

# Special Commission on Provider Price Variation

November 29, 2016

# Agenda

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- ▶ Welcome
- ▶ Subcommittee Updates
- ▶ Presentation: Professor Gwendolyn Roberts Majette
- ▶ Discussion
- ▶ Next Steps

# Presentation

## Health are Contracting & Market Forces

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# Review of Payer/Provider Contracts

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## ▶ Division of Insurance\*

- ▶ If a carrier intends to pay “similarly situated” providers different rates, the carrier must provide a detailed description of the bases for the different rates, with reference to 1) quality of care delivered; 2) mix of patients; 3) geographic location at which care is provided; and 4) intensity of services provided.” (211 CMR 66.09(3)(l)) [Small Group Health Insurance]

## ▶ Office of the Attorney General

- ▶ The attorney general may require a provider to produce documents, answer interrogatories, and provide testimony under oath about health care costs and cost trends in the Commonwealth. (M.G.L. Ch. 12 Section 11N)

\*The Division of Insurance also regulates premiums, plan surplus, network adequacy and ensures plans are financially stable.

# Separate (“Component”) Contracting

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- ▶ Separate (component) contracting: Provider locations within a multi-location health care system negotiate with insurers individually and independently.
- ▶ Elements required for separate contracting:
  - ▶ Separate provider negotiating teams: Each provider location has its own team to negotiate contracts with insurers.
  - ▶ Firewalls: Negotiating teams cannot share confidential information among themselves (i.e., terms and conditions of individual contracts).
  - ▶ Insurer chooses in-network provider location(s): Insurer contracts with any or all provider locations within the health system.

# Component Contracting - Considerations

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- ▶ Operational/administrative
  - ▶ Some providers have indicated that it would be administratively burdensome to establish separate contracting teams.
- ▶ Rules and regulations
  - ▶ Which entity(ies) would enforce the law and how?
- ▶ Clinical and financial integration
  - ▶ Consider definitions of components (i.e. hospitals, ACOs).
  - ▶ Should there be an exception for a tightly-integrated group of providers?

# Out-of-Network Billing

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- ▶ Out-of-network bill: Charge arising when an insured individual receives care from an out-of-network provider.\*
- ▶ Regulating out-of-network billing may:
  - ▶ Reduce impact on payers who have full or partial hold-harmless policies
  - ▶ Facilitate the creation and uptake of limited- and tiered-network products
- ▶ BCBS and others suggest a three-pronged solution:
  - ▶ Default rate for out-of-network services
  - ▶ Consumer notice and price transparency
  - ▶ Protection from balance-billing

\*Kaiser Family Foundation, *Surprise Medical Bills* (Mar. 2016).

# Review of Current & Proposed Provider/Provider Contracts

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- ▶ In Massachusetts, several entities review current and proposed provider/provider contracts.
- ▶ Health Policy Commission
  - ▶ Registration of Provider Organizations
  - ▶ Material Change Notice & Cost and Market Impact Review
- ▶ Office of the Attorney General
  - ▶ May investigate providers referred to it by the Health Policy Commission, following a Cost and Market Impact Review.



# Enhance the Material Change Notice/Cost and Market Impact Review Process

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- ▶ Under current law, a provider/provider organization must submit a **notice of material change (MCN)** to the Health Policy Commission (HPC).
- ▶ HPC may choose to conduct a **cost and market impact review (CMIR)**.
- ▶ HPC may refer the final CMIR report to the Attorney General's Office (AGO).

## MCN/CMIR Process (cont.)

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Stakeholders have suggested various ways to enhance the MCN/CMIR process. For example:

- ▶ Apply the law to additional providers/provider organizations
- ▶ Additional/more stringent standards regarding how HPC approves the material change and conducts the CMIR
- ▶ Additional/more stringent standards regarding CMIR referrals and legal proceedings
  - ▶ Ex: Additional criteria under which HPC *must* refer a CMIR
  - ▶ Ex: CMIR must be given evidentiary weight in an action to halt the material change.
  - ▶ Ex: The proposed material change cannot move forward while legal action is pending.
- ▶ State monitoring, following approval of the material change

# Acquisitions & Mergers of/by Physician Organizations

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- ▶ There has been an increase in physician organization (PO) consolidations.
- ▶ There is concern that the state does not adequately monitor or regulate PO acquisitions and mergers.
- ▶ Proposed solutions include:
  - ▶ Regulating physician rates and/or regulating growth in physician rates, following PO acquisition by a higher-priced provider
  - ▶ Reporting to the state
    - ▶ Ex: MCN/CMIR process for lower-revenue PO mergers
  - ▶ Prohibiting certain facility fees

# Next Steps

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- ▶ Upcoming Commission Meeting

- ▶ December 13, 2016

- ▶ 11:00am – 2:00pm at State House, Room 428

- ▶ Upcoming Subcommittee Meetings

- ▶ Market Forces Subcommittee

- ▶ December 6, 2016

- ▶ 11:00am, location TBD

- ▶ Transparency Subcommittee

- ▶ December 15, 2016

- ▶ 11:00am, location TBD

- ▶ Market Forces Subcommittee

- ▶ January 5, 2017

- ▶ 11:00am, location TBD

# The Commission's Report is due in...

