DEPARTMENT OF Managed Health Care

Financial Solvency Standards Board Meeting
May 9, 2013
Meeting Notes

Financial Solvency Standards Board (FSSB) Members in Attendance:

Chairperson Keith Wilson, President and CEO, Molina Health Plan
Elizabeth Abbott, Director of Administrative Advocacy, Health Access
Brent Barnhart, Director, Department of Managed Health Care
Grant Cattaneo, CEO and Founder, Cattaneo & Stroud
Edward Cymerys, Senior Vice President and Chief Actuary, Blue Shield of CA
Larry deGhetaldi, M.D., Palo Alto Medical Foundation
Deborah Kelch, Independent Consultant
David Meadows, Senior Vice President of Government Programs, LIBERTY Dental Plan
Ann Pumpian, Senior Vice President and CFO, Sharp HealthCare
Richard Shinto, M.D., Aveta Inc.
Tom Williams, Executive Director, Integrated Healthcare Association

DMHC Staff Presenters:
Dennis Balmer, Deputy Director, Office of Financial Review
Michelle Yamanaka, Manager, Provider Solvency Unit
Suzanne Goodwin-Stenberg, Chief, Division of Financial Oversight

Presenters:
Don Comstock, Comstock and Associates
Dr. Bing Pao, Director of Provider Relations, California Chapter of the American College of Emergency Physicians (CEP)
Bill Barcellona, Senior Vice President Government Affairs at California Association of Physician Groups

1) Welcome
Keith Wilson, FSSB Chairperson, called the meeting to order and welcomed the attendees.

2) Opening Remarks
Brent Barnhart stated that there will be a new board at the next meeting because the majority of the FSSB members' three year term will be up. Mr. Barnhart thanked FSSB member Grant Cattaneo for his service. Mr. Cattaneo will not seek reappointment and

has asked the board to appoint a consumer representative in his place. Mr. Barnhart also welcomed newly appointed board member Elizabeth Abbott to the FSSB.

3) Minutes from February 8, 2013 FSSB Meeting

The February meeting minutes will be presented at the August meeting for FSSB approval.

4) Panel Presentation and Discussion:

Presentation: Pioneer Accountable Care Organization Oversight Update – Pioneer Accountable Care Organization Oversight Update

Dennis Balmer, Deputy Director, Department of Managed Health Care (DMHC). Mr. Balmer presented on what triggers Knox Keene Act (KKA) jurisdiction and provided updates on the Medicare Shared Savings Program (MSSP), and Pioneer Accountable Care Organizations (ACO).

Discussion:

Keith Williams asked if a licensed plan creates a commercial ACO, does the plan-sponsored ACO need a separate KKA license?

Mr. Balmer replied the licensed plan would need to submit a product filing for the proposed network which is reviewed by DMHC's Licensing unit.

Brent Barnhart said it is a material modification when significant changes are made to a product.

Mr. Balmer said there is no department determination yet regarding the amount of downside risk that is allowable in MSSP and asked if the downside risk of payment contemplated by MSSP should trigger oversight as a Risk Bearing Organization (RBO)? Should it trigger licensure requirements?

Mr. Balmer stated he reviewed prior meeting transcripts where risk arrangements were discussed but there was no conclusion of dollar amount. He asked if a specific dollar amount or a percentage of the revenue stream should trigger oversight or licensure?

Grant Cattaneo asked whether $1.00 would not trigger it but $2.00 would?

Deborah Kelch commented there isn't a specific risk threshold within the KKA that specifically triggers licensure.

Ann Pumpian commented the KKA always takes into consideration fixed payments, either in advance or throughout. As the state implements health care reform through the Exchange, there is going to be the possibility that every provider is going to have some risk.

Mr. Williams commented the lack of a definition of risk has made it difficult in bundled payments and getting contracts approved. There is a distinction between population risk and procedural risk in which procedural risk is much less. The fact that risk hasn't been defined means that every time there is a bundled payment contract, it's breaking new ground.

Mr. Wilson commented it would be valuable to have an active MSSP participant present their perspective on this issue.

Mr. Balmer asked if an ACO parent is licensed, is the medical group aligned with them authorized to take downside risk?

Ms. Kelch commented that someone has to be licensed, so the entity passing the risk has to have a license. The nature of the group receiving the risk is another question.

Mr. Balmer commented that professional risk is borne by medical groups. That's allowable by the Knox Keene Act (KKA) for RBOs that are contracting with licensed health plans. Passing downside risk implies that the plan is passing global or institutional risk down to a medical group, which could be problematic. Getting a panel together to clarify these questions would be useful.

