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DEPARTMENT OF HEALTH AND HUMAN SERVICES PATIENT PROTECTION COMMISSION

Helping people. It's who we are and what we do.



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Patient Protection Commission January 1 Report

Background

Nevada Revised Statutes (NRS) 439.902-918 created the Patient Protection Commission (PPC) to systematically review issues related to the health care needs of residents of Nevada and the quality, accessibility, and affordability of health care. During the 2021 legislative session, language was added to NRS 439.908 which moved the PPC to the Department of Health and Human Services (DHHS) and further designated the Commission as the sole state agency responsible for administering Nevada's participation in the Peterson-Milbank Program for Sustainable Health Care Costs in Assembly Bill 348 in 2021. NRS 439.902-918 govern the PPC.

Meetings and Activities

Since the last report, the Commission held six public meetings. The summary minutes surrounding each meeting are attached for your reference. Highlights of PPC meeting discussion and action items over this timeframe included:

- Discussion, debate, and vote on three PPC bill draft requests for the 2023 Legislative Session
- Health care cost growth mitigation strategies
 1. Provider price caps and provider price growth caps
 2. Prescription drug affordability strategies
 3. Health insurance rate review
 4. All-payer value-based payments
- [Nevada's Consumer Health Experience State Survey](#) (CHESS)
- Cost growth benchmark accountability mechanisms
- Lessons learned from other state's health care cost growth benchmark programs (Oregon and Massachusetts)
- Examples to measure primary health care spend in the state
- Implications of inflation for assessing cost growth benchmark performance
- Health Equity Plan
- Comparison of Nevada health care costs with other states

During its August 17, 2022, meeting the PPC voted moving the Stakeholder Advisory Subcommittee to solely an email distribution model soliciting feedback on the Peterson-Milbank Program for Sustainable Health Care Costs. Per NRS 439.912.2(a), each subcommittee expires 6 months after it is created but may be continued with approval of the Commission. This subcommittee is next scheduled for a continuation vote at the February 2023 meeting.

Current Commission Priorities

Bill Draft Requests

The Commission has provided recommendations for legislation in the 2023 Legislative Session working toward improving the quality, accessibility, and affordability of health care in our State. The three bill draft requests submitted in accordance with NRS 218D.213 to the Legislative Counsel Bureau have been printed publicly as Assembly Bills (AB):

- [AB6: Health Care Cost Growth Benchmark](#)
- [AB7: Electronic Health Records](#)

- [AB11: Corporate Practice of Medicine](#)

Peterson-Milbank Program for Sustainable Health Care Costs

Following the designation as the sole state agency responsible for administering Nevada's participation in the Peterson-Milbank Program for Sustainable Health Care Costs, the Commission has been working diligently toward actions to support the Executive Order for Nevada's Health Care Cost Growth Benchmark. Such actions include:

- Discussion and overview of cost growth mitigation strategies; a menu of strategies and actions that can be taken by the state, payers, purchasers, and/or providers to reduce health care cost growth and help all entities meet the cost growth benchmark.
- Deliberating the implications of inflation for assessing cost growth benchmark performance. Achieved consensus to protect the Nevada health care cost growth benchmark value and a firm commitment to acknowledging the impact of inflation and labor shortages when interpreting results of assessing cost growth benchmark performance.
- Received approved funding request to the Peterson-Milbank Program for Sustainable Health Care Costs to support additional Phase 2 health care cost driver analysis reports with Nevada Medicaid and the Public Employees' Benefits Program (PEBP) data.

Through Nevada's participation in this program, Bailit Health is providing technical assistance and support to the Commission and Stakeholder Advisory Subcommittee to engage cross-sector stakeholders in designing, adopting, and implementing policies to measure health care costs. The Peterson-Milbank Program for Sustainable Health Care Costs has currently only authorized Bailit Health to provide technical assistance to Nevada through calendar year 2022; however, a sustainability plan has been developed to continue this important work if Bailit Health technical assistance is, or is not, renewed. This sustainability plan includes a proposal in the Agency Requested Budget and a request for American Rescue Plan Act (ARPA) Fiscal Recovery Funds (FRF) to support technical assistance currently being offered by Bailit Health; followed by engaging and obtaining support of the Governor's Office and the Governor's Finance Office to advance these requests, and meeting with key legislators and staff to share program accomplishments and explain the importance of the program.

Description of Identified Issues

NRS 439.918.2.(a) requires this report to include, without limitation, a description of any issues identified as negatively impacting the quality, accessibility or affordability of health care in this State and any recommendations for legislation, regulations or other changes to policy or budgets to address those issues. Since the last report, the Commission has identified issues related to prescription drug affordability, health insurance coverage, and staff support for the health care cost growth benchmark; each noted below with recommendations.

