

Tennessee Health Insurance Committee (THIC) Meeting

MINUTES

July 21, 2015

1:00-3:00 PM

BUREAU OF TENNCARE
310 Great Circle Road, Nashville, TN

MEETING CALLED BY	Darin Gordon, Deputy Commissioner, Bureau of TennCare, Division of Health Care Finance & Administration (HCFA)
TYPE OF MEETING	Full Committee Meeting
FACILITATOR	Deputy Commissioner Darin Gordon, Chief of Staff Wendy Long, Deputy Chief of Staff Brian Haile, General Counsel Gabe Roberts
NOTE TAKER	Ryan Bouldin
ATTENDEES	Board Members: Eric Harkness (Health Planning), Commissioner John Dreyzehner, MD (Health), Larry Van Horn, Ph. D., MPH, MBA (Vanderbilt), Bernie Inskeep (UnitedHealth), Kathy Wood-Dobbins (TPCA), Commissioner Julie McPeak (C&I), Laurie Lee (delegate for Commissioner Larry Martin), David Sitzel (Aetna), Heather Gunderson (MHSAS designee for Commissioner Varney), Mary Layne Van Cleave (THA), Christie Travis (MBGH), Nick Coussoule (BCBST), Landon Combs (TMA), Micah Cost (TPA), Vickie Lake (THA), Lance Iverson (DIDD designee for Commissioner Payne), Troy Sybert, MD, MPH (TMA), Chief of Staff Wendy Long, MD (designee for Director of the office of e-health initiatives), Deputy Commissioner Darin Gordon (Chairman representing Commissioner Larry Martin) Observing: Karly Schledwitz (HCFA)
ABSENT	Micheal Corey Ridgway (Representing ambulatory surgical centers)

WELCOME

HCFA DEPUTY COMMISSIONER DARIN GORDON

Chairman Darin Gordon welcomed the committee members for their participation. A quorum was established at 1:00 PM. An overview of the agenda was provided to the committee.

ALL-PAYER CLAIMS DATABASE (APCD) OVERVIEW

HCFA DEPUTY COMMISSIONER DARIN GORDON

Chairman Gordon gave a brief historical perspective of the APCD and data use/sharing in conjunction with the Tennessee Health Insurance Committee's (THIC) legal responsibilities. He discussed the statutory creation and structure of the Committee, its charge, and the fact it is administratively attached to the Division of Health Care Finance and Administration (HCFA) within the Department of Finance and Administration (F&A). He also referenced the administrative rules and the APCD Procedure Manual, which govern how the State collects data from payers and which establish penalties for noncompliance. Finally, Chairman Gordon reviewed the history of the Committee and the all payer claims database (APCD) since 2009.

Chairman Gordon noted as of May 2015 the new APCD submission standards became effective and that issuers are currently in the middle of data submission. Of 44 issuers, 12 passed quality testing or are in production, 5 issuers are in test status, and 27 issuers have received extensions and will be testing by early September 2015.

CONFLICT OF INTEREST POLICY

HCFA GENERAL COUNSEL GABE ROBERTS

HCFA General Counsel Gabe Roberts made committee members aware that a copy of the conflict of

interest policy was emailed prior to the meeting to each member, and he indicated that each member is bound by the policy. Mr. Roberts provided a verbal section-by-section summary in order to provide context. Mr. Roberts also provided an overview of the Open Meetings Act and Open Records Act, which both apply to the Committee. Mr. Roberts stated that to the extent that a member wants to participate in this or future committee meetings, he or she is required to sign the Conflict of Interest Policy.

REVIEW FUNCTIONS OF THE APCD**CHIEF OF STAFF WENDY LONG, MD**

HCFA Chief of Staff Wendy Long explained the broad statutory purpose of the APCD, which include:

- Improving the accessibility, adequacy and affordability of patient health care and health care coverage;
- Identifying health and health care needs and informing health and health care policy;
- Determining the capacity and distribution of existing health care resources;
- Evaluating the effectiveness of intervention programs on improving patient outcomes;
- Reviewing costs among various treatment settings, providers and approaches; and
- Providing publicly available information on health care providers' quality of care.

