

**Medical Care Advisory Committee
Minutes March 14, 2008
Supplementary Meeting**

**Teleconference
1-800-315-6338 (Code 2478)
Frontier Building, Room 880**

Welcome and Introductions, Members Present

NP Deb Kiley, Chair; Dr. Dave Alexander, Marie Darlin; Karen Sidell; Megan LaCross; Jerry Fuller; Sally Bowers; John Bringhurst and Gary Givens, R.Ph. joined the meeting shortly after 10:00 am

Approve Agenda

Members had no additions to the agenda.

Approve February 1, 2008 meeting summary

NP Kiley indicated a couple edits to the minutes that were noted. Motion by Marie Darlin; Second by Dr. Alexander – Minutes approved as amended.

Announcements, NP Kiley (Chair)- none

Public Comment Call in number: 1-800-315-6338 Pass code 2478

a. William Carr (has asked for his name to be used in these minutes) is a Medicaid patient who is a 45 year Alaskan diagnosed with cancer in 1997. In 1999 he ran out of funds and is on Medicaid. Per Mr. Carr “I received treatment to my mouth, under my tongue. Although I am recovering, I have problems with the bones in my jaw and my teeth have deteriorated, basically rotting out. I need surgery on my teeth; but the dentists do not want to do surgery until I have hyperbaric oxygen therapy to hyper-oxygenate the area to enhance healing. I have been pre-approved by Medicaid to have the therapy; but I will need to go to Washington. Medicaid is willing to pay for me to fly to Washington and put me in a hotel for the 45 days as I receive treatment 2x day”.

Mr. Carr wanted the committee to hear his comments and help him understand why he cannot have the treatment in Anchorage where the cost would be significantly less. He currently is not planning to go to Seattle for treatment because of the expense (about \$100,000). Actually it turns out Medicaid would pay about 10 times more by sending him out for treatment.

Sally reported that after a brief phone conversation with Mr. Carr last evening, she met with Cindy Christensen who noted:

- Currently there is not a hyperbaric oxygen treatment center as a Medicaid provider in Alaska.
- There is a hyperbaric center in Anchorage, but they are not affiliated with either hospital for this type of treatment. They had not been Medicare approved (although their recent ad indicates they may have approval now.)
- They are a registered and certified center; their credentials are not the issue.
- Medicare had not been enrolling free standing hyperbaric centers. Generally the centers are affiliated with a hospital.

If the center in Alaska is now Medicare certified:

- There would have to be an amendment to the State Plan to enroll the new provider type – hyperbaric center. (The Anchorage business is known as American Marine Hyperbaric Center.)
- There would need to be a way to enroll them to be funded. (There would have to be a provider type designation.)

Jerry noted that Medicaid requires providers to be certified by Medicare because the state basically piggy backs on other approvals/certifications so that we do not do the certification process ourselves. If they

meet Medicare certification requirements, then the state is willing to consider them for Medicaid certification.

Marie noted that Bartlett Regional Hospital in Juneau has a hyperbaric chamber, but it is not known what type of certification they have.

b. NP Deb Kiley noted that she had talked with a local physician who was going to call in on public comment but ended up getting sick and was not able to call. She provided his information regarding a Medicaid eligible patient who has a documented need for lumbar fusion. She has seen 2 doctors who have said she needs the surgery but "Medicaid has denied approval". The doctor of the patient told NP Kiley that the patient called the "Medicaid number" to find out why her surgery was denied. The patient indicated she was told she cannot ask that question. According to the patient, the person she talked with would not give her any information. NP Kiley mentioned there are challenges to get information due to HIPAA. Medicaid (FHSC) will not talk with you without a signed release from the patient; even as the provider, they will not talk with you. She would like to see a better way for these issues to be handled when a patient is denied.

Sally indicated that NP Kiley had emailed information regarding this issue to her. Sally passed the information on to Cindy Christensen, RN, Program Manager of the HCS Practitioners Unit. Cindy also oversees recipient issues and works with the FHSC recipient hotline staff. Without knowing who the patient talked with, it is hard to really know just what was said, but it does seem that she received an inappropriate response. It was noted that Medicaid patients do have appeal rights so that whenever something like this is denied; there is a process to help determine if there are alternatives.

