



PUBLIC SESSION

Horizon Ballroom  
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Thursday, October 31, 2024  
10:31 a.m.

COMMISSIONERS PRESENT:

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MICHAEL NARDONE, MPA  
JAMI SNYDER, MA

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1 always looking for ways to increase access and ensure  
2 quality for those on Medicaid and CHIP, and that's a very  
3 important mission I think that we all hold true to our  
4 hearts.

5 And if you haven't already, I want to make sure  
6 that you have taken a look at our analytic agenda for this  
7 year. It's pretty dynamic, and we hope that you all can  
8 really join us for each of those meetings. And you can  
9 find information on our website.

10 So as I take on the chair role for this year, I'm  
11 excited to continue to build upon the Commission's  
12 important work. Medicaid, as you all know, is a very vital  
13 program. It's a platform for innovation, collaboration,  
14 and ultimately improving the lives of millions of  
15 Americans. So I look so forward to advancing these goals  
16 with all of you.

17 So, with that, let's kick off our very first  
18 session. Melinda is going to talk with us about MOUD and  
19 related policies. So go for it. Thank you.

20 **### MEDICATIONS FOR OPIOID USE DISORDER AND RELATED**  
21 **POLICIES**

22 \* MS. BECKER ROACH: Thank you, and good morning,

1 Commissioners.

2           This is the first of several sessions that the  
3 Commission will have on medications for opioid use  
4 disorder. It's meant to lay a foundation for future  
5 discussions by providing an overview of medications for  
6 opioid use disorder, or MOUD, as I'll refer to it during  
7 the presentation. I'll also highlight recent federal  
8 policies and other factors that affect access to MOUD and  
9 discuss next steps for the Commission's work.

10           MOUD is the standard of care for individuals with  
11 opioid use disorder. There's strong evidence demonstrating  
12 the effectiveness of these medications, which include  
13 methadone, buprenorphine, and naltrexone.

14           While providers treating patients with opioid use  
15 disorder should offer or refer to counseling and other  
16 services, federal guidance emphasizes that access to MOUD  
17 should not be contingent upon someone participating in  
18 those additional services. There's evidence, for example,  
19 that patients benefit from buprenorphine treatment even  
20 when counseling services aren't available.

21           Methadone, buprenorphine, and naltrexone vary in  
22 a number of ways. Methadone is an opioid that suppresses

1 withdrawal symptoms, controls opioid cravings, and blunts  
2 or blocks the effects of other opioids if taken. Methadone  
3 for the treatment of opioid use disorder can only be  
4 dispensed at highly regulated opioid treatment programs  
5 known as OTPs.

6           This closed system of distribution for methadone  
7 was put in place due to concerns about potential abuse and  
8 diversion. Typically, patients must travel to an OTP for  
9 supervised dosing on a daily or near daily basis and over  
10 time may be permitted to receive take-home doses.

11           Buprenorphine is another opioid that works  
12 similarly to methadone but produces a less intense opioid-  
13 like effect and poses less risk for drug interactions. It  
14 can be taken orally on a daily basis or administered  
15 through weekly or monthly extended release injections.  
16 Buprenorphine can be accessed at OTPs but is more often  
17 prescribed in office-based settings by clinicians who have  
18 a federal registration to prescribe controlled substances  
19 and who are permitted to do so under their state laws.

20           Naltrexone differs from other forms of MOUD in  
21 that it's not an opioid or a controlled substance and has a  
22 different effect on opioid receptors in the brain. It has

1    been found to be less effective than methadone and  
2    buprenorphine and is used less commonly for OUD treatment.  
3    There are oral and extended release injectable forms of  
4    naltrexone, but only the injectable form is approved for  
5    opioid use disorder.

6               Congress and federal agencies have pursued a  
7    variety of policies to improve access to MOUD in recent  
8    years. Some of these policies are specific to Medicaid and  
9    others are more broad. Starting with recent Medicaid  
10   policies, the 2018 SUPPORT Act requires state Medicaid  
11   programs to cover all forms of FDA-approved MOUD and  
12   related counseling and behavioral therapies for a five-year  
13   period beginning October 1st, 2020. That requirement was  
14   recently made permanent in the 2024 appropriations law.

15              States could apply for an exception to the  
16   coverage mandate if implementing it was not feasible to a  
17   shortage of qualified MOUD providers. CMS approved  
18   exceptions for provider shortage in three states and four  
19   territories primarily due to a lack of OTPs providing  
20   methadone.

21              There are two Section 1115 demonstrations that  
22   include a focus on expanding access to MOUD. The first is

1 the Section 1115 substance use disorder demonstration that  
2 has been adopted by many states as a way to pay for  
3 services for enrollees receiving treatment in institutions  
4 for mental diseases or IMDs. These demonstrations aim to  
5 improve access to a full continuum of care for substance  
6 use disorder and to improve access to MOUD, among other  
7 goals.

8           For instance, participating states must assess  
9 the availability of Medicaid-enrolled providers offering  
10 MOUD and require that residential facilities provide MOUD  
11 directly or facilitate access to MOUD at another location.

12           There is also a Section 1115 demonstration  
13 opportunity, as Commissioners are aware, to provide  
14 Medicaid pre-release services, which states are  
15 increasingly pursuing. MOUD is part of the minimum benefit  
16 package that states must offer to enrollees nearing release  
17 from incarceration.

18           The SUPPORT Act established a new state plan  
19 option for covering services for enrollees receiving  
20 substance use disorder treatment services in IMDs. That  
21 authority was time-limited but was recently made permanent.  
22 Among other requirements, eligible IMDs must offer at least



1 two forms of MOUD on-site.

2           The SUPPORT Act also authorized demonstrations to  
3 expand the capacity of substance use disorder treatment  
4 providers. CMS awarded planning grants to 15 states and  
5 selected 5 of those states to participate in a three-year  
6 post-planning period. Post-planning states all reported  
7 increases in the number of methadone and buprenorphine  
8 providers as a result of their activities under the  
9 demonstrations.

10           Finally, health homes were established under the  
11 Affordable Care Act to support care integration for  
12 enrollees with complex chronic conditions, including opioid  
13 use disorder.

14           States can receive enhanced federal funds for  
15 health home services, such as comprehensive care  
16 management, care coordination, and referral to community  
17 and social support services.

18           There have been a number of policy changes not  
19 specific to Medicaid but which affect access to MOUD more  
20 broadly. For example, there have been changes to methadone  
21 access both during and after the COVID-19 public health  
22 emergency.

1           At the start of the pandemic, SAMHSA relaxed  
2 restrictions on the use of methadone take-home dosing,  
3 which minimizes the need for patients to make daily trips  
4 to an OTP. Those flexibilities were made permanent in a  
5 final rule that SAMHSA issued earlier this year. That  
6 final rule also removed restrictive admissions criteria,  
7 including the requirement that patients have a history of  
8 addiction for at least one year before beginning methadone  
9 treatment.

10           In another effort to limit in-person visits  
11 during the public health emergency, SAMHSA and the Drug  
12 Enforcement Administration allowed patients to start  
13 buprenorphine treatment via telehealth without first  
14 receiving an in-person medical evaluation. That  
15 flexibility has been extended several times while DEA  
16 considers public comments on a proposed rule that would  
17 allow telehealth initiation but would require in-person  
18 evaluation within 30 days.

19           Finally, last year, Congress eliminated the  
20 requirement for providers to obtain a federal waiver to  
21 prescribe buprenorphine for opioid use disorder, which was  
22 widely seen as a barrier to expanding the availability of

1 MOUD providers.

2           There are a variety of additional factors that  
3 affect access to MOUD. I'm going to highlight two commonly  
4 cited barriers -- provider shortages and utilization  
5 management.

6           The limited availability and maldistribution of  
7 MOUD providers are well documented. For example, a recent  
8 federal study found that roughly a third of U.S. counties  
9 had no OTPs or buprenorphine providers serving Medicaid  
10 enrollees in 2022. Most OTPs treated Medicaid enrollees,  
11 while most office-based buprenorphine providers did not.  
12 Stigma and the high cost of treating patients with opioid  
13 disorder coupled with low reimbursement rates can dissuade  
14 some providers from offering MOUD or accepting Medicaid  
15 patients. Federal, state, and local laws can also create  
16 barriers.

17           As noted earlier, methadone for opioid use  
18 disorder is limited to highly regulated OTPs and cannot be  
19 dispensed in traditional outpatient settings. State laws  
20 may pose additional barriers; for example, through  
21 certificate of need requirements or restrictive zoning laws  
22 that can make it difficult to identify new locations or

1 provide convenient access.

2           While Congress eliminated the federal waiver  
3 requirement for buprenorphine prescribers, states can  
4 continue to impose barriers; for example, through state  
5 scope of practice laws that limit the ability of non-  
6 physicians to prescribe buprenorphine.

7           States and managed care organizations established  
8 utilization management policies to ensure appropriate care  
9 and reduce the potential for fraud, waste, and abuse.  
10 However, these policies are often cited as barriers to  
11 timely access to MOUD.

12           Utilization management for MOUD has declined in  
13 recent years but is still widely used. Examples include  
14 the use of prior authorization and quantity limits or  
15 maximum daily doses. In 2023, roughly half of states  
16 required prior authorization for methadone or had at least  
17 one MCO that did. Prior authorization for buprenorphine is  
18 less common, though still widely used.

19           In the coming months, I'll return to discuss  
20 state coverage of MOUD and recent changes in MOUD  
21 utilization based on a claims analysis. I'll also present  
22 themes from interviews that we conducted with national

1 experts and stakeholders in six states regarding MOUD  
2 access. That work and the background information presented  
3 today will form the basis of a descriptive chapter for the  
4 June report.

5 Staff are also considering potential follow-on  
6 work focused on specific policy issues that have come up in  
7 our work to date such as prior authorization for MOUD.  
8 This is one area where staff could do additional research  
9 and evidence gathering to inform the Commission's work in  
10 the next report cycle.

11 If you have any initial thoughts on that today,  
12 we welcome your input. It would also be helpful to know if  
13 you have any clarifying questions or would like any  
14 additional information on any of the topics discussed  
15 today.

16 Thanks.

17 CHAIR JOHNSON: Thank you so much, Melinda. This  
18 was very helpful.

19 So she's given us a little bit of direction here  
20 in terms of your thoughts about prior auth and any  
21 clarifying questions.

22 Any questions from the Commissioners? Let's see.

1 I have a couple of hands. John, you want to start us off?

2 COMMISSIONER MCCARTHY: I'm really looking  
3 forward to this great work. It's a great start. I love  
4 it.

5 A couple of things that I would like you to take  
6 a look at as we go forward. Number one is there's been  
7 some new guidance coming out on parity and what needs to be  
8 done. So how does that work with what we're doing and  
9 where substance use treatment falls under the parity rules?  
10 I know we're looking at Medicaid, but it's a bigger picture  
11 in that one.

12 The second piece is if you could look at rates  
13 and how substance abuse providers are paid, because you  
14 talked about this a little bit, the lack of providers. One  
15 of the issues is rate payments. This is an area which is  
16 somewhat -- not convoluted. That's not the right term.  
17 But it's difficult because people think of payments as  
18 pretty simple, but this one is a little more complicated.  
19 So if you could dig into and explain to us how providers  
20 are paid, so that when we talk about a lack of payment, we  
21 would know what areas that rate enhancement may be needed.

