

Medicaid Member Advisory Committee Meeting

**August 26, 2020 Minutes
Approved by Unanimous Vote**

Attendees

Committee Members	DMAS Staff
Christian Campbell*	Karen Kimsey, M.S.W., Director
Catherine Childers	Tammy Whitlock, Deputy Director for Complex Care and Services
Margaret Crowe	Sarah Samick (presenter)
Sandra Hermann	Mariam Siddiqui (presenter)
William (“Hamilton”) Holloway	Corey Pleasants (presenter)
James Murdoch, Sr.	Joshua Lief (presenter)
Elizabeth Noriega	Aneida Winston (presenter)
<i>*Denotes arrived during the first presentation</i>	Michael Puglisi (presenter)
	Susan Martin (presenter)
	John Stanwix (meeting convener and facilitator)
	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 meeting of the Medicaid Member Advisory Committee (“MAC” or “Committee”) at 10:05 a.m. on Wednesday, August 26, 2020. Due to COVID-19, the meeting was conducted virtually via WebEx instead of at the Department of Medical Assistance Services (“DMAS”). Mr. Stanwix thanked the Committee for joining the meeting and for everyone learning the new meeting procedures. 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 noted that she was recently on a national podcast and spoke of the MAC during the podcast. She expressed that the last virtual MAC meeting was successful and hoped to build upon that momentum. She also noted that Rachel Pryor, Deputy Director of Administration, was out on maternity leave, and that Sarah Samick, Senior Policy Advisor, would fill in for Ms. Pryor at the meeting. She explained that DMAS was continuing its COVID-19 pandemic response to assist Medicaid members and providers. She highlighted that DMAS received approval to obtain and distribute personal protective equipment (PPE) for consumer-directed employers of record and their caregivers, and would continue to do so for a period of time. She acknowledged that the Committee expressed interest that many of the flexibilities in procedures due to COVID-19 be

extended, and that DMAS was working to achieve those objectives. Ms. Kimsey previewed the agenda for MAC, informing that the meeting would address the status of current flexibilities by DMAS in response to the pandemic. She explained that the MAC would hear a presentation about DMAS' new health equity committee, and would be followed by a presentation about the Medicaid appeals process. She noted that this was a public meeting and there would be a period of comment reserved at the conclusion of the meeting. Ms. Kimsey expressed thanks to the Committee members for their insights, and that she was looking forward to hearing from the Committee during the meeting.

Mr. Stanwix had the Committee members introduce themselves. Following the introductions, Mr. Stanwix noted that one Committee member, Lisa Richard, would not be present but emailed a statement, which he read into the record. Ms. Richard's statement expressed thanks to Director Kimsey for the extension of Appendix K and that it eased the burden on families, as they may be unable to bring providers into their home during the pandemic. Mr. Stanwix explained to the Committee that there would be an opportunity for public comment.

Mr. Stanwix then segued the meeting to the scheduled presentations. He 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 OF COMPLEX CARE AND SERVICES – COVID-19 FLEXIBILITIES:
LONG-TERM SERVICES AND SUPPORTS**

Ms. Whitlock gave a presentation about the status of some of the flexibilities DMAS had been able to obtain for Medicaid members receiving long-term care services. She first discussed flexibilities for the Section 1915(c) Home and Community-Based Services waivers, specifically the Commonwealth Coordinated Care Plus (CCC Plus) and Developmental Disability Waivers (DD Waiver). She explained that DMAS had requested that the Centers for Medicare & Medicaid Services (CMS) extend the Section 1915(c) Emergency Preparedness and Response Appendix K, which allowed DMAS to modify waiver operations during the COVID-19 emergency. She elaborated that CMS approved the extension of certain flexibilities. Ms. Whitlock noted that, pursuant to Appendix K, DMAS is temporarily allowing spouses and parents of Medicaid members under 18 to provide personal care services and be paid for those services, and that these flexibilities would be extended through January 26, 2021. She also noted that new service authorizations for DD Waiver services could be conducted through video or teleconference from August 15, 2020, and extended through October 31, 2020. She informed that therapeutic consultation activities under the DD Waiver that do not require direct intervention can be conducted through teleconferencing methods through January 26, 2021. She explained that flexibilities provided by CMS pursuant to a waiver under Section 1135 that allow facilities to waive pre-admission screenings for individuals moving from a hospital to a nursing facility were extended through October 22, 2020. Ms. Whitlock noted that as of July 1, 2020, DMAS resumed reimbursement of face-to-face delivery of group-based behavioral health services, but that providers retained the ability to offer services individually or through telehealth. She also discussed the distribution of PPE to Medicaid members receiving consumer-directed services. She noted that consumer-directed employers of record would soon be

