Dirigo Health Agency
Board of Trustees
Minutes of Meeting
Thursday, December 18, 2008

The Dirigo Health Agency Board of Trustees held a meeting on Thursday, December 18, 2008.

Dr. Robert McAfee convened the meeting at 9:04 AM in the Dirigo Health Agency Boardroom located at 211 Water Street in Augusta.

Other Board members in attendance: Edward David, Trish Riley, Mary Anne Turowski, Mary McAleney, Joseph Bruno, Sara Gagne Holmes, and Marianne Ringel. Also in attendance: Karynlee Harrington, Executive Director of the Dirigo Health Agency, William Kilbreth, Deputy Director of the Dirigo Health Agency, and Dr. Josh Cutler, Director of the Maine Quality Forum.

Governor's Office of Health Policy and Finance Update-Trish Riley

Ms. Riley reported that there have been some conversations with the Obama transition teams and that there are a series of House parties all over the state aimed at generating grassroots support for their healthcare effort.

We are continuing in our appeal regarding the Medicaid denial and have reached a decision point regarding next steps with the court. Timing is interesting given the new administration. More to follow as we determine best strategy to bring closure to this issue and move forward.

Ms. Riley proceeded with an update regarding a potential legislative package concerning Dirigo. The Governor's approach looks like it will be a three stage strategy in this legislative session with a goal of continuing to advance the work specific to cost, quality and access:

- Look at the SOP and try to stabilize it. With the goal of putting the program in a stable place with stable financing that is not contentious and puts the program on a platform for change. Need to get the financing straight so that we can move forward with potential opportunities at the Federal level.
- There is a small package of affordability initiatives to get costs down for all while improving the systems efficiency.
- Build on the work we have already done to create a public health infrastructure. We now have a strategic infrastructure with HealthyME partnerships statewide; districts with CDC staff in those districts and a state wide Public Health Board. State is now in a better position to be more strategic in our effort to prevent disease. We will be launching a wellness initiative with this infrastructure that will redirect existing resources, no new money. The HealthyME partnerships have been charged with this task. Details are being finalized. More to follow.

Ms. Riley added that the primary concerns regarding the financing of Dirigo are the cash flow issues, court cases, the million dollar cost associated with AMCS, and the 27 month collection period of the SOP. They will be looking at amending the SOP so it will be a fixed rate payment paid monthly. Ms. Riley stated that although there will be a movement away from the measurement of savings tied to financing there is solid commitment to continue the work of the Dirigo reform specific to reducing wasteful costs in the system and help create a less costly more efficient system for all. Goal is to pull a package together in January.

Additionally we are monitoring the referendum that we discussed at the last Board meeting. This is the comprehensive roll back of consumer protections and advances over the years relating to the health care system. The Legislature must enact or go out to the people for a vote. There are discussions occurring specific to the potential impact. More to follow.

Board member asked for a clarification regarding the Medicaid court case in regards to postponing until the new administration takes over.

Ms. Riley answered that we are not using resources until the new administration takes over.

Determination of SOP Year 4 Amount

Ms. Harrington referred the Board to the document in their packet titled *Recommendation to Dirigo Board of Directors regarding the amount of SOP to be applied beginning July 1, 2009*. For the new Board members Ms. Harrington stepped back and provided the Board with an overview of the process as defined in statute. First step in the process is to determine aggregate measurable cost savings. In the decision issued by the Superintendent of Insurance in October of 2008 it was determined that $48.7M of savings was supported by the record. The second step in the process is to determine the amount of the savings offset payment. The Statute outlines the provisions regarding the amount of the savings offset payment; the SOP can not exceed the aggregate measurable cost savings that have been determined nor can it exceed 4% of paid claims. Ms. Harrington also provided the new Board members with an overview of what the SOP is based off of, paid claims as defined by rule.

Ms. Harrington stated that the recommendation from the Agency is based on several factors which are:

- the recoverability of savings,
- budget for subsidies and the Maine Quality Forum.

