MEDICAL ASSISTANCE ADVISORY COUNCIL MEETING

New Jersey State Police Headquarters Complex
Public Health, Environmental and Agricultural
Laboratory Building
3 Schwarzkopf Drive
Ewing Township, New Jersey 08628

October 19, 2016
10:15 A.M.
FINAL
MEETING SUMMARY

MEMBERS PRESENT:
Deborah Spitalnik, PhD, Chair
Mary Coogan
Beverly Roberts
Theresa Edelstein
Dorothea Libman

MEMBERS EXCUSED:
Sidney Whitman, DDS

MEMBERS UNEXCUSED:
Sherl Brand
Wayne Vivian

STATE REPRESENTATIVES:
Meghan Davey, Director
Division of Medical Assistance and Health Services

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Slide presentations conducted at Medical Assistance Advisory Council meetings are available for viewing at http://www.state.nj.us/humanservices/dmahs/boards/maac/

ATTENDEES:

Barbara Krivda	
Evelyn Liebman	AARP
Cheryl Reid	Aetna Better Health New Jersey
Cathy Chin	Alman Group, LLC
Alison Dorsey	Amerigroup
Brian Atkisson	Association of New Jersey Chiropractors
Matthew Minella	Association of New Jersey Chiropractors
Rita Steinberger	Brian Injury Alliance of New Jersey
Kitty Lathrop	Burlington County Board of Social Services
Kimberly Salomon	College of Health Care Professions
Mary-Catherine Bohan	Community Care Behavioral Health Organization
Kimberly Salomon	Community Health Law Project
Gwen Gordon	Community of Jewish Laws & Standards
August Pozgay	Disability Rights of NJ
Elisa Cohen	Family Resource Network
Bonnie Brien	Family Support Coalition
Rebekah Novemsky	Family Support Coalition
Dovlle Usaite	Gateway Health Plan
Chrissy Buteos	Home Care New Jersey
Len Kudgis	Horizon Blue Cross/Blue Shield of NJ
Lillie Evans	Horizon NJ Health
Jeff Brown	Hospital Alliance
Dhrupti Thakar	Hudson County Board of Social Services
Nikhil Thakers	Hudson County Board of Social Services
Carmelia Nales	Hudson County Welfare Agencies
Mark Connelly	Katz Government Affairs
Amanda Cortez	Medical Transportation Association of NJ
Leuranda Koleci	Medical Transportation Association of NJ
Cynthia Spadola	Mental Health Association of New Jersey
Amy Archer	Medical Oncology Society of NJ
Rachel Brazuitls	Medical Oncology Society of NJ
Lori Price Abrams	MWW Public Relations
Sarah Adelman	NJ Association of Health Plans
Carolyn Bray	NJ Association of Mental Health and Addiction Agencies
Kevin Casey	NJ Council for Developmental Disabilities

ATTENDEES:

Paul Blaustein	NJ Council for Developmental Disabilities
Dennie Todd	NJ Council for Developmental Disabilities
Grace Egan	NJ Foundation for Aging
Tabiya Anmea	New Jersey Health Care Quality Institute
Kim Higgs	NJ Park & Recreation Association
Ray Costra	NJ Policy Perspective
David Drescher	Office of Legislative Services
Jennifer Ubesti	Ocean County Board of Social Services
Laurie Brewer	Office of the Ombudsman for the Institutionalized Elderly
Mary Kay Roberts	Riker, Danzig, Scherer, Hyland & Perretti, LLP
Alicia Kagan	Rothkoff Law
Jennifer Farnham	Rutgers Center for State Health Policy
Barbara May	Southern NJ Perinatal Cooperative
Mercedes Rosa	Statewide Parent Advocacy Network of New Jersey
Susan Hazen	UnitedHealthcare
Zinke McGeady	Values Into Action NJ
Cort Adelman	WellCare
Tara Smith Porcher	Centers for Medicare & Medicaid Services
Alison Gibson	NJ Department of Health
Frieda Phillips	NJ Department of Human Services
Roxanne Kennedy	NJ Department of Human Services
Marie Snyder	NJ Division of Family Development
Renee Burawski	NJ Division of Medical Assistance and Health Services
Carol Grant	NJ Division of Medical Assistance and Health Services
Phyllis Melendez	NJ Division of Medical Assistance and Health Services
Steven Tunney	NJ Division of Medical Assistance and Health Services
Maribeth Robenolt	NJ Division of Medical Assistance and Health Services
Heidi Smith	NJ Division of Medical Assistance and Health Services
David Drescher	NJ Office of Legislative Services

DR. SPITALNIK: Good morning. I'm Deborah Spitalnik, Chair of the Medical Assistance Advisory Committee (MAAC), and I am pleased to call to order the October 19th meeting.