able to order disposable masks, hand sanitizer, and gloves at no cost through an online system developed with Coronavirus Aid, Relief, and Economic Security (CARES) Act funding.

Comments and questions from the Committee were taken during the presentation. One member asked if the distribution of PPE was only for employers of record for consumer directed services or if attendants or other members were included. Ms. Whitlock confirmed that only employers of record for consumer-directed services would be eligible to receive PPE to use during care of Medicaid members receiving personal care services. Another member inquired whether managed care organization (MCO) care coordinators would be required to provide services in-home after the flexibilities expire. Ms. Whitlock explained that some visits under the CCC Plus Waiver are required to be face to face and would probably be phased back in. One member asked if DMAS was able to provide N95 masks to consumer-directed employers of record. Ms. Whitlock explained that DMAS was unable to obtain N95 masks, and that DMAS was receiving surgical masks and disposable masks for its next distribution. Ms. Kimsey noted that DMAS had initially experienced some difficulty obtaining PPE generally, with both statewide and international competition for funds and resources. One member commented that the Appendix K flexibilities were very helpful during this time and also appreciated receiving the PPE.

Mr. Stanwix then introduced Sarah Samick, Senior Policy Advisor for Administration, for a presentation about eligibility and enrollment policy changes made as a response to the COVID-19 pandemic.

**PRESENTATION AND DISCUSSION WITH SARAH SAMICK, SENIOR POLICY
ADVISOR FOR ADMINISTRATION– POLICY AND ADMINISTRATION UPDATES**

Ms. Samick gave a presentation about the Department’s COVID-19 policy strategy with respect to eligibility and enrollment. She explained that the Secretary of the U.S. Department of Health and Human Services (DHHS) declared a federal public health emergency, which allowed DMAS to create flexibilities in its policies and procedures to support Medicaid members and providers. She noted that the federal public health emergency had been renewed through October 21, 2020, and that if it was not extended further, then DMAS will roll back the new policies. Ms. Samick discussed the eligibility and enrollment flexibilities that were made as a response to the COVID-19 pandemic. These changes included: the elimination of co-pays for Medicaid members; continued coverage for every Medicaid member who was enrolled in Medicaid as of the beginning of March; suspension of the integration requirement for incarcerated individuals; and that Medicaid members that were displaced by COVID-19 and not currently in Virginia would be considered temporarily absent and maintain their enrollment. She noted that CMS would no longer provide matching funds for certain Children’s Health Insurance Program (CHIP) populations effective July 31, 2020. She explained that this meant that children that were enrolled in Family Access to Medical Insurance Security (FAMIS) plans would age out of those plans; those enrolled in FAMIS Moms would not have their coverage extended past the 60-day postpartum period; and those with certain lawfully residing immigration statuses would no longer be eligible for coverage under those programs. She emphasized that DMAS was working with the Virginia Department of Social Services (VDSS) to ensure those affected individuals were re-evaluated for potential coverage in other Medicaid programs prior to being referred to the federal health insurance marketplace. Ms. Samick explained that while the process for Medicaid renewals resumed on July 26, 2020, the continuation of

coverage requirements in place meant that no adverse action would be taken regarding a Medicaid member's existing coverage during the public health emergency. She mentioned that, in response to the public health emergency, DMAS currently allows individuals to give verbal consent for application assisters to apply for coverage on their behalf. She also noted that deadlines for filing appeals during the COVID-19 public health emergency have been extended and that coverage during the appeals process will be automatically continued.