In the determination of aggregate measurable cost savings in the last proceeding the Board and the Superintendent of Insurance approved a measure that is referred to as MLR (medical loss ratio). Ms. Harrington explained what the MLR savings was for the new Board members and went on to say that the MLR savings initiative was included as a savings due to the Dirigo Reform effort however because those savings have been returned to policy holders they are not savings that are available to recapture in the form of an assessment. It was her recommendation that the Board subtract the $6.6M from the $48.7M which leaves $42.10M and assess the full $42.10M. Reinvest the savings in the program so that we can continue to move the reform effort forward. $42.10M translates into a 2.14% assessment. The current assessment is 1.74%. The average assessment for the last three years is about 2%.

Under the current construct in the law the 2.14% assessment would apply beginning July 1, 2009 with a first collection date of December 2009. Ms. Harrington underscored the importance of Legislative action to correct the timing and application of SOP payments. We need to collect 12 months in 12 months.

Chairman made the comment that the variation over the years in the percentage of the SOP is because the savings amount determined and validated. Dr. McAfee also provided the Board with some history regarding the AMCS methodologies and the various attempts to reach agreement with stakeholders.

Board member asked if the savings is cumulative.

Ms. Harrington responded that the position has been that the savings do carry over from year to year. However, the process we use each year to determine savings are for a specific period of time. Each measure has a specific time frame that is looked at when measuring the impact for that period.

Board member asked under that assumption there should be less savings going forward.

Ms. Harrington responded that the savings for year 4 have been determined through an independent process and that given the pending litigation she was not comfortable engaging in a detailed discussion specific to savings.

Dr. McAfee asked the public if anyone had any comments before the Board determined the amount of SOP Year 4.

Kristine Ossenfort representing the Maine Chamber of Commerce stated that Ms. Harrington noted that the SOP is limited to the subsidy and MQF operations but none of that information was presented to the Board and they do not know if $42.1 million is needed for those costs. The other point was 24-A MRSA Section 6913 which governs the establishment of the SOP does say that the annual SOP must be reconciled and any unused payments must reduce the next SOP. Last year the Chamber raised this issue and was told that year 1 SOP of $43 million was not fully collected but has now been fully collected and according to the Agency's annual report the subsidy costs for CY2006 was about $27 million and MQF ran at about $1 million and would total $28 million and this would leave a $14 million credit applied to this years SOP which is not reflected in the recommendation.

Bruce Gerrity, representing the Maine Auto Dealers Trust; Mr. Gerrity echoes the comments made by Ms. Ossenfort. Mr. Gerrity agrees with the Agency's recommendation that the $6.6 million not being included in the SOP. Mr. Gerrity raised questions regarding the reconciliation formula and suggested that the reconciliation occur prior to the receipt of the final payment.

Ms. Harrington responded that the $42.1 million was not presented in a budget document because the Agency is hoping that in this legislative session the financing mechanism is changed. If the $42.1M stays intact, through the legislative session, the Agency will present a budget document to the Board. $42.10M allows the subsidy levels to remain at the existing levels in SFY10.

Ms. Harrington excused herself along with Mr. Kilbreth to review the second issue Ms. Ossenfort raised.

Maine Quality Forum Update-Dr. Josh Cutler

Dr. Cutler described the cost problem of health care in Maine and the United States and the Agency's Cost Driver Study. Please refer to handout.

Continuation of Determination of SOP Year 4 Amount

Ms. Harrington handed out a document that was distributed to the Board March 12, 2007, titled "Proposed SOP Reconciliation Formula." Refer to document. Ms. Harrington reviewed the formula with the Board as described in the document.

