

**Medicaid Member Advisory Committee
Meeting
600 East Broad Street, Richmond, Virginia**

**June 8, 2020
Minutes
Approved by Unanimous Vote**

Attendees

Committee Members	DMAS Staff
Christian Campbell	Karen Kimsey, M.S.W., Director
Catherine Childers	Rachel Pryor, Deputy Director of Administration
Margaret Crowe	Tammy Whitlock, Deputy Director for Complex Care and Services
Sandra Hermann	Dr. Chethan Bachireddy, Chief Medical Officer
William (“Hamilton”) Holloway	Brian McCormick, Division Director, Policy Planning and Innovation
James Murdoch, Sr.	Sarah Broughton (facilitator)
Elizabeth Noriega	John Stanwix (meeting convener and facilitator)
Lisa Richard	Walter Burton (meeting organizer)
	Beth Alexander (WebEx administrator)
	Montserrat Serra (Powerpoint administrator)
	Samantha Vrscak (prepared minutes)

WELCOME AND CALL TO ORDER

John Stanwix called to order the fifth meeting of the Medicaid Member Advisory Committee (“MAC” or “Committee”) at 10:05 a.m. on Monday, June 8, 2020. Due to the COVID-19 emergency, the meeting was conducted virtually via WebEx instead of at the Department of Medical Assistance Services (“DMAS”) headquarters. Mr. Stanwix thanked the Committee for joining the meeting. He introduced Beth Alexander to the Committee, who gave a brief explanation to the meeting attendees on how to use WebEx to participate in the meeting. Mr. Stanwix then introduced the DMAS Director, Karen Kimsey.

Introduction by Karen Kimsey, M.S.W., DMAS Director

Ms. Kimsey greeted the Committee and thanked the Committee for their participation in the virtual MAC meeting. She explained that while present circumstances prevented the Committee from gathering in person, she wanted the Committee to continue its meetings because of how valuable DMAS finds the Committee’s suggestions and comments. She acknowledged that COVID-19 has presented many challenges across the nation, and that as a healthcare agency, DMAS has been working to ensure that members and providers are properly equipped to address the pandemic. Ms. Kimsey previewed the agenda for MAC, stating that the meeting would address the changes made by DMAS in response to the COVID-19 pandemic. She explained that presentations would be given by Deputy Director of Administration Rachel Pryor; Deputy Director for Complex Care and Services Tammy Whitlock, and Chief Medical Officer Chethan Bachireddy, M.D. She also requested that the

Committee provide its candid and open feedback to those changes, as well as any other thoughts or experiences during the past few months. She noted that this was a public meeting and would have a period of comment reserved at the conclusion of the meeting. Ms. Kimsey expressed thanks to the Committee members for their time, and that she was looking forward to hearing from the Committee during the meeting. Mr. Stanwix then introduced Rachel Pryor, Deputy Director of Administration.

Introduction by Rachel Pryor, DMAS Deputy Director of Administration:

Ms. Pryor thanked the Committee members for their continued participation. She expressed that the meetings would continue because the Committee's work was very important to DMAS. She encouraged the Committee members to share their comments and questions about DMAS' response to COVID-19. She reiterated her thanks to the Committee and turned the meeting over to Mr. Stanwix.

Introduction of Committee Members and DMAS Staff Present

Mr. Stanwix had the Committee members and DMAS staff introduce themselves and share how they were adapting to the changes brought on by the pandemic. Following the introductions, Mr. Stanwix explained to the Committee that there would be an opportunity for public comment, and that he would be reading a comment received via email into the record later. He thanked DMAS staff for their work towards the meeting preparation. He commented that during this time of crisis, Director Kimsey and the Deputy Directors at DMAS had risen to the challenge to ensure that Medicaid members and providers were supported at this time, and that all DMAS staff was working hard to achieve that goal.

Mr. Stanwix then segued the meeting to the scheduled presentations.