Several MAC members had comments and questions following the presentation. One member inquired whether the federal government was contributing matching funds to cover the cost of the flexibilities during the public health emergency. Ms. Samick explained that DMAS was reimbursed by the federal government for the cost of the flexibilities in response to the COVID-19 pandemic, with an enhanced match for maintaining coverage for Medicaid members. A member asked whether a Medicaid member who filed an appeal, and subsequently lost the appeal, would be required to pay for the costs of their continued coverage incurred during the appeal process. Mr. Stanwix explained that if the appeal and continued coverage was during the public health emergency and for an existing service, the appellant would not have to pay recovery for services that were received during the continued coverage period. Mr. Stanwix also noted that if the request was for a new service, then it would not qualify for "continued coverage" and the member would be liable for payment if the appeal was upheld.

Mr. Stanwix then introduced Mariam Siddiqui, Senior Program Advisor, and Corey Pleasants, Senior Policy Advisor, for a presentation on DMAS's internal health equity workgroup.

PRESENTATION AND DISCUSSION WITH MARIAM SIDDIQUI AND COREY PLEASANTS – ADDRESSING HEALTH EQUITY & DISPARITIES FOR MEDICAID MEMBERS AND PROVIDERS

Ms. Siddiqui and Mr. Pleasants gave a presentation about the purpose and the framework of DMAS's health equity workgroup. Ms. Siddiqui explained that the COVID-19 pandemic has had a disproportionate impact on vulnerable communities across the Commonwealth, and that the health equity workgroup was in response to the pandemic as well as an initiative to combat racial injustice. She elaborated that the workgroup is to develop an agency-wide strategy to ensure DMAS provides access to quality services for all Medicaid members and providers. She explained that DMAS was working to identify social determinants of health that would have direct impact on Medicaid members, as well as evaluating DMAS's own policies and procedures to address health equity disparities. Mr. Pleasants addressed the structure of the workgroup, as well as the goals and initiatives of the workgroup. He explained that the goals included member engagement and communications, policies and services focused on equity, and data quality and measurement of health equity performance measures and social determinants of health data. He further explained that the MAC could assist by sharing areas of concern or issues, offering suggestions of areas to review, and of any best practices relative to health equity and combating health disparities.

Several Committee members expressed their interest and had general questions for the DMAS health equity workgroup during the presentation.

Mr. Stanwix then introduced Joshua Lief, Provider and Medical Appeals Manager; Aneida Winston, Quality Assurance Team Manager; and Michael Puglisi, Eligibility Appeals Manager; for a presentation about the DMAS Appeals Division and the Medicaid appeals process.

**PRESENTATION AND DISCUSSION WITH JOSHUA LIEF, ANEIDA WINSTON, AND
MICHAEL PUGLISI – APPEALS DIVISION OVERVIEW**

Mr. Lief, Ms. Winston, and Mr. Puglisi gave a presentation about the Medicaid appeals process, focusing on Medicaid client appeals. Mr. Lief explained that the purpose of the Medicaid appeals process was to provide due process to Medicaid applicants and members, which was to afford an opportunity to be heard and to guarantee a neutral review of an adverse agency action. He explained that Medicaid client appeals are those involving individuals who are enrolled in Medicaid or seeking to be enrolled. He discussed what issues are appealable to DMAS, as well as the legal authorities for the appeals process and the deadlines to file an appeal. Mr. Lief also discussed the State Fair Hearing process and the elements of an appeal decision. Ms. Winston explained the quality assurance process for client appeal decisions. She highlighted some resources currently available to the public about the Medicaid client appeals process on the DMAS website. She also noted that a new appeals case management system was in development, which would simplify the appeals process and allow appellants to file appeals and documents through an online portal.