22 Thanks.

1 CHAIR JOHNSON: Thanks, John.

2 Let's do Jenny, then Mike, then Heidi.

3 COMMISSIONER GERSTOFF: Thank you, Melinda. I'm  
4 really excited about this work too, and I think there's a  
5 lot that we can explore, and there's a lot that you've  
6 presented so far.

7 This is one that a lot of people close to me have  
8 been working on. So I spent some extra time after reading  
9 your materials to talk to them about barriers, the ones  
10 that you highlighted and others, things that they're seeing  
11 in the field to help me understand what concerns we might  
12 explore.

13 I think you absolutely nailed the points in your  
14 meeting memo and the presentation. You laid out a lot of  
15 the first steps in eliminating some barriers, but it sounds  
16 like even after a state has eliminated things like prior  
17 auth and dosing limits, we're still not seeing treatment  
18 rates near what we would hope for.

19 There are three main considerations I have wanted  
20 to share and then some anecdotal results from a pilot  
21 program in Seattle as just a reference point for taking  
22 down more of these barriers.

1           My first one is the fentanyl addiction that we're  
2   treating today and how it is so different from heroin and  
3   OxyContin of the past. The incredibly short nature of  
4   fentanyl and the precipitated withdrawal symptoms that come  
5   multiple times a day are much more severe. This means that  
6   dosing needs for treatment are higher, and it's a lot  
7   harder to get people into treatment, especially as many  
8   programs are still relying on an abstinence model.

9           I also wasn't aware that despite the intense pain  
10   and other very severe symptoms of precipitated withdrawal,  
11   a person cannot be admitted to the hospital just for their  
12   withdrawal symptoms or just with an OUD diagnosis. They  
13   would have to overdose before being admitted.

14           And there's a lack of clear guidance for  
15   providers for best practices and indications for induction  
16   to treatment for fentanyl addiction.

17           Providers, another big one. But people are not  
18   coming to providers. So we don't have enough providers,  
19   and also, we can't get people to come to those providers.

20           The best success has been taking the providers  
21   out into the community, because some people, they've had  
22   painful past experience trying to get treatment. There,



1 again, are not enough providers offering treatment, and  
2 there hasn't been good communication to potential patients  
3 of treatment options that we have beyond the abstinence-  
4 based models.

5           The evidence is showing that outreach programs in  
6 the community are far more successful, but there are  
7 barriers and limitations there as well, and that's  
8 hindering the ability of providers to offer those programs,  
9 things like needing to register individual sites. So, if  
10 you go to a homeless encampment, you would have to  
11 establish that as a site and pay a fee. There are issues  
12 with transporting a controlled substance and several other  
13 limitations there.

14           The most effective treatments are also the most  
15 cost-prohibitive, which is a big deal. It's way easier to  
16 calculate the upfront cost of administering products like  
17 Brixadi and Sublocade than it is to quantify the savings  
18 that we may achieve through offsets in reduced ED visits,  
19 reduced inpatient stays for overdose, or improvements in  
20 someone's economic status.

21           These treatments are expensive, and I know that  
22 both state and federal budgets are already stretched. So

1 upfront costs are a big barrier, but if we consider beyond  
2 that initial cost, there are programs that are showing  
3 these outcomes of savings, and they're beginning to have  
4 data to share.

5 I have a friend who works for the Seattle program  
6 that I mentioned. It's just a small outreach program.  
7 They have maybe 100 clients, they been treating for about a  
8 year. Their clients have a high rate of being unhoused,  
9 and many of them have co-occurring mental illness that goes  
10 untreated because of their OUD. So these are some of the  
11 hardest clients to reach and to retain, but they've been  
12 very successful.

13 So their program technically is an off-label use  
14 of Brixadi because they don't require abstinence to get  
15 started. The Brixadi is a lower dose than the month-long  
16 Sublocade long-acting injectable, and it allows them to  
17 begin to come off of the fentanyl without symptoms.

18 And they do a couple of low-dose initiations  
19 there, and then once they are free of the withdrawal and  
20 off of the fentanyl, they move to Sublocade. It's very  
21 expensive.

22 But they've had zero overdoses in the last year

1 for their clients on the program. They have clients who  
2 have gotten into stable housing. They have clients who  
3 have gotten stable employment. They have clients who are  
4 pregnant, and those babies will not be born with neonatal  
5 abstinence syndrome.

6           They're so successful because of the model that  
7 they're using, but they're also using a combination of both  
8 Medicaid and SAMHSA funding. And because the overdose  
9 rates in our area have come down, they're losing funding,  
10 and so they'll actually be able to help fewer people.

11           Their clients only have to make a good decision  
12 one time a month when using the Sublocade versus Suboxone  
13 films. They have to do that three to four times a day  
14 because the fentanyl wears off so quickly and because the  
15 Suboxone wears off so quickly.

16           Team members from the pilot program are reporting  
17 that when they pull their van up to a homeless encampment,  
18 they've had people running out and lifting their shirts and  
19 following the van and asking to get signed up. There's so  
20 much success in this very hard-to-reach community, but they  
21 don't have enough staff or supplies to expand. But I think  
22 looking into that kind of thing, guiding that will be

1 helpful in the research.

2           Other things that I think can support treatment,  
3 including Sublocade and Brixadi on state formularies,  
4 federal pricing negotiations that could reduce costs for  
5 Medicaid programs, increased dosing limits for treatment of  
6 fentanyl addiction, and other research to improve clinical  
7 guidance and develop updates to evidence-based practices.  
8 There, you have in your materials millions of people  
9 suffering from OUD and covered by Medicaid, and while it  
10 may be expensive to help them overcome addiction, it can  
11 achieve exactly the goals we want to see, people who move  
12 on from safety net programs to be successful members of  
13 society.

14           Without social safety nets like Medicaid that  
15 helped me when I was a single teenage mom, I couldn't have  
16 gone to college, and I couldn't have succeeded to be a  
17 taxpaying, highly paid consultant sitting in this room  
18 today.

19           And I would love to see the program successfully  
20 support people through the hardest times in their lives so  
21 they can achieve big and small wins the way I know they  
22 want to.

1 CHAIR JOHNSON: Thank you so much. Heidi, then  
2 Mike, Doug, and then Carolyn.

3 COMMISSIONER ALLEN: Thank you. Thank you for  
4 this. I found it very informative and helpful. I want to  
5 second what John said about thinking about how Medicaid  
6 pays for these treatments, both with the provider rates.  
7 And I noted you had in your materials the so-called buy and  
8 bill policies, and I was wondering if that was specific to  
9 one drug or another, and if that could be responsible for  
10 some of the discrepancies that we're seeing in providers  
11 being willing to provide these treatments.

12 And then I was really interested in the section  
13 on utilization management. I guess there's a sense of,  
14 okay, there's this big shift in states moving away from  
15 utilization management for these treatments, but yet  
16 there's still a very substantial number of states that have  
17 them, across all of the different treatment. And I thought  
18 it would be really interesting to see this data that is  
19 provided in Table 2 in our materials mapped onto the rates  
20 of overdoses in a state. Because I'm curious if these are  
21 states that overdose rates are low and therefore, we can  
22 still have utilization management, or if these are places

1 where it's really high and it might be why they have so  
2 many overdoses.

3           So I just am very curious about that, and I would  
4 like us to really think through what would be the role of  
5 MACPAC in advising states and CMS and Congress about what  
6 is the role of utilization management in these treatments.

7           CHAIR JOHNSON: Thank you, Heidi. Mike?

8           COMMISSIONER NARDONE: Yes. Thank you very much  
9 for this great presentation and all the comments of my  
10 fellow Commissioners. Very helpful for me.

11           I guess what I was wondering, Melinda, you  
12 discussed some of the policy levers that the federal  
13 government has made available, and one of the things you  
14 mentioned was the 1115 authority for SUD demos. And I  
15 guess what I was just wondering, we've had a fair amount of  
16 time with those now, having actually been in government  
17 when these were initiated. And I'm just wondering if  
18 anything is coming from those demonstrations that perhaps  
19 provide some insights into best practices that deal with  
20 making more of these medications accessible to people,  
21 addressing some of the provider capacity concerns that you  
22 raised, or perhaps you mentioned different models like

1 mobile treatment, as well as maybe other initiatives to  
2 address transportation issues, that when you have 35  
3 percent of the counties without OTPs established in their  
4 areas.

5           So I didn't know if this was part of your  
6 thinking, but I just wanted to raise that as something I  
7 was interested in learning a bit more about.

8           CHAIR JOHNSON: Thank you, Mike. Doug?

9           COMMISSIONER BROWN: Thank you, Melinda, for the  
10 presentation. I have a couple of comments around the UM,  
11 and if you would just go back one slide, I think page 11  
12 has the chart here. And I want to make sure that folks  
13 aren't looking at UM and saying this is totally bad,  
14 because there are absolutely appropriate UM criteria around  
15 these drugs, because they are not free of abuse, misuse, or  
16 diversion. And we know from the CAA, where they finalize  
17 some of the rules and regulations around methadone, that  
18 they limit it to 28-day supply for stable patients and 14-  
19 day supplies for patients who aren't stable.

20           And I would ask that when you go back and maybe  
21 refresh this data that the limit of this slide is for  
22 states that have both fee-for-service and MCO. It would be

1 good to see all states on here, 51 programs and the  
2 territories. Because I would expect that at that point you  
3 would see methadone across all states having a quantity  
4 limit. There are also quantity limits on some of the other  
5 products in there.

6           With specific regard to preferred status, what we  
7 see in states when they have preferred drug lists, some  
8 states that review these select a particular product --  
9 let's use buprenorphine-naloxone, for example -- they'll  
10 pick one or two products there, and there might be another  
11 product that's equivalent, that is non-preferred. So they  
12 have preferred, non-preferred status, but there is most  
13 often, I cannot think of an example where there's not, a  
14 preferred agent across there. The question here is does  
15 not have preferred status, and yes, you can find a product  
16 that does not have preferred status, but there could be a  
17 product with preferred status there.

18           And there are a number of states that don't  
19 consider this class as part of a preferred drug list  
20 program, so they don't list the class at all. It does not  
21 mean that the drugs are not preferred or not made  
22 available. And as we know from Medicaid, all drugs are



1 available. Some drugs require prior authorization to get  
2 through there.

3           And again, I think there are some pieces here  
4 that it's important that the UM be balanced, that patient  
5 safety is part of the discussion here. And I'm not saying  
6 that some states may have more restrictive criteria and  
7 folks could argue in those states that it is. I just think  
8 that we need to kind of take a step back and think about  
9 this in a way of what's the benefit, what are the concerns,  
10 and how do you thread the needle through all of those  
11 pieces. Thank you.

12           CHAIR JOHNSON: Thank you, Doug. Carolyn?

13           COMMISSIONER INGRAM: Thank you and thanks for  
14 putting this together. I think my questions are similar to  
15 some others but I just wanted to add on a little bit more  
16 in terms of your future research. You mentioned a little  
17 bit about the difficulty in terms of access in rural  
18 communities, and I wondered if you could look a little bit  
19 into also tribal communities and access in those areas, and  
20 if there are any innovations in treatment in tribal  
21 communities.

