

MaineHealth

MaineHealth Local Health Systems

Franklin Community
Health Network
LincolnHealth
MaineHealth Care At Home
Maine Behavioral Healthcare
Memorial Hospital
Maine Medical Center
Mid Coast-Parkview Health
NorDx
Pen Bay Medical Center
Southern Maine Health Care
Waldo County General Hospital
Western Maine Health

Part of the MaineHealth Family

MaineHealth Accountable
Care Organization

MaineHealth Affiliates

MaineGeneral Health
New England Rehabilitation
Hospital of Portland
St. Mary's Health System

Testimony of Andy Mueller, MD Before the Joint Standing Committee on Health Coverage, Insurance and Financial Services Regarding the Termination of Maine Medical Center's Contract with Anthem April 28, 2022

Senator Sanborn, Representative Tepler and distinguished members of the Joint Standing Committee on Health Coverage, Insurance and Financial Services, I am Andy Mueller, chief executive officer of MaineHealth, and I appreciate the opportunity to speak with you today about our decision to have Maine Medical Center leave Anthem's network beginning January 1, 2023. Al Swallow, our CFO, is here to answer any questions, as well.

I will provide you with a bit of background and rationale for the decision, then I would be very happy to answer your questions related to this matter.

Let me start by thanking you. You have unbelievably difficult jobs to do, and we are grateful to your commitment to public service.

Background

The decision to terminate Maine Medical Center's Anthem contract was not made lightly. And it is one that we hope does not have to be implemented. But the situation has reached a point where we did not see an alternative.

One of the most compelling reasons that I took this job was the commitment that MaineHealth makes towards meeting its vision of Working Together so our Communities are the Healthiest in America. In all my years in health care, I have never seen this level of investment and ownership towards meeting such an aspirational goal. It is both daunting and inspiring.

Inspiring because we genuinely believe that a health system is not just about delivery of medical services, but also about fostering health in both our patients and the communities we serve.

It's daunting, however, because having healthy communities means less sick care, and in our current payment world, that means less revenue, too. Our current way of doing business, then, is not aligned with our vision. We strongly believe that we need to find a better way to finance health care, one that rewards caregivers for keeping people healthy rather than treating illness.

These value-based care arrangements have been discussed in our industry for years, but the upfront costs associated with implementing them have proven difficult to overcome. Nevertheless, we are determined to make progress, as evidenced by our recent initiative among our Medicare Advantage patients with the support of agilon health.

Additional progress will depend on having partners who will work with us to overcome the barriers by taking the long view and putting patients and communities first.

For several decades, Maine Medical Center and then MaineHealth enjoyed such a collaboration with Blue Cross and Blue Shield of Maine and then, later, Anthem Blue Cross and Blue Shield. We partnered on programs such as Let's Go!, which has become a nationally recognized childhood obesity prevention program and our joint Medicare Advantage plan. It was a positive and trusting relationship that ultimately benefitted the people of Maine.

Unfortunately, that relationship began to fray a few years ago, and it reached the point where we felt compelled to enter mediation last fall. Though, contrary to media reports, we remain in mediation today, Anthem has not offered to address the matters of critical importance that drove our decision to pull Maine Medical Center out of its network.

Anthem's most recent actions occurred at the worst possible time. We are just exiting the most difficult period in health care delivery in anyone's recent memory. And never has our system come together to support the health of our communities as it did over the last two years.

- Since March, 2020, Maine Medical Center has treated 4,506 patients with Covid-19;
- MaineHealth has provided 550,000 COVID-19 shots in arms;
- NorDx, our lab, has now processed over 1.1 million tests for Covid-19.

I am truly proud of the role that we were able to play in meeting the needs of our communities. And it has come at a cost.

We are grateful for the federal and state Covid relief funds that have allowed us to maintain access to needed care. Yet in spite of those funds, we estimate that our total Covid shortfall will be nearly \$110 million by the end of this fiscal year. That is a big number with big implications. A value of our unified health system is that we operate from a single balance sheet. This allows us to support more equitable access to care, particularly for rural regions and for services such as behavioral health care that otherwise would not be sustainable.

But as a not-for-profit system, we still must meet a margin that allows for reasonable reinvestment in infrastructure and growth to stay current in providing quality care. Like most hospital systems that have weathered COVID, we are facing a shortfall that is significant, so the timing of Anthem's actions are particularly egregious.

And that shortfall is being driven, in part, by the significant labor shortage. I'm sure that you all see it when your local market is open fewer hours or your favorite restaurant is closed three days a week. As you know, we can't close our doors. And if we operate with fewer people, it means we have to reduce access to needed services.

As Maine's largest private employer, MaineHealth has 23,000 positions, of which nearly 3,000 are currently open. In 2021 and so far this year, we have invested an additional \$150 million annually in wage increases for our care team in the form of merit and market adjustment programs that have excluded executives and physicians.

Despite this investment, the shortage of health care workers remains daunting. Contract labor has exploded during the pandemic, as exhausted care team members retired early or left the profession, leaving health systems across the country short-staffed a time when demand for care was at an all-time high. Though we

thought we budgeted conservatively for contract labor this year, we now find ourselves on the path to exceed that budget by more than 400% in this year alone.