Dr. Long explained the APCD is in preliminary stages and the database is incomplete. She contextualized Tennessee's APCD efforts by reviewing a summary of analyses derived from data in other states' APCDs. Specifically, she noted the states have used APCD data to:

- Evaluate specific programs that have been put in place by their state;
- Evaluate a particular piece of legislation (e.g., addressing balance billing by out-of-network providers);
- Evaluate patient-centered medical home programs (e.g., whether or not patients enrolled in such programs experience a different quality of care or a different utilization of services than individuals who are not enrolled in the program);
- Look at focused areas of utilization (e.g., how much a particular pain medication such as opiates or pain therapies are being provided or how much anti-depressant therapies being provided and populations receiving those particular services); and
- Evaluate quality improvement programs (e.g., tracking progress around interventions to address high caesarian section rates).

However, Dr. Long also noted Tennessee would not be able to replicate many of these efforts because our APCD data currently does not have patient identifiers that allow us to link data for the same patient across payers and across time.

COMMON IDENTIFIER**HCFA GENERAL COUNSEL GABE ROBERTS**

Building on Dr. Long's point about the importance of patient identifiers, Mr. Roberts explained that the prior contractor, OnPoint, had a unique member table that contained over 7 million individuals. By comparison, the state had, at most, 5.1 million covered lives in the APCD at that time. He noted that HCFA and C&I staff had recent conversations about two potential ways to track individuals across payers and time while complying with the statute (by not collecting common identifiers). These options include:

- **Conduit method**, or the Rhode Island model, in which the payer would submit data with identifier to a third-party intermediary other than Truven. The third-party uses the data to create an encrypted ID and then forwards only the encrypted ID and otherwise de-identified APCD fields to Truven. Neither the State nor Truven would have the encryption key.
- **Distributed method** in which a third-party vendor provides software to payers to generate an encrypted ID using fields that are not in the APCD. Again, neither the State nor Truven would

have the encryption key.

Either would allow the state track individuals across time and payers. After a number of consultations, state staff generally favor the distributed method.

OPEN FOR DISCUSSION

Ms. Van Cleave stated that a health plan can submit data to the vendor (Truven) with their own encrypted identification that could be tracked across all care paid for by the payer, but she noted the problem is that an individual can change payers. Dr. Long agreed and provided a basic example of what can and cannot be done with the current system: we can count the total number of MRI's performed in the state and paid by insurance, but we cannot how many unique individuals had an MRI.

Ms. Travis asked if under the conduit method it would be possible to track the individual across different health plans and payers. Dr. Long stated both methods are able to accomplish these goals; it was simply a matter of determining which method is the easiest to administer.

Mr. Coussoule stated that using the distributed model was the original intent for the prior APCD vendor, OnPoint. A vendor would be very reluctant to send personal data to a third party as a payer, and the distributed method is a preferred model for issuers.

Dr. Sybert asked why the law had not been changed to remove the prohibition on collecting personal identifiers. Chairman Gordon suggested that discussions have taken place regarding changing the law in a variety of different ways but that there were obstacles. He expressed optimism the probability of being able to change the law would increase once the APCD demonstrated its value. Based on staff conversation with issuers, Chairman Gordon thought the conduit method adds complexities whereas the distributed method adds guidance and conformity. Dr. Sybert inquired about the costs involved. Chairman Gordon expressed his view that we should try to better understand the potential of the existing data without any changes to the law; this would make the most use of current information while respecting the privacy of the APCD's intent.

Mr. Coussoule explained that even if the law is changed so that the state could obtain detailed data, it would have to go through the same submission/collection process. He noted the state would not be able to hold the data the same way as the carriers. Provided the state adopted a consistent coding method, he felt the payers could do it and protect privacy side perhaps better.

Ms. Inskeep said that from a national perspective, her insurance company experienced the conduit method in a state that has a similar issue as Tennessee. There are additional expenditures with an additional vendor and trying to track the individual who moves, changes payers, gets married/divorces, or changes their name. In Rhode Island, the conduit method adds additional costs for the state and APCD itself. It also causes a burden for submitters. Dr. Dreyzehner asked whether these concerns were specific to the conduit method. Ms. Inskeep said that challenges are found in both the conduit method and the distributed method. Dr. Dreyzehner asked Ms. Inskeep with her experience with both systems and whether the distributed method less prone to error. Ms. Inskeep confirmed the conduit model requires much more passing of files and risk of problems and delays. Mr. Sitzel made the comment that as a representative of a national issuer, the issue with the distributed method is high-level security requirements, and it takes at least six months to get anything non-standard on the machines as they go through thorough testing, etc.

Dr. Combs asked how the distributed model addressed the issue of individuals with multiple insurance policies, each of which may pay part of a claim. Chairman Gordon stated that the individual would be uniquely identified but there would be a claim from both payers. Mr. Coussoule stated that the data can be sorted primary versus secondary and should be able to see numbers on paid amounts.