22           I know of one up in San Juan County, where they

1 do both what we would call kind of Western medicine and  
2 Traditional healing, and one facility that's had some  
3 success with that. But I'm just wondering if there are  
4 others that we should be looking at in terms of models for  
5 access to care.

6 And then the other question I had besides the  
7 rate issue that I think both Heidi and John brought up was  
8 around training, and is one of the reasons because there  
9 are some issues around dispensing these medications and  
10 abuse, is lack of training also a reason why we have issues  
11 with access, not just the rates.

12 And the other area is just looking into, in some  
13 of the communities, are there innovations around things  
14 they've tried with either regulatory or legal issues to try  
15 to overcome people's fears about getting treatment, I guess  
16 the fear that people have around the stigma and the legal  
17 ramifications of getting treatment. Are there things that  
18 communities are doing to address that, so that people are  
19 more willing to go into treatment. So thank you.

20 CHAIR JOHNSON: Thank you, Carolyn. John?

21 COMMISSIONER McCARTHY: I think one of the things  
22 we can also take a look at as we go forward, or at least

1 you can explain to us on some of these, is clinically, is  
2 there agreement on how these services should be provided?  
3 Because the last time I looked there's not always clinical  
4 agreement on the provisions of these services, meaning just  
5 from the standpoint of how often should you do lab testing.

6           So it gets back to what Doug was talking about.  
7 That then gets to some policy decisions. For instance, do  
8 we care about diversion? Is that a good thing or a bad  
9 thing? We've always, in the past, thought about it as bad,  
10 but then during COVID we came to using telemedicine because  
11 we wanted people to get things faster. So that's one  
12 piece.

13           And then the second part is a little bit what  
14 Jenny talked about, and on the clinical side of things we  
15 had the opioid epidemic and we've put tons of resources  
16 into it, and it feels like, I'm not saying it is, but it  
17 kind of feels like people have thought, hey, it's over. We  
18 stopped doctors prescribing opioids and now it's over.  
19 Maybe it is, maybe it isn't, but it definitely has changed.  
20 Fentanyl has changed things.

21           So as Jenny said, if we look at some of those  
22 different areas around the clinical piece of it, because I

1 think for us it's sometimes hard to make the policy if the  
2 clinicians aren't in agreement on how things should be  
3 treated. If you don't have clear clinical guidance, it's  
4 hard to make policy decisions around it. Thanks.

5 CHAIR JOHNSON: Jami? Thank you, John.

6 COMMISSIONER SNYDER: Melinda, I just want to  
7 thank you for really focusing some energy on this important  
8 topic. Just based on my experience, I would like to see us  
9 kind of look further into the issue of stigma. That was a  
10 major barrier to the accessibility of this sort of  
11 treatment in my service as a Medicaid director in two  
12 states. I think there's just a real ample opportunity for  
13 more community education, provider education, as you  
14 alluded to in your presentation, in particular around the  
15 prevalence of opioid use disorder in various communities  
16 and the efficacy of this treatment for individuals who  
17 struggle with opioid use disorder.

18 I also just want to echo Carolyn's sentiments on  
19 looking at innovations in this space and how Medicaid  
20 programs are leveraging different financial resources to  
21 really support MOUD treatment across states, including  
22 leveraging grant dollars.

1 CHAIR JOHNSON: Thank you, Jami. Any other  
2 questions? Oh, Heidi. Okay. Thanks, Heidi.

3 COMMISSIONER ALLEN: Sorry. I had something on  
4 my list that I forgot. Can you also look into naloxone as  
5 a standalone? Is Medicaid making that available to people?  
6 Are there copays? I mean, so this is a treatment model,  
7 but is Medicaid engaging in a harm reduction?

8 MS. ROACH: I'll just say we haven't included  
9 naloxone in the current scope of work, but it's something  
10 we can think about, going forward. We're sort of looking  
11 at it differently from the three forms of medication for  
12 opioid use disorder. But it's something we can add to our  
13 list.

14 COMMISSIONER ALLEN: I'm not sure how the other  
15 Commissioners feel, but to me it feels like a really  
16 important piece, like you want people to stay alive long  
17 enough to be able to participate in treatment, and it is  
18 such an important tool in the arsenal of opioid use  
19 disorders. I'm particularly curious about copayments, how  
20 difficult is it for people to get prescriptions or to fill  
21 them, and particularly if they're being asked to spend  
22 money on it.

1 CHAIR JOHNSON: Thanks, Heidi. Dennis?

2 COMMISSIONER HEAPHY: Yeah. I was concerned  
3 about the 34 percent of counties that are not providing  
4 these services, and are there states that have implemented  
5 best practices to broaden the number of counties that are  
6 actually making these services available. Because  
7 otherwise we get a consolidation of people around one  
8 medical center or one place or city, and they have to leave  
9 their homes and go to this place, so it may actually  
10 exacerbate the problem. So what have states done to  
11 resolve the county issue. And going to Heidi's point, what  
12 was pointed out about providing these medications in the  
13 community, going out to people rather than having them come  
14 into these centers.

15 CHAIR JOHNSON: Thank you, Dennis. And John.

16 COMMISSIONER MCCARTHY: I had first a question to  
17 come back to what Dennis just said. The 34 counties, I  
18 want to clarify. Did I read this correctly? It's 34  
19 counties don't have methadone treatment.

20 MS. ROACH: I'll double check while we're  
21 talking, but I think it's that they have neither an OTP nor  
22 buprenorphine providers.

1 COMMISSIONER McCARTHY: Okay, because --

2 MS. ROACH: That are serving Medicaid enrollees.

3 COMMISSIONER McCARTHY: Yeah. Those are two  
4 totally different things. If it's just methadone providers  
5 that's one thing, because you could always go to a doctor.

6 I want to go back to what Heidi was saying about  
7 naloxone, and I'm not disagreeing, Heidi, with what you're  
8 saying, but I also don't want us to get too far down a  
9 path. In essence, how do we keep focused on treatment  
10 versus, naloxone's not a treatment. It does keep people  
11 alive. So I think that's going to be one of those tough  
12 positions to take a look at on that one.

13 But the other thing I would like you to look at  
14 is, and I don't know if this would be a correlation or  
15 causation, but Heidi had asked for the map earlier. I  
16 agree with what you're saying, and if you could also add to  
17 that, if you could look at overdose deaths in expansion  
18 states. Because is there a correlation, causation at all  
19 with that. Because I know in Ohio, when we expanded, a big  
20 part of our expansion was due to the fact that Ohio is  
21 ground zero for opioid overuse and deaths, so we expanded  
22 to get more people into treatment and to see if now that

1 years have gone past what that data would look like for the  
2 various states and looking at overdose deaths, and has it  
3 made a positive impact.

4 CHAIR JOHNSON: Thank you, John. Commissioners  
5 with thoughts, feedback? I think we heard a lot about UM,  
6 around provider availability, clinical. Is there anything  
7 that you're missing that you need, or did you get what you  
8 need from us today, Melinda?

9 MS. ROACH: No, I think this has been really  
10 helpful feedback and we have a lot to take back and think  
11 about before we return. I think it will be in January. So  
12 thank you very much.

13 CHAIR JOHNSON: Thank you.

14 VICE CHAIR DUNCAN: Okay. Now we'll continue our  
15 conversation on timely access to home- and community-based  
16 services. Tamara and team have done a deep dive into  
17 provisional plans of care that she'll share with us an  
18 update.

19 So, with that, Tamara, welcome. By the way, I  
20 like the orange in respect for Halloween today. You did  
21 well.

22 ### TIMELY ACCESS TO HOME- AND COMMUNITY-BASED



1                   **SERVICES: PROVISIONAL PLANS OF CARE**

2       \*           MS. HUSON: Thank you. I was trying to be  
3 festive.

4                   CHAIR JOHNSON: Yeah. Okay. Heidi is a black  
5 cat. I'm not going to call Tamara a pumpkin. I'm not  
6 going to do it.

7                   [Laughter.]

8                   MS. HUSON: Okay. Well, thank you, and yes,  
9 Happy Halloween.

10                  Okay. So the focus of my presentation today is  
11 on provisional plans of care, a type of preliminary service  
12 plan that can be used for individuals accessing home- and  
13 community-based services through Section 1915(c) waiver  
14 programs.

15                  Okay. So this is an overview of what I'm going  
16 to be talking about, and I'm going to start with just a  
17 little bit of background since we've talked about this  
18 topic a couple of times.

19                  So you'll recognize this slide. It is not new.  
20 But we're going to focus today on step three. So this  
21 slide shows a high level -- at a high level, the  
22 eligibility process for non-MAGI populations and the steps

1 in the process that typically must be completed before  
2 someone can receive Medicaid HCBS.

3 So, again, for this session, we want to focus on  
4 step three, which is the development of a person-centered  
5 service plan, or a PCSP. And a PCSP is a document that  
6 describes the services and supports an individual requires  
7 to meet their needs and their individual preferences.

8 Beneficiaries are required to have a PCSP in  
9 place before they can receive HCBS. Specifically, the  
10 statute says that HCBS can only be provided pursuant to a  
11 written plan of care.

12 So one tool that states have to help expedite  
13 this process is to use a provisional plan of care. So CMS  
14 allows for provisional plans of care, also known as  
15 "interim service plans," and this identifies the essential  
16 Medicaid services that can be provided in a person's first  
17 60 days of waiver eligibility. And provisional plans of  
18 care have been allowed since 2000, when it was described in  
19 a state Medicaid director letter known as Olmstead Letter  
20 No. 3, which was issued in response to the 1999 *Olmstead v.*  
21 *L.C.* decision. And the gray box that you can see on this  
22 slide here contains an excerpt from that letter on the use

1 of provisional plans of care.

2 States must document in Appendix D-1 of their  
3 Section 1915(c) waiver if they allow for the use of  
4 provisional plan of care and their procedures for  
5 developing such plans.

6 Okay. So, first, I want to talk through the  
7 results of our waiver review. So, as you will recall, we  
8 contracted with the Lewin Group to conduct an environmental  
9 scan for us on state take-up of different flexibilities and  
10 policies around the use of presumptive eligibility,  
11 expedited eligibility, level of care determinations, and  
12 person-centered planning processes. And so, as part of  
13 that, the scan included a review of whether states had  
14 language in their Section 1915(c) waivers on the use of  
15 provisional plans of care.

16 So we reviewed the state data from that as well  
17 as some data that we received directly from CMS, and so  
18 using both of those data sources, we found that 23 states  
19 allow for the use of provisional plans of care across 57  
20 Section 1915(c) waiver programs. However, I do just want  
21 to note that since our slides were finalized, we were made  
22 aware of one other state with three waivers that allow for

1 provisional plans of care. So that brings our count to 24  
2 states across 60 waivers.

3           So the data on this slide shows the number of  
4 Section 1915(c) waivers with language on provisional plans  
5 of care by state, and of the 23 states that we originally  
6 identified, five of those states have language allowing for  
7 the use of provisional plans of care in all of their  
8 waivers.

9           We also found in our review that most states  
10 allow for their provisional plans of care to be in place  
11 for 60 days, although some states do specify shorter time  
12 frames, such as 30 or 45 days. We also saw that about half  
13 of states that have multiple waivers with provisional plans  
14 of care, they use the same description across all of their  
15 waivers, while some other states may use different  
16 processes across their different waiver programs.