So, when Anthem unilaterally began cutting our payments at MMC last summer and fall, the action not only failed to align with our vision, but it also put into jeopardy access to health care across our region. Already the biggest player, through these actions, Anthem is unilaterally increasing its already significant financial advantage in the market. That is not sustainable for the future of MaineHealth or health care delivery system.

The Issues

I know that many of you have specific questions about our decision, so I will spend a moment describing the challenges that we face.

First, Anthem is not paying its bills. They owe us \$70 million in unpaid claims that date back to 2019. They have blamed new software and claims processing systems, but this debt is two years old and we have yet to see relief.

Second, since June of 2018, Anthem has implemented 59 mid-contract policy changes that directly impact our reimbursement. You heard about this last year when you passed LD 945. And you may recall that we had to hire a webcrawler to find all the changes, as they were buried deep in newsletters and other documents.

To be fair, consistent with contract language, we objected to the six most egregious changes, yet we have not received anything more than an acknowledgement of receipt from Anthem. Many represent material changes to the way that we are paid – such as unilaterally deciding that a multi-procedure surgery that has two claims will only be covered for one. While mid-contract changes are not new, those that materially impact reimbursement are new. It is hard to imagine another scenario in which a single contracting party has the unilateral authority to materially change the contract without cause. We cannot operate as a not-for-profit employer and provider of care within this framework.

Third, Anthem unilaterally reduced previously negotiated rates last summer, citing an “audit.” In an attempt to adhere to one of Anthem’s many policy changes, we made an error that we rectified when brought our attention in 2019. We thought that all outstanding issues were settled when we repaid policyholders for that error, and we are unclear what Anthem is now referring to when it references a new “audit” that purports to identify new errors.

We believe that the 2019 billing issue was corrected and settled, so we signed an extension of our contract in 2021 and stayed in Anthem’s network. Just a few months later, however, they falsely accused Maine Medical Center of raising prices – somehow based on the same claims that were previously settled. Though they have cited pharmacy as an area that has violated the contract, and despite public claims to the contrary, Anthem has yet to provide us with an example of a price for a drug that exceeds our negotiated agreement.

The Impact

MaineHealth is a not-for-profit health system that is rooted in a vision of working together so our communities are the healthiest in America. We believe that the foundation for achieving that vision is support for a care team that provides high quality care that is affordable and accessible to the people of Maine and New Hampshire. We have demonstrated that commitment through our consistent focus on access and quality. For example:

- All of MaineHealth’s services are accessible to all in need, regardless of insurance status or ability to pay;
- Our hospitals consistently rank among the highest rated in the country in quality measures such as the Leapfrog safety survey and best rural hospital recognition.
- MaineHealth’s flagship hospital, Maine Medical Center, is a Nurse Magnet hospital as well as being designated as by USA Today as a top hospital for multiple specialties;
- MaineHealth’s hospitals have consistently adhered to the voluntary targets set forth in Maine Law (Title 22 Chapter 401) which was passed in 2007 as a means of restraining health cost increases and improving affordability of health care for commercially insured Mainers.

We fully believe that access must reflect affordability as well as physical access, and we work hard to be effective and efficient. Our goal is to work collaboratively with payers to shift the system from one that incentivizes us to treat the sickest patients at the highest volume to one that instead focuses on value and keeping people healthy.

That will require a redesign of our business model to allow a move away from fee-for-service and to a model that better aligns with our vision of Working Together so Our Communities are the Healthiest in America. During that redesign, we must maintain access to high quality and affordable care. We believe that navigating this transition is the key to achieving our vision of improving the health of our communities.

Success in reaching this vision will depend upon productive partnerships with stakeholders, and particularly payers. We are here today because the largest payer, Anthem, has, through its actions, rejected the notion that we should work collaboratively to achieve success for Maine people. Instead, Anthem has decided that unilateral payment cuts will achieve its goals, if not in the long term, then for the next quarter’s financial report. Anthem’s actions are resulting in a race to the bottom that will limit access to health care for vulnerable Maine populations and snuff out the breathing room required to transition to better way of paying for care and promoting healthy communities.

Our decision to terminate the contract was not easy. However, after reflecting upon the extensive and mediated discussions that we have had with Anthem, we do not see another path forward. Their actions pose an existential threat to our organization, and without meaningful change to the way they do business, we cannot have a partnership with them.

As a health system and a major employer, we are obligated to develop a sustainable foundation for our future. While we hope that Anthem will change its approach away from unilateral actions and choose instead to work with us to achieve our vision, please know that we are committed to working with employers, providers and other stakeholders to mitigate the impact of the termination in the event Anthem is unwilling to alter its approach.

As a not-for-profit, we take seriously our obligation to reinvest in our patients and the communities in which they live. We live by our vision of Working Together so our Communities are the Healthiest in America. The operative word in that sentence is “together.” We work with you as lawmakers to craft policies that support that vision. And we work with our payer partners to do the same. When a partner is not willing to commit to that vision, we have a duty to step back and reassess the partnership, as we have done in this case.

Thank you for the opportunity to share our perspective today. I would be happy to answer questions.