

AMENDED
MINUTES OF THE
498th MEETING OF THE
HEALTH SERVICES COST REVIEW COMMISSION

June 5, 2013

Chairman John Colmers called the meeting to order at 1:02 p.m. Commissioners George H. Bone, M.D., Stephen F. Jencks, M.D., M.P.H., Jack C. Keane, Thomas R. Mullen, Bernadette C. Loftus, M.D., and Herbert S. Wong, Ph.D. were also present.

REPORT OF THE MAY 29th AND JUNE 5th 2013 EXECUTIVE SESSIONS

Dennis Phelps, Associate Director-Audit & Compliance, summarized the minutes of the May 29 and June 5, 2013 Executive Sessions.

ITEM I
REVIEW OF THE MINUTES OF THE MAY 1, 2013 EXECUTIVE SESSION AND
PUBLIC MEETING

The Commission voted unanimously to approve the minutes of the May 1, 2013 Executive Session and Public Meeting.

INTRODUCTION OF DONNA KINZER AS ACTING EXECUTIVE DIRECTOR

Chairman Colmers announced the appointment of Donna Kinzer as the Acting Executive Director of the HSCRC for a period not to exceed six months. The Chairman stated that Ms. Kinzer will lead the Commission staff in much of the work of the Commission in particular the activities associated with our waiver demonstration application and, we hope, its successful implementation.

The Chairman noted Ms. Kinzer has long experience with the Maryland rate setting system and has worked with many of the stakeholders on all sides of issues before the Commission.

Ms. Kinzer stated that she was honored to serve the citizens of Maryland as Executive Director of the Commission. Ms. Kinzer expressed her appreciation for the opportunity to work with the Commission's staff when there was so much important work to do.

ITEM II
EXECUTIVE DIRECTOR'S REPORT

Ms. Kinzer reported that Monitoring Maryland Performance (MMP) indicated that the rate of growth in charge per case (CPC) increased by 0.71% for the month of April 2013 from the month of April 2012. For the twelve months ending April 2013 CPC increased 0.76% from the twelve months ending April 2012; inpatient revenue decreased 2.72%; the number of inpatient cases declined by 3.45%; outpatient revenue increased 12.19%; total gross revenue increased 2.71%.

Ms. Kinzer stated that for the fiscal year-to-date ending April 2013, average operating profit for acute care hospitals was 0.68%. Ms. Kinzer noted that according to hospital representatives, an important factor to consider when looking at these operating profit numbers is that they may be overstated because they include funds from the Centers for Medicare and Medicaid Services' (CMS) Meaningful Use program.

Ms. Kinzer noted that now that the State's Model Demonstration proposal has been submitted to the federal government discussions with the Centers for Medicare and Medicaid Innovation (CMMI) continue.

Ms. Kinzer announced that Commission staff is developing a series of Work Groups to discuss key issues in payment and delivery reform, including specific issues posed in the Application. A list of Work Groups, timelines, and structure will be distributed in the near future.

Ms. Kinzer stated that Commission staff will report on CRISP's progress in linking claims across hospitals and present a recommendation for CRISP funding at the July public meeting.

ITEM III
DOCKET STATUS CASES CLOSED

2204N – St. Agnes Hospital
2206A – Johns Hopkins Health System

2205N – MedStar Harbor Hospital
2207A – Johns Hopkins Health System

ITEM IV
DOCKET STATUS CASES OPEN
University of Maryland Medical Center – 2209A

University of Maryland Medical Center filed an application with the HSCRC on May 28, 2013 for an alternative method of rate determination, pursuant to COMAR 10.37.10.06. The Hospital requested approval from the HSCRC to continue to participate in a global rate arrangement for liver and blood and bone marrow transplants for a period of one year with Cigna Health Corporation beginning July 1, 2013.

The staff recommended that the Commission approve the Hospital's application for an alternative method of rate determination for liver and blood and bone marrow transplant services, for a one year period commencing July 1, 2013. Staff also recommended that the approval be contingent upon the execution of the standard Memorandum of Understanding.

The Commission voted unanimously to approve staff's recommendation.

Johns Hopkins Health System – 2011A

Johns Hopkins Health System filed an application with the HSCRC on May 28, 2013 on behalf of Johns Hopkins Hospital and Johns Hopkins Bayview Medical Center for an alternative method of rate determination, pursuant to COMAR 10.37.10.06. The System requested approval from the HSCRC to continue to participate in a global rate arrangement for solid organ and bone marrow transplant services with MultiPlan, Inc. for a period of one year beginning August 1, 2013.

The staff recommended that the Commission approve the Hospitals' application for an alternative method of rate determination for solid organ and bone marrow transplant services, for a one year period commencing August 1, 2013. Staff also recommended that the approval be contingent upon the execution of the standard Memorandum of Understanding.

The Commission voted unanimously to approve staff's recommendation. Chairman Colmers recused himself from consideration of this application.

