

STATE ALL PAYER CLAIMS DATABASES ADVISORY COMMITTEE
Employee Benefits Security Administration
U.S. Department of Labor
May 19, 2021
Minutes of Teleconference Meeting

Designated Federal Officer Elizabeth Schumacher called the meeting to order at 9:30 a.m. and welcomed the Committee members. She encouraged people to reach out if they have questions and reminded people of the State All Payer Claims Databases Advisory Committee (SAPCDAC) website, which contains contact information. Attending the meeting from the EBSA were: Acting Assistant Secretary, Ali Khawar, EBSA, DOL; Amber Rivers, Director, Office of Health Plan Standards and Compliance Assistance (OHPSA), EBSA, DOL; Elizabeth Schumacher, Designated Federal Officer, Deputy Director, OHPSA, EBSA, DOL; Angela Melina, OHPSA, EBSA, DOL; Beth Schumann, OHPSA, EBSA, DOL; and Justine Sorrentino, OHPSA, EBSA, DOL.

State All Payer Claims Databases Advisory Committee members attending the meeting were: Committee Chair, Maureen Mustard, Director of Health Analytics, New Hampshire Insurance Department – Committee Chair; Stefan Gildemeister, Minnesota State Health Economist and Director of Health Economics Program – Representative of a State All-Payer Claims Database; Carol DeFrances, Acting Director of NCHS Division of Health Care Statistics – Representative of the National Center for Health Statistics; Allison Oelschlaeger, Chief Data Officer at CMS and Director in CMS Office of Enterprise Data & Analytics – Representative of the Centers for Medicare & Medicaid Services; Dr. Tricia Lee Rolle, Senior Advisor in Office of the National Coordinator for Health Information Technology – Representative of the Office of the National Coordinator for Health Information Technology; Linda Sanches, Senior Advisor for Health Information Technology, HHS Office for Civil Rights Health Information Privacy Division – Representative of the Office for Civil Rights, HHS; Dr. Herbert Wong, Director of Division of Statistical Research and Methods in Agency for Healthcare Research and Quality – Representative of the Agency for Healthcare Research and Quality; Emma Hoo, Director, Pay for Value, Pacific Business Group on Health – Representative of Employer Sponsor of a Group Health Plan; Mike Kapsa, Chief Financial Officer, Solidaritus Health Inc.; and Chief Economist, America's Agenda – Representative of Employee Organization Sponsor of a Group Health Plan; Dr. Cheryl Damberg, Principal Sr. Economist, Director, Center of Excellence on Health System Performance, RAND Corporation – Academic Researcher; Frederick Isasi, Executive Director, Families USA – Consumer Advocate; Niall Brennan, President & CEO, Health Care Cost Institute – Additional Member; Josephine Porter, Director, Institute for Health Policy and Practice, University of New Hampshire; Co-chair of the APCD Council – Additional Member; and Susan Queen, Office of Assistant Secretary for Planning and Evaluation (ASPE), HHS. All Committee members introduced themselves and briefly discussed their backgrounds and relevant experience with APCDs.

Others attending the meeting included the following presenters: Norman Thurston, APCD Council; Charles Hawley, APCD Council; Amy Costello, APCD Council; Katherine G. Carman, RAND Corporation; Kyle Russell, Virginia Health Information; Kyle Brown, Colorado Department of Regulatory Agencies; Pamela Mink, Minnesota Department of Health; and John Freedman, Freedman Healthcare.

Acting Assistant Secretary Ali Khawar, EBSA emphasized that these are important issues and thanked the Committee members, who are lending their expertise. Susan Queen, Senior Advisor, Office of the Assistant Secretary for Planning and Evaluations, HHS echoed Ali Khawar's sentiments and expressed enthusiasm with regard to the valuable work that the Committee has undertaken. Despite the short time frame, she is looking forward to getting started. EBSA Office of Health Plan Standards and Compliance Assistance Director Amber Rivers congratulated all of the Advisory Committee members, who offer diverse perspectives. She also expressed appreciation for partners such as the GAO and HHS's Office of the Assistant Secretary for Planning and Evaluations (ASPE). Ms. Rivers also thanked stakeholders who are participating in today's SACDAC meeting. The CAA included a number of provisions for the Department of Labor (the Department or DOL) to implement within a short time frame. She thanked the Committee members for agreeing to serve, and noted that the Committee is charged with developing voluntary reporting.

