

Commission to Study Difficult-to-place Patients
December 2, 2015
Meeting Summary

Convened 10:00 a.m., Room 216, Cross State Office Building, Augusta

Present:
Sen. Roger Katz
Sen. Anne Haskell
Rep. Drew Gattine
Rep. Richard Malaby
Rep. Peter Stuckey
Jeff Austin
Melvin Clarrage
Richard Erb
Brenda Gallant
Ricker Hamilton
Simonne Maline
Kim Moody

Absent:
None

Staff:
Natalie Haynes
Dan Tartakoff

Introductions

Commission Chair Roger Gattine called the meeting to order and the members introduced themselves. Commission members reviewed the agenda for the day and Commission staff described for members the various handouts and documents on their desks.

Review of draft Commission report

Commission staff assisted members in reviewing its draft report. The first recommendation (“Recommendation A”) related to implementation of a “days awaiting placement” rate, whereby PPS hospitals would be paid a daily rate for care of patients who have met all medical criteria for discharge, but who remain hospitalized due to lack of an appropriate or available placement to which the patient can be discharged. Commission staff noted the vote at the last meeting on this proposal was 10-1 in favor.

Representative Malaby voiced his concern that he did not want this proposal to overshadow the proposal to expand geropsychiatric facility capacity. He recommended that perhaps, instead of listing this proposal as the first recommendation, it be moved to the end of the recommendations list. Kim Moody stated her opposition to this recommendation, arguing that it was not part of the solution to the actual problem faced by patients. Jeff Austin responded that this proposal is significantly restricted in terms of actual reimbursement in that it would only be available for Medicaid-eligible patients. He also stated that it seems fundamentally unfair that the hospitals should have to be the current solution to the problem yet receive no compensation for their actual costs. Mr. Austin also recommended that this proposal include a statement regarding the State’s cost share of these payments (1/3 of cost paid by State; 2/3 paid by federal government), note that the payment only applies to Medicaid-eligible patients and to provide an estimated \$500,000 total cost per year, only 1/3 of which would be paid by the State.

Senator Haskell suggested that the Commission consider a sunset on this proposal. Mel Clarrage noted that with the limited resources available to address the many problems the Commission has identified, he has difficulty supporting funding this proposal over others that are more patient-focused. Richard Erb questioned whether the rate would have a trigger, i.e., would the rate be available immediately for a patient once they became eligible for discharge. He noted that even once a patient meets discharge criteria and has a placement lined up, it often takes a number of days before they can actually be placed. Mr. Austin responded that there is no such trigger for the similar rate currently paid to critical access hospitals, and as such he would recommend the same for this rate. He also noted that eligibility for the rate is significantly restricted and total reimbursements are capped, positing that given these factors, the cap might not even be reached in any given year.

For the purposes of review and final voting at the final meeting, Commission members informally agreed to add Mr. Austin's language recommendations to this proposal, include a 5 year "sunset" provision to the reimbursement and to move this proposal to later on in the recommendations list.

Commission staff next described "Recommendation B," which proposes to expand the role of the Long-term Care Ombudsman program by adding 2 additional staff to that office and amending the Ombudsman's statutory authority, which was supported by an 11-0 vote at the last meeting. Brenda Gallant, the Long-term Care Ombudsman, provided additional details on this proposal, noting these two staff would be focused solely on outreach, patient consults and facility or home care consults relating to the placement of patients with complex medical conditions. Currently, there are no staff in her office who are tasked with this role; instead, it is something she herself has taken on as time allows. She estimated that the total cost for these two positions, including wages, taxes, benefits, mileage reimbursement and other incidentals would be roughly \$150,000.

For the purposes of review and final voting at the final meeting, Commission members informally agreed to add details of Ms. Gallant's cost estimates for these positions to the recommendation.

"Recommendation C" pertains to the expansion of certain DHHS resources. As Commission staff noted, one recommendation adds an additional nurse education consultant position at DHHS, which was supported by a 7-3 vote at the last meeting. This position, which is reportedly in high demand at facilities across the State, engages in facility outreach and assistance, provides care consults, medication changes, etc. The other recommendation here would require DHHS to fund long-term care contract for behavioral health support at long-term care facilities for care plan consults, treatment and staff education, and was supported by an 11-0 vote at the last meeting.

