

State of Rhode Island Office of the Health Insurance Commissioner
Health Insurance Advisory Council
Meeting Minutes
March 16, 2021, 4:30 P.M. to 5:30 P.M.
Virtual Zoom Meeting

Attendance

Members

Co-Chair Commissioner Patrick Tigue, Co-Chair Stephen Boyle, Shamus Durac, David Feeney, Al Charbonneau, Hub Brennan, Lawrence Wilson, Sandra Victorino, Vivian Weisman, David Katseff, Catherine Cummings, Laurie-Marie Pisciotta, Daniel Moynihan, Lisa Tomasso

State of Rhode Island Office of the Health Insurance Commissioner Staff

Cory King

Maria Casale

Marea Tumber

John Garrett

Not in Attendance

Teresa Paiva Weed

Minutes

1. Welcome, Introductions, and Review of February Meeting Minutes

Steve Boyle called the meeting to order. Commissioner Tigue introduced Catherine Cummings, the newest member of the council. Catherine is an emergency medicine physician and the president of the Rhode Island Medical Society. After introductions, Steve asked for a motion to accept the February meeting minutes. The minutes were approved as submitted.

2. No Surprises Act Overview

Commissioner Tigue gave a brief overview of the No Surprises Act which was passed at the federal level. The law does not go into effect until January 1, 2022. This act is the culmination of several years of negotiation and engagement at the federal level and it is meant to address the issue of surprise billing. The act will provide new protections for states that do not have their own balance billing laws and for nearly 135 million self-insured plans beyond reach of state regulators.

This law applies to non-emergency care in in-network facilities provided by out-of-network clinicians, and emergency care excluding ground ambulances. The law makes clear that patients will only be responsible for their in-network cost-sharing only, and that will count towards their in-network deductibles and out-of-pocket limits.

In terms of how payment for out-of-network care is handled, the health plan can negotiate the payment amount with the provider or facility. Moreover, either party can request arbitration through an independent dispute resolution (IDR) entity. The IDR must select one party's offer (called "baseball-style arbitration") and the decision would be binding on the parties. Meaning that the provider and insurer would submit their best offers, and the arbiter is required to choose between those two, they cannot select an alternative amount.

There are some cases where the protections don't apply – for example, when a patient knowingly and voluntarily agrees to receive care from certain out-of-network providers. Providers can also request that a patient provide a signed consent to receive nonemergency care from an out-of-network provider or facility. Federal law does not preempt state payment dispute resolution laws if they rely on arbitration, a payment standard, or use a hybrid approach, as well as to states with an All Payer Model Agreement

Al Charbonneau commented it was a very complete presentation, but he is wondering why there are bills still going through the RI General Assembly now with respect to surprise billing? Commissioner Tigie replied that he is trying to catch those bills and comment that there has been federal action, and his recommendation is that action should be refrained from until this law goes into effect. We can decide to take further policy action if we deem the federal changes are not sufficient, but until they are enacted he advises the state to wait until the law is enacted.

David Katseff commented that he looks at the actions from RIPIN, and from RIPIN, and he thinks that collectively in Rhode Island we have done a pretty good job of working on these problems in an informal way. His question is, does the state have to opt in to be a part of this legislation? David continued, commenting that he likes to see these issues worked on from a local basis instead of going through a new expanded federal process. Commissioner Tigie commented that he agrees that Rhode Island has, as a community, worked collaboratively to address these types of issues. This issue has not been as significant in Rhode Island as it has been in other markets. We do not have the option of opting into the federal law, we have an obligation to follow this mandate in our state.

Shamus Durac commented that in Rhode Island we do not see a huge number of instances of surprise billing, but RIPIN does see some cases happening to Rhode Islanders when they are out of state. RIPIN sees this act as a good way of taking the consumer out of the equation where they should not have been inserted in the first place.

3. Affordability Update

Cory King discussed how last year OHIC promulgated a revised Affordability Standards that both extended the preexisting requirements focusing on the transition to alternative payment models and provider cost containment initiatives and included further efforts to integrate behavioral health into the primary care setting. Some of those standards were placed in a state of suspension due to the impacts of COVID-19. The pandemic's effect on utilization had begun to impact the measures of quality care and cost performance that were built into contracts that actually could in some cases have been harmful.

OHIC issued a bulletin suspending some of the standards and issued a memo to insurance carriers that this pause would extend until June of 2021. As such, as we transition back into a fully accountable environment, in the coming weeks OHIC will be conducting a series of dedicated compliance meetings with each insurer. Some of those meetings we hope will produce data that we can share with the council.