PRESENTATION AND DISCUSSION WITH RACHEL PRYOR, DEPUTY DIRECTOR OF ADMINISTRATION – POLICY AND ADMINISTRATION UPDATES

Ms. Pryor gave a presentation about the policy strategy and changes that were made in response to the COVID-19 pandemic. She explained that two recent Executive Orders, Executive Order 51 and Executive Order 58, issued by Governor Northam, made it possible for DMAS to temporarily waive certain regulations and Code of Virginia provisions to remove restrictions that may interfere with obtaining services and continuity of services during the pandemic. She noted that COVID-19 information was recently added to both of the DMAS and Cover Virginia websites (<https://www.dmas.virginia.gov/#/covid> and <https://coverva.org/covid19/>), which included resources for advocates, providers, and members. Ms. Pryor explained that the Virginia Medicaid program received some financial assistance from Congress, such as a 6.2% increase in the Federal Medical Assistance Percentage, contingent upon DMAS meeting the Maintenance of Effort requirement and continuation of coverage for those enrolled in the Medicaid program. She also noted that Congress awarded approximately \$180 billion in increased health-related spending in the Coronavirus Aid, Relief, and Economic Security (CARES) Act, with Virginia to receive a portion of that funding. Ms. Pryor described several major changes as a result of the increased flexibilities gained by temporarily waiving certain state laws and regulations during the pandemic. These changes included the elimination of co-pays for Medicaid members; continued coverage for every Medicaid member who was enrolled in Medicaid at the beginning of March, regardless of their continued eligibility; eliminated the Pre-Admission Screening and Resident Review (PASSR) requirement for nursing home admission; and allowed for greater flexibilities in filing appeals, as well as in applying for Medicaid.

Comments and questions from the Committee were taken during the presentation. One member inquired as to whether the background check requirement for care aides had changed as a result of these temporary flexibilities. Ms. Whitlock answered the question, explaining that while the Virginia Department of Health (VDH)'s requirement for background checks was not eliminated, the temporary changes in DMAS regulations allowed for an increased time period to process the background checks and allowed for aides to provide services to adults while waiting on the background check results. Another member asked for clarification as to the applicability of state and federal statute and regulations. Ms. Pryor explained that regulations interpreted the applicable statutes, and that DMAS follows both federal and state law, with federal law applying should there be a conflict between federal and state law. She further explained that the federal government grants waiver authority, and that the state decides how to implement that waiver with state law, regulation, and policies, using the Early and Periodic Screening, Diagnostic, and Testing (EPSDT) program as an example of such a federal Medicaid program implemented by states. One member asked whether care attendants could utilize the Virginia Department of Social Services (VDSS)'s childcare list, because of the current lack of daycare options. Ms. Kimsey indicated that DMAS could reach out to VDSS about that issue. Another member asked whether attendants who stopped services as a result of COVID-19 concerns would need to submit to a new background check before resuming employment or if they would be subject to other delays in the re-hiring process. Ms. Kimsey indicated that DMAS staff would look at the applicable regulations, but that it would be likely that attendants would not be subject to a new background check or other delays to the hiring process.

Mr. Stanwix then introduced the DMAS Chief Medical Officer, Dr. Chethan Bachireddy, for a presentation about the role of Virginia Medicaid during the COVID-19 pandemic.

**PRESENTATION AND DISCUSSION WITH CHETHAN BACHIREDDY, M.D., DMAS
CHIEF MEDICAL OFFICER – MEDICAID DURING THE COVID-19 CRISIS**

Dr. Bachireddy gave a presentation about understanding the COVID-19 crisis, including updates on COVID-19 testing, DMAS' partnerships with other public health agencies, and telehealth. Dr. Bachireddy addressed the current statistics for the total number of known COVID-19 cases, hospitalizations, and probable deaths, and encouraged the Committee to look at VDH's website for daily updated statistics. He explained that while health professionals could not precisely predict who would be adversely impacted by COVID-19 from a clinical perspective, those with heart and lung disease, those who are immunocompromised, and those who are elderly are generally negatively impacted by COVID-19. He noted that urban areas have been affected the most, with nursing facilities and congregate settings, such as correctional facilities, are COVID-19 "hotspots." He also noted that the Hispanic population and the African American populations accounted for a disproportionately large percentage of those affected by COVID-19, and that public health experts were studying those effects and researching solutions for those inequities. Dr. Bachireddy indicated that Virginia state agencies were working with providers to expand testing sites, and that all Virginians would have access to a self-assessment tool called "COVID Check." He explained that the COVID Check tool was online, and would allow individuals to do a self-assessment based on symptoms and co-morbidities, and COVID Check's algorithm would assess the individual's level of risk and the best course of action based on that level of risk. Dr. Bachireddy discussed Medicaid members' increased access to telehealth by allowing the member's home to be an originating site, as opposed to a provider's office, as well providing access via telephone. He noted that Medicaid members would have increased

specialist access through eConsults, instead of potentially waiting months for an appointment with a specialist. He also discussed remote patient monitoring for COVID-19 using medical devices that monitoring breathing and oxygen levels that would inform the member if it was necessary to seek further medical treatment.