Prescription Drug Affordability

Identified Issue

As noted by the Commission, a prescription drug affordability review board gives states the ability to limit how much its residents pay for certain high-cost drugs. A drug affordability review board would bring the parties together, increase transparency, and set an upper payment limit/cost sharing arrangement. In several states, there has been significant interest in legislation to further regulate drug prices, and the prescription drug affordability review board offers an opportunity for a coordinated strategy.

Further, Nevada has already taken steps to address prescription drug affordability and a prescription drug affordability review board (PDAB) is a natural step to ensure patients receive affordable healthcare. Nevada, pursuant to NRS 439B.630, requires the Department of Health and Human Services (DHHS) to compile a list of prescription drugs essential for treating diabetes (Essential Diabetic Drugs or EDDs), a list of those Essential Diabetic Drugs that had a significant price increase as well as other medications that had a significant price increase and cost more than \$40 per course of therapy in Nevada.

All manufacturers that produce medication included in Nevada’s Essential Diabetes Drug List are required to submit to DHHS a report with data outlining drug production costs, profits, financial aid, and other drug-specific information and pricing data (NRS 439B.635). For drugs that experienced a recent significant price increase, manufacturers are required to submit a report that provides a justification for these price increases (NRS 439B.640).

Pharmacy Benefit Managers (PBMs) are required to submit reports regarding rebates negotiated with manufacturers for drugs on both the Diabetic Essential Drug List and the Over \$40 Drug List (NRS 439B.645). DHHS is also required to maintain a registry of pharmaceutical sales representatives that market prescription drugs in Nevada (NRS 439B.660). These representatives are required to annually submit a list of health care providers and other individuals to whom they provided drug samples and/or individual compensation events exceeding \$10 or total compensation exceeding \$100 during the previous calendar year. Along with the work the PPC has done in establishing the cost growth benchmark and all payer claims database (APCD), these measures establish a firm footing to meaningfully address rising costs associated with healthcare through the establishment of a PDAB.

Recommendation

During its August 17, 2022, meeting, the Commission voted to provide a letter of support to Nevada Legislators regarding creation of a prescription drug affordability board (PDAB) and to set “allowable rates” for certain high-cost drugs identified by the PDAB.

Health Care Coverage Analysis

Identified Issue

During its August 17, 2022, meeting, the Commission voted to support exploring opportunities to provide basic health care coverage to infants, children and young adults up to age 26 who are ineligible for full Medicaid coverage under federal law due to their current residency or immigration status. This includes hiring an expert vendor to develop recommendations to the PPC on options to achieve this goal with non-federal, available revenue sources, including braiding local government, private grant, philanthropic, and/or state resources to support this effort. Further, among the options considered by the vendor shall include a limited, state-funded Medicaid benefit for this population, that leverages limited federal Medicaid funds available to this population for emergency services as part of this benefit. The vendor shall also be asked to conduct a return-on-investment study of at least two options selected by the PPC to inform future proposals and budget requests as they relate to addressing the growth in health care costs related to the health status of this population.

This issue and recommendation are supported by research by the Guinn Center for Policy Priorities on the number of individuals ineligible for full Medicaid coverage based on residency or immigration status in Nevada. The Guinn Center for Policy Priorities discovered that this population is estimated to be 30 percent of the state’s uninsured population. When considering more recent statistics about the number of individuals without health insurance in Nevada, this population likely consists of about 90,000 residents. Without tangible policy solutions to this problem, Nevada will continue to face the downstream effects of leaving this sizeable population without access to affordable health care services.

Further, as noted by FamiliesUSA in a 2021 report titled: *The Catastrophic Cost of Uninsurance: COVID-19 Cases and Deaths Closely Tied to America’s Health Coverage Gaps*; each 10% increase in the proportion of a county’s residents who lacked health insurance was associated with a 70% increase in COVID-19 cases and a 48% increase in COVID-19 deaths. In other words, people living in communities with very high rates of uninsurance were much more likely to contract the virus and to die than were people living in communities with relatively few uninsured. Moreover, health insurance gaps had a particularly powerful impact on COVID-19 illnesses and deaths in certain states – including Nevada:

- In 11 states (Nevada being in the top 9), illnesses linked to health insurance gaps comprised at least 50% of the state’s total COVID-19 **illnesses** from 11/22/20 through 8/31/21; and
- In 10 states (Nevada being in the top 10), health insurance gaps were linked to at least 40% of the state’s total

COVID-19 **deaths** from the same time period.

