

and maintained surpluses that on average are 2.5 the required minimum.

- In the midst of Minnesota's current financial crises, accountability and transparency of the HMO administered PMAP is critical to recognize savings from more efficient operation of the program.

23. On August 13, 2010, at the request of Matt Anderson, MHA's Vice President for Strategic and Regulatory Affairs, Feinwachs participated as an undisclosed participant in a conference call with Karen Peed, the DHS Director of Managed Care and Payment Policy. The reason for Feinwachs' secret participation is that the conference call concerned Medicaid rate certification for the PMAP contracts of the defendant Plans. Because of Feinwachs' expertise, he would understand what Peed would say. During the course of the call, Peed said: "If you can't keep a secret you have to leave the room, but we have been adjusting the reserve amount for state-only funded programs by making it essentially zero, and increasing the amount for PMAP federal programs, blending the rate and returning it to the insurers." This admission by Peed demonstrates that she and the defendant Plans have knowingly and wrongfully manipulated the rate certification process to obtain unnecessary and unjustified federal Medicaid monies. It also demonstrates the lengths to which the defendant Plans and the MCHP would go to prevent Feinwachs from exposing through HMO transparency and accountability just exactly how this process works.

24. On August 18, 2010, Bruner had a meeting with Massa at which time Bruner complained bitterly to Massa about Feinwachs' involvement in what she perceived as anti-HMO activities and strategies. Following this meeting and despite MHA's approval of Feinwachs' involvement with the MPC that included producing the July 20, 2010 video for that

Page 1	Page 3
1 STATE OF MINNESOTA DISTRICT COURT	1 APPEARANCES (continued):
2 COUNTY OF RAMSEY SECOND JUDICIAL DISTRICT	2
3	3 On Behalf of David Feinwachs:
4 David Feinwachs,	4 Alf E. Sivertson, Esquire
5 Plaintiff,	5 Michelle M. Barrette, Esquire
6 vs.	6 SIVERTSON & BARRETTE, PA
7 Minnesota Council of Health Plans,	7 The Barrister Building
8 Defendant.	8 1465 Arcade Street
9	9 St. Paul, MN 55106
10	10 Phone: 651.778.0575
11	11 Email: alf@sivbar.com
12	12 michelle@sivbar.com
13	13
14	14 On Behalf of Minnesota Council of Health Plans:
15	15 Marianne D. Short, Esquire
16 DEPOSITION OF KAREN PEED	16 DORSEY & WHITNEY, LLP
17 Taken on Tuesday, August 30, 2011	17 50 South Sixth Street
18 Scheduled for 1:00 p.m.	18 Minneapolis, MN 55402
19	19 Phone: 612.340.2600
20	20 Email: short.marianne@dorsey.com
21	21
22	22
23	23 (Appearances continued on the next page.)
24	24
25 REPORTED BY: Dana S. Anderson-Linnell	25

Page 2	Page 4
1 DEPOSITION OF KAREN PEED, taken on Tuesday,	1 APPEARANCES (continued):
2 August 30, 2011, commencing at 1:02 p.m. at the	2
3 offices of Larson and King, 2800 Wells Fargo Place,	3 On Behalf of HealthPartners:
4 30 East Seventh Street, Saint Paul, Minnesota,	4 David M. Wilk, Esquire
5 before Dana S. Anderson-Linnell, a Notary Public in	5 Angela Brandt, Esquire
6 and of the State of Minnesota.	6 LARSON KING, LLP
7 *****	7 2800 Wells Fargo Place
8	8 30 East Seventh Street
9 APPEARANCES	9 Saint Paul, MN 55101
10	10 Phone: 651.312.6521
11 On Behalf of BlueCross BlueShield:	11 Email: dwilk@larsonking.com
12 Jeffrey J. Bouslog, Esquire	12 abrandt@larsonking.com
13 OPPENHEIMER, WOLFF & DONNELLY, LLP	13
14 Plaza VI, Suite 3300	14 On Behalf of UCare:
15 45 South Seventh Street	15 David R. Crosby, Esquire
16 Minneapolis, MN 55402	16 LEONARD, STREET AND DEINARD
17 Phone: 612.607.7446	17 150 South Fifth Street
18 Email: jboslog@oppenheimer.com	18 Suite 2300
19	19 Minneapolis, MN 55402
20	20 Phone: 612.335.1627
21 (Appearances continued on the next page.)	21 Email: david.crosby@leonard.com
22	22
23	23
24	24 (Appearances continued on the next page.)
25	25

Page 41

1 it might be covered at any point in time in
 2 MinnesotaCare. And it's not inclusive of long-term
 3 care.
 4 Q. So it would include all the different
 5 programs we talked about other than long-term care?
 6 A. Correct. It would not include integrated
 7 services, so not the long-term care and not rate
 8 setting for people with disabilities.
 9 Q. Very good. Did they -- did Mr. Anderson
 10 ask you to participate in this call, or this was a
 11 call that you asked him to participate, or how did
 12 it come about that the call occurred, if you
 13 recall?
 14 A. Either Mr. Anderson or Mr. Schindler. I
 15 don't recall. One of them asked me to participate
 16 in the call.
 17 Q. And do you remember how long the call
 18 lasted?
 19 A. I do not recall.
 20 Q. Did you take any -- do you remember if you
 21 took any notes of the call?
 22 A. I don't recall.
 23 Q. Okay. Do you remember -- why don't you
 24 just tell me as best you can recall today what they
 25 said to you, what you said to them during this

Page 42

1 call.
 2 A. I don't remember specifics. I remember
 3 going through the basic process of how we set
 4 rates. If this was the call where the consultant
 5 was involved, he talked a little bit about
 6 actuarial ranges and asked how -- what relationship
 7 our rates had to actuarial ranges. And we don't
 8 have those, per se, in our rate-setting process.
 9 So I remember that we talked about that a little
 10 bit.
 11 Q. On the latter topic, this is an --
 12 actuarial range is a concept that exists in some
 13 states but Minnesota doesn't use actuarial ranges
 14 in setting rates, and you explained that to the
 15 consultant?
 16 A. Correct. Actuarial ranges most often are
 17 used in states that engage in competitive bidding.
 18 Q. Did you make the statement -- there is a
 19 statement that's attributed to you in paragraph 23
 20 that's actually in quotes. It's kind of in the
 21 middle of the paragraph. Do you remember if
 22 you -- do you have any recollection of making that
 23 statement or anything?
 24 A. I don't recall making that statement.
 25 MS. BARRETTE: Excuse me, I need to

Page 43

1 hear that answer.
 2 THE WITNESS: I said I don't recall
 3 making that statement.
 4 BY MR. BOUSLOG:
 5 Q. Do you remember having any discussions with
 6 Mr. Anderson or the consultant to the extent he
 7 participated in the call regarding the general
 8 topic that's reflected in that statement?
 9 MR. KRAUS: Objection, form.
 10 THE WITNESS: Could you be more
 11 specific?
 12 BY MR. BOUSLOG:
 13 Q. Sure. You testified that you didn't make
 14 this statement. I just wanted to figure out
 15 whether you discussed any of the concepts that are
 16 referenced in the quoted statements even if you
 17 don't remember making that statement.
 18 MR. KRAUS: Objection to the extent it
 19 mischaracterizes her testimony. Of course you can
 20 answer his question if you understand it.
 21 BY MR. BOUSLOG:
 22 Q. If my question is confusing to you, I'll
 23 try to rephrase it.
 24 A. Can you specify what concepts you are --
 25 Q. Do you remember having any conversations

Page 44

1 with Mr. Anderson in this call regarding any
 2 adjustments to reserves involving state funded
 3 programs? Do you remember that coming up during
 4 this call?
 5 A. It's possible. But I don't recall
 6 specifically.
 7 Q. Fair enough. And you don't remember saying
 8 anything along the lines of: If you can't keep a
 9 secret, you have to leave the room. You didn't say
 10 that, is that correct?
 11 MR. KRAUS: Objection, form.
 12 BY MR. BOUSLOG:
 13 Q. That you can recall?
 14 A. I don't recall making that statement.
 15 Q. Okay. Let me turn you to a different
 16 paragraph then. It's an earlier paragraph,
 17 paragraph -- just see if I can find it. Actually
 18 let me ask you without referencing the Complaint.
 19 Do you remember prior to the August call that we've
 20 just been talking about having a telephone call
 21 with Ms. Brunner regarding the fact that you had
 22 learned that an attorney had contacted a former DHS
 23 employee by the name of Larry Woods?
 24 A. I do recall having a conversation with
 25 Ms. Brunner.