Several MAC members had comments and questions following the presentation. One member asked if the telehealth policies would be permanent. Dr. Bachireddy responded that providers and member have appreciated the telehealth flexibilities, but that expanded access to telehealth was not yet permanent. Ms. Pryor explained that DMAS has to seek approval for the expanded telehealth policies to be made permanent, and encouraged the Committee members to share with DMAS what policy changes have benefited them. Another member asked if intermediate care facilities were included in the VDH data regarding COVID-19 rates on long-term care facilities. Dr. Bachireddy explained that intermediate care facilities were included in those statistics, and that VDH was working to further delineate the statistics for different types of care facilities. One member asked how COVID-19 differed from the flu in Virginia. Dr. Bachireddy explained that the mortality rate for COVID-19 is about ten times higher than the flu, and that the coronavirus responsible for COVID-19 can cause inflammation and other health conditions that clinicians were only beginning to understand. He also noted that social distancing and personal protective equipment measures were being used to reduce the transmissibility rate of the virus. Another member asked when the increased access to telehealth was scheduled to end because it was not a permanent policy. Ms. Pryor explained that the Governor's Executive Order does not have an end date at this time. Another member asked whether Medicaid members with cell phones provided by their Medicaid plan received additional minutes to access telehealth services. Dr. Bachireddy confirmed that these Medicaid members received additional minutes and data to increase accessibility to telehealth.

Mr. Stanwix then introduced the Deputy Director for Complex Care and Services, Tammy Whitlock, for a presentation about changes in long-term care during the COVID-19 pandemic.

**PRESENTATION AND DISCUSSION WITH TAMMY WHITLOCK, DEPUTY DIRECTOR
FOR COMPLEX CARE AND SERVICES – COVID-19 FLEXIBILITIES, LONG-TERM
SERVICES AND SUPPORTS**

Ms. Whitlock gave a presentation about the flexibilities DMAS had been able to obtain for Medicaid members receiving long-term care services. She explained that service authorization requirements for specific waiver or EPSDT services were automatically extended for 60 days, and service authorization for specific durable medical equipment (DME) and home health services were waived during the emergency period. She noted that remote services and telehealth were now permitted for routine supervision visits, level of care screenings, service development meetings, and registered nurse supervisor and service facilitator assessments. Ms. Whitlock addressed some of the key provisions in the Centers for Medicare & Medicaid Services (CMS)'s approval of Virginia's request to amend some of the Section 1915(c) Home and Community-Based Services waivers with the Emergency Preparedness and Response Appendix K. She noted that Appendix K permitted home and community-based settings to limit the number of visitors to residencies to minimize the spread of infections from COVID-19, and those members would retain waiver coverage even if they do not receive a service over a 30-day period. She explained that Appendix K also permitted spouses, parents of minor children, and legal guardians to provide and be reimbursed for personal care services, and that care aides could perform services prior to completing the required 40 hours of training, as long as the care

aides are proficient in skills needed to perform those services. Ms. Whitlock also described flexibilities provided by CMS pursuant to a waiver under Section 1135. These flexibilities include: waiving pre-admission screenings for individuals moving from a hospital to a nursing facility; allowing nursing facilities to temporarily waive certifications for its nurse aides; allowing home health agencies to perform certifications and initial assessments via telehealth; allowing DME providers to deliver up to one month supply at one time and allowing temporary coverage for short term oxygen usage for certain conditions; and temporarily extending authorizations for DME until the end of the state of emergency. Ms. Whitlock also noted flexibilities in behavioral health services, which included enabling the use of telehealth for delivery of behavioral health services, and increased flexibilities of opioid treatment programs in medication administration and using telehealth for counseling services.