17           So this table provides the count of waivers that  
18 have language on interim service plans by waiver target  
19 populations, and of the 57 waivers, we found that the most  
20 commonly targeted populations include individuals with  
21 intellectual and developmental disabilities, followed by  
22 individuals with physical disabilities and older adults.

1           I also want to take a second to note that while  
2 provisional plans of care are expressly allowed for Section  
3 1915(c) waiver programs, our environmental scan found one  
4 state, Maryland, allows for the use of provisional plans of  
5 care in its Section 1915(i) state plan amendment and also  
6 in its Section 1115 demonstration. So, for example,  
7 Maryland's Section 1915(i) program, which is targeted at  
8 youth and young adults with serious emotional disturbance  
9 or co-occurring mental health and substance use disorders,  
10 allows for the use of provisional plans of care for crisis  
11 situations in order to respond to the immediate needs of  
12 the participant and their family.

13           Okay. So next to talk a little bit about the  
14 findings from our stakeholder interviews. Over the summer,  
15 we conducted stakeholder interviews to gain a better  
16 understanding of state use of provisional plans of care.  
17 We spoke with officials in five states that our  
18 environmental scan had identified as having language on  
19 provisional plans of care in their Section 1915(c) waivers,  
20 and of those five states, we saw that in one state, they  
21 had language on the use of provisional plans of care in all  
22 of their waivers. In two states, they had language in

1 about half of their waivers, and then in two states, it was  
2 in just one or two of their waivers. We also spoke with  
3 four national organizations and officials at CMS.

4           State officials and national experts all said  
5 that provisional plans of care are most often used for  
6 emergency situations such as natural disasters or  
7 hospitalizations. For example, one state told us that they  
8 implemented the use of interim service plans at a time when  
9 the state was experiencing multiple wildfires. Another  
10 state shared with us that they've used provisional plans of  
11 care for individuals who have been hospitalized or who are  
12 residing in homeless shelters.

13           While our waiver review found that 23 percent of  
14 all Section 1915(c) waivers allow for some use of  
15 provisional plans of care, our interviews indicated that  
16 few states actually use them. So of the four national  
17 organizations that we spoke with, none of them were aware  
18 of any states using provisional plans of care. And then of  
19 the five states that we spoke with, one state said they're  
20 not currently using this flexibility, two states told us  
21 that they rarely use them, and then two states are actually  
22 unsure. But the two states that told us they use

1 provisional plans of care were able to provide us with some  
2 data on the percentage of new waiver participants per years  
3 that had had a provisional plan of care. So one state  
4 shared data for four of its waivers, and they reported that  
5 the percentages were 0, 3, less than 5, and 6 percent. And  
6 then another state that was able to give us data for one of  
7 its waivers shared that the percentage was somewhere  
8 between 1 and 2 percent. However, despite their infrequent  
9 use, one state official noted, in particular, that  
10 provisional plans of care are an important tool  
11 particularly for those with urgent needs.

12           States that use Section 1115 demonstrations to  
13 offer presumptive eligibility for non-MAGI populations are  
14 often designing these programs similar to how a provisional  
15 plan of care operates, but they have some additional  
16 flexibility.

17           As I already mentioned, provisional plans of care  
18 are not intended to be extensive, but rather a way to  
19 quickly provide the most critical services until the full  
20 PCSP can be developed. And this is similar to the goal of  
21 presumptive eligibility in which states want to provide  
22 enough HCBS during that period of presumptive eligibility

1 to enable individuals to live in the community while the  
2 state completes their full Medicaid LTSS eligibility  
3 determination.

4 So states kind of operationalize that goal of  
5 presumptive eligibility using a shortened version of their  
6 level of care assessment and offering a limited benefit  
7 package during that period, and so that is similar, again,  
8 to how a provisional plan of care provides a limited set of  
9 services at the beginning.

10 So to give one state example, one state that has  
11 a limited benefit package during the period of presumptive  
12 eligibility offering limited personal care homemaker  
13 services, adult daycare services, and skilled nursing  
14 services, they allow those services to be available for up  
15 to 90 days or until an applicant's eligibility decision is  
16 rendered, whichever comes first.

17 But you'll note that for Section 1915(c) waivers,  
18 a provisional plan of care may only be in place for up to  
19 60 days. So they have a longer time period in the 1115.

20 Okay. So to turn to the topic of guidance, as I  
21 noted earlier, provisional plans of care have been allowed  
22 since 2000, but since Olmstead Letter No. 3 was published,



1 no further guidance has been put out.

2           There is a brief mention in the Section 1915(c)  
3 technical guide about how states should describe in  
4 Appendix D-1 on service plan development the procedures  
5 that the state will use to develop interim service plans  
6 and the duration of said plans. However, in our  
7 interviews, we really got mixed responses on the need for  
8 additional guidance.

9           So the two states that we spoke with that are  
10 using provisional plans of care shared how this is a  
11 longstanding flexibility that they've used. They feel  
12 comfortable with it, and they told us that they do not feel  
13 the need for any additional guidance.

14           National experts, on the other hand, pointed to  
15 the fact that since so few states are using provisional  
16 plans of care, that they expressed a desire for additional  
17 guidance, particularly because it could encourage more  
18 states to use this flexibility. One expert, in particular,  
19 advocated for the more routine use of provisional plans of  
20 care, not just in emergency situations.

21           We also spoke with CMS about this, and they  
22 indicated to us that they do not plan on releasing

1 additional guidance. So the officials we spoke with,  
2 again, pointed to Olmstead Letter No. 3 and the  
3 longstanding ability that states have had to use  
4 provisional plans of care, saying that there's no new  
5 policy that warrants additional guidance. They also noted  
6 for us that they haven't received any recent technical  
7 assistance requests on this issue.

8           Instead, CMS really highlighted for us how  
9 they've been trying to promote the use of provisional plans  
10 of care, such as in a recent webinar, there's a mention in  
11 the preamble to the access rule, there was a recent Center  
12 for Medicaid and CHIP Services informational bulletin  
13 titled "Ensuring Continuity of Coverage for Individuals  
14 Receiving Home- and Community-Based Services" that notes  
15 this as a flexibility, and they've also been speaking about  
16 it at recent Advancing States HCBS conferences.

17           In all of these different instances, CMS has  
18 reiterated the authority that's already provided in  
19 Olmstead Letter No. 3 about how states can use provisional  
20 plans of care to facilitate a quicker initiation of waiver  
21 services, and they've been clear that in order to elect  
22 this option, states need to submit an amendment for their

1 waiver.

2           Okay. To briefly wrap up with some next steps, I  
3 plan to return in January with a draft chapter for our  
4 March 2025 report to Congress, and that will include  
5 information from my past few presentations, including on  
6 presumptive eligibility, expedited eligibility, and  
7 provisional plans of care.

8           We're also conducting some additional work on  
9 level of care assessments and person-centered planning  
10 processes more broadly. So we'll return with that work in  
11 the spring and in the next meeting cycle.

12           Then for this meeting, of course, I welcome  
13 Commissioner questions and feedback specifically on this  
14 topic, and with that, I turn it back to you.

15           Thank you.

16           VICE CHAIR DUNCAN: Thank you.

17           Fellow Commissioners, any questions? Comments?

18           All right. Patti, then Jami.

19           COMMISSIONER KILLINGSWORTH: Well, it's a lot of  
20 work that leads us to increasing access to home- and  
21 community-based services, so thank you for this.

22           I do think it might be helpful in just a moment

1 for you to kind of walk through the methodology of  
2 identifying the states. Tennessee was the state that  
3 actually uses provisional plans of care. Tennessee calls  
4 them initial plans of care, have done that probably, I'm  
5 guessing, since the early 2000s. I'd have to go back and  
6 look at the exact policy, but it wasn't long after the  
7 Olmstead letter came out. And it is, in fact, a part of  
8 the waiver documents but not using the term "provisional  
9 plans of care" and so maybe got overlooked in the review  
10 that Lewin did. There may be other states in that same  
11 situation.

12 I'd say this. What we know is that there are  
13 probably opportunities to really improve access if more  
14 states choose to use this flexibility and to use it beyond  
15 emergent circumstances. Tennessee also uses it in their  
16 1115 demonstrations for the two MLTSS programs.

17 Part of my concern is that we understand maybe  
18 the reasons why states have been more hesitant to sort of  
19 take advantage of this longstanding flexibility, and maybe  
20 we can dig into that just a little bit more.

21 Are there issues with being able to initiate  
22 services timely, especially when people have kind of

1 complex needs and you want to be sure that the services,  
2 the service providers have the right training and expertise  
3 to be able to deliver supports in the way that they need or  
4 want them? Maybe challenges in sort of transitioning from  
5 what is a provisional or initial plan of care to a more  
6 comprehensive one and how that sort of implicates adverse  
7 benefit determinations in the fair hearing process and  
8 maybe even sort of differences among entities who might  
9 develop an initial plan of care, say, as part of the level  
10 of care determination, which is how we did it in Tennessee.  
11 It was part of that initial assessment to determine  
12 functional eligibility for the program versus the entity  
13 who would then in turn develop that more comprehensive plan  
14 of care and I think concerns about differences in  
15 perspective that then led to challenges again in that sort  
16 of transition process from one to the next.

17 I will say it's pretty intuitive if you just  
18 think about it. Developing a real comprehensive person-  
19 centered plan is going to take a minute. You have to get  
20 the right people together. You have to really get to know  
21 that individual. You know, you want to really create a  
22 picture of the supports that they need and how they want

1 those supports to be provided. And allowing time for that  
2 matters, but it also matters that things that are needed  
3 right away to help ensure safety and stability in the  
4 community are available to people. So it's a policy that  
5 makes good sense. We just need to maybe understand what  
6 have been the barriers to making it more broadly utilized  
7 and see if we can make recommendations.

8 Oh, I would just say this, in that regard, when  
9 we think about policy recommendations. Do we really need a  
10 waiver amendment to be able to do what is good for people  
11 and make services available to them with a flexibility  
12 that's been available since 2000? When you do this under  
13 1115 authority, it's probably not as spelled out, if you  
14 will, in that waiver itself. It might be, for example, in  
15 the contract language that CMS would review, and so maybe  
16 there's an easier way to do this in 1915(c) short of  
17 saying, no, no, you have to amend the whole waiver in order  
18 to be able to make services available more quickly to  
19 people.

20 VICE CHAIR DUNCAN: Thank you, Patti.

21 Jami, then Michael, then John.

22 COMMISSIONER SNYDER: Well, as usual, Patti

1 captured my sentiments perfectly. Yeah, I'll just echo  
2 what she said.

3 I'm curious, you know, given that so many states  
4 have the authority to offer provisional plans of care, why  
5 they're not exercising that authority outside of kind of  
6 emergent circumstances and kind of what sort of state  
7 policy operational or sort of practical barriers are in  
8 place that keep states from really using that as a tool to  
9 access.