Page 1	Page 3
<p>1 STATE OF MINNESOTA DISTRICT COURT</p> <p>2 COUNTY OF RAMSEY SECOND JUDICIAL DISTRICT</p> <hr/> <p>4 David Feinwachs,</p> <p>5 Plaintiff,</p> <p>6 vs.</p> <p>7 Minnesota Council of Health Plans,</p> <p>8 Defendant.</p> <hr/> <p>15 CONFIDENTIAL DEPOSITION OF MATTHEW ANDERSON</p> <p>16 Taken on Wednesday, April 27, 2011</p> <p>20 COPY</p> <p>25 REPORTED BY: Dana S. Anderson-Linnell</p>	<p>1 APPEARANCES (continued):</p> <p>2</p> <p>3 On Behalf of Minnesota Council of Health Plans:</p> <p>4 Marianne D. Short, Esquire</p> <p>5 Zeb Curtin, Esquire (partial day)</p> <p>6 DORSEY & WHITNEY, LLP</p> <p>7 50 South Sixth Street</p> <p>8 Minneapolis, MN 55402</p> <p>9 Phone: 612.340.2600</p> <p>10 Email: short.marianne@dorsey.com</p> <p>11 curtin.zeb@dorsey.com</p> <p>12</p> <p>13</p> <p>14 On Behalf of Lawrence Massa:</p> <p>15 Penelope J. Phillips, Esquire</p> <p>16 FELHABER, LARSON, FENLON & VOGT</p> <p>17 220 South Sixth Street, Suite 2200</p> <p>18 Minneapolis, MN 554024504</p> <p>19 Phone: 612.339.6321</p> <p>20 Email: pphillips@felhaber.com</p> <p>21</p> <p>22</p> <p>23 (Appearances continued on the next page.)</p> <p>24</p> <p>25</p>
Page 2	Page 4
<p>1 CONFIDENTIAL DEPOSITION OF MATTHEW ANDERSON taken on</p> <p>2 Wednesday, April 27, 2011, commencing at 11:59 a.m.</p> <p>3 at the offices of Dorsey and Whitney, 50 South Sixth</p> <p>4 Street, Minneapolis, Minnesota, before</p> <p>5 Dana S. Anderson-Linnell, a Notary Public in and of</p> <p>6 the State of Minnesota.</p> <p>7 *****</p> <p>8</p> <p>9 APPEARANCES</p> <p>10</p> <p>11 On Behalf of David Feinwachs:</p> <p>12 Alf E. Sivertson, Esquire</p> <p>13 SIVERTSON & BARRETTE, PA</p> <p>14 The Barrister Building</p> <p>15 1465 Arcade Street</p> <p>16 St. Paul, MN 55106</p> <p>17 Phone: 651.778.0575</p> <p>18 Email: alf@sivbar.com</p> <p>19 michelle@sivbar.com</p> <p>20</p> <p>21</p> <p>22 (Appearances continued on the next page.)</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 APPEARANCES (continued):</p> <p>2</p> <p>3 ALSO PRESENT: Julie M. Brunner, Minnesota Council</p> <p>4 of Health Plans</p> <p>5</p> <p>6</p> <p>7 NOTE: The original transcript will be filed with</p> <p>8 the Sivertson and Barrette Law Firm, pursuant to the</p> <p>9 applicable Rules of Civil Procedure.</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

Page 57

Page 59

1 A. There are questions listed there, yes.

2 Q. Rate setting methodology for PMAP and
3 MNCare, is that a transparency issue?

4 A. It was not a transparency issue in this
5 context.

6 Q. Okay. Actuarial soundness, transparency
7 issue?

8 A. Not in this context.

9 Q. In some other context would both of those
10 be transparency issues?

11 A. The questions that are raised here might
12 apply to some research or investigation on health
13 plan transparency. These were intended to look at
14 ways within the state Medicaid budget where there
15 was room for additional federal matching funds or
16 cost savings.

17 Q. I believe you had indicated that this
18 conference call with Karen Peed was set up for
19 August 12 or 13, is that right?

20 A. That is my speculation given the date --
21 given the dates of these emails.

22 Q. And the participants of the conference
23 call, obviously Karen Peed was going to be
24 involved?

25 A. Yes.

1 BY MR. SIVERTSON:

2 Q. Why did you have Dave Feinwachs participate
3 in this conference call as an undisclosed
4 participant?

5 A. David asked to participate because of the
6 topics that we were talking about.

7 Q. And why was he undisclosed?

8 A. Because Karen Peed was very upset with him,
9 my understanding. And when we set up the call, she
10 wanted to make sure that the topics we were dealing
11 with had to do with budget issues, not with
12 transparency issues. And so I felt that if she
13 thought David was going to be on the call, that she
14 either wouldn't participate in the call or wouldn't
15 answer any of the questions that Mr. Heit had.

16 Q. And Mr. Feinwachs participated as an
17 undisclosed participant throughout the whole
18 conference call?

19 A. No.

20 Q. And at least part of it?

21 A. Yes.

22 MS. PHILLIPS: That's what he just
23 said.

24 THE WITNESS: Right.

25 BY MR. SIVERTSON:

Page 58

Page 60

1 Q. And is she the -- correct me if I'm wrong.
2 I may not have her exact title. But is she the
3 director of managed care and payment policy at the
4 Department of Human Services --

5 A. I don't know --

6 Q. -- if you know?

7 A. -- what her title is. I could describe
8 what I believe her duties are, but I don't know
9 what her title is.

10 Q. And then Joe Schindler, was he going to be
11 in on this conference call?

12 A. Yes.

13 Q. Who is he?

14 A. He is our vice president of finance at MHA.

15 Q. And then Mark Heit, was he going to be in
16 on the conference call?

17 A. Yes.

18 Q. And then were you going to have -- or did
19 you have Dave Feinwachs participate in the
20 conference calls as an undisclosed participant?

21 A. He participated in a portion of the call,
22 yes.

23 Q. But he was undisclosed?

24 A. Yes.

25 MS. PHILLIPS: What does that --

1 Q. And at the beginning of the conference
2 call, did Karen Peed make the comment: If you
3 can't keep a secret, you have to leave the room?

4 A. I don't know if that was her exact words.
5 But she -- there was part of the call where she was
6 describing a DHS process that she didn't want us to
7 tell -- or to, you know, disclose widely.

8 Q. And what was that -- do you remember what
9 that process was that she was going to describe
10 that she did not want those participants in the
11 conference call to disclose?

12 A. I can't say what the language she used was
13 precisely. But the concept was that the State used
14 the technical PMAP rates in conjunction with
15 non-Medicaid program rates in ways that would
16 decrease the rates outside of the Medicaid program
17 to the managed care plans and increase the rates
18 within the managed care program to leverage more
19 federal money.

20 Q. And did she use the terminology that DHS
21 had been adjusting the reserve amount for
22 state-only funded programs by making it essentially
23 zero and increasing the amount for PMAP federal
24 programs, blending the rate and returning it to the
25 insurers?

Page 61

1 MS. PHILLIPS: Are you asking if she
2 made that exact statement?
3 THE WITNESS: Can you repeat that?
4 BY MR. SIVERTSON:
5 Q. Yeah. Was the gist of it that she said
6 that the DHS had been adjusting the reserve amount
7 for state-only funded programs by making it
8 essentially zero and increasing the amount for PMAP
9 federal programs, blending the rate and returning
10 it to insurers?
11 MS. SHORT: Object to the form of the
12 question. And I think it's misleading. You look
13 like you're reading something verbatim. You're
14 asking this witness if he can remember if those
15 words were exactly said. I think it's suggesting
16 that you're reading off a document, which could
17 trick the witness.
18 MS. PHILLIPS: And then when you asked
19 him the second time you said is the gist of this
20 what she said and then you read your quote, so I'm
21 thoroughly confused.
22 But Matt, answer if you can.
23 BY MR. SIVERTSON:
24 Q. Go ahead, Mr. Anderson.
25 A. The idea that she was trying to convey or

Page 62

1 that I understood her to be conveying is contained
2 within the language that you used, but the language
3 you used goes beyond her concept. What I
4 understood her to say was that programs outside a
5 federal match, that the State was decreasing the
6 amount that it calculated or anticipated health
7 plans would have as a reserve or margin down to
8 zero and using PMAP rates to leverage those higher
9 so that in the end the plans are made whole and the
10 State leverages more federal money. She did not
11 indicate that the money was returned to the plans.
12 That part was not part of the conversation as I
13 recall, but rather that this was what we referred
14 to as a federal maximization strategy that the
15 State was using in PMAP.
16 Q. Was anything else discussed in that
17 meeting?
18 A. Yes.
19 Q. What?
20 A. We went through the questions that are in
21 Exhibit 3. Mark Heit went through multiple
22 follow-up questions or clarification questions,
23 particularly around how the State establishes rates
24 for managed care organizations both inside and
25 outside of federal programs in an effort to better