Comments and questions were taken from the Committee following the presentation. One MAC member asked if there was a way to ensure that those with who may not understand the MCO grievance process can get assistance to ensure fairness and to maintain needed services. Mr. Lief responded that MCOs are required by law to have a grievance process, but that the Appeals Division was available to answer questions and to provide access to resources that may be available to appellants. A member inquired whether the Appeals Division would work with those who do not understand the process for filing with the circuit court or afford court-filing fees. Mr. Stanwix responded that there were no fees associated with filing an appeal with the DMAS Appeals Division, and that there was a two-step process for appealing to the local circuit court. He elaborated that filing a notice of appeal was free, and that while filing a petition with the circuit court incurred fees, the local circuit court may make the determination *in forma pauperis* to waive filing fees due to the appellant's income level. He noted that DMAS often contacts those who filed a notice of appeal to circuit court to ensure the individual has the necessary information for filing a circuit court appeal. He also recommended that appellants contact their local legal aid organizations for assistance. One member commented that an adult individual with a disability might be at a disadvantage when it comes to filing a circuit court appeal, because they could not represent themselves, and their authorized representative typically would be unable to represent them in court if the authorized representative was not also an attorney. Mr. Stanwix explained that DMAS was represented by the Office of the Attorney General (OAG) in circuit court cases, and that the OAG was required to make sure that the unauthorized practice of law rules were being followed in court. He encouraged those individuals who may be affected to reach out to their legal aid organizations as well as the Virginia State Bar hotline for more information about representation.

**REVIEW AND VOTE TO APPROVE MINUTES FROM MEETING ON JUNE 8, 2020
AND UPDATES**

Each of the MAC members received a copy of the June 8, 2020, 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 Hamilton Holloway moved to accept the minutes from the June 8, 2020, meeting. MAC member Sandra Hermann seconded the motion to accept the minutes. The Committee then voted to approve the minutes with a unanimous vote.

Mr. Stanwix noted that at the June 8, 2020, meeting, the Committee had a few questions that needed additional responses from DMAS. He showed the MAC a copy of the questions as well as the responses to each question. He asked the Committee if there were any follow up questions. The Committee did not have any additional comments.

Mr. Stanwix then introduced the Committee to Susan Martin, Senior Policy Analyst, Eligibility and Enrollment Division, for a brief discussion on an internal eligibility workgroup. Ms. Martin explained that State Senate Bill 213 directed DMAS to convene a workgroup to study the potential of raising the personal maintenance allowance for those receiving long-term supports and services. She elaborated that patient pay was a federal requirement that recipients of long-term supports and services contribute to the cost of their care to the extent they are able to do so, and that the personal maintenance allowance was the most prevalent deduction in calculating patient pay amount. Ms. Martin asked if anyone from the MAC was interested in sharing their experiences about whether the personal maintenance allowance adequately covers expenses or keeps up with the cost of living. She stated that she was open to anyone who wanted to participate in the workgroup, and would send out a voluntary survey to the MAC, and the responses would remain confidential. Several Committee members expressed their interest in participating in the workgroup.

PUBLIC COMMENT

Mr. Stanwix reiterated that the MAC meeting was a public meeting and notice was posted on Virginia Town Hall. He informed that anyone from the public wishing to comment at that time must use the WebEx platform.

There were no public comments at the meeting.

ADJOURNMENT

Mr. Stanwix thanked everyone for participating in the meeting, and for participating via WebEx. He explained that DMAS was seeking individuals to participate in the MAC for the 2021 term, and asked the Committee members if they could refer any potentially interested individuals to DMAS. He elaborated that while DMAS will conduct a formal recruitment for new MAC members, a word of mouth approach is also effective at generating interest. He noted that DMAS will work on the agenda for the next meeting and will be in touch with the Committee. He informed the Committee that the next two meetings would be held on October 26, 2020, and December 14, 2020, and each meeting would be held virtually. He thanked everyone for a productive meeting and for their participation.

Mr. Stanwix adjourned the meeting at 12:08 p.m.