Senator Katz questioned why the nurse education consultant position was even needed as every nursing facility must have nursing staff. Mr. Erb responded that although every nursing facility does in fact have nursing staff, they often lack the resources, especially in small facilities, to provide the type of specialized supportive and consultative services this DHHS position provides. Having that additional support, he noted, often helps facilities in being able to accept medically complex patients. Ms. Gallant echoed that this position is a frequently-utilized resource and reportedly provides necessary and appreciated assistance to facility staff around the State. Ricker Hamilton, when asked about the cost of this position, estimated the total cost to add another nurse education consultant would be roughly \$75,000 to \$100,000, but stated that he would confirm that figure.

For the purposes of review and final voting at the final meeting, Commission members informally agreed to clarify and include details of the cost estimates of this position to the recommendation.

Turning to the second part of this recommendation, Mr. Austin questioned whether the proposal would be to have DHHS fund multiple contracts between long-term care facilities and local behavioral health service providers, or whether it would be a single contract between the State and behavioral health providers to provide services to facilities across the State. Mr. Hamilton stated that he cannot support the proposal if the intention is to have DHHS fund it within existing resources.

Commission members generally agreed this proposal would require more information and development before it could be fully considered and, for the purposes of review and final voting at the final meeting, informally agreed to move this proposal to the list of directives for the new commission.

Commission staff next described “Recommendation D,” which proposes to expand community placement options in the State, focusing on the lack of staffing support and low, flat reimbursement for home care services and was supported by a 10-2 vote at the last meeting. Mr. Clarrage and Ms. Gallant presented two proposals to address these issues that they had worked together to develop. First, they recommended that DHHS conduct a demonstration project to explore the feasibility of implementing an enhanced reimbursement rate for home care services. Participants would be limited to those patients currently receiving services through the Homeward Bound program. Second, they recommend that the Home Care Quality Review Committee at DHHS conduct a review into the adequacy of home care services provided through section 19 of the MaineCare Benefits Manual. Both proposals would include a requirement that DHHS report their respective findings and recommendations to the Legislature.

Representative Gattine noted the difficulty in developing an acuity scale to apply for home care services and questioned whether the State would have the ability to do this. Ms. Gallant responded that, in the home care services context, this could be accomplished by just providing supplemental payments for actual costs relating to the patient’s acuity. Ms. Gallant also noted, in response to a Commission member’s question, that these proposals would not be aimed at increasing the number of placements under the Homeward Bound program, but would hopefully improve the likelihood of successful community placements through that program.

For the purposes of review and final voting at the final meeting, Commission members informally agreed to incorporate both of these proposals as recommendations in the report.

“Recommendation E” recognizes that data relating to the basis for a facility’s refusal to accept placement of a patient may be crucial to understanding and addressing barriers to placement and proposes to implement a method to collect and analyze this data. At the last meeting, although this recommendation was supported by a 10-2 vote, no specific details as to how to accomplish this proposal were suggested. Ms. Gallant and Mr. Erb described discussions they had had since the last meeting and proposed to, in conjunction with other interested parties, develop an appropriate method for collecting, maintaining, analyzing and reporting on this data without the need to create an additional regulatory burden for long-term care facilities. They stated their intention to work with providers, hospitals and facilities to develop recommendations to bring to the Legislature in the spring. Ms. Maline recommended that Consumer Council System of Maine be included in the conversation to provide input on mental health facilities.

For the purposes of review and final voting at the final meeting, Commission members informally agreed to include information in this recommendation relating to the work to be undertaken by these stakeholders in developing a method for collecting and maintaining this data.

Commission staff next described “Recommendation F,” which addresses financial exploitation of individuals by family members or other relatives and its impact on MaineCare application processing and eligibility. Commission members voted 12-0 at the last meeting in support of implementing an immediate solution to this problem, with specific details to be provided by DHHS. Mr. Hamilton

provided a draft proposal outlining the creation of a stakeholder group, hosted by the new financial abuse specialist team (FAST) at DHHS, to review Maine criminal laws, the Maine Adult Protective Services Act and other applicable laws with the intent of facilitating greater prosecutions of elder abuse and financial exploitation cases. He noted that FAST staff were being hired at present and would be available to conduct this review should the Legislature direct it next session.