Page 63

1 understand where the State was at with respect to
2 determinations of actuarial soundness to know if
3 there was room to increase the rates or decrease
4 the rates and still be within federal guidelines.
5 Q. Okay. At the end of this conference call
6 on August 12 or 13, did Mark Heit make the comments
7 that the plans certainly have a friend in
8 Karen Peed?
9 A. The exact language he used may not be that
10 precise. But the comment he had was that
11 Karen Peed was a good friend or advocate or on the
12 side of the health plans.
13 Q. After this conference call on August 12 or
14 13, did you report to Mr. Massa what had been
15 discussed?
16 A. I kept Lorry up to date. I would not have
17 gone through the entire conference call and the
18 details of the rate setting methodology or those
19 kind of issues with them him, but I certainly would
20 have told him that we had the conference call and
21 how it went.
22 Q. Okay. But I -- what I'm getting at: Even
23 if you didn't get into the minutia or the details,
24 did you tell him generally what was discussed in
25 this conference call with Karen Peed?

Page 64

1 A. Yes.
2 Q. Do you know if Dave Feinwachs had any
3 discussion with Mr. Massa with respect to what was
4 discussed -- or what he heard being discussed in
5 this conference call?
6 A. I don't know.
7 Q. Exhibit 41 we're going to take a look at
8 next. I've got that in front of you, Mr. Anderson.
9 A. (Reviews document.)
10 Q. Do you want to take a minute and look at
11 it?
12 A. No. That's okay.
13 Q. You're familiar with it?
14 A. Yes.
15 Q. Exhibit 41 marked in Mr. Massa's
16 deposition, down at the bottom you have Mr. Massa's
17 email to you. This is on August 19. He says he's
18 having breakfast the next morning with Brian Osberg
19 and he asks you for any particular topics or
20 questions that he should raise.
21 Do you see that?
22 A. Yes.
23 Q. And he indicates to you that the agenda
24 will include MA. And that's Medical Assistance
25 early enrollment activity, correct?

1 STATE OF MINNESOTA

DISTRICT COURT

2 COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

3 -----
4 David Feinwachs,

COPY

5 Plaintiff,

6 vs.

File No. 62-CV-11-910

7 Minnesota Council of Health Plans,
8 Blue Cross Blue Shield of Minnesota,
Health Partners, Inc., and UCare,

9 Defendants.
10 -----

11 * * *

12 DEPOSITION OF

13 NANCY JANE FELDMAN

14 * * *

15
16
17
18
19
20
21 Taken before LESLIE R. PINGLEY on the 1st day of
22 September, 2011, at Minneapolis, Minnesota,
23 commencing at approximately 1:00 p.m.
24
25

Does this refresh your memory that there was a third video that was being circulated at or about this time frame?

MR. CROSBY: Objection to the word third. Lack of foundation as to how many she knew about this before this.

MS. SHORT: And asked and answered.

MR. HANSEN: Join.

MR. WILK: Join.

THE WITNESS: No.

BY MR. SIVERTSON:

Q. In the middle there is your response again dated December 4th of 2010 at 12:57 p.m. You say, quote, I haven't had the stomach to watch it yet, but it does look like it's been updated. I agree that Lorry doesn't appear to have handled this issue with Dave any better than any of the others, unquote.

Do you see that?

A. I do see that.

Q. When you say it doesn't appear -- Lorry doesn't appear to have handled this issue with Dave any better than any of the other others, who are the others that you're

Page 155

referring to?

A. All of the other issues that we have talked about all afternoon.

Q. Is it your view at this point in time, that is December of 2010, that Mr. Massa had not in your mind appropriately handled the Feinwachs issue?

A. Yes.

Q. It says here, quote, look at the distribution list; could really be trouble for us, unquote.

Why do you say that the distribution list could be trouble for us?

MR. CROSBY: Objection as to asking her about the distribution list without providing her the distribution list.

MR. HANSEN: Join.

MR. WILK: Join.

MS. SHORT: Join.

THE WITNESS: I don't know.

(Deposition Exhibit No. 35 Marked for Identification)

1 BY MR. SIVERTSON:

2 Q. Exhibit 35 is an email dated December 14,
3 2010 from Ghita to a number of people with a
4 cc to you.

5 Do you see that?

6 MR. CROSBY: Go ahead and take
7 your time and review the whole email.

8 BY MR. SIVERTSON:

9 Q. I am going to ask you to review it and then
10 let me know when you're ready.

11 Have you had a chance to look at the
12 exhibit?

13 A. I have.

14 Q. I would direct your attention to the second
15 paragraph of Ghita's email at the top. The
16 last sentence where she says, quote, also
17 note that the focus is on PMAP and we have
18 been clear that you cannot look at PMAP in
19 isolation without MnCare and GAMC, unquote.

20 Do you see that?

21 A. I do see that.

22 Q. Do you know why, at least based on what she
23 says, that you cannot look at PMAP in
24 isolation without MnCare and GAMC?

25 MR. CROSBY: Objection. Lack of

Page 157

1 foundation.

2 MR. HANSEN: Join.

3 MR. WILK: Join.

4 MS. SHORT: Join.

5 BY MR. SIVERTSON:

6 Q. I'm asking what you know.

7 A. Because the way we look at our products is
8 total bottom line, the State products. The
9 products all intertwine. It's very difficult
10 to pull them apart and look at the bottom
11 line.

12 Q. Ms. Feldman, going back to Exhibit 35, just
13 one more question there, she says beginning
14 of that second paragraph, quote, we will have
15 a videotape of the story available tomorrow
16 morning, but I am concerned that this is the
17 beginning of a more wide spread and negative
18 media attention focused on the DHS/Health
19 Plan contracts and margins.

20 Do you know why she was concerned if there
21 would be more widespread and negative media
22 attention focusing on the DHS/Health Plan
23 contracts and margins?

24 MR. CROSBY: Objection to the
25 form. Lack of foundation. Speculation.



DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF AUDIT SERVICES
233 NORTH MICHIGAN AVENUE
CHICAGO, ILLINOIS 60601

REGION V
OFFICE OF
INSPECTOR GENERAL

November 10, 2003

CIN: A-05-02-00056

Mr. Kevin Goodno
Commissioner
Minnesota Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3815

Dear Mr. Goodno,

The attached final report provides the results of our self-initiated "Review of Capitated Payments in Minnesota's Medicaid Managed Care Program." A copy of this report will be forwarded to the action official noted below for his review and any action deemed necessary.

Our objectives were to determine: (i) if payments made for enrollees in the Prepaid Medical Assistance Program (Program) exceeded expenses and, if so, (ii) to determine if the excess amounts (retained earnings) were reasonable.

Although payments made for enrollees in the Program exceeded plan expenditures in each of the years reviewed, the Minnesota Department of Human Services (State agency) generally reacted to excessive retained earnings by adjusting the capitated payment rates in the following year. The overall average retained earnings rate for the nine Program managed care health plans for calendar years 1997 through 2001 was 6 percent, which we consider reasonable. We noted that the State agency included administrative costs and a profit factor for its State-funded Prepaid General Assistance Medical Care (General Assistance) program in the actuarial rate calculations for the Program in 2001 and 2002. This was contrary to Federal cost principles and misstated the actuarial calculations available for future rate setting. Since the State agency used its discretion and chose not to follow the actuary's recommended rate increase, there was no effect during 2001 and 2002. The State agency, instead, negotiated a contract with the plans with an overall increase of 4.85 percent over the 2000 rates. The 2000 rates did not include any costs shifted from the General Assistance program, and the rate increase is considered reasonable.

To comply with new rules that must be implemented by June 16, 2003, the State agency needs to change its rate setting process by excluding costs from other programs and establishing Program rates that are actuarially sound. The State agency must ensure that it complies with this requirement in the development of the rates effective January 1, 2004. By changing its procedures, the State agency will eliminate a possible overstatement of Program costs calculated under the current method. By not acting, the State agency's current calculation methods would inappropriately increase the Program's actuarially estimated expenses and reasonable profit by about \$6.2 million.