> The Agency will reconcile with those entities responsible for paying the SOP at the end of the assessment period, i.e., for the 2006 SOP the reconciliation will be in March of 2008 and for the 2007 SOP the reconciliation will be in September 2009.
>
> For the 2006, SOP, the Agency will compare its total subsidy and MQF expenses from April 1, 2006 to the reconciliation date (March 1, 2008), to the amount of assessment eligible entities have paid for year 1 and Year 2 SOP's. If the assessment received is greater than the subsidy and MQF expenses during that period, the Agency will reduce their next subsequent assessment by the overage.

Ms. Harrington stated she pulled the subsidy and MQF expenses off the Agency's income statements for the time period April 06 through March 08; the expenses for that time period for subsidy and MQF totaled $85 million and the SOP received in the time period was $45 million (Ms. Harrington stated that she was rounding the numbers for the discussion). In the Agency's opinion there is not an overage and the Agency's expenses were far greater than the amount of SOP received.

Ms. Riley clarified that the expenses exceeded the revenue only because of the revenue lag of 27 months not because of overspending.

Dr. McAffee asked for a motion to approve the $42.1 million for SOP Year 4. Motion was made.

Board member asked for an amendment that the determination be 2.14% rather than the dollar amount of $42.1 million.

The Board approved the motion with six votes with Board member Bruno opposed.

Agency Update

Mr. Kilbreth discussed the enrollment report, income statement, and balance sheet. Please refer to handouts. Mr. Kilbreth confirmed revenue projections are on track and that the cash flow challenges of the SOP causes the ending balance to fluctuate as we receive SOP revenue.

Ms. Harrington went on to explain that the Agency is cutting back on expenses. There is a moratorium on out of state travel. The only way an employee will travel out of state is if another party pays for the travel. Other ways of cutting expenses being considered are:

- Searching for a smaller office space
- Employees with cell phones may no longer have desk phones
- Reduction in staffing

Ms. Harrington presented to the Board the Dirigo Health Agency's Annual Report for State Fiscal Year 2008.

Ms. Harrington stated that there was a correction made on page 4 of the report. The report now states that LD 2247 was passed in June and it should be April. The hope is to get this to the Governor and the Legislative Committees by December 29, 2008. Board members suggested a few revisions for the Executive Summary. Ms. Harrington responded that they will tighten up the executive summary

Ms. Harrington recommended pursuant to MRSA Title 1, Section 405, Paragraph 6, Subparagraph C that the Board go into executive session to discuss the terms and conditions of DirigoChoice.

The Board so moved but agreed to public comments before going into executive session.

Public Comments

Ms. Ossenfort of the Maine State Chamber of Commerce stated that the Chamber feels the reconciliation formula of the Agency is not in compliance with the statute and that the statute requires The Board to look at 12 months of expenses to 12 months of revenue.

Mr. Smith of the Maine Medical Association stated that the all payor claims database is an important tool and people in state and out of state are very interested in this issue and analysis.

Mr. Smith also stated that the VPAI contract has been extended with the Dirigo Health Agency to the end of the fiscal year. The goal is to assess 150 independent physicians; 109 physicians have been assessed, representing 46 practices. The outcome of this process is to work with practices to get them into a chronic disease registry, EMR and e-prescribing.

Mr. Smith added that he has been asked to defend the MMA's comments as to why they believe it is important to cover people especially during these difficult economic times on an online blog.

Lastly, MMA is going to hold a listening session on Health systems reforms at their office December 30, at 4:00pm.

Mr. Downs from Harvard Pilgrim Healthcare commended the Agency and thanked the Board for excluding the $6.6 million in the SOP Year 4 recommendation.

Ms. Harrington added an update regarding the RFP for consulting services for year 5 AMCS. This RFP has been approved by Purchasing and was advertised in the Portland Press Herald and Bangor Dailey on December 18 and 19 and in the Kennebec Journal on December 17, 18, and 19.

The Board goes into executive session.

The Board came out of executive session and reported that there was no action taken in executive session and that the discussion was an update on terms and conditions of DirigoChoice.

Next Meeting

The next meeting was tentatively scheduled for Monday, January 12, 2009 beginning at 1:00 PM.