Pursuant to New Jersey's Open Public Meetings Act, adequate notice of this scheduled quarterly meeting for calendar year 2016 of the Medical Assistance Advisory Council (MAAC) was published by the Department of Human Services (DHS).

It's also my responsibility, as we are holding this public event in the State Police Headquarters, to read emergency evacuation procedures, which I'm sure we'll not need, but in the case that we hear a fire alarm or evacuation announcement, quickly leave the building via the nearest exit. Go to Lamp Post No. 9 in the large parking lot. And once there, report to a member of the Medicaid staff who will make sure that everyone safely left the building.

Having dispensed with that, let me welcome people. And as our practice is that, I will ask the members of the MAAC to introduce themselves. I will then ask the members of the public to introduce themselves.

We have been very fortunate that no matter what issues we're dealing with at the MAAC, we've been

able to engage in dialog rather than an isolated period of public comment. In order to preserve that, after each topic, we'll call for questions or comments. The members of the MAAC will make their questions and comments first. I will then open that up to the public. We reserve the right to limit the amount of time that people comment, but I hope that we can always maintain that ongoing dialog in the spirit of the purpose of the Medicaid program in terms of stakeholder input.

So with that, I will start.

(Members of the MAAC introduce themselves.)

(Members of the Public introduce themselves.)

DR. SPITALNIK: Excuse me. There is an emergency. We are going to suspend the meeting. We are instructed by the building management to evacuate to the lobby.

(Pause in the proceeding.)

DR. SPITALNIK: We will resume the October 19th meeting of the MAAC. We were in the middle of introducing themselves. Let's proceed rapidly with that. And we will rearrange the agenda somewhat.

(Members of the public introduce themselves.)

DR. SPITALNIK: Thank you all.

We're going to re-arrange the agenda in the

interest of time. We're going to postpone the review and approval of the June minutes until our next meeting.

We are going to first hear from Nancy Day about Managed Long Term Services and Supports (MLTSS). And then we'll proceed through the agenda with Medicaid and the Managed Care Rule, Behavioral Health updates, New Jersey FamilyCare, and Fair Hearings. And if we have to further adjust time-wise, we will do that.

Let me also just announce that the dates have been set for the 2017 meetings. The first meeting will be Monday, January 23rd; then, Thursday, April 13th; Thursday, July 20th; and Thursday, October 19th, a year from today.

So it's my pleasure to turn to Nancy Day, the Director of the Division of Aging Services to provide an update on Managed Long Term Services and Supports.

Nancy.

MS. DAY: Thank you. I really appreciate the adjustment so I can present today.

I would like to present just some highlights as to what we're seeing from a profile and from the data that we see in terms of the utilization, who we're serving and the types of services that are being used

through the MLTSS.

From an overall perspective, the very good news is that 41 percent of our long-term services now are in home and community based settings.

(Presentation by Ms. Day.)

(Slide presentations conducted at Medical Assistance Advisory Council meetings are available for viewing at http://www.state.nj.us /humanservices/dmahs/boards/maac/).

MS. DAY: Any questions?

MS. ROBERTS: The slide you just showed, "Other" looks like 8.7 percent. Can you give an example of what comprises that other category?

MS. DAY: We had things such as personal emergency response systems that that would be another option, home modification, respite is another service that would be available to people in MLTSS.

So there are a variety of services that are offered, so we just grouped those in "Others."

MS. DAVEY: It's listed in the notes.

MS. ROBERTS: Are you able to determine to people who are receiving Traumatic Brain Injury (TBI) services where that falls in the chart?

MS. DAY: We would be looking at them through the coding, so we would know what kind of

services. We know that the community residential services are those that most likely will have had TBI impacted individuals accessing those services.

MS. ROBERTS: Thank you.

DR. SPITALNIK: I have a similar question. Not for today, but for a future presentation. I would be more interested also where people with the kinds of service utilization of people with TBI, Traumatic Brain Injury, and also the numbers of people with developmental disabilities (DD) who are in the nursing home population.

MS. DAY: I will see what kind of data that we can pull for you, and we will prepare that for you.

DR. SPITALNIK: And particularly the DD folks in nursing homes, because there has been a trend of increased utilization of nursing homes for people with developmental disabilities, and it would be good to have data point.