10 VICE CHAIR DUNCAN: Thank you, Jami. You asked  
11 the question I had.

12 All right. Michael.

13 COMMISSIONER NARDONE: I don't have much to add  
14 to what Jami and Patti just said.

15 I think I wanted to understand a little better  
16 kind of the barriers. I mean, we've been working -- you  
17 know, folks who've been at this for a while have been  
18 trying to address some of the institutional bias in  
19 Medicaid in terms of HCBS and how can we make HCBS more  
20 accessible to people. And, you know, here are a couple of  
21 tools, not just the one we heard about today around  
22 provisional plans of care, but last time around,

1 presumptive eligibility. And yet, you know, there doesn't  
2 seem to be the type of uptake in terms of utilizing those  
3 services.

4 I can see where there would be some real -- you  
5 know, there could be operational concerns in terms of how  
6 to incorporate this into workflow, or there could be  
7 concerns around budget. There could be other things that  
8 maybe I'm not thinking about with -- but I think it would  
9 be really helpful to better understand that and also  
10 understand, you know, what are some of the levers in terms  
11 of educational or informational needs that people might  
12 have to understand this, because, for instance, I believe  
13 last month, there was discussion around not understanding  
14 some of the ins and outs of presumptive eligibility and  
15 what it meant for Medicaid FFP.

16 So I think these kind of tied together really  
17 nicely and really appreciate you bringing these forward,  
18 and I think understanding the barriers could potentially  
19 lead to some recommendations in this area.

20 VICE CHAIR DUNCAN: Thank you, Michael.

21 John, then Dennis.

22 COMMISSIONER MCCARTHY: I was actually on the



1 same direction that Mike was going. I was struggling,  
2 Kate, on this one, just like what is the policy problem  
3 we're trying to solve because, you know, there's -- and do  
4 we just have to look at it in multiple paths? Because  
5 there's the first path of people can't get the services  
6 because it takes so long to do the financial determinations  
7 for a person. So is it really that, the path, versus going  
8 down the path of coming up with interim plans? And so it's  
9 kind of trying to get that balance between -- not balance.  
10 Trying to understand better where the real issue lies on  
11 these things, I think, is a struggle to make a policy  
12 decision.

13           So I think the work that, Tamara, you've done is  
14 amazing and great, and it's super informative. I think I'm  
15 just getting stuck on now like, well, where is the real  
16 problem? And it's the real problem because all these  
17 problems are hard. There's not one real problem. There's  
18 a bunch of little problems, and should we break those up  
19 into different pieces and take a look at them, you know, in  
20 those specific examples?

21           And I'll just give you one that Patti hit on.  
22 And as a Medicaid director, knowing this is tough is,

1   you're often dealing with these cases where it hasn't been  
2   planned out.  Something happened terrible to the person.  
3   They are now in the hospital.  They're trying to get that  
4   person home.  The family is not ready to take care of them.  
5   And so if you were to send them home, you basically would  
6   be sending them home with 24-hour care, but your waiver is  
7   probably not going to support 24-hour care.  And if you  
8   send somebody home with 24-hour care and you give it to  
9   them and then when you do the plan of care and it says,  
10  hey, now you're only going to get 8 hours of care, it is  
11  hard to take the 16 hours away from a person who's now used  
12  it and the family members.  And so then you get into this -  
13  - you're stuck on these things.  So, again, it's a little  
14  bit of what problem are we trying to solve on this one.

15               VICE CHAIR DUNCAN:  Thank you, John.

16               Dennis?

17               COMMISSIONER HEAPHY:  I think it's a vitally  
18  important opportunity for folks, as Patti and others have  
19  stated.

20               I just want to -- you gave a great list of states  
21  and what they're doing in this area.  What are other sort  
22  of best practices that you can lift up in terms of how

1 states are doing this?

2 I thought it was also interesting how the variety  
3 of entities that are conducting the assessments, and as  
4 Patti alluded to, then who picks up the assessment  
5 afterwards. And so that seems to be very -- I mean, that  
6 was really confusing. And is there even a best practice  
7 around determining what entities are the best ones to be  
8 doing the assessment initially, and might those entities  
9 continue doing the assessment afterwards to ensure this  
10 continuity in the care planning process? Does that make  
11 sense?

12 VICE CHAIR DUNCAN: Yes. Thanks, Dennis.  
13 Verlon.

14 CHAIR JOHNSON: Yeah, this is really helpful, and  
15 I appreciate all the guidance. And I think everyone said  
16 it too. What you all have already said, I think we echo  
17 that pretty much.

18 I think I'm just still struck by the fact that  
19 when we think about these kind of issues, in general, we  
20 think about a lack of guidance, a lack of understanding and  
21 education. And so I am struck by the fact that states felt  
22 like guidance wasn't needed. CMS felt like guidance wasn't

1 needed, but our national experts thought that it  
2 potentially was. And I just wanted to see if you can pull  
3 a bit more on that as to where they were coming from, from  
4 their perspective.

5 MS. HUSON: Sure. So, with our interviews with  
6 national experts, again, we spoke with four different  
7 organizations. None of them were aware of states that were  
8 using provisional plans of care, and quite a few of the  
9 organizations we spoke with are ones that work directly  
10 with states regularly, have a lot of contact with states.

11 The general feeling among national experts was  
12 they knew this was a longstanding flexibility, and they  
13 would like to see more states using it. So I think that  
14 was kind of where the sentiment around maybe some new  
15 guidance would be something to kind of prompt more states,  
16 make more states think about this, and really also  
17 encouraging it more as a regular tool, as opposed to when I  
18 -- so I did my state interviews first, and then I spoke  
19 with the national experts. So I was able to share a little  
20 bit with them about what we heard as far as the states were  
21 using it, were using it when there was some type of  
22 emergency, like a natural disaster, or, you know, people

1 are in crisis situations in the hospital, et cetera. So,  
2 when I was able to share a little bit of that context with  
3 them, they said, like, it's great to hear that some states  
4 are using this, but it would be potentially a good tool to  
5 use more regularly than just those limited circumstances.

6 Is that helpful?

7 CHAIR JOHNSON: That is helpful. I appreciate  
8 it.

9 VICE CHAIR DUNCAN: Thank you, Verlon. Any other  
10 questions, feedback? Tamara, do you think you've got  
11 enough?

12 MS. HUSON: I do. Thank you.

13 VICE CHAIR DUNCAN: Thank you. Again, thank you  
14 for the deep dive into that.

15 Back over to you, Chairwoman.

16 CHAIR JOHNSON: Thank you, and thank you, Tamara.  
17 All right. So now we will go to public comments. We  
18 invite people in the audience to raise your hand if you'd  
19 like to offer comments. But when you do, we ask that you  
20 do introduce yourself and your organization that you  
21 represent. And as always, we would like for you to keep  
22 your comments brief, to three minutes or less, if possible.

1           We'll go ahead and see who's available.

2           Okay. We'll go with Claudia.

3   **###           PUBLIC COMMENT**

4   \*           MS. SCHLOSBERG: Hi. First of all, thank you for  
5 this presentation. It was very informative, and I want to  
6 echo the comments of Patti, Jami, and Michael, on the  
7 importance of this topic.

8           I am Claudia Schlosberg. I am a consultant. My  
9 company is called Castle Health Consulting. I work with  
10 many providers in the long-term care space who are  
11 struggling to help people get into services, whether it's  
12 assisted living, adult day health, or even home health  
13 care, and struggling with the long wait times. We have  
14 even seen people become homeless pending not just the  
15 eligibility determination but the development of the  
16 person-centered service plan, because we have to wait for a  
17 case manager to be assigned and for that case manager to  
18 develop the plan.

19           I wanted to make one point, well, a couple of  
20 points. I do think that additional guidance would be  
21 helpful from CMS when you're talking with states about the  
22 importance of adopting preliminary plans of care, and all

1 you can point to is a guidance letter from 2000. It  
2 doesn't provide sufficient confidence that this is  
3 something that CMS is really serious about and really would  
4 like states to do. That's one thing.

5           And secondly, I wanted to point out that in the  
6 preamble to the eligibility rule, which CMS did something I  
7 thought was revolutionary in addressing the ability of  
8 states to use projected expenses for spenddown for home-  
9 and community-based services. But I just wanted to make a  
10 note that in order to do that the services have to be  
11 identified in a person-centered plan of care. So you're  
12 trying to establish eligibility using projected expenses,  
13 but you can't use expenses that are not part of a plan of  
14 care.

15           I raised this issue with CMS. They did address  
16 it in the comments. And their solution is that states can  
17 use this preliminary plan of care provision, again, citing  
18 back to guidance that is now, what, how many years old,  
19 back to 2000.

20           So if, in fact, states are going to seriously  
21 consider using projected expenses, the only way they can do  
22 it is by adopting this provisional plan of care. So it's

1 important, and I really want to encourage you to continue  
2 your research and develop some recommendations and move  
3 this issue forward, because it is critically important for  
4 access.

5 Thank you.

6 CHAIR JOHNSON: Thank you so much, Claudia.  
7 Camille?

8 MS. DOBSON: Good morning, I guess almost  
9 afternoon. Camille Dobson, Deputy Executive Director at  
10 ADvancing States. And I would echo everything Claudia  
11 said. Thank you, Claudia. We've also talked to states  
12 about taking up the new eligibility flexibility, and they  
13 have cited this sort of feels like a chicken-and-the-egg  
14 process around doing a provisional or interim plan of care  
15 in order to allow people to count projected HCBS expenses  
16 towards their spenddown eligibility.

17 I agree, it is unconscionable that it is 25 years  
18 and there hasn't been any public guidance. The technical  
19 guide is not helpful, with just a brief mention, as Tamara  
20 said. And with so many states talking to CMS about  
21 presumptive eligibility and trying to sort of tie  
22 themselves in knots to get to that point with CMS, this



1 would be an easy solution to offer.

2 I think we were one of the national organizations  
3 that Tamara and the team talked to -- I can't remember,  
4 maybe -- but I will tell you, we were not aware that so  
5 many states had the interim plan of care, because as we're  
6 talking with states, and they want to talk about  
7 presumptive eligibility, we've offered these alternatives,  
8 and it's either buried somewhere in an operational process  
9 but necessarily, not all the leaders, I think, understand  
10 what that is.

11 And then last, I would say, back to John's point  
12 of them both being problems, it's clear that the financial  
13 eligibility is the larger, bigger issue for states, that it  
14 is virtually impossible to speed up, even using risk-based  
15 criteria, financial eligibility determinations less than 30  
16 days, and you cannot deal with crisis situations in  
17 hospitals, as Claudia said, with a 30-day wait to get  
18 services. So our focus around presumptive eligibility and  
19 supporting states and working on that is really around  
20 speeding up the financial eligibility process, while they  
21 are still operational, all of the things that Patti and  
22 Jami mentioned, and Mike mentioned, about the difficulties

1 in the interim plans of care. It's really the financial  
2 eligibility that seems to be the biggest hurdle.

3 Thank you, as always. Great topic, and I  
4 appreciate it.

5 CHAIR JOHNSON: Thank you, Camille. And then we  
6 have a comment from Eric, as well. Eric?

7 [Pause.]