Mr. Cost asked whether the state would contract with a third party or whether each issuer would work with their own third party. Chairman Gordon deferred to Mr. Haile, who stated that staff envisions a third party to contract with the state and develop a robust collaboration with payers regarding submission and security protocols, etc. Mr. Haile also noted the rules require issuers to have at least a 180-day advance notice of changes to data collection.

Dr. Dreyzehner asked a procedural question regarding any potential motion by the THIC to pursue either the conduit or distributed method. Mr. Roberts responded by stating that in order for the THIC to adopt a motion today, the conflict of interest policy presented earlier in the meeting would need to be signed by each member in order for the THIC to move forward.

Ms. Van Cleave asked who would handle quality control if the state is not involved and making sure that the software is working properly to identify unique identifiers. Mr. Haile responded that there is a technical way to do this, allowing the state to give the MCO data to the third party vendor so that the vendor can use the information in areas of spot testing, etc.

CONFLICT INTEREST STATEMENTS & MOTION**HCFA DEPUTY COMMISSIONER DARIN GORDON**

All Conflict of Interest Statements were signed and collected by staff.

COMMITTEE VOTE - Commissioner Gordon asked if there was a motion for the THIC to move forward and adopt the distributed method. Dr. Dreyzehner made the motion for the THIC to adopt the motion and second by Dr. Sybert. All THIC members voted in the affirmative.

DATA USE/SHARING**HCFA GENERAL COUNSEL GABE ROBERTS**

Mr. Roberts acknowledged Tony Greer and staff, Department of C&I, for working with staff last summer to draft the Memorandum of Understanding (MOU).

Mr. Roberts explained that the data in the APCD is how the F&A Commissioner can make policy decisions according to the statute. As envisioned, the MOU would be entered into by the requesting department and the Department of Commerce and Insurance (C&I), as the department is the regulatory body over all the payers and establishes/enforces submission of data.

In order to be effective, the template MOU has to be approved by the THIC. Mr. Roberts provided a verbal section-by-section explanation of the MOU. Mr. Roberts then provided three action items for the THIC members to consider:

- (a) Rescinding any record that any prior MOU entered into between the departments and THIC;
- (b) Reviewing and approving the template MOU; and
- (c) Reviewing the THIC's Policy Regarding the MOU.

Staff entertained questions from THIC members. Dr. Sybert posed several questions regarding subsection (f) about making information publicly available. Mr. Roberts and Dr. Long clarified the MOU is providing access to the information for state departments. To the extent that any state department wants to make information publicly available, it has to come back to the THIC and only if there is a two-thirds majority vote by the THIC, the information would be permitted to be released. In addition to the two-thirds majority vote by the THIC, the statute requires an advance 60-day notice to any issuer or provider that could be specifically interested in the information.

Ms. Van Cleave asked about the breadth of a department's access under the MOU (i.e., whether it is limited to a very specific purpose, requiring a department to have multiple MOU's for accessing the APCD for multiple purposes). Mr. Roberts stated that the statute requires staff who access to the APCD have a

clear, approved purpose and that the C&I Commissioner, the THIC, and the HCFA staff involved are all on the same page about the purpose, type of information, and frequency of access that a department may have.

Ms. Van Cleave asked whether a department could delegate access to a third party vendor. Mr. Roberts said state staff would have to consider each request on a case-by-case basis, examine the request in light of the statute and relevant agreements between the state and the vendor(s), and then make a recommendation to the THIC.

Ms. Van Cleave asked whether the data is to be destroyed or could it be archived by users at the end of a project. Mr. Roberts responded that THIC could request a destruction certification of information to the extent the purpose has been fulfilled. Mr. Coussoule made the comment that the issue of usage and destruction of information is silent in the MOU. Chairman Gordon stated that the answer is in the way that the law is crafted and the more complicated factor with the APCD is ensuring the information is secure and the state departments understand the need to safeguard the data. Mr. Roberts stated no department could use any APCD data for a project is outside of the scope of the MOU or the THIC's purpose. Responding to a point by Dr. Sybert regarding longitudinal research needs, Chairman Gordon noted this factor must be balanced against security considerations.

Dr. Cost had a concern on the MOU Section I., subsection (g), reporting and releasing to the public. He felt data may make the small hospital look bad and divert more patients to larger facilities. Chairman Gordon responded by noting this point perfectly illustrated the purpose and function of the THIC: to safeguard against misuse of the data. Mr. Haile noted again that any provider named in a report also had a right to advance notice of the public release of any report.