For the purposes of review and final voting at the final meeting, Commission members informally agreed to incorporate this proposal as a recommendation in the report.

“Recommendation G” proposes to expand geropsychiatric bed capacity in the State; a proposal supported by an 11-1 vote at the last meeting. Mr. Hamilton started out this discussion by providing additional information on the Request for Information (RFI) that DHHS is preparing to put out. This RFI would seek input on the development of a 12-20 bed neurobehavioral treatment center, a 12-20 bed specialty medical treatment center and a 12-20 bed medical/psychiatric specialty treatment center. Commission members generally agreed that, while there may be some overlap in patient populations addressed by this proposal and in the RFI, expansion of geropsychiatric capacity should be considered independently of the RFI. Representative Gattine asked Mr. Hamilton about the timeline of the RFI and subsequent actions to be taken. Mr. Hamilton responded that after receiving the responses to the RFI, DHHS would assess that information, which could potentially inform legislative action and a Request for Proposals (RFP) to actually develop one or all of these facilities described in the RFI.

Turning to the recommendation to expand the number of geropsych beds, Mr. Austin suggested that the report explicitly state that Maine has not expanded geropsych beds in 25 years. He also recommended that a rough estimate of State costs of expansion be included and that a requirement be added to give priority to expansion of capacity in Northern Maine. He estimated that based on a cost per bed of \$350 per day and an expansion of 25 beds, the State’s cost share would be roughly \$1 million of a \$3 million total cost. Ms. Moody questioned whether there was actual data demonstrating a need for more geropsych beds in the State and stated she could not support expansion without such data. Mr. Austin reiterated, and Mr. Erb agreed, that there was a great need for these beds, and that such data would certainly be provided should the proposal reach a public hearing format in the HHS Committee.

For the purposes of review and final voting at the final meeting, Commission members informally agreed to include Mr. Austin’s recommended language additions and to include cost estimates.

“Recommendation H” proposes to review DHHS’ APS/guardianship processes and explore the feasibility of implementing a temporary guardianship process to facilitate the placement of hospitalized patients at long-term care or other facilities. At the last meeting, there had been an 11-0 vote in favor of recommending further consideration of these matters by DHHS with input from the judiciary and other interested parties. Mr. Hamilton noted that this is a probate code issue and as such is within the purview of the judiciary, not DHHS. Mr. Austin suggested that this seems a more appropriate proposal for further consideration by the new commission.

For the purposes of review and final voting at the final meeting, Commission members informally agreed to move this proposal to the list of directives for the new commission.

Commission staff lastly provided an overview of “Recommendation I,” which creates a new Commission To Continue the Study of Difficult-to-place Patients. Staff highlighted draft legislation creating this new commission, noting the various proposals flagged for inclusion at the last meeting to be included as directives for the new commission. At the last meeting, three of the directives had been voted for further study by the new commission by a 10-1 vote; the rest had been voted unanimously for inclusion.

For the purposes of review and final voting at the final meeting, Commission members informally agreed to recommend a number of minor language and formatting changes to the listed study directives.

Public comment

The Commission next opened the floor up for public comment. Lisa Harvey-McPherson (EMHS) testified, responding to an earlier statement by Ms. Moody questioning the actual need for geropsych capacity expansion. She noted that EMHS generally has around 12 patients at all times requiring placement in a facility with geropsychiatric services, noting that even small hospitals in their system typically place a number of patients per year in geropsych care. She agreed with Mr. Austin and Mr. Erb that there was a distinct and immediate need for these additional geropsych beds and committed to providing all necessary data to the HHS Committee support this proposal.

Continued Commission discussion of draft report

Commission members returned to the draft report and continued their discussions on changes to be made to the report. Although a number of those changes were finalized during discussions following public comment at the meeting, the agreed upon changes to the report have been previously noted at the end of each recommendation's discussion.

Future meetings

The fifth and final meeting of the Commission will be held on Monday, December 7, at 9:00 am in Room 216 of the Cross State Office Building. The meeting will primarily involve Commission review of the updated draft report and include voting on final recommendations.

The meeting was adjourned at 2:30 p.m.

G:\STUDIES 2015\Difficult-to-place Patients\Summaries\FINAL december 2 meeting summary.docx