Other questions from the MAAC?

MS. EDELSTEIN: Just building a little bit off of that request. We talked before about trying to get a sense of how many people who are in MLTSS are using behavioral health (BH) services. I think that that would be an important thing for us to begin to look at, especially as we're looking at the rest of

behavioral health, moving into more of a managed environment. Maybe there are things we can learn.

MS. DAY: Okay. We'll include that as well.

DR. SPITALNIK: If there are no questions from the MAAC, I'll turn to the public.

Please stand up if you can, state your name for the purpose of recording.

MS. LIEBMAN: Evelyn Liebman, AARP.

Thank you, Nancy.

Just building off of Bev's question, for next time could we get a breakdown of that "Other" category, what the actual services are, dollars and numbers of beneficiaries using them?

MS. DAY: Sure. We'll look at that for you, yes.

DR. SPITALNIK: Anyone else?

MS. ORLOWSKI: Gwen Orlowski, Central Jersey Legal Services.

I have a question that isn't necessarily related to the slides. I'm wondering if you can give us an update on the amendment to the current waiver for the nursing facility level of care standard?

MS. DAY: They are in the Governor's Office for review at this time.

MS. ORLOWSKI: So has the Centers for

Medicare & Medicaid Services (CMS) weighed in yet?

MS. DAVEY: It is with CMS right now. We have not received any feedback yet.

MS. DAY: Oh, I'm sorry. I thought you were looking at --

MS. DAVEY: The level of care. It was submitted to CMS.

DR. SPITALNIK: Other questions?

MS. DAY: Thank you very much.

DR. SPITALNIK: Thank you, Nancy.

We will turn to Julie Cannariato, who is the Policy Director of the Division of Medical Assistance and Health Services to give us a presentation on Managed Care Final Rule.

I should note for the members of the public that after this meeting, the slide decks are posted on the Division's website.

Julie.

MS. CANNARIATO: Thank you.

So I know many of you are familiar with the Managed Care Final Rule (MCFR) already, so I'm going to just give you an overview and background, time frame, and then we're going to walk through some of the provisions that the Division is already reviewing in detail, and then some other provisions that we've

identified that are effective in July of 2017 and July of 2018 that we've earmarked that we know we will be having further discussion at future MAAC meetings. With that we'll start.

(Presentation by Ms. Cannariato.)

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MS. CANNARIATO: That is it for my slides.

DR. SPITALNIK: Thank you so much.

Questions from the MAAC?

Beverly.

MS. ROBERTS: Thank you. That was a very detailed presentation, and we really appreciate it. A couple of very quick questions.

Going back to the slide where there's additional review for January 1, 2017, that first bullet, could you just explain a little bit more what that means, Managed Care Organizations (MCO's) ability to include, in lieu services, medically appropriate and cost effective substitutes? Could you just talk a little bit more about what that is?

MS. CANNARIATO: My understanding -- and I don't have our contract people here. We're required to

allow our MCOs to provide in lieu of services, services that would be cost effective in terms of something else. So I think our initial feedback was that we would have to develop a list of what service would be. I think some of the discussion we've had is we don't really know all the alternatives to a lower cost services or something that would be medically appropriate. So I think one of the examples that was tossed around was the inpatient hospital. Like, what other services could be provided in lieu of that, that would be more cost effective. So we're still developing what that would look like.

I think our position is that we don't want to put out a list. We would like to develop a list as time goes on. I could see MLTSS and community-based care being an in lieu of service of the nursing home. I mean, that, to me, it seems like a no-brainer. But I think once we put it in the contract, we need to get some feedback from our MCOs and from CMS if our thinking is what they're thinking, as well.

MS. ROBERTS: I'm just wondering, and obviously you don't have the specifics yet, but if that could be disseminated to the community where advocates and attorneys could look at that list before it's finalized to see if there's any input or concerns about

the thinking that you and the MCOs have, that we have a chance to weigh in on that. That would be appreciated.

A quick question on the marketing activities. And you had said that now that would be able to include texts and e-mails. If the MCO's are using that as a marketing tool, will there be a way for the recipient to say, "I do not want to receive these, that they can respond back, "Take me off your e-mail list"?

MS. CANNARIATO: I would imagine that would be something that we would certainly put in there, just as we probably right now have in our contract if you don't want mailings or if you don't want phone calls. I would assume that we also require MCOs to say, you know, "Press one if you want to be removed from this mailing list."