Sally mentioned that Qualis Health actually does the prior authorization for surgery. They follow InterQual criteria so the assessment is not subjective. If the patient's doctor is not satisfied with the decision, the doctor would have the right to appeal. The patient should have received a letter from Qualis Health advising of her appeal rights; but it is not clear if the patient did get that information. A brief discussion took place about how patients get this type of information, especially those who are not fully capable of dealing with their own health care. The question is who would help them with decisions regarding appeals and what is the state's obligation in making sure that all Medicaid patients are aware of their rights, who to call for questions and how to appeal. Gary Givens reviewed a recipient handbook that was available and noted that there is a section on appeals. The question was raised as to how much in the way of resources can the state expend and the fact that patients do need to take some responsibility for their care.

There is concern that the current system is not working and that patients get caught up in the system. This creates delays in care and increases costs. The question was raised regarding the response from FHSC and whether anyone has talked with them. Do they have a script that all their employees would use to assist patients with these types of questions? Sally mentioned that she had advised Cindy Christensen of the issue that the patient apparently called FHSC; but she did not hear back from Cindy prior to this meeting.

Action Item: Sally to check with Cindy Christensen regarding FHSC training for staff who answer the patients' questions. Also, Sally is requested to get a sample of a letter of denial from Qualis Health. MCAC would like to see the letter that is not working and perhaps there needs to be a revision for a letter that would work better.

Karen Sidell mentioned that she has experienced similar issues when she had to apply to be a fee agent for the state. She noted it is so hard to help people; neither she nor the provider can get information. She feels that all you get is the "run around" when you call Medicaid (FHSC).

MCAC may want to recommend a change in the process to the commissioner.

Old/New Business

1. Medicaid Director Report, Jerry Fuller

- a. Disease management – per request at the last meeting information has been distributed to members. Disease management is part of SB 61. They have been investigating it about 4 years. Passage remains to be seen, but is hopeful.
- b. Discussion continues regarding the request by Representative Henry Waxman’s (Chair of the House of Representatives Committee on Oversight and Government Reform) request for information from CMS. The information will help to understand the state-specific impact of each of the six CMS proposed regulations relating to cost limits for public providers, payment for graduate medical education, payment for hospital outpatient services, provider taxes, coverage of rehabilitative services and payments for costs of school administrative and transportation services. These regulations have potential for significant negative impact on Medicaid funding. The committee has done a survey of states – 43 responded as well as a couple territories. Their results indicate the impact could be as much as \$40-50 billion compared to \$15 billion estimated by CMS. Alaska is estimating about a \$20 million price tag. CMS has indicated that the difference may be based on estimates due to the elimination of school based administration. CMS needs to clarify the differences.

Congress has called for a moratorium on these regulations until at least next year. Jerry and the Department are working with our delegation to help them understand the unintended consequences. His feeling is that our delegation is paying attention. Amanda Makki is the Medicare/Medicaid liaison.

Action Item: Jerry to send link to get the report.

- c. Senate Bill 61 from last session continues to bring discussions. There is the Fetal Alcohol Syndrome (FAS) waiver and a behavioral health waiver that is supposed to be on the street by the end of this month that needs legislative approval. It is recognized that Alaska has a problem with substance abuse that results in a loss of productivity; automobile accidents; and other costs that amount to billions of dollars. There is a waiver treatment package on substance abuse treatment which is a demonstration waiver. They are doing an RFP but this is still quite a ways away. Initial discussions are taking place to determine service delivery and be sure services will be able provided. Part of the process will also need to determine who can provide services.

Karen mentioned that quality control also is an issue that should be considered. The current waiver services in Bethel are horrible. It does not seem that the state is doing anything about it. It was noted that unless the patient has relatives watching over what is being provided, there often is a quality problem. Jerry agreed that that state needs to do a better job monitoring the services and dealing with issues of quality assurance.

- d. SB 245 and HB337 dealing with the Certificate of Need is still in process. The governor’s version to eliminate CON was opposed by hospitals.
- e. It appears the operating budget is in good shape and should not have any real negative impacts if passed.

- f. SB160 – a proposal by Senators French, Ellis & Wielecowski is a bill proposing to establish universal health care and is getting attention. If it passes, it will have an impact since it would use Medicaid money for as many people possible. Originally there was a bill introduced that took Denali Kid Care (DKC) and Medicaid up to 350% of the poverty level. There is a lot of discussion at the federal level. They may expand Medicaid and DKC to the limit.

Dr. Dave Alexander mentioned that he feels MCAC should support the increase in eligibility for DKC to 200% of the poverty level.