Final determination as to actions taken on all matters reported will be made by the HHS action official named below. We would appreciate your views and the status of any further action taken or contemplated on our recommendations within 30 days. Your response should present any

NARRATIVE: SF 2986-1E

Bill Description

This proposal requires prepaid health plans that contract with the Department of Human Services (DHS) to maintain a loss ratio of not less than 93.5% for coverage provided under Minnesota Health Care Programs (MHCPs). The numerator and denominator for calculating loss ratios are defined. Payments by prepaid health plans to unaffiliated third parties and other entities that have an ownership or control relationship with the plan must be included in the calculation of the loss ratio. A bid submitted by prepaid health plan may include a provision obligating the bidder to provide free services if necessary to meet the minimum loss ratio requirement. The loss ratio requirements apply only to a plan's business with DHS unless the plan fails to keep a separate accounting of funds received from DHS.

All financial reporting under prepaid delivery of MHCP services must be in compliance with generally accepted accounting principles. If DHS believes that this requirement would violate federal law, the department must promptly seek a federal waiver to permit implementation of the requirement. DHS may seek donations to cover the cost of the waiver application.

Within 90 days of the end of each calendar year, prepaid health plans subject to the minimum loss ratio for MHCPs must provide providers under contract with the plan with a Web-based statement detailing the computation of the loss ratio as well as the administrative costs incurred by the plan in the prior calendar year. Up to 24 months after the end of a calendar year, providers may audit and inspect the records of the managed care plan related to the calculation of the loss ratio at their own expense. If an audit or inspection finds that a plan failed to meet minimum loss ratio requirements, the plan must pay DHS the amount by which the plan failed to meet the loss ratio requirement. If a plan falls two percentage points or more short of meeting the minimum loss ratio requirements, the plan must reimburse providers for the cost of the inspection or audit. Enrollees may also audit and inspect the records of the managed care plan related to the calculation of the loss ratio at their own expense.

Assumptions

DHS is not able to estimate a fiscal impact from this proposal. This proposal places new standards and responsibilities for health plans under contract to serve MHCP enrollees. While the bill does require plans to repay DHS in cases where a plan fails to meet loss ratio standards by 2% or more, DHS is not able to predict any savings from this proposal because we cannot predict which health plans will not meet the 93.5% loss ratio. If a health plan does not meet the 93.5% loss ratio and pays a penalty, the cost of paying the penalty will be included in the health plan's experience in subsequent years and may result in higher DHS capitation rates.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Local Government Costs

References/Sources

Agency Contact Name: Dave Greeman 431-4311
FN Coord Signature: JAYNE RANKIN
Date: 04/12/10 Phone: 651-431-3432

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: ANGELA VOGT
Date: 04/12/10 Phone: 651-201-8036

Jesson, Lucinda E (DHS)

From: Jesson, Lucinda E (DHS)
Sent: Tuesday, March 15, 2011 7:19 PM
To: Pollock, Dan L (DHS)
Cc: Rahn, Sean (GOV); Leitz, Scott D (DHS)
Subject: Re: UCare draft press release draft

Can you all take a look, then, at final press release with this in mind?

From: Pollock, Dan L (DHS)
Sent: Tuesday, March 15, 2011 07:12 PM
To: Jesson, Lucinda E (DHS)
Cc: Rahn, Sean (GOV); Leitz, Scott D (DHS)
Subject: RE: UCare draft press release draft

Yup, I will work with Scott on a new version. The press release does use that phrase, but I didn't know there were legal considerations for that. I would just suggest that both you and Scott speak to Legislative Chairs offline directly about that issue.

From: Jesson, Lucinda E (DHS)
Sent: Tuesday, March 15, 2011 7:09 PM
To: Pollock, Dan L (DHS)
Cc: Rahn, Sean (GOV); Leitz, Scott D (DHS)
Subject: Re: UCare draft press release draft

Dan

In order to have a good chance of keeping all of this money, it must be characterized as a donation. If a refund, feds clearly get half. Can you work with Scott on redrafting?

Also, I thought we were going to handle this through phone calls?

Cindy

From: Pollock, Dan L (DHS)
Sent: Tuesday, March 15, 2011 06:56 PM
To: Jesson, Lucinda E (DHS)
Cc: Rahn, Sean (GOV); Leitz, Scott D (DHS)
Subject: RE: UCare draft press release draft

Hi Commissioner,

This is a draft letter I would like to send to Committee chairs tomorrow that tracks the information in Scott's press release. Please let me know if anyone has edits.

Unfortunately, I think this really good news is likely to generate FAR more questions from legislators about our PMAP contracts and adequacy of health plan reserves.

Thanks,
DP

Care

March 16, 2011

The Honorable David Hann
75 Rev. Dr. Martin Luther King Jr. Blvd.
Capitol Building, Room 328
St. Paul, MN 55155-1606

Dear Senator Hann:

As you know, UCare has been a longtime partner with the state of Minnesota in delivering high-quality, cost-effective health care services to state public program individuals and families. In that spirit of partnership and consistent with our mission and values, UCare believes it is appropriate to make a one-time contribution of \$30 million to the state of Minnesota.

The \$30 million represents what we consider to be excess 2010 operating margin for state public programs. This margin was due to several factors:

- The sluggish economy and high unemployment significantly increased eligibility and enrollment. The utilization of health care services by new enrollees was significantly lower than anticipated.
- Historically, DHS rates set for General Assistance Medical Care resulted in health plan losses which were offset by higher Medical Assistance payments. When GAMC moved out of managed care in mid-year 2010, Medical Assistance rates were not lowered to reflect this overpayment.
- UCare's initiatives to reduce medical costs and improve efficiencies in the program coupled with our historically low administrative costs also contributed to higher than expected earnings.

I have notified Commissioner Jesson that our \$30 million contribution will arrive shortly after July 1, 2011 to be applied toward reducing the state's 2012-13 budget deficit. Our contribution, although not required by state contract or law, reflects our commitment to our mission and to the delivery of quality health care to our low-income members. Our action is being taken regardless of any other legislation that may affect health plans participating in state public programs.

Looking ahead, we believe there is a better way to deal with unexpected factors in the state's rate setting process. We suggest the state consider establishing a risk corridor to minimize the volatility in health plan earnings in the future. Enclosed with this letter is a legislative proposal to place a cap on health plan margins, as well as mitigate losses. A risk corridor will reduce the high and low swings in health plan earnings over time. In years where the health plan's margin exceeds the cap, the state and providers will benefit financially from a distribution of the excess margin. The potential to share in the excess margin provides incentives for providers to collaborate with health plans to



OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA

EVALUATION REPORT

**Financial Management of
Health Care Programs**

FEBRUARY 2008

PROGRAM EVALUATION DIVISION
Centennial Building – Suite 140
658 Cedar Street – St. Paul, MN 55155
Telephone: 651-296-4701 • Fax: 651-296-4712
E-mail: auditor@state.mn.us • Web Site: <http://www.auditor.leg.state.mn.us>
Through Minnesota Relay: 1-800-627-3529 or 7-1-1

The federal government now requires states to set managed care rates that are “actuarially sound.”

*February, 2008
Page 37*

Minnesota’s managed care capitation rates for public programs are relatively high, compared with other states.

*February, 2008
Page 38*

Minnesota’s managed care spending per enrollee grew faster than the national rate in recent years.

*February, 2008
Page 40*

Minnesota's health plans are nonprofit agencies, but they are allowed to keep their surplus revenues from state programs.

*February, 2008
Page 41*

In recent years, health plans have not reported aggregate losses from public programs.

*February, 2008
Page 42*

However, health plans have consistently reported losses for the General Assistance Medical Care program.

*February, 2008
Page 43*

**Minnesota
law no
longer
caps
health
plans'
maximum
net worth.**

*February,
2008
Page 46*

**The state's
use of
managed
care will
not by
itself
ensure
cost
contain-
ment.**

*February,
2008
Page 47*

**DHS should
collect more
information
on health
plans'
subcontracts
and provider
payment
rates.**

*February,
2008
Page 48*

The Department of Health relies largely on the Department of Commerce to assess health plans' financial activities.

*February, 2008
Page 68*

The Department of Commerce reviews the “reasonableness” of health plan expenditures only at a broad, aggregate level.

*February, 2008
Page 69*

DHS does not collect detailed information on health plans' administrative costs for public programs.

*February, 2008
Page 70*

O.L.A. – February, 2008

It is not entirely clear what constitutes an “actuarially sound” rate. There are no “actuarial standards of practice” that govern certification of rates for Medicaid programs.

rate-setting methodology and cannot resolve those concerns with the state, they can contact OACT to request an independent review.