8 MR. CARLSON: Eric Carlson, Justice in Aging. I  
9 appreciate this topic being on the agenda. I want to  
10 reemphasize how important it is from a practical point of  
11 view. We see this in the hospitalization situation where  
12 people, as a practical matter, are able to move from  
13 hospitals to nursing facilities, even if, for example,  
14 financial eligibility is undetermined at that point,  
15 whereas it's essentially impossible to get into an HCBS  
16 setting at that point. And that leads to people moving  
17 into nursing facilities, perhaps unnecessarily, and leads  
18 to them staying in nursing facilities oftentimes on a  
19 continuing basis, due to the difficulty at that point of  
20 moving back to an HCBS setting.

21 We are amongst the groups that were consulted for  
22 this study, and we did report that we just haven't seen

1 much. We, at Justice in Aging, have done webinars and  
2 tried to promote this, and asked our network for examples,  
3 and I can tell you that we've gotten back essentially radio  
4 silence. There is just very little indication that it is  
5 being done on a practical basis.

6           We intend to look at the states that have been  
7 put forward in this research and dig in a little more to  
8 that. But consistent with what other folks have said, we  
9 just haven't seen much evidence that this is being used in  
10 the field.

11           So for that reason the guidance that we're  
12 talking about as being necessary is, in part, for the  
13 practicalities, but as people mentioned, part of it is just  
14 to promote this issue, and let people know that it's real,  
15 that this is not just something that's been sitting around  
16 in the Olmstead Letter for 25 years. It's real. It's  
17 important now. It can be done.

18           So what CMS could do, would be, from our  
19 perspective, some perspective of some portion of maybe  
20 putting a little bit of meat on the bones of how this would  
21 work, and what states should be thinking about. There is  
22 some piece of that. And then another piece of just pure

1 promotion, saying this is available, this is a good idea,  
2 we encourage states to take this up.

3 And we thank MACPAC for bringing this up, as  
4 well. We see this as part of some helpful momentum in this  
5 direction, and hope that next year and the year after that  
6 we'll see a significant increase in the ability of people  
7 being able to access provisional plans of care and to get  
8 into HCBS settings as promptly and efficiently as possible.

9 CHAIR JOHNSON: Thank you, Eric. Any other  
10 comments? I see none. But I do want to remind you all  
11 that if you do have additional comments, you can submit  
12 them through our MACPAC website at any time.

13 And with that I think we are at lunch. Okay,  
14 we're going to lunch. We'll be back at 1:00 with a very  
15 exciting panel on multiyear continuous eligible for  
16 children. So we'll see you at one. Thank you.

17 \* [Whereupon, at 11:44 a.m., the meeting was  
18 recessed, to reconvene at 1:00 p.m. this same day.]

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21

22

1 AFTERNOON SESSION

2 [1:00 p.m.]

3 VICE CHAIR DUNCAN: All right, ladies and  
4 gentlemen. We are getting ready to get started, so put on  
5 your game face. Madam Chairman, they're all yours.

6 CHAIR JOHNSON: Thank you so much, Bob. Welcome  
7 back. We are especially excited about this next session,  
8 which focuses on multi-year continuous eligibility for  
9 children in Medicaid and CHIP. We know it's a key issue  
10 that some states are talking about in terms of improving  
11 the coverage retention. We have Joanne, who will lead us  
12 through a conversation, some background, but more  
13 importantly, or more exciting, that we're going to have an  
14 actual panel discussion as well.

15 **### PANEL: MULTI-YEAR CONTINUOUS ELIGIBILITY FOR**  
16 **CHILDREN**

17 \* MS. JEE: All right. I'm going to pretend you  
18 didn't say that I'm not exciting.

19 CHAIR JOHNSON: I didn't say that.

20 MS. JEE: Okay.

21 CHAIR JOHNSON: But you know I said it.

22 [Laughter.]

1 MS. JEE: Okay. Great. So good afternoon,  
2 Commissioners. We are going to talk about multi-year  
3 continuous eligibility for children this afternoon, and as  
4 Verlon said, we have a really great panel lined up.

5 But before we do that let's just go through sort  
6 of the quick run of the show. I will give you just a  
7 little, tiny bit of background information to help set the  
8 context for the panel discussion, and then we will move  
9 right into the panel discussion, and then as our usual sort  
10 of tradition we will then have lots of time for Q&A,  
11 hopefully lots of time for Q&A with the Commissioners and  
12 the panelists.

13 So just to get us grounded, churn is a phenomenon  
14 that has long been recognized in the Medicaid program, and  
15 I'm sure you all are familiar with it. But it's a  
16 situation in which beneficiaries disenroll and then  
17 reenroll in coverage within a short period of time. And  
18 MACPAC has done some research looking at rates of churn.  
19 The two data points that you see here on this slide are  
20 from that analysis, which is a little bit dated now, but  
21 still important, nonetheless. And that analysis showed  
22 that about 8 percent of children in Medicaid and 16 percent

1 of children in separate CHIP experienced churn, and then in  
2 that second sub-bullet there you'll see that we did find  
3 some differences in churn by race and ethnicity.

4           The work also found that states that have  
5 implemented 12-month continuous eligibility, which we're  
6 going to talk a little bit more about on the next slide,  
7 but states that had adopted that policy in Medicaid and  
8 CHIP had fewer children that were enrolled for fewer than  
9 12 months.

10           So just to sort of level set on what we mean by  
11 continuous eligibility, there is 12-month continuous  
12 eligibility which is now mandatory, and continuous  
13 eligibility is the policy in which children, people,  
14 individuals stay enrolled in Medicaid and CHIP for a  
15 specified period, in this case 12 months, regardless of  
16 changes in income or circumstance.

17           Beginning January 1, 2024, states were required  
18 to implement 12-month continuous eligibility for children  
19 under age 19, and that was required in the Consolidated  
20 Appropriations Act of 2023. And prior to the mandate,  
21 states had a state plan option to implement continuous  
22 eligibility for children but could specify a younger age

1 limit for continuous eligibility and a shorter duration.

2 So the CAA of 2023 changed that, mandating 12 months and up  
3 to age 19.

4           As states have been implementing 12-month  
5 continuous eligibility, some states have also been looking  
6 to longer-term continuous eligibility policies, which we  
7 refer to as multi-year CE policies, and have been doing so  
8 through Section 1115 demonstrations. So far, three states  
9 have been approved, Oregon, who we will hear from on the  
10 panel, New Mexico, and Washington, for children ages 0 to  
11 6. There are some exceptions specified in the special terms  
12 and conditions, and these exceptions are similar to the  
13 ones that exist for the state plan, the 12-month mandatory  
14 continuous coverage policy, as well, and those are listed  
15 on your slide. For example, a change in state residency. A  
16 state could disenroll a child who is in that circumstance.

17           The special terms and conditions for these demos  
18 also require states to have some sort of system for  
19 beneficiaries to report changes in circumstance and for the  
20 state to then accept that information as well as updated  
21 contact information. The special terms and conditions also  
22 include some specifications around the evaluation and



1 monitoring of these demos, specifically related to churn,  
2 the use of preventive services, as well as other costly and  
3 avoidable services.

4           Okay. So that's just a quick background. We  
5 will move now into the panel conversation, and I'm super  
6 happy to introduce to you Commissioners our wonderful  
7 panel. We have Cindy Mann, who is a partner at Manatt  
8 Health, and as many of you know, has held numerous  
9 leadership positions at CMS.

10           We have Emma Sandoe from the Oregon Health  
11 Authority. Emma is the, I guess, pretty newly minted  
12 Medicaid director there, but has had leadership positions  
13 in the North Carolina Medicaid program.

14           And then we have Laura Barrie Smith, who is a  
15 senior research associate at the Urban Institute. And  
16 Laura is leading a lot of research related to continuous  
17 eligibility, of course, among other topics, as well.

18           Okay. So thanks to the panelists for being here.  
19 It's really nice to see you this afternoon. Why don't we  
20 go ahead and get started.

21           Cindy, I have a level-setting question for you.  
22 To help us get the conversation started, can you just say a

1 quick couple words about what prompted states to look at  
2 multi-year continuous eligibility policies and what do they  
3 hope to accomplish by implementing them?

4 Cindy, I think you're on mute.

5 \* MS. MANN: Sorry. And my phone rang, all at the  
6 same time. Sorry.

7 MS. JEE: You are in high demand.

8 MS. MANN: Yeah, well, or ill-prepared. Sorry.

9 I wanted first to thank the Commission for having  
10 this discussion and also for inviting me to join the  
11 discussion, so very much looking forward to it.

12 I think that in terms of why are states thinking  
13 about this, what's prompting some of this, is first to  
14 remind ourselves that states have really made, long made  
15 the commitment to cover children, to make the commitment  
16 for covering kids in Medicaid and CHIP. So the upper-  
17 income eligibility level in Medicaid, looking at Medicaid  
18 and CHIP, is 255 percent of the poverty line, and the  
19 highest income eligibility levels are for young children.

20 So we start with a strong commitment to children  
21 in the Medicaid program, and that is well above, as I'm  
22 sure everybody on the Commission knows, the minimum

1 standards that states have to implement for the Medicaid  
2 program.

3           So we've got that commitment, but churn has long  
4 undermined that commitment for children, and that's, of  
5 course, because coverage is fundamental to getting care.  
6 The data show that children without continuous coverage are  
7 children less likely to receive both preventive care and to  
8 see a specialist. And all kids and youth need this care,  
9 but it's particularly an issue for kids with special health  
10 care needs, kids and youth with emerging physical and  
11 mental health issues, and for all young kids where the  
12 evidence is so strong that childhood is such a critical  
13 time period to build the foundation of health and well-  
14 being for children as they grow and move into adulthood.

15           I think the other factor, besides the ongoing  
16 commitment to kids, the recognition of churn as interfering  
17 with that, and we see Congress recognizing that in the  
18 action to make one-year CE mandatory, is the public health  
19 emergency, which was an eye-opener. On one hand, states  
20 really saw the benefits of ongoing coverage without  
21 interruption. They saw a reduction, as Joanne pointed out,  
22 in racial and ethnic disparities in coverages, and at the

1 same time they saw when it was time to unwind that the  
2 states saw churn very much in play, and, frankly,  
3 disproportionately impacting the kids, even though because  
4 of those eligibility levels kids were more likely than  
5 adults to retain their eligibility at the end of the PHE  
6 than adults.

7           So what do they hope to accomplish? I think the  
8 states that are moving in this direction, obviously we have  
9 Emma Sandoe here and she can talk directly. But we've seen  
10 a couple of different kinds of proposals emerge from  
11 states. One is to create a continuous enrollment policy  
12 that's targeted to certain populations of kids, in certain  
13 kinds of situations, transitional situations and others.  
14 For example, Arizona has a proposal to do two years of  
15 continuous enrollment for former foster care youth, while  
16 other states have focused on that critical period of  
17 development for young children, guaranteeing uninterrupted  
18 coverage during their preschool years and days.

19           Let me just leave you with a taste of how I think  
20 extraordinary the momentum has been. Oregon, just to give  
21 that perspective on timing, Oregon and Washington had their  
22 waivers approved in the fall of 2022, and altogether we

1 have seen 14 states since then implemented or are planning  
2 to move in a direction of improving and adding to the  
3 federal requirements for continuous enrollment for kids.  
4 And if you just look at that multi-year coverage for  
5 preschool-age children, we have a dozen states now that  
6 have moved ahead. We have two states that were approved in  
7 the fall of 2022, and state, New Mexico, has been approved,  
8 and nine additional states in the wings, six with waivers  
9 actually pending, and three additional with enacted  
10 legislation.