Karen Sidell mentioned that she thinks there should be a discussion about eligibility on the agenda for the Homer meeting. She has had recent experiences with DKC which is way behind in reviewing applications. This is having a negative impact on pregnant women. Karen has seen women who are receiving notice and they applied 6 months ago. Patients are waiting 6 months before they get their Medicaid card. These people cannot afford to travel. They are not getting in for prenatal care. She noted that few people who qualify for food stamps would not qualify for family Medicaid and could they look at coordination of eligibility. But as it is now, the DPA case workers do not ask questions to check to see if the families could qualify for family Medicaid. She mentioned one family of 6 kids, 2 parents and 1 child are on family Medicaid but 3 kids lost their DKC because of the backlog. Karen said she has not talked with Ina for the last 2 weeks but she will be coming up to do training on EIS and Karen will get an update.

Jerry mentioned that apparently some of the back log is related to the new citizenship rules, but he thought that it was being resolved.

Action Item: Jerry will talk with Ellie Fitzgerald to get an update on the current status of eligibility because this is not what he has heard.

- g. Jerry shared a copy of the Alaska Oral Health Plan and distributed information from the DHSS website regarding the plan.

Action Item: Sally will fax a copy to Marie Darlin in Juneau and also scan it to email to members on line.

- h. There is a proposal in the operating budget to increase dental rates, home and community based services. This is important for senior and disabled services since their payment rate has been frozen about 4 years.
- i. Myers and Stauffer did a report from their financial side that recommended a contractor to develop a rate methodology for home and community based services. As it stands now, providers get different rates for the same type of clients. The department will look in to develop a standard so that everyone gets treated the same and be able to defend our rates. Providers will understand why it is set the way it is. The goal would be to identify efficient providers and use them as models for others, as long as quality is good.

A question was raised about the psychologist regulations.

Action Item: Jerry will check on the status of the psychologist regs and email a response to the committee.

NP Kiley noted she has heard from people who need personal care attendant (PCA) services but their hours are being cut; there are others who are getting more time. It was noted that the state had been using a contractor to do the assessments for the program but recently the nurses with the state are performing

the assessments with a standard assessment tool. The goal is to ensure consistency and fairness in the distribution of PCA time.

Action Item: Jerry will get update

2. Finalize FY08 calendar and meeting schedule

There was a discussion of the meeting schedule for the upcoming year. The committee decided that no meetings should be scheduled in the summer months (June, July, August) but may consider meeting every other month in the Fall.

- May 2 – 3 Homer site visit meeting
- September 19, 2008 - teleconference
- October 31, 2008 - teleconference

Members questioned the possibility of connecting to Legislative Information Office (LIO) to allow for more interaction.

Action Item: Jerry will check will IT to see what is available.

Guest Speaker: Dave Campana, R.Ph. presented information on tamper resistant prescriptions. Dave distributed copies of the new regulations and information from the FHSC newsletter as well as a letter that recently was sent to providers.

Last May congress decided prescriptions need to be executed on tamper resistant paper. The new regulation was to have taken effect on October 1, 2007 but was further delayed to April 1, 2008. In May 2007 it became law; guidelines were sent out in August and additional guidelines were offered last Fall. The purpose of the new regulations is to decrease fraud in the Medicaid program and decrease costs. Alaska had to publish new regulations. A brief discussion about options dealing with different schedules of drugs; facsimile and phone orders. Dave noted that Alaska has followed the guidelines put into law by congress in order to obtain Federal funding. The new tamper resistant pads have strict guidelines. A serial number has to be printed on the pad. Tamper proof pads come out as void when faxed.

NP Kiley noted that the process that was followed to notify providers is not working and this is a problem. Providers were not aware of the changes and are not prepared. NP Kiley noted that she heard thru her husband and they all have to buy new prescriptions.

Dave noted that the proposed regulations had been posted with a notice on the state web site but agreed that perhaps there could have been more information sent out to providers to let them know this change was taking place. He noted that few comments were received when they had public comment day at the legislative office. There were a few comments from the Native Health Corporation, The Alaska Medical Association and just a few email comments from practitioners. Dave mentioned that he did a presentation for the medical office managers meeting. The new regulations were signed in February. A notice went out to providers who have their address with the regulation writer. The letter to providers was sent on March 7, 2008; there was information in the FHSC newsletter and the Alaska Journal of Commerce.

There was a discussion about what else the state can do to get information out to providers, i.e. is it feasible for the state to collect emails for providers. It was mentioned that there are some distribution lists e.g. the Department of Law does use a list serve.

Dave also mentioned the that if a provider submits a prescription for a schedule 2 drug that is not compliant, the provider will have 72 hours to get the prescription on a compliant pad. If it is schedule 3 drug, it is ok to get a verbal order or fax confirmation.