MS. ROBERTS: Thank you. And this is my question having to do with the appeals and grievances, which I know there's going to be a lot more information in the future. That's a real important issue, I think, for a lot of us in this room. But did I hear you correctly, because there was so much information, that in the new rule you will have to choose to do an appeal or a fair hearing, that you couldn't have both?

MS. CANNARIATO: Right now the rule states

that an enrollee can no longer simultaneously request an appeal and a fair hearing at the same time. So, to me, that sounds like you would have to choose one or the other in the first instance. I think both options would still be available to you but not at the same time.

MS. ROBERTS: Okay. Thank you very much.

DR. SPITALNIK: Any other questions from the MAAC?

From the public?

MS. ORLOWSKI: Gwen Orlowski, Central Jersey Legal Services.

Thank you very much. That's a lot to digest, I agree. And I appreciated Bev's comments a lot.

It's come up several times at this meeting, those of us who are involved in the appeal and fair hearing system and with respect to Notices of Action, that these are really deeply concerning to us. And I at Central Jersey Legal Services have had conversations with Joe Manger at Horizon, and I think he shares some of the frustrations over the density of some of the notices in the past. And so I appreciate that you're going to have an internal workgroup on that, but we really think it would be a value to bringing in a

stakeholder workgroup, as well, so that we can give input into that process. And it just strikes me that getting this notice right at the get-go, a template for this notice can really make things work so much better come next July.

And I know that in other states they've done that, they've done a workgroup, a small workgroup, not one of our workgroups that has 800 people on it, but a smaller workgroup that could work through some of the that language and make sure that it's consistent.

And I just want to respond to what you said real quickly, too. I think you still have a right to appeal, you just have to exhaust the appeal before you can go to the fair hearing. You always have a right to a fair hearing because that's a protected due process right.

DR. SPITALNIK: Thank you, Gwen.

Julie, please respond to that.

MS. CANNARIATO: Gwen, thank you. And we'll take that back about the stakeholder group. If you know of other states that have structured workgroups around appeals and grievances and you can point us toward language of the make-up of that group, of how large it is, who has been on that, that will be helpful to our thinking.

MS. ORLOWSKI: I can do that. Sure.
MS. CANNARIATO: Thank you.
DR. SPITALNIK: Kevin.
MR. CASEY: Kevin Casey, New Jersey Council on Developmental Disabilities.
I want to support those comments on appeal and grievances. I really think it's a critical issue.
DR. SPITALNIK: Thank you.
Others?
Julie, thank you so much for such a comprehensive presentation. And I've noted a number of issues to bring up at the next meeting. And the agenda was printed before Julie was promoted to Policy Director at Medicaid, no long Acting Director, so we're delighted. And thank you so much for this.
We now we move to a series of informational updates. And we'll start with the update on Behavioral Health Rates. And I'm delighted to introduce Renee Burawski who is Chief of Staff of the New Jersey Division of Mental Health and Addiction Services.
Renee.
MS. BURAWSKI: Thank you.
Good morning. My name is Renee Burawski, and I will be providing an update on Behavioral Health Rates. Although Roxanne Kennedy is not on the agenda,

she's also presenting with me. Roxanne is from the Department of Human Services, I'm from the Division, and we're working very closely on this transition to Fee-for-Service (FFS).
(Presentation by Ms. Burawski.)
(Slide presentations conducted at Medical Assistance Advisory Council meetings are available for viewing at http://www.state.nj.us /humanservices/dmahs/boards/maac/).
MS. BURAWSKI: I will turn it over to Roxanne Kennedy who will talk specifically about some of the rates that were adjusted.
MS. KENNEDY: Good morning, everyone. I'm no stranger to the MAAC. Always good to be back. We had a lot of stakeholder processing around the rates, and I just wanted to talk about some of the rates we adjusted based on feedback from the stakeholders.
(Presentation by Ms. Kennedy.)
(Slide presentations conducted at Medical Assistance Advisory Council meetings are available for viewing at http://www.state.nj.us /humanservices/dmahs/boards/maac/).
DR. SPITALNIK: Thank you so much.
I'll now take questions from the MAAC for

either Renee or Roxanne.
Seeing none, I'll invite questions from the public.
I think it was so comprehensive that you answered all our questions. Thank you to you both.
And we'll now proceed to an update on NJ FamilyCare with Meghan Davey, the Director of the Division of Medical Assistance and Health Services (DMAHS).
MS. DAVEY: So I think is kind of a standing agenda item that we're always updating on statistics each quarter.
(Presentation by Ms. Davey.)
(Slide presentations conducted at Medical Assistance Advisory Council meetings are available for viewing at http://www.state.nj.us /humanservices/dmahs/boards/maac/).
DR. SPITALNIK: Meghan, thank you.
And I would ask that when the Comprehensive Medicaid Waiver Renewal)a application posted, an e-mail will go out to the members of the MAAC that it's there.
MS. DAVEY: Yes.
DR. SPITALNIK: Questions from members of the MAAC.
MS. ROBERTS: Just a very quick comment. I