11 So it's really hit home, I think, for states in  
12 terms of their desires to be true to their commitment to  
13 kids' coverage and to see that they actually get the care  
14 that they need during their coverage period with Medicaid.

15 MS. JEE: Great. Thanks for that, Cindy. It's  
16 helpful to hear about the breadth of state approaches, I  
17 guess, and the number of states that are interested in this  
18 policy.

19 Emma, I'm going to turn it to you. Oregon was  
20 the first state that was approved for the multi-year CE.  
21 What were your primary objectives in pursuing the policy,  
22 and can you provide a quick update on your implementation?

1       \*               DR. SANDOE: Sure. I'll start actually with the  
2 last. We got our waiver approved back in 2022, and  
3 implemented very quickly, in part due to the pandemic  
4 unwinding time period. So we've actually had this in place  
5 now for two years, so we consider the implementation period  
6 complete and are in ongoing maintenance and operations.

7               The reasoning behind our policy, which I just  
8 want to add, we have 0 to 6 continuous coverage for  
9 children and then a two-year period for both over the age  
10 of 6, all beneficiaries with the exception of a few small  
11 categories, since nothing is 100 percent straightforward in  
12 Medicaid, but for the vast majority of our beneficiaries it  
13 is a two-year enrollment period after age six. But the 0  
14 to 6 particular policy was a large focus since there has  
15 historically been an emphasis on those specific years for  
16 children, and our health context in our state was focusing  
17 on birth to six in terms of ensuring that we are providing  
18 health care services for those age ranges as well as  
19 additional social services.

20              And what we learned from the pandemic was that  
21 maintaining that coverage significantly reduced churn, and  
22 looking into the reasons for people disenrolling prior to

1 the pandemic was a real emphasis on paperwork incompleteness  
2 rather than people no longer being eligible for the vast  
3 majority of people that were being terminated, specifically  
4 in that age range. And that really was many of the driving  
5 forces.

6           While efficiency was in our systems, it is a key  
7 goal, it really was the health effects of the individuals  
8 and making sure that we were not terminating enrollment for  
9 people that were eligible, and the data was really showing  
10 that many people remain eligible who were being removed  
11 from coverage prior to the pandemic. So efficiencies  
12 within IT systems and for eligibility workers and care is  
13 definitely a benefit, however not the main driver of the  
14 reason behind going with this policy.

15           MS. JEE: Thanks for that, Emma. It's helpful to  
16 hear what your objectives were but also how you were taking  
17 lessons from the PHE and incorporating that into your  
18 policy and implementation.

19           Laura, I want to turn to you with a question  
20 about lessons learned from the PHE, with respect to  
21 monitoring and data collection. Is there anything that was  
22 learned during the PHE that might be particularly relevant

1 for these demonstrations, or for these policies?

2 \* DR. SMITH: Yeah, good afternoon, everyone.

3 Thanks to the Commission for having me today.

4 So the number one thing about the PHE, and during  
5 that period, and there's concrete evidence that the  
6 Medicaid continuous coverage provision contributed to that  
7 drop in uninsurance. So we'd likewise expect that multi-  
8 year continuous eligibility for kids will reduce  
9 uninsurance among kids.

10 But a big lesson learned from the PHE and  
11 unwinding that's relevant for the continuous eligibility  
12 demonstrations is that we've learned that many people were  
13 not aware of their continued enrollment during the PHE  
14 and/or were not aware of their potentially discontinued  
15 eligibility or what they needed to do to maintain coverage  
16 during the unwinding period.

17 Our team actually has a paper coming out later  
18 today that lays out the importance under multi-year CEE of  
19 monitoring and collecting data, not only on administrative  
20 records of who is enrolled or staying enrolled, but also  
21 ensuring that families are aware of disenrollment and what  
22 it means for providing access to care, and that self-



1 reported data from families themselves will be really  
2 crucial for understanding this.

3           And then second, under the unwinding period, as  
4 Emma was saying, many children who lost coverage did so for  
5 procedural or administrative reasons. So under multi-year  
6 CE, when that sixth birthday approaches or whatever the end  
7 of the continuous enrollment period might be, states will  
8 really want to make sure that families are aware of the  
9 state, what they need to do to maintain coverage, and  
10 states themselves will also want to anticipate these  
11 transitions, make sure they have updated contact  
12 information, and try to minimize the number of procedural  
13 disenrollments for children who remain eligible, so greater  
14 reliance on automatic renewals, for example, and really  
15 having a multi-modal, targeted communication and outreach  
16 strategy.

17           MS. JEE: That's great. Thank you for that. So  
18 this next question is both for Cindy and Emma, and maybe  
19 we'll start with Cindy. What are some of the key  
20 programmatic or policy considerations that states think  
21 about as they design their multi-year CE policies?

22           DR. SANDOE: I can start and turn it over to you,

1 Cindy.

2 MS. MANN: Sure.

3 MS. JEE: Okay.

4 DR. SANDOE: So I think for the most part this is  
5 a relatively straightforward implementation process on the  
6 state side. The IT system build is pretty straightforward.  
7 It is mostly about changing dates in IT systems. I think  
8 there are a couple of areas where there are a little bit  
9 more policy considerations. One is in a family where there  
10 are people that may have different timelines around dates,  
11 for instance, a child is 3 and another child is 8 or 10 or  
12 7, to give an odd number, the enrollment period will be  
13 different for those individual family members as well as  
14 the parents. So aligning information and getting that  
15 communication, as well as aligning if a family has  
16 completely different time periods, as much as possible, so  
17 that as the redetermination process occurs it is more, as  
18 much as we can in a family unit, so that we don't have  
19 situations where certain members of the family lose  
20 coverage due to paperwork reasons and other families don't.  
21 So that is a little bit of an IT alignment processes.

22 And then one other sort of complication is around

1 Social Security number. You are not given a Social  
2 Security number when you are born. That process takes a  
3 little bit of time, and that is an issue that the Medicaid  
4 program has faced for decades, and it continues to be an  
5 issue, particularly with the fact that getting that Social  
6 Security number, and the family incorporating that into the  
7 individual's record, is not automatic and does not occur at  
8 the time of enrollment.

9 I can let Cindy go into more detail on that, or  
10 other items that we've seen.

11 MS. MANN: Sure. I can just jump in. I think  
12 you've covered a lot of the territory.

13 Obviously, a key initial design decision is who  
14 they're going to apply the continuous enrollment policy to,  
15 even on the young children multi-year. Most states have  
16 gone to six. Some states have gone to age five. Colorado  
17 is proposing age three, but thinking about a different age.  
18 So, you know, picking the age that you're going to be doing  
19 it or--and in the case of, like, Oregon and some other  
20 states, thinking about other complementary other policies  
21 that you want to do, like Oregon did it for the older kids,  
22 Arizona for the foster care kids, and so forth.

1           I think much of what you need to think about on  
2   implementation in your systems, states have pretty much  
3   figured out with respect to having implemented one-year  
4   continuous enrollment. So, as Emma said, it's sort of  
5   changing the date, right? You don't disturb a child's  
6   enrollment either for a year or for two years or for five  
7   years, right? So that part has actually been pretty  
8   straightforward.

9           The SSN issue that Emma raised, as she noted, is  
10   not a unique issue to CE. We've got that issue as kids --  
11   the infant eligibility as kids turn one. We have to make  
12   sure we get SSNs. That problem won't go away with  
13   continuous enrollment, but hopefully, the coverage won't go  
14   away while everybody's chasing down the number, the SSN  
15   number.

16           You know, I think, as Laura said too, the good  
17   communication with families and with stakeholders,  
18   providers, and plans are really important so that everybody  
19   understands what the rule of the game is and that if  
20   there's something that's happening to a child's enrollment  
21   and they're otherwise should be protected by CE, there's a  
22   mistake and that should be identified and corrected as

1 opposed to, oh, that's just the way Medicaid is. So we  
2 want people to really understand it.

3           We want people also to understand it because,  
4 ultimately, it's about taking advantage of the care that  
5 the child needs, so really thinking about -- and a lot of  
6 states are really digging into this at this point, how to  
7 up the ante, how to make sure your managed care plans, for  
8 example, are making sure that all those preventive care  
9 services, which have long been required, are actually  
10 happening, and they're not interrupted by churn, kids with  
11 special health care needs. So states are thinking of maybe  
12 additional incentives language with their plans and  
13 monitoring, overseeing what kind of care that kids are  
14 getting. And, you know, the idea, of course, is not to  
15 just have kids enroll but to have kids finally get the  
16 need, get the care that they need.

17           MS. JEE: Great. Thanks for that.

18           Just to follow up quickly on that question, are  
19 there any fiscal or budgetary considerations that you might  
20 want to note?

21           DR. SANDOE: So this is not a free policy. It  
22 does have costs associated with it through the 1115 process

1 of determining budget neutrality and ensuring that the  
2 budget for the 1115 includes all aspects of the policies.  
3 This is a policy that does have cost to it, because  
4 maintaining people enrolled in coverage has cost versus  
5 terminating people for paperwork reasons or for other  
6 procedural reasons.

7           But really what this illustrates is that dynamic  
8 of the Medicaid program that we are constantly facing of  
9 investments in early childhood and health care at an early  
10 age can lead to savings down the line, whether or not that  
11 also leads to that individual saving the Medicaid program  
12 money versus another insurer, because they may go on  
13 private insurance later in life or whatnot. It's sort of  
14 the dynamic that we sort of constantly face with a lot of  
15 aspects of the Medicaid program if we are making  
16 investments in childhood health, how that is developed and  
17 potentially seen as health savings down the line.

18           I think decades of research shows that that  
19 Medicaid has made significant improvements to children's  
20 health, which has led to cost savings further down the  
21 line. But that's a dynamic that is present, because it is  
22 an investment early on.

1 MS. MANN: Is it okay if I jump in a little bit?

2 MS. JEE: Yeah, of course.

3 DR. SANDOE: Just to add a couple points.

4 Obviously, totally agree with Emma's points.

5 So costs obviously do matter and particularly at  
6 the state level, because there will be some additional  
7 expenditures, and we've been -- we've been and others have  
8 been providing some technical assistance to states as to  
9 how to compute those costs as states plan for it.

10 At the state level, however, the cost is not --  
11 and this is a point I think really worth stressing. It's  
12 not expanding coverage. The cost is really to live up to  
13 the promise that the state has already made to the  
14 children. If you're going to cover kids up to, you know,  
15 150 or 200 percent of poverty, you've made that commitment.  
16 You know, everybody -- maybe the budget office banks on  
17 not everybody getting that coverage or not everybody  
18 staying on that coverage, but the commitment is to cover  
19 those children. So, yes, there are new costs, but not in  
20 the context of a state that's already agreed to take on the  
21 responsibility to cover children within whatever the  
22 state's designated income level is.

1           I think it's an important -- it's really  
2 perfecting the coverage that the state has already  
3 committed to and ensuring the kids actually get the value  
4 for it and don't have added problems because of gaps in  
5 coverage.

6           But on the federal level, I just want to stress  
7 for those who are focused on the budget neutrality minutia  
8 of going to an 1115, which I know many you rightly are, is  
9 the state -- is the federal government has actually  
10 accepted the notion that these are kids that are already --  
11 the state has already committed to cover, and so there is  
12 no offset required by the federal government.