Alaska is currently taking on a project to implement an e-prescribing system in the Medicaid program. The DEA does not allow e-prescribing for schedule 2 drugs. The DEA will publish regulations on e-prescribing for controlled substances later this year.

DEA allows each state to decide who can write prescriptions for scheduled drugs. In Alaska the intent of the Board of Pharmacy was to mimic the Feds. It is cheaper for Medicaid to have one system.

Jerry mentioned that with the project, the process should be improved. It was agreed that that we need a better regulation process to advise providers and get more comments on proposed regulations; one or two is just not enough.

Comments were made that the hope is that the pharmacists will work with providers and patients rather than turn the patient away during this introductory phase. NP Kiley noted that you can't fax the prescriptions and that forces patients to come to pick them up. With the cost of gas or when the patient has to take a bus there is concern that it is a hardship for patients who really cannot afford to go back and forth.

Dave indicated he will be working with pharmacists and there will be a reminder to the pharmacists to work with the patients.

3. Discussion of potential activities to notify the public and encourage participation.

This item will be carried over to be discussed at the meeting in Homer.

4. Election of officers

There has been no indication that Commissioner Jackson wanted to appoint the new MCAC officers. There was a call for nominations. NP Kiley was nominated as Chair and John Bringhurst was nominated as Vice-chair. No other nominations. NP Kiley was elected Chair for another term and John Bringhurst was elected as Vice-chair.

5. Finalize agenda and set tentative schedule for tours of facilities/programs for Homer meeting May 2-3, 2008.

Sally had reported on availability of lodging and meeting rooms. The Best Western Bidarka has the most reasonable room rate and meeting room available. Lands End had rooms (a bit more costly) but they are not able to accommodate a meeting room.

Jerry indicated that he will be driving and can transport 2 members in his truck to/from facilities and meetings. The committee will plan to rent one car to provide transportation for the remaining members.

Action Item: Sally will confirm rooms for MCAC at the Best Western Bidarka.

Sally had distributed information about potential facilities to visit along with information she researched in preparation for the meeting. South Peninsula Hospital Administrator, Robert Letson will be available to meet with the MCAC on Friday morning 9:30 AM – 11 AM according to Sarah Karnos Admin

Assistant. She anticipates he will provide a tour of the facility. They are having a disaster training Friday May 2 & Saturday, May 3; so they do not have conference room availability in the hospital either day.

Another option for a site visit is South Peninsula Behavioral Health Services AKA The Center (Outpatient MH, Psychiatrist on staff, have DD, Waiver services & more). Sally talked with Nina Allen, Director and Vanessa (Admin staff). Nina seemed excited about the prospect of meeting with MCAC and indicated she would want Carla Meitler, CFO financial management to also meet with us. They tentatively set up Friday afternoon for visit with Nina & Carla and possibly a tour. They have several facilities off site also. There is a concern about the client confidentiality so members would have to sign confidentiality agreements. Nina mentioned she thinks that Medicaid actually does a good job for the most part. They are interested in talking about the fact that they have had no rate increases since 1992; audits; and prescription issues, that may be more of a Medicare problem, she thinks.

Discussion about other potential visits included the Homer Medical Clinic and the Native Health Centers located in nearby communities such a Ninilchik.

Action Item: Sally will continue to research and contact the staff at the facilities/clinics to set up a schedule for both Friday and Saturday.

6. Recruitment of potential new committee members to fill current/impending vacant positions.

The committee continues to recruit new members for MCAC with their focus on attaining members from rural communities.

7. Review application letter from prospective MCAC member.

The committee reviewed the applications from Roger Penrod, R.Ph. and Dr. Richard Mandsager, MD. They requested that these be held till the meeting in Homer to allow more time for the committee to consider applicants from rural areas rather than Anchorage.

8. Discussion of improving the process of introducing prospective members to the mission, goals and objectives of MCAC to peak their interest in applying for positions on the committee and remaining an enthusiastic member

This item will be discussed at the Homer meeting.

9. Orientation packet for new members

This item will be discussed at the Homer meeting.

10. MCAC website - members comments/updates

<http://www.hss.state.ak.us/dhcs/MCAC/default.htm>

Discussion of this item was held until the meeting in Homer. Sally will continue to work with the Health Care Services (HCS) webmaster to update the website.

11. Initiate discussion of annual recommendations for the Commissioner's budget consideration

This item will be carried over to the agenda for the Homer meeting.