Recommendation

In addition to a letter of support to Nevada Legislators on this topic, the Commission has recommended a \$200,000.00 line item in the Department of Health and Human Services (DHHS) Budget Account (BA) 3055 agency budget for the new biennium (beginning July 1, 2023) to secure funding for an experienced vendor to best perform this fiscal and policy analysis and modeling necessary for informing Nevada policymakers about valuable and feasible solutions for meeting the health care needs of this uninsured population.

Staff Support for the Health Care Cost Growth Benchmark

Identified Issue

The Patient Protection Commission was designated through Assembly Bill 348 in 2021 to be the sole state agency responsible for implementation of the Peterson-Milbank Program for Sustainable Health Care Costs. The [Peterson-Milbank Program](#) recommends that each state should identify a core team which includes a full-time senior director to lead and prioritize the work and a group of individuals to support program operations. Further, the team should be responsible for the strategic guidance of the state's cost growth benchmark program; project management; convening and managing meetings; engaging stakeholders; managing contractors; communicating with legislators; and general program messaging to the public. This core program team will need to obtain feedback and necessary approvals from state agencies or others to report information and findings from analyses publicly.

Recommendation

Given these recommendations from Peterson-Milbank and workload considerations for a current Full-Time Equivalent (FTE) staff total of three in the Department of Health and Human Services (DHHS) Budget Account (BA) 3055 (for the Patient Protection Commission); the program has developed and proposed a sustainability program in the Agency Requested Budget. This budgetary request is in alignment with the Commission's proposed legislation to the 2023 Nevada State Legislature: [Assembly Bill 6](#).

Collaboration

NRS 439.918.1, paragraphs (a) and (b) additionally requires the Commission attempting to identify and facilitate collaboration between existing state governmental entities that study or address issues related to the quality, accessibility, and affordability of health care in this State, including, without limitation, the regional behavioral health policy boards created by NRS 433.429; and attempting to coordinate with such entities to reduce any duplication of efforts among and between those entities and the Commission.

State Governmental Entities

The Commission's executive director was appointed in April 2022 and has been busy getting to know the state agencies involved in furthering the charge of the Commission and has since presented to, and/or met with the following:

- Joint Interim Standing Committee on Commerce and Labor; PPC introduction and health care cost growth benchmark.
- Nevada Department of Corrections; health care cost growth benchmark aggregate data request.
- Commissioner's Advisory Committee on Health Care and Insurance; PPC introduction and health care cost growth benchmark.
- Introductory meeting with the Nevada Office on Minority and Health Equity.
- DHHS Pharmacy Policy Advisor; pharmacy price strategy options.
- Regional Behavioral Health Policy Boards; PPC introduction and health care cost growth benchmark.
- Division of Health Care Financing and Policy; PPC and health care cost growth benchmark.
- Division of Insurance; PPC and health care cost growth benchmark data requests.
- Nevada Governor's Office of Science, Innovation and Technology (OSIT); Graduate Medical Education program.

- Nevada Public Employees' Benefits Program (PEBP); PPC and health care cost growth benchmark.
- DHHS, Tribal Liaisons, and DHHS Tribal Consult; PPC introduction and health care cost growth benchmark.
- Division of Public and Behavioral Health; PPC proposed BDR topics.

The Commission is willing to collaborate with any state governmental entity that studies or addresses issues related to the quality, accessibility, and affordability of health care in this State; and looks forward to continuing this practice through open communication with the Commission and offering direct collaboration from the executive director.

Reduce Duplication of Efforts

The Commission is committed to attempting to coordinate with any state governmental entity to reduce any duplication of efforts among and between those entities and the Commission. A direct opportunity to reduce such duplication has not yet presented itself, however the Commission will remain vigilant on this matter.

Next Steps

The Commission is next scheduled to meet in January 2023. Expecting to receive a debrief on the Phase 2 health care cost driver analyses from both Nevada Medicaid; and as a proxy for the commercial market – the Public Employees' Benefits Program (PEBP), with a focus on pharmaceutical and hospital spending. These analyses will help paint the picture on part of what is driving up health care costs in the state. Additionally in the first half of 2023, the Commission intends to explore in much greater detail four health care cost growth mitigation strategies, learning more about their applicability and potential effectiveness in Nevada. Expected outcome of both activities is leading to well-informed future health policy recommendations from the Commission.

Enclosure:

1. Summary Minutes for PPC Meetings Jul. – Nov. 2022