Designated Federal Officer Elizabeth Schumacher invited the Committee members introduce themselves. The committee members in introducing themselves discussed the backgrounds they bring to the Committee.

Ms. Schumacher reminded the Committee that the statute directs the Committee to advise the Secretary of Labor by including recommendations on the establishment of a standardized format, and guidance for voluntary reporting by group health plans to state all payer claims databases. She noted that the Committee must act within a short time frame, within 180 days of enactment. Ms. Schumacher provided a brief overview of the agenda.

Presentations were then made on current work related to the state all payer claims databases and discussion of the Common Data Layout (CDL). Katherine Carman (RAND) focused her presentation on the history and background of APCDs. Ms. Carman mentioned that a standardized ERISA plan reporting format will need to be integrated with current state efforts. Other considerations she mentioned include the impact of the Supreme Court's *Gobeille* decision that self-insured plans cannot be compelled to submit data. Huge numbers of people are covered by these plans.

Norman Thurston (APCD Council) and Charles Hawley (APCD Council) then discussed the APCD Council and the work NAHDO has already done to develop the common data layout (CDL). They explained that the APCD Council, which is convened and coordinated by NAHDO, involves learning collaboration focused on developing and improving state APCDs. They help to promote the cause of APCDs. These databases are often created by state mandates and include data derived from medical, pharmacy, and dental claims from public and private payers. Amy Costello (APCD Council) discussed the history of harmonization of APCD data and information. Mr. Hawley provided a high level overview, and explained that the APCD Council has found that the CDL requires maintenance.

Mr. Kyle Russell (Virginia Health Information) discussed Virginia's APCD and the administration of the state information exchange, which was originally established as a voluntary system. He noted that there must be more data from the ERISA self-insured community. At best,

they are collecting data from 50-60% of the market. He suggested that if data collection from self-insured plans cannot be mandatory, a question must be what constitutes voluntary compliance. He proposed that a system in which employers could choose to opt out of contributing data would be a voluntary system. He also suggested the CDL be used as the national data system.

Dr. Pamela Mink (Minnesota Department of Health) advised that the other side of the coin is the collection, submission, and management of data. She provided an overview of Minnesota's situation. Minnesota collects medical, pharmaceutical, dental, and data from Minnesota's public health care plans and Medicaid. She noted that the number of Minnesotans receiving health benefits through employment whose data was captured dropped by more than half after the *Gobeille* decision. She stated that Minnesota uses APCD data to inform health care policy.

Kyle Brown (Colorado Department of Regulatory Agencies) reported that Colorado has had an APCD for about ten years, which was created by statute. At the height of the great recession, they were housed as an independent entity overseen by the state Medicaid agency. Grant funding was necessary to get started. They tried to find funding outside of state dollars, but over last five years, the state has become a major source of funding. There is a state-designated administrator.

During the public comment period, Dr. John D. Freedman (Freedman Healthcare) gave oral commentary. He stated that his team has been working with APCDs across the country. Their work requires improving data and benefits by getting to consistency. He pointed out that APCDs are adaptable and can be used in many ways. The obstacle is that each state has its own data collection form. He stated that the *Gobeille* decision is big problem, but that the *Rutledge* decision may help with this. He also spoke about issues the Committee may wish to explore to increase data collection, and about ways to improve existing data collection.

Finally, there was a Committee discussion of the written comments submitted and the topics of study for the duration of the Committee, which included the following considerations: the length of future meetings; encryption/data access; alternative payment models; legal expert discussion regarding how best to address the voluntary aspect, opt in versus opt out, and the impact on ERISA; the Committee's recommendations; and the strategy and timeline for writing the report.

Maureen Mustard adjourned the meeting at 4:54 p.m.

**Certification of Minutes and Records of
Advisory Committee Meeting of May 19, 2021**

I, Maureen Mustard, chair of the Advisory Committee on State All Payer Claims Data Bases, do hereby certify that, to the best of my knowledge, the minutes prepared for the meeting of the Advisory Council on May 19, 2021 are accurate, and the accompanying documents constitute a complete compilation of the record of the meeting.

Signed _____

Date _____