new rule. The answer was, in Texas.

There was no registered testimony for this agenda item.

Agenda Item 5.d. Andy Vasquez presented an informational item regarding Medicaid Managed Care Outpatient Pharmacy Services. S.B. 1106 requires Medicaid and CHIP MCOs to be transparent about disclosing to pharmacies how they set their maximum allowable costs (MAC) for drugs. This includes allowing pharmacies to challenge a MAC price, notifying pharmacies of changes to MAC prices weekly, and providing a process for a pharmacy to readily access its MAC prices. S.B. 644 requires Medicaid and CHIP MCOs to accept standard prior authorization (PA) forms developed by the Texas Department of Insurance (TDI) when submitted by doctors for pharmacy/healthcare services.

Chairman Kane asked what happened when there were no generics available. Andy noted there would be no impact in that case; it only applies when generics are available.

Michael Wright, Texas Pharmacy Business Council Director, submitted written testimony.

Agenda Item 5.e. Ardas Khalsa presented an informational item regarding wavier reimbursements for other performers. This rule allows for HHSC and CMS to agree to allow other providers, such as community mental health centers and local health departments, to participate as performers.

There was no public comment on this agenda item.

Agenda Item 5.f. Ardas Khalsa presented an informational item regarding funding for Waiver Monitoring Program. This rule describes the amount to be withheld from each IGT submitted for the purpose of a DSRIP payment and the method by which unused funds will be returned to transferring governmental entities.

Maureen Milligan, representing the Teaching Hospitals of Texas, testified.

Agenda Item 5.g. Ardas Khalsa presented an informational item regarding amendments and clarifications for the Texas Healthcare Transformation and Quality Improvement Program. The Amendments include: Additional requirements on DSRIP performers and RHPs, a process for RHP plan review after an RHP is informed of CMS approval and concerns, the addition of a midpoint assessment on all DSRIP projects, a new process for RHP Plan modifications and potential redistribution of RHP allocations.

There was no registered testimony or council questions for this agenda item.

Agenda Item 6.a. Patricia Hervey presented on a rule regarding Medicaid Hospital Services. Changes help with consistency in claims processing system processes that have been implemented as part of the new National Correct Coding Initiative methodologies. Specifically, the claims processing system now processes inpatient hospitalization and related expenditures on all claims that exceed the annual individual inpatient cap of \$200,000 sequentially, based on the

date of service, rather than based on the date billings are received. Also corrects rule and agency references.

There was no registered testimony for this agenda item.

Pastor Johnson made a motion to recommend that the proposed rule currently published in the Texas Register be adopted.

Karen Harris seconded the motion.

All were in favor.

Agenda Item 6.b. Patricia Hervey presented on a rule regarding Federally Qualified Health Centers Affiliation Agreements. Requires an FQHC to attest that the affiliation relationship between the FQHC and a health-care provider (affiliate) that is the subject of an affiliation agreement is justified by reason of access to care, scope of services, or cost-effectiveness. Once HHSC receives the attestation, it has 30 days to review the attestation to ensure that the affiliation is sufficiently justified.

Pastor Johnson asked if this agreement is something that will come from the agency? Patricia noted that the affiliation will require that providers attest that they abide by our rules.

Dr. Choi noted that this is a good rule and prevents loopholes.

Chairman Kane asked how do they account for private pay? Patricia stated that we can't speak to how private pay is accounted for; just Medicaid. Chairman Kane would like for us to check that out.

There was no registered testimony for this agenda item.

Pastor Johnson made a motion to recommend that the proposed rule currently published in the Texas Register be adopted.

Kathleen Angel seconded the motion.

All were in favor.

Agenda Item 6.c. Dan Huggins presented on a rule regarding reimbursement methodologies for advanced telecommunication services. This rule aligns the reimbursement methodology rule with the proposed HHSC rule concerning the home telemonitoring program.

Dr. Choi asked if this was a one way data transfer. Dan stated it's a one way transmission from patient to hospital or home health agency.

Ms. Karen Harris noted that this is great for people not in the big city. She's very happy to see this.

Jettie Eddleman, Texas Association of Home Care and Hospice, testified in support of this rule.

Ms. Kathleen Angel made a motion to recommend that the proposed rule currently published in the Texas Register be adopted.

Mr. Leon Leach seconded the motion.

All were in favor.

Dr. Choi had to leave the meeting at this time. A quorum was still present.

Agenda Item 6.d. Laurie Van Hoose presented on a rule regarding the repeal of the Women's Health Program rules. These rules, governing the Medicaid Women's Health Program, are no longer necessary because the program ceased operations on December 31, 2012.

There were no questions or public comment.

Ms. Karen Harris made a motion to recommend that the proposed rule currently published in the Texas Register be adopted.

Mr. Thomas Wheat seconded the motion.

All were in favor.

Agenda Item 6.e Laurie Van Hoose presented on a rule regarding unauthorized charges and concerning payments to eligible providers. This rule updates obsolete references to Texas Administrative Code citations and updates agency and program names.

There were no questions or public comment.

Pastor Johnson made a motion to recommend that the proposed rule currently published in the Texas Register be adopted.

Ms. Kathleen Angel seconded the motion.

All were in favor.

There was no further business taken up or discussed.

Chairman Kane adjourned the meeting at 12:06 p.m., June 14, 2013.