Actuarial Principles and Practices for Medicaid Managed Care Rate Setting

CMS's regulations require that actuarially sound rates be developed in accordance with generally accepted actuarial principles and practices. There is no Actuarial Standard of Practice (ASOP) that applies to actuarial work performed to comply with CMS's regulations. However, in 2005, the American Academy of Actuaries published a practice note that provides nonbinding guidance on certifying Medicaid managed care rates.¹⁴

The practice note includes a proposed definition for "actuarial soundness," as there was no other working definition of the term that would be relevant to the actuary's role in certifying Medicaid managed care rates. Under the definition, rates are actuarially sound if, for the period of time covered by the certification, projected premiums provide for all "reasonable, appropriate, and attainable costs;" also under the definition, rates do not have to encompass all possible costs that any health plan might incur. The note emphasizes that the definition only applies to the certification of Medicaid managed care rates, and that it differs from the definition used when certifying a health plan's rates.

The practice note also provides information on the actuary's role in assessing the quality of data used to set rates and refers the actuary to the ASOP on data quality for further guidance.¹⁵ The practice note explains that if the actuary is involved in developing the rate, then the actuary would consider all available data, including FFS data, Medicaid managed care encounter data, and Medicaid managed care financial reports and financial statements. The actuary would typically compare data sources for reasonableness and check for material differences when determining the preferred source or sources for the base-year data. The ASOP on data quality clarifies that while actuaries should generally review the data for reasonableness and consistency they are not required to audit the data.

¹⁴ASOPs and practice notes do not have the same standing in determining what constitutes generally accepted actuarial principles and practices. ASOPs are considered part of actuaries' professional code of conduct and have the highest standing. In contrast, practice notes are not a definitive statement as to what constitutes generally accepted practice.

¹⁵The ASOP on data quality provides actuaries with guidance on selecting underlying data for an actuarial product, relying on data supplied by others, reviewing and using data, and making appropriate disclosures regarding data quality. ASOP No. 23, *Data Quality* (Doc. No. 097; December 2004).



AMERICAN ACADEMY *of* ACTUARIES

January 14, 2011

Camille Dobson

Technical Director, Division of State Demonstrations, Waivers, and Managed Care
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Re: Responses to questions regarding CMS' rate-setting checklist

While the actuary rightly retains significant responsibilities in the data area, Section 3.6 of ASOP No. 23 describes the limitation of the actuary's responsibility, "The actuary is not required to do any of the following: a. determine whether data or other information supplied by others are falsified or intentionally misleading; b. develop additional data compilations solely for the purpose of searching for questionable or inconsistent data; or c. audit the data."

Page 6

DHS Electronic Newsletter

Health Care begins reorganization, names new division director

Mark Hudson, formerly the chief accounting officer at Blue Cross Blue Shield of Minnesota, began work Aug. 31 as director of the new Purchasing and Service Delivery (PSD) division. The new division is a key component of reorganization underway in DHS' Health Care Administration (HCA), which includes reorganizing most of the divisions into this new division and moving certain functions to other areas.



Mark Hudson, formerly the chief accounting officer at Blue Cross Blue Shield of Minnesota, began work Aug. 31 as director of the new Purchasing and Service Delivery (PSD) division.

New PSD division

Assistant Commissioner Scott Letz said the new division and other changes will better align staff and functions to integrate work across the administration.

"It is an opportunity to streamline health care purchasing, improve service delivery and better implement health reform," he said.

Under the reorganization, benefit policy, payment policy and rates for both managed care contracting and fee-for-service purchasing will be consolidated into the new PSD division. It will include of most units now in the Managed Care and General Policy (MCP) and Health Services and Member Management (HSM) divisions. The Maternal and Child Health Assistance benefit policy team, currently part of the Performance Measurement and Quality Improvement (PMQI) division, also will be incorporated over time into PSD.

Letz said Hudson, who also was a senior vice president and chief financial officer at UCare, brings a wealth of knowledge to DHS and a deep understanding of public health care programs.

"Mark also has experience managing the type of restructuring that HCA is doing and his background and practical experience will benefit the new division," Letz said.

Other changes

With the filling of the PSD director position, which includes the MCPP division, former director Karen Peed will transition into a new role with HCA as a managed care consultant, reporting to deputy assistant commissioner Jim Golden.

Two units that now in HSM have no will soon move to other areas. The Minnesota Health Care Programs medical director, held by Dr. Jeff Schiff, is now part of the Assistant Commissioner's Office. In addition to medical director, Schiff also has been serving as HSM director. The State Medical Review Team will transition to the Health Care Eligibility and Access (HCEA) division.

As part of the overall HCA reorganization, PMQI will oversee a new administrative Data Analysis Unit and the HCO Encounter Data Unit will move to PMQI.

These and other pending changes are based on an ongoing HCA organizational analysis, in partnership with the Department of Administration's Management Analysis Division. The changes, which also may include relocations, will be implemented over time.

With the filling of the PSD director position, which includes the MCPP division, former director Karen Peed will transition into a new role with HCA as a managed care consultant, reporting to the deputy assistant commissioner Jim Golden

Questions to DHS about competitive bidding and managed care

Q: Who is the actuary for the state and who is the actuary for the health plans? Does the consulting actuary for the state have any consulting contracts with the plans?

A: DHS has a contract with Milliman for actuarial services related to Minnesota Health Care Programs. The **current** contract prohibits the actuary from entering into consulting contracts with health plans that deliver PMAP services. **Past administrations** have permitted actuaries that contract with the state to enter into consulting contracts with health plans that have PMAP contracts.

We do not know which staff the health plans would identify as contacts for actuarial work. We recommend that you contact the health plans regarding this.

Answers provided by Scott Leitz (DHS) and David Greeman (DHS)

UCare Financials: Accountability, Reporting, and Transparency

December 7, 2011



Presented by:

Ghita Worcester
Senior Vice President, Public Affairs and Marketing

Beth Monsrud
Chief Financial Officer

History of UCare

- ◆ Founded in 1984 by faculty of the Department of Family Medicine at the University of Minnesota Medical School.
- ◆ Begun in response to Minnesota's Medicaid Managed Care Demonstration Project.
- ◆ Initial purpose: to support the DFM residency clinics in a managed care environment and provide quality care to low-income individuals.
- ◆ Substantial expansion from six original UAFP clinics.
- ◆ State licensed HMO since 1989.
- ◆ Government programs only, no commercial business.



Encounter Reporting Data

Encounter Reporting – Detailed claim-level data submitted monthly, electronically, to DHS and MDH.

Major Data Elements:

- Member name and unique member state ID number;
- Name and ID number of the physician or other provider delivering care;
- NPI number of the clinic or facility where the care was delivered and other indicators of service setting (nursing home, home, etc.);
- Date of service or date prescription was filled;
- Description of the care provided (procedure and/or revenue codes);
- Drug name and number, if appropriate;
- Diagnosis including the diagnosis code (pharmacy and dental claims do not have diagnosis codes);
- Amount the provider billed for the services and amount the health plan paid, itemized by procedure and/or revenue code.

Encounter data can be reconciled to health plan financial statements, but will not tie because of accrual accounting rules.



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encounter
not

Public Access to UCare's Financial and Quality Reports

- DHS established a single source website for all publicly available state information and reports on managed care plans under contract with DHS for publicly-funded health care programs, including:
 - Quality outcomes and performance.
 - Health plan annual financial reports.
 - Current year contracts between DHS and managed care plans.
 - Capitation rates by plan for Medical Assistance and MnCare.
 - Total payments to managed care plans by program.

See packet for example and URL web site address.



18

Medicaid Managed Care and Actuarial Soundness

Uare

29

Medicaid Managed Care and Actuarial Soundness

- Actuarial sound capitation rates are:
 - Developed according to generally accepted actuarial principles;
 - Appropriate for the populations and services furnished:
 - Utilization and cost data derived from the Medicaid population;
 - Considers inflationary trend, regional cost differences, managed care's cost containment effects, and administrative expenses.
 - Certified as compliant with federal requirements for actuaries.

Source: 42 CFR, sec. 438.

- Health plans required to recognize in current year earnings estimated future losses if a contract is expected to be in a loss position. (Revenue does not cover expected costs of the program.)
- State budget pressures sometimes influence capitation rates based on factors outside the scope of the Medicaid program.

Uare

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covers
cost of
benefits

UCare Reserves

Reserves represent balance sheet equity remaining after subtracting outstanding liabilities from assets.