Dr. Dreyzehner asked whether the THIC has the authority to authorize standing reports. Mr. Roberts explained that the statute does allow the authority to issue a standing report as long as a state department claims ownership of the report. Dr. Dreyzehner stated the THIC could have a future conversation regarding the matter.

Dr. Van Horn asked about the nature of Truven's contract around ability or inability to reuse information for commercial purposes. Chairman Gordon responded that Truven's contract did not have an analysis component and there are strict limitations in the contract on data use, etc.

Ms. Van Cleave asked whether and how an entity other than a state department could access the APCD data. Chairman Gordon stated a department requesting the data would have to be listed as such in the MOU agreement. Mr. Roberts noted that the only authorized entities to receive information are state departments. Ms. Van Cleave stated that the statute envisioned the APCD as an available resource for insurers, employers, providers and purchasers of health care to continuously review health care utilization, expenditures and performance referenced in T.C.A. 56-2-125(c)(3)(B)(5). Dr. Dreyzehner commented that there seems like there is room for a two-way conversation as the THIC could suggest to a state department that would like to produce a standing report and that department goes through the intended. While disagreeing with the interpretation offered by Ms. Van Cleave, HCFA staff assured her they would have follow up conversations with her about her question.

Dr. Dreyzehner asked whether the committee could move to ratify the current MOU. Mr. Roberts responded that the THIC could move on a committee motion but would like to include that the motion would rescind any previous MOU's brought before the THIC and adopt the policy regarding MOU.

COMMITTEE VOTE - Dr. Dreyzehner made the motion to rescind all earlier MOUs and ratify the proposed THIC's MOU and seconded by Ms. Van Cleave. The motion passed unanimously. Dr. Dreyzehner made a motion to adopt the policy regarding MOU and seconded by Mr. Coussoule. All THIC members voted in the affirmative.

Chairman Gordon discussed the upcoming schedule for the THIC to meet. The committee plans to schedule quarterly meetings or as needed but there is not a specific date scheduled for the next meeting. Chairman Gordon asked the THIC members for comments concerning the schedule.

Dr. Sybert asked about the timeline for generating reports. Chairman Gordon was hopeful to begin this process by the end of the calendar year.

Mr. Coussoule asked whether the THIC would re-establish the previous reporting subcommittee. Commissioner Gordon stated that a reporting subcommittee could be discussed at the next meeting. Mr. Haile suggested coming back to a group with a timeline in light of the decision to proceed with the distributed model and, at that time, putting together a subcommittee.

CONFIDENTIALITY

HCFA CHIEF GENERAL COUNCIL GABE ROBERTS

Mr. Roberts stated that the statute is highly protective of the confidentiality of the APCD data. He specifically noted it is not subject to subpoena. In order to comply with the spirit of that, there may be times in the future when the THIC is discussing a certain MOU request, especially if there are specific identifying characteristics of the information being requested, the THIC may go into an executive session to discuss in order to make sure that the piece of information continues to remain confidential. This balances the statutory command to protect the confidentiality of the APCD data and reports derived therefrom with the requirements of the Open Meetings Act.

DISCUSSION

Dr. Combs recommended that a subcommittee form to help the state to begin identifying priorities based upon the available data fields, needs of the state, and stakeholders involved. Mr. Haile suggested that a subcommittee could convene at any moment but the APCD is at least 15 months away from being able to do any kind of reporting on something that has a common identifier. He noted the four-month process to procure a vendor and the six-month APCD advance notice requirement to issuer regarding submission changes. Dr. Dreyzehner suggested the state prepare a pipeline of potential analyses. In response to a question from Mr. Harkness, Mr. Haile responded that there would be an RFP for a third party to be released in accordance for the distributed method. Dr. Sybert suggested staff develop a few discussion points explaining how a unique identifier corresponds with the needs of state government as he thinks all those things have to be better vetted and explored. Dr. Dreyzehner recommended that member ideas should be reviewed by staff. Dr. Long and Chairman Gordon stated that HCFA staff will be working with different state departments to pull ideas for using the APCD data.

ADJOURNMENT

Commissioner Gordon asked members for a motion to adjourn. Commissioner Dreyzehner made the motion and second by Dr. Sybert. All THIC members voted in the affirmative. The meeting was adjourned at 2:57 PM.