wanted to thank you on behalf of the entire Developmental Disabilities community. I heard from many of them about the Fully Integrated Dual Eligible Special Needs Plan (FIDE-SNP) issue, and we greatly appreciate the fact that it's not going to be mandatory enrollment.
DR. SPITALNIK: Thank you.
Anyone else on the MAAC?
From the public?
Ray Castro.
MR. CASTRO: Ray Castro, New Jersey Policy Perspective.
In one of the graphs you were showing, we made extraordinary progress in increasing the enrollment in Medicaid, but in the last year or so, it's leveled off. And it would appear that most people who are motivated have not done so. So we're going to need an extraordinary effort to reach those folks who have not voluntarily enrolled in the program. The Family Foundation estimates that over a hundred thousand individuals in New Jersey are eligible for Medicaid and are not participating, a lot more than who were eligible in the Marketplace. So we're seeing that if we're going to make any significant further progress reducing the uninsured rates, we're going to have to

reach those folks who have not enrolled so far. So I'm wondering if you've thought about that and in terms of increasing your efforts at enrollment and outreach.

MS. DAVEY: You can see in the Renewal that we're looking at the jail-involved especially, getting people who come out of the system access to care immediately. You know, it's not actual outreach dollars and outreach, it's really mostly in-reach efforts that we're looking at. It's the schools, it's the community-based organizations, it's the jail-involved.

I'm sorry. Heidi?

MS. SMITH: I was going to mention the psychiatric population, as well.

MS. DAVEY: We're doing presumptive eligibility (PE) for the psychiatric population as well. So, yes, it's a lot in-reach efforts that is happening in the State.

MR. CASEY: In some of the schools, the most recent census shows that 25 percent of all children in certain districts are uninsured. And I'm just wondering if we're targeting our efforts in those areas. I'm sure that you would agree that is totally unacceptable.

MS. DAVEY: So we have our Free and Reduced

Lunch Program where we have the children that have access to free and reduced lunch get a streamlined eligibility application so we expedite enrollment for them. So we are targeting those lower income populations through the Free and Reduced Lunch Program in the schools.

I don't know, Heidi, if you want to expand on that.

MS. SMITH: Just to add to that information, we keep an eye on the English as a Second Language (ESL) classes and the five highest ESL classes that are going on in the State, we put messaging in their language on the back of the materials so that people can learn of our information.

MR. CASEY: We know from the census which school districts exactly have the highest uninsured rates for kids. And I'm wondering have we targeted efforts in those particular school districts?

MS. DAVEY: We're outreaching state-wide with the Free and Reduce Lunch program. Those same school districts would have a higher free or reduced lunch enrollment as well, so that information would go there.

DR. SPITALNIK: Thank you.

Other questions from public?

MR. BLAUSTEIN: Paul Blaustein. This is just a request. That slide that you showed about the breakdown of spending by category, I'm not sure if it was your second or third slide. Can I see that again?

Thank you.

MS. DAVEY: And these will be available for the public.

DR. SPITALNIK: Thank you.

Gwen.

MS. ORLOWSKI: Gwen Orlowski, Central Jersey Legal Services.

Thank you very much. It occurs to me that perhaps my question earlier to Nancy was better saved for you.

So this issue of making changes to the nursing facility level of care standard is a really significant issue. It is an eligibility determination that allows people into the MLTSS Program. And I'm wondering if you can talk -- honestly, I think I and some other advocates were confused that this was being done as an amendment to the current waiver rather than through notice and comment and a rule change, or through the Renewal waiver. And I'm just wondering if you can address a little bit the thinking on doing it that way and then talk a little bit about ways we can

really have better stakeholder engagement in changing such a significant standard.

MS. DAVEY: So I think -- and I'm not the expert in this, but I think that the issue was that the level of care, what was in the old "C" Waiver did not carry forward into the 1115. So it was basically just redefining how it was supposed to be. Because everything got lumped together, kids and adults got lumped together, where it wasn't that way in the "C" Waiver world. So basically it was just trying to right side something that got missed when we consolidated. And so we didn't want to wait until the Renewal because it's become an ongoing issue that keeps coming up. So we said let's amend. Because we do amendments periodically, depending on operational needs. So that was the thinking. Amend it so we can fix the problem that kind of got carried over from the old "C" waiver. And the Renewal just happened to be coinciding with that.