UCare 2010 Balance Sheet (In Millions)

Cash & Investments	\$ 488	Medical Services Liabilities	\$ 190
Withhold Receivable	50	Other Liabilities	76
Restricted Deposits	22		
Other Assets	14	Reserves	308
Total Assets	<u>\$ 574</u>	Total Liabilities & Equity	<u>\$ 574</u>

Ucare
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Common Metrics Used to Measure Adequacy of Health Plan Reserve Levels

- **Months expense in reserve** – Represents number of months of average annual expenses in reserve. Previous state corridor required one-month minimum, three-month maximum.
- **Risk-based capital (RBC)** – NAIC-developed formula to determine reserves needed based on four elements of insurance company risk (asset, underwriting, credit and business risk).

Ucare
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reserve is denoted as V . Our objective is to find the value of the net level premium reserve at time t . First we define the loss random variable at time zero for this policy. Hence

$$L = v^{K(x)+1} - P\ddot{a}_{\overline{K(x)+1}|}$$

Then, taking expected values we have:

$$E[L] = E[v^{K(x)+1} - P\ddot{a}_{\overline{K(x)+1}|}]$$

$$E[L] = E[v^{K(x)+1}] - PE[\ddot{a}_{\overline{K(x)+1}|}]$$

$${}_0V_x = A_x - P \cdot \ddot{a}_x$$

Setting the reserve equal to zero and solving for P yields:

$$P = \frac{A_x}{\ddot{a}_x}$$

For a whole life policy as defined above the premium is denoted as P_x in actuarial notation. The NLP reserve at time t is the expected value of the loss random variable at time t given $K(x) > t$

$${}_tL = v^{K(x)+1-t} - P_x\ddot{a}_{\overline{K(x)+1-t}|}$$

$$E[{}_tL|K(x) > t] = E[v^{K(x)+1-t}|K(x) > t] - P_xE[\ddot{a}_{\overline{K(x)+1-t}|}|K(x) > t]$$

$${}_tV_x = A_{x+t} - P_x \cdot \ddot{a}_{x+t} \text{ Where } P_x = \frac{A_x}{\ddot{a}_x}$$

Computation of actuarial reserves

The calculation process often involves a number of assumptions, particularly in relation to future claims experience, and investment earnings potential. Generally, the computation involves calculating the expected claims for each future time period. These expected future cash outflows are then discounted to reflect interest to the date of the expected cash flow.

For example, if we expect to pay \$300,000 in Year 1, \$200,000 in year 2 and \$150,000 in Year 3, and we are able to invest reserves to earn 8%p.a., the respective contributions to Actuarial Reserves are:

- Year 1: $\$300,000 \times (1.08)^{-1} = \$277,777.78$
- Year 2: $\$200,000 \times (1.08)^{-2} = \$171,467.76$
- Year 3: $\$150,000 \times (1.08)^{-3} = \$119,074.84$.

If we sum the discounted expected claims over all years in which a claim could be experienced, we have completed the computation of Actuarial Reserves. In the above example, if there were no expected future claims after year 3, our computation would give Actuarial Reserves of \$568,320.38.

June 30, 2009

Mr. R. Jason Wiley
Managed Care Rate Setter
Minnesota Department of Human Services
540 Cedar Street
St. Paul, MN 55101-2208

Re: Analysis of PMAP Costs by Demographic Rate Cell – Families and Children and Pregnant Women

Dear Jason:

This letter discusses my analysis of capitation rate relativities by rate cell for the PMAP Families and Children and Pregnant Women program. The capitation rates for this program are currently determined on a quarterly basis by blending demographic rates, which do not vary by managed care organization (MCO), and risk adjusted rates, which do. The relativities in this letter are only intended to apply to the demographic rates and not to the risk adjusted rates. This letter also describes my analysis of historic claim cost relativities by (1) geographic area and (2) demographic rate cell. For PMAP, demographic rate cells are defined in terms of age and gender and pregnancy status. The rate relativities in this letter were developed based on this analysis.

The purpose of this analysis is to assist the Minnesota Department of Human Services (DHS) with setting demographic payment rates for contracting MCOs. The results may not be appropriate for other purposes. The results contained in this letter are intended only for use by DHS. Milliman does not intend to benefit and assumes no duty or liability to other parties who receive this work.

This letter should be reviewed only in its entirety. It assumes the reader is familiar with Minnesota's Medicaid programs and managed care rating principles. The results in this report are technical in nature and are dependent upon specific assumptions and methods. No party should rely upon these results without a thorough understanding of those assumptions and methods. Such an understanding may require consultation with qualified professionals.

Differences between the estimates in my analysis and actual amounts depend on the extent to which future experience conforms to the assumptions made for this analysis. It is almost certain that actual experience will not conform exactly to the assumptions used in this analysis. Actual amounts will differ from projected amounts to the extent that actual experience is different than expected. Accordingly, DHS should continue to carefully monitor actual experience and make adjustments as necessary.

In performing this analysis, I have relied on data and other information provided to me by DHS and the plans with which it contracts. I have not audited or verified this data and other information. If the underlying data or information is inaccurate or incomplete, the results of this analysis may likewise be inaccurate or incomplete.

I have performed a limited review of the data used directly in my analysis for reasonableness and consistency and have not found material defects in the data. If there are material defects in the data, it is possible that they would be uncovered by a detailed, systematic review and comparison of the data to search for data values that are questionable or for relationships that are materially inconsistent. Such a review was beyond the scope of this assignment.

Data Reliance

For this analysis, I relied on the following data and information:

1. Detailed claim and enrollment data by demographic rate cell and geographic area provided by the MCOs that contract with DHS. Data was provided for calendar years 2006, 2007, and 2008.
2. DHS's past rate calculation spreadsheets.
3. Calendar year 2008 enrollment reports provided by DHS.
4. Calendar year 2006 enrollment reports provided by DHS including breakouts for Cass, Crow Wing, Morrison, Todd, and Wadena counties.
5. Miscellaneous comments and information provided by DHS and the MCOs.

Recommended Demographic Rate Relativities

My recommended rate relativities by demographic rate and geographic area cell are shown in Tables 1 and 2, respectively. The tables show factors developed using MCO experience for each calendar year 2006 through 2008, as well as recommended factors. The recommended factors were developed using experience for 2007 and 2008, along with certain adjustments described below.

Kathryn Kmit
Tuesday, April 27, 2010 1:02 PM
Julie Brunner

RE: DRAFT agenda for Thursday's meeting on federal reform issues

I don't know what the plan is in the Senate. We expect the Feinwachs amendment to be introduced by Abeler this afternoon. We are working on amendment language to pull in all for-profit providers and make some other changes. We also shared a copy with DHS and I think they are going to have some concerns about it as well since it could require health plans to have to refund the federal matching dollars and then DHS would have to pay too.

Kathryn Kmit
Director of Policy and Government Affairs Minnesota Council of Health Plans
651-645-0099 ext. 13
651-645-0098 fax

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Original Message-----

Julie Brunner
Tuesday, April 27, 2010 1:00 PM
Kathryn Kmit

Subject: Re: DRAFT agenda for Thursday's meeting on federal reform issues

Take a break between 3-6pm. I'll be in the office at 3. I talked with Linda and Kathryn about the Erickson ropes bill. Tony Lourey is here - will try to talk to him as well. Feinwachs amendment going to be offered in the Senate? I assume Erickson ropes might be.

On Tuesday, April 27, 2010, at 12:25 PM, "Kathryn Kmit" <kmit@mnhealthplans.org>

Hi,

Attached is a DRAFT agenda for the meeting on Thursday. Please review and let us know if you have changes/additions to make and we will incorporate. Thank you.

Kathryn Kmit
Director of Policy and Government Affairs
Minnesota Council of Health Plans
651-645-0099 ext. 13

Kathryn Kmit
Tuesday, May 11, 2010 10:37 PM
Julie Brunner
Feinwachs' plan

convinced Berglin that the former GAMC losses taken by the health plans will be
11 UNLESS they impose an assessment of \$30 million on the health plans. When we t
Peed she said DHS would have to pay us for the assessment. They would have to put
health plans' rates! Tony Lourey said this is the way to make the other providers
to know we are getting whacked. Problem is, DHS will likely have a problem with
1 see what happens.

rom my iPhone

m: Julie Brunner
t: Wednesday, July 14, 2010 1:52 PM
Mary Brainerd; 'Nancy Feldman'
Subject: More MHA misbehavior
Importance: High

a call with Karen Peed from DHS this morning. When we finished our business items, she said she had an
to discuss with me that was very sensitive. Karen said a former DHS (now retired) employee had been
ached by an attorney and asked if they would be willing to discuss any improprieties they may know about
rate setting/contracting between DHS and health plans. The people behind the attorney's inquiry were
ified as Dave Feinwachs and Dave Kunz (Chiropractors). As you recall these two Daves were the source of
of our problems during session with the Erickson Ropes bill and also during the conference committee.
was very upset and asked how I thought she should handle the situation. She said she'd discussed this
rian Osberg. I told Karen I thought that they needed to get this information to Lorry Massa quickly. I did
r we'd had a conversation with Lorry and his board chair about concerns we'd had with MHA staff during
n.

this is very concerning as it suggests Feinwachs has not backed down from trying to discredit the plans.
e seems ready to include DHS in the mix as well. I'd appreciate your thoughts on this - I don't want to
act. I know that if I was Lorry, I'd want to know but I also don't feel like it is my responsibility tell Lorry. On
her hand, Feinwachs continues to allege wrongdoing on our parts and that does impact my member plans.
vice would be appreciated.

