Medical Cannabis Insurance Reimbursement (MCIR) Working Group
Act 161 (SB2488 SD2 HD1 CD1) Session Laws of Hawai'i 2018

Meeting Minutes

DATE: November 9, 2018
TIME: 10:00 AM
LOCATION: Hawai'i State Capitol, CR325

Working Group Members in Attendance:
Sen. Rosalyn Baker, Co-chair
Rep. John Mizuno
Jerry Bump, representing Gordon Ito, Insurance Commissioner
Malia Taum-Deenik representing Judy Mohr Peterson Med-QUEST Administrator
Jennifer Diesman, HMSA (representing a mutual benefit society)
Garret Sugai, Kaiser Permanente (representing a health maintenance organization)
Laura Esslinger, AlohaCare (representing a Medicaid managed care plan via teleconference)
Mike Takano, Pono Life Sciences (representing a licensed medical cannabis dispensary)
Randy Gonce, qualifying patient
Dean Sugano, Legislative Reference Bureau

Excused:
Rep. Roy Takumi, Co-chair
Sen. Stanley Chang
Monique Chantal, parent of a minor qualifying patient

Invitees present:
Michele Nakata, Department of Health (DOH) Medical Cannabis Dispensary Program
Jill Nagamine, Deputy Attorney General for Department of Health
Daniel Jacob, Deputy Attorney General for Department of Commerce and Consumer Affairs
Lee Ann Teshima, Executive Officer for the Board of Nursing
Shari Wong, Deputy Attorney General for the Board of Medicine
Staff from Co-chair Rep. Roy Takumi and Sen. Stanley Chang were also present

I. Introduction Sen. Roz Baker

II. Review and Approval of Minutes
Minutes adopted with one correction

III. Working Group Discussion

- Working Group Members began discussion on alternative reimbursement models. Med-QUEST reminded the working group of the cost and challenges associated with creating the necessary silos to cover medical cannabis via Medicaid while retaining their federal revenue stream. The working group members discussed whether additional privacy protections are necessary for Medicaid recipients who disclose 329 cardholder status for coordination of care purposes. The working group members reached some consensus around a potential privacy protection for 329 cardholders except where otherwise provided by law or between licensed healthcare providers for purposes of care coordination. The patient member noted that the

U.S. Department of Veterans Affairs recently changed their policy regarding service members disclosing their status as medical cannabis patients for coordination of care purposes, and suggested the VA policy could serve as a potential model for the State. The Attorney General's office will conduct additional research on potential patient privacy concerns and provide input to members.

- Sen. Baker asked the private health plans whether they've had internal discussions regarding alternative reimbursement models for medical cannabis, including riders. Kaiser would like to further investigate the models of reimbursement that have been used hereto in state workers' compensation systems to ascertain the manner in which these entities have operationalized their reimbursement models while avoiding unintended consequences. Mr. Takano suggested the plans could begin the process by focusing on the administrative aspects of the certification process that are not as complicated. He referenced Peter Whiticar's comments from the last meeting regarding reimbursement for visits associated with medical cannabis treatment and noted that plans could educate their network providers about what which aspects of the certification process are currently reimbursable or consideration of an add-on fee for a certification. HMSA recapped the three aspects of medical cannabis reimbursement which have come up during the working group's discussion, namely reimbursement for:
    - The provider visit and physical exam required for certification as a medical cannabis patient
    - A provider's completion of the certification paperwork for submission to the DOH
    - Medical cannabis from a dispensary (product)

  HMSA doesn't believe that there is anything that would prevent their providers from being reimbursed for the visit and exam, but they are further researching their provider contracts to be certain. For primary care providers under contracts with a capitated reimbursement structure, the providers are responsible for administrative functions associated with care delivery, such as ABA services for a child with autism. As such, HMSA is unsure whether it would be appropriate to make a special case for certification as a medical cannabis patient, but they are looking into the matter further. There is nothing in place for reimbursement for product and this is likely the most complicated aspect. Mr. Takano suggested that providers who take on medical cannabis patients may see financial advantage under a capitated system by increasing their volume. Laura Esslinger of Alohacare suggested that it may be useful to hear from providers about their perceptions surrounding their contractual obligations, federal law and visits for medical cannabis, in order to correct misperceptions.