But I think we should probably meet offline because there's a lot to it. It's pretty detailed.

MS. ORLOWSKI: Thank you.

DR. SPITALNIK: Thank you.

Other questions or comments for Meghan?

MS. HIGGS: Kim Higgs, New Jersey

Psychiatric Rehabilitation Association.

Is there data available as to what the percentage of these costs are related to behavioral health services?

There's lots of talk basically of folks presenting to emergency rooms and not having access to care. For our provider community, particularly in light of start-up of CSS and a lot of the information that we still don't know and, frankly, a lot of our providers were projecting a significant shortfalls with the new rates, there is much concern that if there's a squeeze and a lack of service to people on the community end and there's a lack of availability on the hospital side, what's going to happen these folks --

MS. DAVEY: I think it can be misleading, though, because sometimes the primary diagnosis may be a psychiatric diagnosis but really they broke their leg. So it can be misleading, but we can break out based on diagnosis. We do have that data, but it would need to be a little delved into deeper.

DR. SPITALNIK: Thank you, Meghan.

Our final agenda item is on Fair Hearings. Carol Grant has been appointed Deputy Director for the Division of Medical Assistance and Health Services, so Carol congratulations on that and welcome.

MS. GRANT: I don't have a slide. I'm going to do some talking. All of the information that Julie presented on is sort of the evolving appeals and grievances process which is really going to, I think, make our reporting on grievances, appeals, and fair hearings much more robust than we're able to do today. We do a better job on the appeals and grievances side, a lot more definitive process around fair hearings. But, we don't particularly have ownership. It's shared ownership with the Office of Administrative Law. And we're building database to better reflect the kind of reporting that you've asked for.

Just as a reminder, any Managed Care Organization (MCO) member or any Medicare member who is really Plan A or Plan ABP may file an appeal around any adverse benefit determination resulting in a denial, a termination, or other limitation of a covered health care service in accordance with the MCO contract.

Medicaid actually receives and transmits to the Office of Administrative Law (OAL) fair hearing requests on a variety of issues. They could be service denials, they can be issues around durable medical equipment (DME), they could even be eligibility issues that people file their hearings for. They're not just limited to members or clients. They

can be provider-related cases.

The client-related fair hearings are different from the grievances and appeals handled internally by the MCO. Fair hearings, again, are transmitted to OAL by the Division of Medical Assistance and Health Services (DMAHS) and are conducted by an independent Administrative Law Judge who issues an initial decision and files a final agency decision that is then issued by the Director of the Division of Medical Assistance and Health Services.

These Final Agency Decisions or FADs, as we call them are then appealable to the Superior Court Appellate Division. On average, just in a general course of time, about 5 to 10 percent of transmitted cases result in a FAD.

Current statistics on fair hearings took sort of a six-month swath from January 1 of 2016 to July 31st of 2016. Approximately 3,069 cases were sent to OAL. Of those, about 592 were MCO-related matters. 340 of them were Horizon NJ Health cases, 220 UnitedHealthcare Community Plan cases, and 32 were Amerigroup cases. And there were a handful of cases really related to Aetna Better Health and WellCare who are not yet statewide. They're smaller plans.

Our current database build is using

an identifier with the smaller plans so we are able to have numbers and statistics across all five plans.

In general, the 592 transmitted to OAL, about 5 percent, which is consistent with the average, resulted in an Initial Decision or a Final Agency Decision. 11 percent of the time, it was really a failure to appear. And 60 percent were actually withdrawn. And it has to be remembered, though, that currently members can file for an internal MCO appeal, a Department of Banking and Insurance (DOBI) Internal Utilization R Hearing or a fair hearing simultaneously. One can come first. Otherwise, it can happen at the same time. It really muddies our ability to collect very clear data about fair hearings.

Under the work that we're going to be doing to operationalize the new Managed Care Final Rule, I think it will be much clearer. Again, in general, we will have to exhaust an internal appeal at the plan level and then go to fair hearings. So it's not all this muddiness where one might have filed a fair hearing or an internal appeal, or filed a fair hearing and an internal appeal, or filed just a fair hearing and one would wait to file an internal appeal. That makes it very difficult for us to give you very crisp

data. But we are certainly working on it.