Julie Brunner
Executive Director
Minnesota Council of Health Plans
University Avenue West
255 South
St. Paul, MN 55114-1904
(651) 645-0099, x14
(651) 645-0098 (fax)
jbrunner@mnhealthplans.org

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If you have received this e-mail in error, please immediately notify the sender or contact the Minnesota Council
of Health Plans at (651) 645-0099, x10.

From: Julie Brunner
Sent: Thursday, July 15, 2010 7:58 AM
To: Brainerd, Mary K
Cc: Feldman Nancy
Subject: Re: More MHA misbehavior

have a call in to Karen. I will urge her to let me talk to Brian Osberg(her boss) or Cal. I'll keep you informed. Thanks for confirming my gut feeling that this is serious. Sorry to interrupt your vacation.
Mary.
Julie

On Jul 14, 2010, at 10:22 PM, "Brainerd, Mary K" <Mary.K.Brainerd@HealthPartners.Com> wrote:

Julie,

I agree with Nancy. Sorry for the slow reply ---we are on vacation in Glacier Park.

We may need to connect with

Board members on this one; it is really bad. Let's stay in close touch.sry

Sent from my iPhone

On Jul 14, 2010, at 12:53 PM, "Julie Brunner" <brunner@mnhealthplans.org> wrote:

I had a call with Karen Peed from DHS this morning. When we finished our business items, she said she had an issue to discuss with me that was very sensitive. Karen said a former DHS (now retired) employee had been approached by an attorney and asked if they would be willing to discuss any improprieties they may know about in the rate setting/contracting between DHS and health plans. The people behind the attorney's inquiry were identified as Dave Feinwachs and Dave Kunz (Chiropractors). As you recall these two Daves were the source of most of our problems during session with the Erickson Ropes bill and also during the conference committee. Karen was very upset and asked how I thought she should handle the situation. She said she'd discussed this with Brian Osberg. I told Karen I thought that they needed to get this information to Lorry Massa quickly. I did tell her we'd had a conversation with Lorry and his board chair about concerns we'd had with MHA staff during session.

I think this is very concerning as it suggests Feinwachs has not backed down from trying to discredit the plans. Now he seems ready to include DHS in the mix as well. I'd appreciate your thoughts on this - I don't want to overreact. I

From: Julie Brunner [brunner@mnhealthplans.org]
Sent: Thursday, July 22, 2010 9:23 AM
To: Brian.Osberg@state.mn.us
Subject: Feinwachs
Importance: High

I hope you can reach Lorry Massa this morning. I have lunch with him at noon and feel that I need to discuss the Feinwachs issue since it potentially impacts my members in a negative way – as it does DHS. I appreciate you for pushing this so hard but I have experienced the fallout when Feinwachs pushes an issue to the top. These could be serious allegations, as we discussed yesterday on the phone, and need to be addressed and directly.

Julie Brunner
Executive Director
Minnesota Council of Health Plans
100 University Avenue West
St. Paul, MN 55114-1904
(651) 645-0099, x14
(651) 645-0098 (fax)
jbrunner@mnhealthplans.org

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m: Julie Brunner
t: Wednesday, August 04, 2010 10:21 AM
Pat Geraghty; Kathy Mock (kathleen_A_Mock@bluecrossmn.com)
Phil S (Philip_Stalboerger@bluecrossmn.com)
ject: MHA - DHS issue
ortance: High

Thanks for the conversation yesterday. Below is a summary of the MHA issue we discussed:

On a call with Karen Peed from DHS several weeks ago. When we finished our business items, she said she had an issue to discuss with me that was very sensitive. Karen said a former DHS (now retired) employee had been approached by an attorney and asked if they would be willing to discuss any proprieties they may know about in the rate setting/contracting between DHS and health plans. The people and the attorney's inquiry were identified as Dave Feinwachs and Dave Kunz (Chiropractors). As you know, both Dave Feinwachs and Dave Kunz were involved in the problematic Erickson Ropes bill during the conference and also worked against our interests during the conference committee. Karen was very upset and asked how I thought she should handle the situation. She said she'd discussed this with Brian Osberg. I told her that I thought that they needed to get this information to Lorry Massa quickly. I told Karen that Mary O'Connell, Nancy Feldman and I had a conversation with Lorry and his board chair about concerns we'd had at the MHA staff during session. I subsequently followed up with Brian Osberg and told him that I was talking with Lorry Massa and would be bringing up this issue as I considered it serious (allegations of liability on the part of the plans) for my members. Brian did contact Lorry and discussed the issue with him. When I met with Lorry he was aware of this latest problem. I followed up with Lorry on Monday this week. He said he'd met with Dave Feinwachs and made clear that he was to cease and desist his work with the "sider coalition", that further events like this would result in him looking for another job and that Dave's actions reflected directly on the credibility of the Hospital Association. Please give me a call if you have any questions.

Julie M. Brunner
Executive Director
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From: Coleman, Dannette
Sent: Thursday, August 12, 2010 12:20 PM
To: 'Matthew Anderson'
Subject: RE: Email

an quote from it for you (I don't have it electronically, just a copy)

received information from MHA about the bid process for PMAP and the lack of "actuarial soundness" in the process – i.e. word is that the health plans don't provide the state with much, if any, information so the rates are just guesses based on "black box".

They then asked if we could walk them through the process. As I'm sure you will agree this statement goes beyond a reference of a "black box" and indirectly accuses DHS of not complying with federal law. Not to mention it is a complete misrepresentation of the plans' submission of significant amounts of data.

I appreciate your willingness to address these issues and I look forward to a more collaborative approach with you going forward. Thanks, Matt!

Dannette Coleman
Director
Individual and Family Business
dannette.coleman@medica.com
612-992-2574

Carlson Parkway
12
St. Paul, MN 55105

From: Matthew Anderson [mailto:manderson@mnhospitals.org]
Sent: Thursday, August 12, 2010 8:23 AM
To: Coleman, Dannette
Subject: Email

Can you send me the email we discussed?
Matthew Anderson
Minnesota Hospital Association

Sent from my BlackBerry Wireless
Device

From: Julie Brunner
Sent: Tuesday, November 23, 2010 5:33 PM
To: Eileen Smith
Cc: Janny Brust; Kathryn Kmit; Pamela Houg
Subject: Re: categories of medical care spending

Copy pat geraghty with the request - make sure they know it is to develop response to Feinwach
ations.

Nov 23, 2010, at 4:38 PM, Eileen Smith <smith@mnhealthplans.org> wrote:

Julie, Kathryn and Janny:

Below are the medical care spending categories the health plans report to the state. I think we should just ask for the the MEDICAID ONLY SPENDING IN ALL categories and decide what to use ... We will need it to add up to 100 percent somehow, so we should just get it all upfront.

Should we ask them to do three columns: PMAP, MSHO and MNDHO? (I can hear the screams about separating spending of Medicare and Medicaid dollars on MSHO and MNDHO!) We'd (as in Pam and I) would make a template based on the HPFSR template the plans already use.

Julie, I'm fine sending this ask directly to our little work group and making them say no. OK with you?

The categories are:

Physician Services

Other Health Prof Services

Inpatient Hospital Services

From: Julie Brunner
Sent: Saturday, December 04, 2010 9:03 PM
To: Nancy Feldman
Subject: Re: check it out

id for Sara! Let's plan to go out after the party for Lois. I could make a reservation at I nonni if you
me to.
I send the video out Monday. I wanted to look at it before I sent it out. The list of people is huge-
troublesome. Feinwachs is on a mission - we can only hope his rhetoric is so extreme that he
marginalizes himself.
We know about the 20th.