- Sen. Baker asked the health plans how they would handle a patient's request for an experimental drug. HMSA responded that if the drug is not FDA approved, an appeals process would be initiated based on medical necessity. These appeals would typically be denied because most plans have an explicit prohibition on coverage for experimental drugs. There is some gray area if the drug requested is FDA-approved, but is being used off-label. Sen. Baker asked what would be required for the approval process if the legislature chose to mandate coverage for medical cannabis. HMSA responded that the legislature might need to deem medical cannabis medically necessary under HRS 432E, and further noted that operationalizing reimbursement for medical cannabis would be complicated, due to the various different lines of business the insurers would need to manage. For instance, Administrative Services Only (ASO) plans are not regulated by the Insurance Commissioner and would be exempt from state mandated benefits. *Note: ASOs aka "self-funded healthcare"*

are self-service arrangements whereby an employer provides health or disability benefits using its own funds, and assumes the direct risk for payment of the claims or benefits. These plans are exempted from State law insurance regulations under section 514 of the Employee Retirement Income Security Act of 1974 (ERISA), unlike fully insured plans contracted by employers. There would also be complications associated with providing plans to federal employees. HMSA noted that it would not be impossible to do, but it would be very difficult. The insurers continue to worry about cannabis' federal prohibition. HMSA would like to initiate conversations with their association (Blue Cross Blue Shield) to see if they have done some legal analysis on the subject. Sen. Baker noted the expansion of medical cannabis programs, growing consensus around the efficacy of medical cannabis despite federal law, and reiterated the need for patients to be able to access treatments that are medically beneficial to them affordably. Mike Takano noted a that there is a distinction between black market cannabis' designation as a Schedule I drug and medical cannabis, which is legal in most States and, if not legal, at least accepted at the federal level via the Rohrabacher-Blumenauer amendment.

- Sen. Baker asked if someone could provide the average cost of reimbursements for opioids in the State, for the purpose of pegging reimbursement to some other standard. HMSA noted that there they have questions about the cost of medical cannabis, whether there are standard dosages for each qualified condition, and how a doctor interacts with the patient to titrate dosage. Sen Baker asked if there is a way to peg reimbursements for medical cannabis to certain opioids. She requested that members obtain information on reimbursements for opioids within workers' compensation systems. Mike Takano suggested that the working group work off a $350 - $390/month benchmark for cost modelling, both because the prices of medical cannabis in Hawaii will go down as the dispensaries refine and streamline their production processes, and because of the variance in bioavailability of cannabis metabolites between individuals. Med-QUEST noted there there may be some cost modelling available from Rhode Island, a State with a similar population to Hawai‘i, and that they will provide that information to the working group if possible. QP Randy Gonce offered a simplified model for product reimbursement via a co-opt model, and likened it to health plans offering gym membership reimbursements to members. For example, a dispensary could create a group with a membership fee of $350/month, and a member would be entitled to be gifted with a certain quantity of medical cannabis. Insurers would then be free to reimburse their members for their membership fees, and avoid the complications of dealing financially with a cannabis-based business.

- HMSA noted the plans have an appreciation and understanding of the potential benefit of increasing access to medical cannabis, and explained that from their perspective there still needs to be some work done toward proof of concept. A suggestion was made that the Committee Chairs seek as much information as possible on the subject from other jurisdictions who have more experience, including actuarial analysis from state workers' compensation systems that have been reimbursing for medical cannabis, if possible. The plans again expressed concern about the potential legal ramifications associated with federal cannabis law. Sen. Baker noted that a legislative mandate for reimbursement for medical cannabis could serve as a meaningful legal protection for health plans reimbursing for medical cannabis. Rep. Mizuno reiterated the need for data from other states.

- Sen. Baker asked the Mr. Takano to share a bit about the training their employee receive with respect to recommendations to patients. Mr. Takano related that 30% of their members are physicians, so they are very careful about the recommendations they give to patients. They provide subjective accounts of experiences that patients have had with certain strains, but are careful not to imply that what they are offering is medical advice. They also inform patients about medically established risks associated with using medical cannabis. 65% of Pono Life Maui members are licensed professionals, and they have taken steps to apply best practices and safety on top of existing dispensary laws. In 2018 Pono Life Maui completed a HIOSH voluntary inspection, training, and plan for continued collaboration. Further, the majority of managers completed food safety protection management training, and staff completed food handling training, in accordance to the FDA Food Safety Code.

III. Next Steps and Announcements

- Members discussed a date for the next working group meeting, and settled on the morning of 12/12/18. Sen. Baker discussed the nature and scope of the final report, noting that there are issues that still need to be addressed in the future.

IV. Adjournment