Even on the appeals and grievances side, as we build our replacement fiscal agent system, we're actually working with our vendor to develop databases so that we, again, can provide more timely and accurate and robust information to the MAAC and to other stakeholders about just how we're doing and how our MCOs are doing.

So that's sort of where we are today.

DR. SPITALNIK: Carol, thank you.

Questions from the MAAC?

MS. EDELSTEIN: Carol, I'm sorry, I missed the percentage that were failure to appear.

MS. GRANT: 11.

MS. EDELSTEIN: 11 percent, thank you.

MS. ROBERTS: Thank you very much for this information.

I was scribbling down as you were speaking. Could you go over those percentages again? Because what I was writing didn't come up to a hundred percent, so obviously I missed something somewhere.

MS. GRANT: I think I started with numbers and I ended up doing percentages, so it may not come out exactly at 100 percent. These are approximates.

MS. ROBERTS: Okay. But if you can still

repeat the numbers.

MS. GRANT: 5 percent resulted in an Initial Decision, which is the OAL Decision, or a Final Agency Decision, which meant it came up to Division Director at Medicaid and she signed off on it. 11 percent were failure to appear. And 60 percent were withdrawn. That can happen for any number of reasons. It could be that an internal appeal actually resolved the issue. It could be that there was actually another appeal filed that provided information that addressed initial issue.

You know, it's fairly consistent. It does say people are using the process, but very often these things get resolved long before they actually go to a hearing.

MS. ROBERTS: What I have heard anecdotally, and there maybe other people who can comment on that in the room, is that if it looks like the decision would likely go in the favor of the consumer who filed the complaint that the MCO decides to withdraw it. That's just what I've heard anecdotally.

MS. GRANT: The one thing that -- our legal folks really keep track of this. They tell me that the data transmittal and the data withdrawal, we don't have the database to connect it. It can happen for any

number of reasons. I don't know that we could address that. I don't know if we have any kind of analytical data that says that's something that's happening, because there are many reasons why people withdraw, and we do not have any clear delineation of those reasons in our current database. So I don't know that I could confirm or deny it.

MS. ROBERTS: I'm just wondering if going forward the database could be expanded to do a follow-up where the person who filed the fair hearing request to begin with, that there could be outreached to find out from that person what happened.

MS. GRANT: I think it is our intent to attempt to put reason information in there so that we can, in fact, track it. Some things, you will be happy to know get resolved long before it went to a fair hearing. In other cases, we're going to watch for patterns and trends and deal with them.

MS. ROBERTS: Do you have any data in terms of if there was no failure to appear and it wasn't withdrawn and the fair hearing took place, what those outcomes were?

MS. GRANT: We do not.

MS. ROBERTS: That would be good to know, as well.

MS. GRANT: And I think that's really sort of our goal. First of all, we need to understand it; and obviously, you have an interest in it.

MS. ROBERTS: Thank you very much.

DR. SPITALNIK: Anything else?

Kevin.

MR. CASEY: I want to talk a little bit about the knowledge base in the general community that an appeal process even exists. And I fully concede that some of my information is anecdotal, but I'm hearing it in enough places that I'm concerned about it.

I would urge the Department to do some level of comprehensive education activity across the appeal structure in the waivers, in the MCOs, anywhere in Medicaid where an appeal system is required. Both informing folks that there is an appeal process; second, informing them how they access that appeal process; and third, giving them some assistance in some way in accessing the appeal process.

I think it's vital. I think if people don't know that an appeal process exists, then an appeal process doesn't, in fact, exist. So I would strongly urge the Department to take a very aggressive, very assertive process to make sure that the recipient

community across the appeal process structure knows what's going on, knows what to do, knows how to do it. And I will tell you, I would offer that the New Jersey Council on Developmental Disabilities (NJCDD) is available to help with that in whatever way you would ask us to help with it. Thank you.

MS. GRANT: I just want to comment a little bit on that.

Obviously, we have all kinds of requirements for getting that information to people and assisting them and so on. But I think we can use assistance to go to the next level to make sure that's the case. So I think that is something we might just take you up on.

MR. CASEY: Thank you.

MR. BLAUSTEIN: Paul Blaustein, NJCDD.

Carol, the fair hearing is a third stage process. Are any data kept on appeals that are internal to the MCOs and how those are resolved?

MS. GRANT: We do.