Commissioner Tigie commented that this agenda item will not only outline current compliance updates about the Affordability Standards as well as a discussion of data relative to affordability of health care in Rhode Island, separate from the Affordability Standards.

Al Charbonneau commented that in the Rhode Island Foundation Affordability and Waste Committee the members discussed the idea of coming up with new metrics that give us a better

sense of affordability. That group will be pursuing methods and AI will share their findings with the HIAC.

4. **RIREACH Consumer Update**

Shamus Durac gave an update about recent trends and highlights from the RIREACH consumer helpline. Over the past few weeks especially since the passage of the American Rescue Plan, RIPIN has seen an influx of questions around the implementation of that plan and around income counting/eligibility. There have also been questions about the extended open enrollment period through HealthSource RI. They are still working through a number of cases related to cCOVID-19 treatment and billing that are continuing to come in.

5. **Legislative Update**

Commissioner Tigie thanked the council for the suggestion to provide members with OHIC's testimony letters that we submit each week to the General Assembly. If anyone has questions about any of these positions, they can feel free to reach out anyone at the office.

Steve Boyle asked if the surprise billing legislation is coming out of the House or the Senate – it was determined that there is one bill in the Senate and the others are coming out of the House.

6. **Other Business**

David Katseff commented that after reading the last couple of meeting minutes recently since he was not able to attend in person, he wanted to make a comment about the subject of diversifying the council. David asked to see a list of all of the current members of HIAC along with each of the organizations and interests they represent, and said that if you look over the list, it appears that diversification has already been a direct, or indirect goal of this council already. He thinks we are already very broad-based, however acknowledged that seeking more diversity is a good goal. David advocated for treating diversifying the council as a goal but thinks we should be proud of what we have done already.

Steve Boyle commented that in his opinion part of the problem is that many organizations can say they have diversity, but in reality, they do not. Steve thinks it is a good idea to look at all populations and see who is being represented. He continued, noting that we have made strides, but believes we can definitely do more.

Larry Wilson commented that his organization is all about diversity, equity, inclusion, and anti-bias concerns and initiatives. He continued, saying that if we took a 3,500-foot view of our situation, you could see clearly that diversity is of concern and should continue to be of concern to all of us. We have made strides, but we also know that right now there are things going on politically, socially, and emotionally, all over the nation, that continue to give us serious concerns. Larry commented that he has gone to any number of meetings, networking sessions, chamber meetings etc. where he is often the only person of color in the room. The reason people often can seem defensive is because we are in a defensive time.

Larry commented that even in terms of legislation like the No Surprises Act and arguments that it should be done at the federal level, he gets nervous that other states might actually put protections in place not fair to all demographics, and particularly marginalized communities. These are growing pains, and we should pat ourselves on the backs to some extent, but just know that there is still a lot of work to be done.

Lisa Tomasso commented that she could not help but relate this conversation to the fact that this pandemic has highlighted how many demographics are still being left behind in the health care system. Lisa asked if identifying and analyzing how well policies like the Affordability Standards are addressing marginalized communities is something OHIC is working on currently, particularly in terms of equity.

Commissioner Tigie thanked Lisa for her comments and agreed with what she offered. We want to both acknowledge the work that has been done, but also push us all collectively to do more. On an internal basis we are looking at engaging in a diversity and inclusion process, even though we are a small agency it is still highly relevant and critical to our team. Commissioner Tigie continued, stating that the next development of the Affordability Standards will have an equity lens. In a few weeks OHIC will find out if we received a federal grant that not only addresses behavioral health but will also specifically use the office's regulatory tools to address non-discrimination and equity.

Cory King commented that OHIC established lined measure sets for governing the clinical quality measures that can be used within various types of provider contacts. Our office directed our consultant to apply an equity lens to those quality measures to identify disparities within those groups.

Larry Wilson commented that he thinks we are all saying the same thing – it is not about representation on boards, as much as it is about flexing the muscle that both HIAC and the Cost Trends committee have to ensure that data, policies and procedures ensure equity and inclusion. It is about thinking differently about things and changing our focus.

Catherine Cummings commented that it is what you do with what you have that really is going to make the difference here. Part of the issue is communication – supporting legislation that improves broadband internet is one way to make improvements.

7. **Public Comment**

There was no public comment.

8. **Adjournment** – the meeting was adjourned at 5:31 pm