ITEM V **FINAL RECOMMENDATIONS FOR THE FY 2014 UPDATE FACTOR**

Steve Ports, Principal Deputy Director, presented the background and the process utilized to develop staff's final recommendations for the FY 2014 update factor; Sule Calikogul, Ph.D., Associate Director for Performance Measurement, discussed the status of the Medicare waiver cushion; and Jerry Schmith, Deputy Director Hospital Rate Setting, described the financial condition of the hospital industry and presented a comparison of the Update Factor proposals of the Maryland Hospital Association, CareFirst and United Healthcare, and staff.

Mr. Schmith then presented staff's recommendations for the FY 2014 Update Factor (see "Update Factor Recommendation for FY 2014" on the HSCRC website. The recommendation included: 1) applying an update factor of 1.65% to both inpatient and outpatient rates of all hospitals for which the HSCRC sets rates for a stub period July 1, 2013 through December 31, 2013, and revisiting the update factor for the period January 1, 2014 through June 30, 2014 taking into consideration, among other things, the status of the model design application, and related implications (such as aggregate spending), factor cost, the waiver cushion, and hospitals' financial condition; 2) applying all adjustments and assessments for FY 2014 on January 1, 2014

in a manner that would have the full annual impact for the fiscal year; 3) applying the Shared Saving adjustment on January 1, 2014 in a manner that would achieve the full savings from the program in FY 2014; 4) permanently eliminating the One Day Stay Case Mix Adjustment; 5) continuing the reallocation of overhead to increase inpatient revenue for FY 2014; and 6) not applying a Reasonableness of Charges scaling for FY 2014.

Mr. Schmith stated that staff believes that it has taken a reasoned and balanced approach in its Update Factor recommendation recognizing the financial challenges of the hospital industry on the one hand, while maintaining the waiver cushion until more is known about the alternative waiver model.

Bruce Edwards, Senior Vice President for Networks of CareFirst of Maryland, presented CareFirst's comments on staff's recommendation (see "CareFirst letter of June 5, 2013" on the HSCRC website). Mr. Edwards stated that CareFirst agreed with staff recommendations #2 through #6. However, CareFirst suggested that, at a minimum, the waiver cushion be in the range of 3.5%, and that the Commission adopt an Update factor of 1.35%.

Gary Simmons, Regional Vice President of United HealthCare, expressed support for CareFirst's recommendations.

A panel consisting of: Carmela Coyle, President of the Maryland Hospital Association (MHA), Robert A. Chrencik, President and CEO of the University of Maryland Medical Health System, Stuart Erdman, Senior Director of Finance & Assistant Treasurer of the Johns Hopkins Health System, Raymond A. Grahe, Vice President, Finance of Meritus Health, and Michael Robbins, Senior Vice President of MHA, presented comments on staff's final recommendation.

Ms. Coyle pointed out that hospital operating margins have continued to decline as the result of four years of update factors that were less than factor inflation. Ms. Coyle stated that the Commission must balance waiver retention and the financial condition of Maryland hospitals in its update factor deliberations. Ms. Coyle also urged the Commission to take into consideration the potential favorable adjustments to the waiver test.

Mr. Chrencik discussed in detail the financial condition of hospital industry. Mr. Chrencik stated that the update factors recommended by staff and the payers included a productivity adjustment that was equal to the market basket's factor inflation for wages and benefits and no funding for new technology. Adoption of staff's recommended update factor would lead to decreases in hospital operating margins. According to Mr. Chrencik, continued decreases in hospital operating margins will eventually result in downgrades by bond rating agencies, which may deny Maryland hospitals access to the capitals market. Mr. Chrencik noted that the adoption of MHA's suggested update factor would not increase operating margins; however, it would give hospitals the opportunity to maintain the status quo.

Mr. Grahe asserted that because Medicaid assessments have put pressure on the waiver test hospitals have, in fact, paid for the assessments through lower updates. Mr. Grahe stated that

participating in the Affordable Care Act's Shared Savings Program is appropriate; however, in order to do so hospitals need a full update factor.

Mr. Erdman stated that MHA's proposed update factor is affordable. Mr. Erdman pointed out that hospitals depend on people and capital. Low updates and declining operating profits result in a slowdown in spending on capital projects and equipment, and reduce hospitals' ability to provide unregulated community services, all of which ultimately affect patients.

Mr. Robbins addressed the status of the waiver cushion. Mr. Robbins requested that the Commission take into consideration in its deliberations on the update factor the potential adjustments to the national waiver test data. According to Mr. Robbins, the correction of two actuarial errors could result in an increase in the June 2014 waiver cushion by 3.69%, from an estimated 1.85% to 5.54%.

Steven S. Sharfstein, M.D., President and CEO of the Sheppard Pratt Health System, requested that the Commission adopt a separate update factor for Maryland's private psychiatric hospitals. Dr. Sharfstein noted that since the private psychiatric hospitals are not under the Medicare waiver and do not affect the waiver cushion, they should receive an update factor of 2.23%. Dr. Sharfstein pointed out that the update factor was calculated utilizing a methodology consistent with that utilized to calculate last year's update factor for private psychiatric hospitals.