Dec 4, 2010, at 12:57 PM, Nancy Feldman <nfeldman@ucare.org> wrote:

I haven't had the stomach to watch it yet, but it does look like it's been updated. I agree that Lorry
doesn't appear to have handled this issue with Dave any better than any of the others. Look at the
distribution list, could really be trouble for us.

Nancy

From: Julie Brunner [mailto:brunner@mnhealthplans.org]
Sent: Saturday, December 04, 2010 7:35 AM
To: Nancy Feldman
Subject: Re: check it out

From: Julie Brunner
Sent: Monday, December 06, 2010 3:23 PM
To: Dan McInerney Jr.
Subject: Feinwachs video

, here is the latest Feinwachs's video. He did two earlier ones but this is his latest... and a bit more cleaned up than the two. I'm not sure how he thinks he is going to prove any collusion between the DHS and the plans on the PMAP program but he clearly insinuates it in his video. It is also unclear exactly what the "ask" is here... unless it is for the plans disclose exactly what they pay to each provider. Don't think that is going to happen!

to see you and meet your wife last night. Great dinner... and wine. Happy Holidays!

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This message dated 11/27/2010 12:28:49 P.M. Central Standard Time, swophted@means.net writes:

Re: Get this on the listserve ASAP. I know the background and research has been extensive and is literally a "bombshell!"
Dan Fritsche

----- Original Message -----

From: feinwachs@comcast.net
To: swophted@means.net
Sent: Saturday, November 27, 2010 09:48
Subject: check it out

After 30 years with the Minnesota hospital association I was "let go" for making this video.
Enjoy!
<http://www.vimeo.com/17156418>

From: Julie Brunner
Sent: Monday, December 06, 2010 2:44 PM
To: Lawrence (Lorry) Massa
Subject: New Feinwachs video
Importance: High

ry, Dave Feinwachs has updated his video. See last message... comments about MHA. I hope you put some restrictions on what he can say about MAH in his severance agreement. Hope Mexico was great!!

Julie M. Brunner
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From: Maddox, Daniel E., M.D. [mailto:maddox@mayo.edu]
Sent: Monday, November 29, 2010 1:12 PM

Leebeecher@aol.com; swophted@means.net; Domo@aol.com; Isletten@aol.com; Scs@umn.edu; ngcare@soncom.com; GLohmer@mnmed.org; Pedsdrwho@aol.com; DPeelMD@aol.com; mhanson@pro-net; hgminette@locklaw.com; swooldridge@mppub.com; marcotty@startribune.com; cy.mccullum@mail.house.gov; dahrens@mppub.com; Vernon E Weckwerth; smccap@att.net; eheinen@aol.com; mlerner@startribune.com; jesimonmd@qwest.net; weste010@email.umn.edu; ike@mncome.com; jchestermd@comcast.net; Paul.Goering@allina.com; jrohde@edinafp.com; kelich@comcast.net; teford72@hotmail.com; jhardwig@smdc.org; mychen@startribune.com; stmd@comcast.net; c.terzian@worldnet.att.net; Davidwcline@aol.com; Eric M Brown MD; urice.dysken@med.va.gov; JVanLoon@olmmed.org; rep.joyce.peppin@house.mn; renberger@stthomas.edu; kaburkland@aol.com; baird005@umn.edu; ScottWrightMD@charter.net; s_janet_a@lilly.com; g3healy@comcast.net; Nobrega, Fred T., M.D.; ThomasDiane_Dunkel@msn.com; .111@comcast.net; fbbessinger@comcast.net; Peter.Dehnel@childrensmn.org; er.Nelson@americanexperiment.org; franbradley1@charter.net; nbauer@metrodoctors.com; jim.abeler@house.mn; rep.tom.emmer@house.mn; rep.thomas.huntley@house.mn; erin.murphy@house.mn; rep.steve.simon@house.mn; sschettle@mnmed.org; heilee76@yahoo.com; na010@umn.edu; sigmidken@hotmail.com; dbmath1@cox.net; laurad@lakeview.org; dleydon@comcast.net; DouglasWilkins40@hotmail.com; Kristine.Timmers@frx.com; katherine.hein@frx.com; cher.jim@gmail.com; rep.marty.seifert@house.leg.state.mn.us; edeide@mentalhealthmn.org; acer@comcast.net; jymnmd2004@hotmail.com; eehlinger@bhs.umn.edu; jkrohn1@ec.rr.com; y.Burt@parknicollet.com; wolfe@startribune.com; dgmccarthy14@comcast.net; richard.magraw@comcast.net; enminn@gmail.com; johnt@hsa-healthsavingsaccounts.com; lkurisko@mac.com; rhansen@stpaulrad.com; bawhitty@comcast.net; mmalan@mppub.com; rep.laura.brod@house.mn; Erin.Murphy@house.mn; lor@stpaulrad.com; rep.steve.gottwalt@house.mn; ksmith@rdradiology.com; Sen.Jim.Carlson@senate.mn; lund@stpaulrad.com; JaJecha@Juno.com; pare0044@umn.edu; ntbdoc@aol.com; Adatabase@gmail.com; pwilton@stpaulsurgeons.com; scott.torborg@pfizer.com; julie.idelkope@pfizer.com; rson@comcast.net; benjaminowchaskamdllc@comcast.net; pstoltenberg@mngastro.com; rmeris@allerg

From: Julie Brunner
Sent: Thursday, December 16, 2010 3:49 PM
To: Lucinda E. Jesson (ljesson01@gw.hamline.edu)
Subject: Recent HMO /stories...
Importance: High

ndy, I am not sure if you have seen the recent stories/John Marty op-ed piece (in Mille Lacs paper no less) on the health plans PMAP rates and "transparency". This is the Feinwachs effort that got him dismissed from the Hospital Association – but is getting some media attention. I am concerned that it not get traction within the Dayton camp without a chance to discuss the real facts involved in the story. Can you give me some advice on what to do or who to talk to? I could call Yvonne if you think that is a good idea... I know how busy you all are and don't want to be pesky on this but I am worried that I need to do something to mitigate the issue since there are folks who believe this stuff. Can you tell me what you think I should do?
I'm sure you are terribly busy – hopefully it will calm down soon with the appointment of some of the commissioners.

Thanks in advance for your thoughts.

ie

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HISTORY OF THE BLACK BOX

While the growth of HMOs may help Medicare contain its costs, it has an important side effect: the loss of utilization data. No data are collected on the specific health care services received by beneficiaries enrolled in risk-contract HMOs. As more and more beneficiaries enroll in these programs, the detailed structure of health care for Medicare beneficiaries will increasingly become a “**black box**.” It is ironic that just as Medicare is beginning to better track patient outcomes

*Pete Welch is principal research associate at
The Urban Institute in Washington. Gilbert
Welch*

*is a senior research associate in the
Department of Veterans Affairs career
development program
in health services research and development,
in white River junction, Vermont.*

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WHAT DO WE WANT?

- Independent Third Party Audits- Audits must be performed by someone who does not work for health plans or providers and isn't paid by them.
- Encounter Data (Claims) and Payment Data- Linked so that it can be seen what money goes to provide care.
- A Prohibition On The States Actuary Serving As A Consultant To The States Health Plan Vendors (The State Of Minnesota and the Plans can't use the same actuaries)

From: Eileen Smith
Sent: Tuesday, November 09, 2010 12:45 PM
To: Julie Brunner
Subject: Re: Jay Kohls

I think the answer is the books are audited by various firms. MDH also audits the plans. But what feinwachs is saying is that no outside person looks at every receipt or piece of paper to make sure admin costs aren't being shifted to medical care....the finding is the legislative auditor's report. And he's right on that. At least that's how it was.

Ghita is here. So are a few HP people. I'll work on it.

Sent from my iPhone

On Nov 9, 2010, at 11:59 AM, Julie Brunner e<brunner@mnhealthplans.org> wrote:

> Eileen, I think we need a good answer on the audited information question. I don't think we have it right now... nor will it be easy to drag out of the plans.

>
> Julie M. Brunner
> Executive Director
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>
>
> -----Original Message-----
> From: Eileen Smith
> Sent: Tuesday, November 09, 2010 10:55 AM
> To: Julie Brunner
> Subject: Jay Kohls

>
> I left a message for him.
> When I talk to him, I plan to send him to the MDH managed care division website. All the plan's audits are there.

>
> I'm also going to mention that when these allegations were made in the past, Linda Berglin was not happy. He needs to talk to Linda.

>
> I'll see what else he's up to. I can't imagine it's a quick deadline. After all, it's sweeps month.

> Eileen

>
> Sent from my iPhone