Mr. Balmer provided an update on Pioneer ACOs. Currently, the global population-based payments beginning in 2014 appears to trigger licensure requirements. There are arguments being made that the population-based payment is not a global payment. DMHC needs to understand if the payment arrangements trigger licensure. If so, the ACO needs to be a part of the licensed entity and not a subsidiary.

Dr. Bing Pao, an emergency physician, stated his concern that RBOs taking on risk may not have the reserves to do so. There needs to be detailed actuarial analysis to determine what kind of reserves are needed to be kept in order to make sure that RBOs are able to bear these risks.

Bill Barcellona, CAPG, commented that the overarching concerns around licensure and oversight for financial solvency have always been twofold. It is the potential for the disruption of continuity of care of patients and the preservation of the payment flow to the downstream provider who is providing the services. Put the consumer first and preserve the payment stream to the providers who provide the service in the risk-bearing arrangement.

Mr. Barcellona suggested looking at what other states are doing in terms of licensing risk-bearing entities. Compare the costs of licensure, the level of regulatory oversight, the level of consumer protection that other states are providing, and create a matrix to compare risks versus burdens.

Ms. Abbott commented that the DHMC should be selective when checking out what other states are doing because the California market is different.

Mr. Wilson asked if there are any questions. There were none.

Presentation: Provider Solvency Unit - Provider Solvency Unit

Michelle Yamanaka, Supervising Examiner, Provider Solvency Unit (PSU) provided an update on provider solvency as of December 31st, 2012. The DMHC has 181 risk-bearing organizations that report to the department. All of the RBOs are required to submit annual survey reports which are based on the audited financial statements. PSU received 131 quarterly financial surveys, and 50 RBOs filed compliance statements. The DMHC also received three monthly financial statements from RBOs that were noncompliant with the solvency criteria.

Discussion:

Ms. Abbott asked what the DMHC looks for when conducting audits.

Ms. Yamanaka replied all RBOs are required to submit monthly timeliness reports to their contracting health plans. The DMHC receives extracted data from the RBO's claims that shows when claims that have been paid, contested, adjusted or denied. If the DMHC finds compliance concerns, those are addressed with the RBO.

The DMHC also selects a random sample of provider dispute resolutions (PDR) to determine if there are any violations.

Ms. Abbott asked what the DMHC does when it finds organizations noncompliant.

Ms. Yamanaka responded if the DMHC finds noncompliance, the organization submits a corrective action plan (CAP), showing the deficiencies and how the organization is going to correct them.

Mr. Wilson asked if there were any questions.

Dr. Pao asked what is involved in a compliance statement.

Ms. Yamanaka replied that in compliance statements, RBOs need to state if they are meeting solvency criteria.

Presentation: Division of Financial Oversight Plans –
Division of Financial Oversight Plans

Ms. Suzanne Goodwin-Stenberg of the Division of Financial Oversight (DFO) provided an update on health plan solvency. The DFO conducts financial exams and reviews financial statements, plan amendments and material modifications, as well as any new plan filings.

Discussion:

Ms. Abbott asked if with the changes in healthcare delivery, DFO has sufficient staff to take on these additional reviews.

Ms. Goodwin-Stenberg replied that as there are changes to laws, the DFO continues to assess its capacity to effectively monitor financial viability.

Mr. Wilson asked if the approximate 20 percent reduction in regional Medi-Cal plan Tangible Net Equity (TNE) year after year is significant or consequential.

Ms. Goodwin-Stenberg replied DFO hasn't noted that as a concern because the plans are at about 400 percent of the required minimum TNE.

Mr. Wilson asked if there are any questions. There were none.

Presentation: Provider Solvency Requirements - Provider Solvency Requirements

Dennis Balmer, Deputy Director of the Office of Financial Review discussed the minimum solvency criteria required to be a RBO or a health plan. He also compared risk-based capital (RBC) and TNE.

Discussion:

Richard Shinto asked if there has been pressure to look at the solvency requirements or if the presentation was informational.

Mr. Balmer said he was providing this information in response to the periodic question of the adequacy of TNE as the DMHC's solvency metric and how it compares to other measures.

Mr. Shinto commented that at some point there will be pressure on the solvency criteria because of the federal and state government cutbacks in health care, the conservatism in health plans and medical groups, and consumer groups demanding more.

Mr. Balmer said he provided a comprehensive picture of the financial health of the plans and providers overseen by the DMHC because of the question whether reserves standards are adequate. An RBO has to have a certain cash-to-claim ratio to cover its liquidity. The importance of what other risks are being taken that may not provide a reserve can become an issue.

Mr. Wilson asked if there were any questions. There were none.

Public Comment on Matters not on the Agenda

Mr. Wilson invited public comments. There were none.

Closing Remarks/Next Steps

Meeting was adjourned at 1:08 pm.