Commissioner Wong made a motion to accept staff's recommendation.

Commissioner Loftus seconded the motion.

Commissioner Jencks expressed support for Dr. Wong's motion with the caveat that the deferral of the Shared Savings adjustment be made July 1, 2013. According to Dr. Jencks, the pressure of living with limited resources is the only way to improve productivity in an environment where cost competition has been essentially removed. In addition, Dr. Jencks expressed concern about the reliability of the process used to forecast the waiver cushion. Dr. Jencks speculated that failure of the waiver test might lead to a phasing out of the waiver.

Commissioner Keane agreed with Dr. Jencks' contention that absent financial pressure, we do not achieve productivity. In addition, Commissioner Keane stated that he was not persuaded by the hospital industry's argument about their financial condition since Maryland hospitals' current total margins are in the same range as they have been for the last five years. Commissioner Keane asserted that historically not-for-profit hospitals throughout the country have lived quite happily with no operating margins. According to Commissioner Keane, large operating margins put the hospital industry at risk for capital investment and capital spending that is not generally in the public interest. Commissioner Keane stated that staff's recommendation is reasonable and expressed support for Dr. Wong's motion.

Commissioner Mullen stated that it is clear that Maryland's hospital industry is hurting financially. Commissioner Mullen noted that non-operating activities largely have to do with

things that are out of the control of hospitals. Non-operating profits are up this year because of the rise of the stock market and low interest rates; next year, who knows what will happen. Commissioner Mullen noted that most people believe that operations and operating profits are the way to evaluate the efficiency of hospitals. The rating agencies have set the threshold for operating margins for the category of borrowers that includes most Maryland hospitals at 3% plus and the average Maryland hospital is below that threshold. Commissioner Mullen pointed out that the Maryland hospital industry has operating margins that produce a bond rating of slightly above investment grade, and the Commission should understand this when it makes its decision on an update factor. Commissioner Mullen stated that the waiver cushion is a major consideration, and we must be cautious. However, in the last two years, we have seen productivity adjustments of close to 2.5% that resulted in a drop in operating profits of nearly 1.8%. Commissioner Mullen expressed concern that if the update factor adopted by the Commission is too low, we will see a further decline in operating margins. Commissioner Mullin stated that he could support staff's recommendation with the caveat that it is on the borderline of acceptability and with the understanding that in January everything should be reassessed including where we are with the waiver process and hospital profitability.

A friendly amendment to carve-out Specialty Hospitals from staff's update factor recommendation and to add that it apply only to acute general hospitals was made and seconded.

The Commission voted unanimously to approve staff's amended recommendation.

ITEM VI
FINAL RECOMMENDATIONS ON MODIFICATIONS TO THE OUTLIER TRIM
METHODOLOGY

Ms. Pohl summarized staff's Final Recommendation on Modifications to the Outlier Methodology (see "Final Recommendation on Modifications to the Outlier Methodology" on the HSCRC website). The recommendations were: 1) to trim cases and revenue associated with low resource cases; and 2) to utilize case mix data with a proportional adjustment to financial data to support the application of the outlier methodology in rate setting activities.

The Commission voted unanimously to approve staff's recommendation.

ITEM VII
FINAL RECOMMENDATION ON FY 2014 NURSE SUPPORT PROGRAM II
COMPETITIVE INSTITUTIONAL GRANTS

Ms. Pohl presented staff's final recommendation for the Nurse Support Program II FY 2014 Competitive Institutional Grants (see "Final Recommendation: HEALTH SERVICES COST REVIEW COMMISSION – Nurse Support Program II – FY 2014 COMPETITIVE INSTITUTIONAL GRANTS" on the HSCRC website). Staff recommended that the fifteen

Competitive Institutional Grants recommended by the NSP II Grant Review Panel be considered by the Commission for FY 2014.

The Commission voted unanimously to approve staff's recommendation.

ITEM VIII
REPORT ON CHANGES TO THE QUALITY BASED REIMBURSEMENT PROGRAM
FOR FY 2015

Dianne Feeney, Associate Director-Quality Initiative, summarized staff's Report Updating the Commission on Changes to the Quality Based Reimbursement (QBR) Program for FY 2015 (see "Report Updating the Commission on Changes to the Quality Based Reimbursement (QBR) Program for FY 2015" the HSCRC website).

Mr. Robbins thanked the Commission's staff for accepting the mortality measure; however, he expressed concern that the staff had not adopted an efficiency measurement tool for FY 2015.

ITEM IX
HEARING AND MEETING SCHEDULE

July 10, 2013 Time to be determined, 4160 Patterson Avenue,
HSCRC Conference Room

August 7, 2013 Time to be determined, 4160 Patterson Avenue,
HSCRC Conference Room

There being no further business, the meeting was adjourned at 3:22 p.m.