MR. BLAUSTEIN: And also what happened on those first two stages of appeals on the cases that were settled in the consumer's favor in the fair hearing --

MS. GRANT: That information is submitted to us. I think we have even presented it here. I mean,

if there's something in addition to that, constructing or reconstructing as we go into our new fiscal agent, to make this more electronic. We do have plans reported to us. We have our own internal databases within our Office of Quality Assurance and our Office of Quality Monitoring on the MLTSS side. And we do track, we track outcomes.

The IURO, which is an DOBI process, we do not get reports for those. It's not reported to the State Insurance Board, nor to the health plan. So we don't know. We generally might hear it only if there's an adverse determination and the problem still exists for someone. For example, if the IURO upholds the original decision, we don't get a feed from DOBI on those hearings. Fair hearings, we would know and we would know the ultimate outcome.

The point is that, you know, even as we look at notices, and we've talked about doing a small work group there, maybe we could raise some issues about those things that are really of interest to stakeholders and how do we get at them.

DR. SPITALNIK: Gwen.

MS. ORLOWSKI: Gwen Orlowski.

I want to echo what you just said. And I would just add -- and I think this is forward thinking

as we move to the new regulations, but really key in this is consumer education and transparency. So, for example, it's very difficult to get ahold of some of these documents that underline decision-making. That should be standardized across the MCOs. People should be able to get their Personal Care Assistant (PCA) assessment tool, I think, at the time it's done. That's my opinion. But certainly, it shouldn't be a struggle to get it in preparation for a fair hearing. People who are butting against the cost cap, the annual cost threshold should be on the Division's website. They're not part of the contract. And it's really difficult to get that information.

So I guess what I'm saying is along with thinking about the notice, thinking about ways to contractually call the managed care companies responsible for transparency in the process and getting consumers that information so that they can make informed choices about what they're doing. And I think we have an opportunity with these changes to the Managed Care Final Rule to make some of those changes in a way that makes the process work a lot better.

One other thing. I said it, I think, before. Wisconsin has this great waiver benefit that is consumer advocacy training, and I'm happy to send it

to you. I think you get a budget of $1200 a year or something like that. And you go and you get rights based training so that you know how to exercise your own right. I think that's a great benefit that could be added to the waiver.

MS. GRANT: I think we'd love to see it.

MS. ORLOWSKI: I'm happy to get that to you.

DR. SPITALNIK: Thank you.

Anything else?

Carol, thank you so much.

We are now through our formal agenda despite our sojourn in the lobby. The items that I took from our presentations and questions, there are some specific requests for data next time around the population of people with traumatic brain injury and the population of people with developmental disabilities.

There was a request for information about behavioral health services for people receiving Managed Long Term Services and Support.

We'll look to Julie for an update on the appeals and grievances.

I also want to read Julie's e-mail address which was not legible because of the color of the slide. This is around the final rule.

julie.cannariato@dhs.state.nj.us.

We're waiting for, when Dr. Lind is available, an update on credentialing and then working on stakeholder notices.

We will have our standing agenda item of an update on NJ FamilyCare.

The issue was raised that Meghan was going to follow-up on level of care.

There was a request from the psychiatric rehabilitation community for a breakout on cost based on diagnoses.

And again, more information as the process on appeals and grievances is refined, both requests for data, access to information, transparency, and consumer education.

Is there anything else to add to the agenda for our January 23rd meeting?

MS. EDELSTEIN: An update on transportation broker.

DR. SPITALNIK: An update on transportation broker was also requested.

Anything else?

UNIDENTIFIED SPEAKER: A breakdown on that "Other" cost category.

DR. SPITALNIK: In the MLTSS information,

what services are being utilized.

I would also request that where we have percentages, either in a separate slide, that there be numbers of people because I think that adds more power to our ability to evaluate the information.

MS. ROBERTS: Yes.

DR. SPITALNIK: Anything else to suggest for the next meeting?

And again, I announced the dates that have been set. They will be posted in New Jersey Register. Our next meeting is here on January 23rd.

Do I have a motion to adjourn?

MS. ROBERTS: Motion to adjourn.

DR. SPITALNIK: Second?

MS. LIBMAN: Second.

DR. SPITALNIK: We are adjourned. Good safe holidays. Thank you, everyone, for what you do for women's health in this breast cancer awareness month, and we look forward to seeing you next year.

(Meeting adjourned at 12:21 p.m.)

CERTIFICATION

I, Lisa C. Bradley, the assigned transcriber, do hereby certify the foregoing transcript of the proceedings is prepared in full compliance with the current Transcript Format for Judicial Proceedings and is a true and accurate compressed transcript of the proceedings as recorded.

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Lisa C. Bradley, CCR

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