Comments and questions were taken from the MAC following the presentation. A Committee member asked if consumer-directed care attendants were considered essential personnel. Ms. Whitlock explained that DMAS did not have the authority to designate providers as essential personnel. One member asked how long parents of minor children will be able to be paid as caregivers under Appendix K, as well as how long the waiver flexibility provisions will be in effect. Ms. Whitlock responded that DMAS was evaluating a rollback period to end the temporary flexibilities in accordance with the Governor's phase-in process for reopening. Another member asked if there was a way to offer the 40 hours training created for consumer-directed care attendants and whether the training was created by DMAS. Ms. Whitlock replied that the training was not created by DMAS and that DMAS was not part of developing the training, and therefore was not involved in offering the training. One MAC member asked if family members could be enrolled to provide consumer directed services and if they could perform skilled nursing services. Ms. Whitlock stated that family members could currently sign up to be attendants through consumer direction. Ms. Kimsey noted that the Department's regulations allowed for individuals to perform certain types of skilled nursing services as allowed by the Nurse Practice Act, but that required a supervisory nurse to delegate those services to the individual. She noted that she would make that information available to the MAC.

Following Ms. Whitlock's presentation and questions from the Committee, Mr. Stanwix opened the discussion to the Committee for any questions or comments for DMAS staff prior to moving on to the next meeting agenda items. One Committee member suggested that a survey be conducted for parents who would normally sign up to be care attendants, but could not satisfy the employer of record requirement. Ms. Whitlock replied that DMAS could look into reaching out to this population to determine ways DMAS could assist them. Another member asked how normal policies will be phased in with the context of all the temporary guidelines currently in place. Ms. Pryor explained that all of the temporary policies are authorized for different time periods because of emergency declarations at the federal and state level, and that Virginia's Secretary of Health and Human Resources, Daniel Carey, M.D., and his staff, were assessing how to extend certain policies long term, and giving notice to stakeholders. One member thanked Director Kimsey, Deputy Pryor, and Deputy Whitlock, for quick action in addressing the needs of Medicaid members and providers during the crisis.

**REVIEW AND VOTE TO APPROVE MINUTES FROM MEETING ON
NOVEMBER 18, 2019 AND 2019 COMMITTEE ANNUAL REPORT**

Each of the MAC members received a copy of the November 18, 2019, meeting draft minutes, and the draft minutes were also posted on the Committee's webpage on DMAS' website, as well as on the Virginia Town Hall website. Mr. Stanwix explained the process for making a motion to accept or

propose changes to the draft minutes.

MAC member Sandra Hermann moved to accept the minutes from the November 18, 2019, meeting. MAC member Catherine Childers seconded the motion to accept the minutes. The Committee then voted to approve the minutes with a unanimous vote.

Mr. Stanwix then directed the Committee's attention to the draft 2019 Committee Annual Report. Mr. Stanwix explained that the Annual Report provided a history of the development of the MAC and a summary of each of the meetings. He elaborated that DMAS wanted the Committee to have the opportunity to make comments or questions, or could move to adopt the Annual Report.

MAC member James Murdoch moved to adopt the Committee Annual Report. MAC member Margaret Crowe seconded the motion to adopt the Committee Annual Report. The Committee then voted to adopt the Committee Annual Report with a unanimous vote.

PUBLIC COMMENT

Mr. Stanwix reiterated that the MAC meeting was a public meeting and notice was posted on Virginia Town Hall. He stated that anyone from the public wishing to comment at that time must use the WebEx platform. He explained that DMAS had received an earlier email, and read the email into the record as a public comment.

The author of the emailed public comment requested an extension of the Appendix K policy that allowed for parents of minor children to serve as paid attendants for their children with Medicaid waivers during the pandemic and quarantine. The author requested that Appendix K be extended through the end of the calendar year and reevaluated at that time, rather than expiring on June 30, 2020. The author indicated that they were caring for a medically fragile child and could not risk someone bringing COVID-19 to their home, as it could be catastrophic for their child. The author urged DMAS to extend Appendix K through December 31, 2020, for the sake of their family and other families in similar situations.

There were no additional public comments at the meeting.

ADJOURNMENT

Mr. Stanwix thanked everyone for participating in the meeting, and for participating via WebEx. He noted that DMAS will work on the agenda for the next meeting and will be in touch with the Committee.

Mr. Stanwix adjourned the meeting at 12:20 p.m.