13           So, you know, you have costs at the state level  
14 if you're doing it, for sure. The feds will have costs  
15 because they'll have -- by reducing churn, they're going to  
16 have more months of coverage, but they have viewed it as  
17 part and parcel of the state accepting responsibility to  
18 cover those kids. And so there's -- it's what's called,  
19 for those who follow the minutia, a "pass-through" or a  
20 hypothetical in the budget neutrality spreadsheet world,  
21 and you don't have to offset any -- you, the state, don't  
22 have to offset any additional federal costs with a way of



1 finding federal savings.

2 MS. JEE: Great. Thanks for mentioning that. I  
3 think it's hard to get away from a conversation about 1115s  
4 without talking about budget neutrality, so thanks for  
5 raising that.

6 Okay. So I want to turn back to the monitoring  
7 and evaluation sort of questions, Laura, and bring you in  
8 here. What aspects of the demonstrations do you think are  
9 most important for monitoring and evaluation, and are there  
10 particular outcomes that you think ought to be addressed?

11 DR. SMITH: Yeah. With support from The David  
12 and Lucille Packard Foundation, our team at Urban has been  
13 focused on identifying the most important outcomes and how  
14 states and other stakeholders or researchers should  
15 prioritize their research questions around CE, thinking  
16 especially about what makes for realistic and measurable,  
17 short, and intermediate and longer-term outcomes.

18 We know that states will be focused on measuring  
19 reductions in churn and uninsurance among young kids as the  
20 key first order outcomes.

21 We also know states are planning to look at  
22 preventive care use, so well-child visits, primary care,

1 dental care, as more kids coverage and reduce  
2 discontinuities in coverage. We think of these as more  
3 sort of intermediate-term outcomes.

4           And then in the longer term, if we do, in fact,  
5 start to see increases in coverage and use of primary and  
6 preventive services, we could eventually expect to see more  
7 downstream outcomes of reductions in hospitalizations and  
8 other indicators of improved health and possibly improved  
9 educational outcomes as kids' developmental needs are  
10 getting addressed earlier.

11           And then one other outcome I want to mention that  
12 may be initially overlooked is the potential impacts on  
13 reduced stress and improved well-being for parents and  
14 guardians, both from not having to worry about renewals for  
15 their young kids all the time but also the simple peace of  
16 mind that their kids have coverage, that this will be the  
17 case even if they earn a little bit more income next month  
18 or have another change in circumstances. But, of course,  
19 these can be hard to measure and may require a collection  
20 of new data from families themselves.

21           MS. JEE: Great.

22           And, Laura, just staying with you for one more

1 question, are there any sort of issues or challenges that  
2 come to mind as a researcher and, you know, that you think  
3 states maybe will be grappling with as they consider their  
4 design and implementation of their evaluations?

5 DR. SMITH: Yeah. As in many impact evaluation  
6 studies, as much as possible, evaluators will want to use  
7 rigorous quasi-experimental research designs, such as  
8 difference and differences models, which include comparison  
9 groups who were not affected by the policy and compare  
10 changes and outcomes before and after the policy is  
11 implemented between the group that's treated by the policy  
12 and the comparison group.

13 One big challenge here is that these research  
14 designs will be tricky, given that the multi-year CE  
15 policies are being implemented on the tail end of the PHE  
16 and the unwinding, which really kind of muddies the waters  
17 for the immediate pre-period and can make it difficult to  
18 establish valid comparison groups, especially evaluators  
19 who might be hoping to use out-of-state comparison groups  
20 since different states had very different experiences  
21 related to coverage and access to care during the PHE.

22 Other challenges will be in measuring and

1 interpreting some of the outcomes. One example of this, if  
2 we see an increase in well-child visits resulting from  
3 continuous eligibility, this may lead to earlier diagnosis  
4 of developmental or health issues, which in the long term  
5 is a good thing for kids' health, good thing for their  
6 educational outcomes, but may in the short term make it  
7 look like children's health is actually getting worse.

8           And then one final example of a challenge is just  
9 that since most kids are generally healthy, many poor  
10 health outcomes are relatively rare. So studies may be  
11 underpowered to detect realistic effect sizes. So it will  
12 just be important to sort of manage these expectations.

13           MS. JEE: Great. That's helpful.

14           I know the Commissioners want to get in here with  
15 questions. So I'll just have one last question, and we'll  
16 end with Emma, our state panelist. Is there any insight  
17 that you can offer into Oregon's sort of approach or  
18 thinking about your evaluation?

19           DR. SANDOE: Sure. So very much along the same  
20 lines as what Laura mentioned earlier, we are looking at  
21 those well-child visits and income to determine whether or  
22 not we are indeed maintaining people who are eligible,

1    which was what we saw in the data, that the vast majority  
2    of people remain eligible through the continuous enrollment  
3    period, but really wanted to verify that through the data.

4                   And the other thing I would note is that even  
5    though we just implemented this policy recently, we are in  
6    the process of gearing up for our renewal, because that is  
7    the timeline of 1115 policy, and really looking towards  
8    this data to evaluate and determine the next steps in terms  
9    of renewal and how we can ensure that we are meeting the  
10   goals of the original waiver through the renewal process,  
11   so using what we -- the information that we are beginning  
12   to see and beginning to collect to determine our next steps  
13   on the renewal.

14                  MS. JEE: Great. It is hard to believe that  
15   you're thinking ahead to the renewal.

16                  Okay. So that's all the questions that I had,  
17   and I look forward to the Commissioners' questions for the  
18   panel.

19                  CHAIR JOHNSON: Thank you, Joanne. Thank you,  
20   Cindy, Emma, and Laura. I thought this was very helpful.

21                  Let me turn to my fellow Commissioners and see  
22   if there are any questions, and I have a few. We'll do

1 Jami first.

2 COMMISSIONER SNYDER: Thanks so much for joining  
3 us today.

4 Emma, my question is for you. I know Cindy  
5 mentioned the importance of kind of partnering with your  
6 managed care organizations, I guess in your case, CCOs, and  
7 ensuring that families are aware of continuous eligibility  
8 and also that they're submitting the right documentation  
9 when their kiddo reaches that age point where they need to,  
10 you know, submit documentation in order to maintain ongoing  
11 eligibility if, in fact, they're eligible. I'm just  
12 curious to know about kind of the work that you're doing to  
13 partner with CCOs in the state of -- of Oregon. Excuse me.

14 DR. SANDOE: Thank you. And yes, so our CCOs  
15 have been excellent partners through the public health  
16 unwinding process and moving towards the continuous  
17 enrollment steady state of our new policies. It certainly  
18 has been an area that has historically and, in many states,  
19 still exclusively a place that is more on the side of the  
20 Medicaid agency and the state various enrollment, whether  
21 they have a single streamlined application for multiple  
22 programs or whether that exists outside in the Medicaid

1 program.

2           That historically has only been in that space and  
3 not in the managed care organization space, but the  
4 pandemic and utilizing the pathways of communicating with  
5 members, managed care organizations has really been a  
6 lesson of the importance of making sure that we are  
7 aligned, because questions can come from members to any  
8 various avenue. And, particularly, they work very closely  
9 with our managed care organizations on a variety of  
10 different topics and making sure that our managed care  
11 organizations have all of that information and know where  
12 to find enrollment dates and other pieces of information  
13 that had historically only lived in the eligibility space  
14 is important.

15           So we have worked closely with them on  
16 communication materials and making sure that they have all  
17 of the materials for their call centers and their  
18 presentations with their community organizations that they  
19 liaise with on a regular basis and really sharing those  
20 talking points. We worked really hard throughout the  
21 unwinding period, and that -- and as such, this particular  
22 policy on really revamping how we think about member-facing

1 materials and have worked alongside our managed care  
2 organizations to ensure that both us and the managed care  
3 organizations are really taking a person-centered approach  
4 to the way in which we communicate and making sure that  
5 those communications are not written in legalese and can be  
6 understood, because this policy is certainly complicated,  
7 particularly in those instances that we have family members  
8 with varying dates. So we really tried as much as possible  
9 to incorporate community input into the materials that  
10 people would be receiving related to those enrollment dates  
11 so that it was as plain language as possible, and our  
12 managed care entities really assisted with that.

13 CHAIR JOHNSON: All right. Thank you.

14 Sonja?

15 COMMISSIONER BJORK: Thanks, Verlon.

16 I was wondering if the panelists could focus a  
17 little bit on foster youth and what kind of experiments or  
18 approaches that different states are using with foster  
19 youth who are becoming adults. In California we offer  
20 coverage up to age 26, but I was wondering the context of  
21 CE in different states. How is it working, or what are  
22 different states trying? Thanks.



1 MS. MANN: I can jump in, but Emma is also trying  
2 to help that population as well. So you probably want to  
3 hear directly from Oregon.

4 So I think the multi-year CE is just so well-  
5 suited to the needs of the foster care population, right,  
6 either kids currently in foster care and the youth  
7 transitioning out of foster care. It's just -- you know,  
8 I'm sure you all know the transitions for those children  
9 and youth are just enormous, and then the health care  
10 doesn't always smoothly tag along. So if we can smooth out  
11 that issue for this particularly vulnerable population and  
12 vulnerable both on physical health and mental health sides  
13 and just, you know, generally in terms of their life  
14 trajectory, it makes a lot of sense.

15 As I mentioned, Arizona has a proposal to do two  
16 years of continuous enrollment for those that are  
17 transitioning out. Understanding it's just a point in time  
18 where lots of changes are going on for that youth and  
19 worrying about suddenly being responsible for paperwork to  
20 maintain health coverage seems a pretty inopportune moment  
21 for them to deal with that.

22 So I'm hopeful actually -- and Oregon has a

1 policy for all children, as Emma talked about, and youth,  
2 regardless of the zero to six to get the two years'  
3 continuous coverage if they're older. So that encompasses  
4 foster care kids as well. So I do think it's an area that  
5 as states are thinking both about broader eligibility  
6 criteria for continuous enrollment and targeted  
7 interventions, that foster care youth and youth moving out  
8 of foster care would be a really appropriate target  
9 population.

10 DR. SANDOE: Yeah, and I would say that we and  
11 all states cover former foster youth up to age 26, so they  
12 remain eligible. Even if they are going through the  
13 redetermination process, they will remain eligible. But  
14 people do fall out of the system because we may not have  
15 address information or other things like that, or not out  
16 of the system but it becomes harder to reach people.

17 And I would just say that doing continuous  
18 enrollment is one piece of a very complicated puzzle, and  
19 if we are only reaching out to people at their sixth  
20 birthday, and every two years, and that is the only time  
21 that they are hearing from the Medicaid agency, we are not  
22 doing health care correctly. We need to make sure that we

1 are engaging with our members that we serve on a regular  
2 basis, to make sure that they are aware of the benefits  
3 that they have, that we are doing care coordination, that  
4 we are really trying to address the needs of the  
5 beneficiaries that we serve, particularly the former foster  
6 youth who often do require additional levels of care  
7 coordination, and really having that movement from Medicaid  
8 coverage through their 26th birthday to whatever other  
9 coverage is appropriate for the individual during that  
10 youth period is important.

11 But they also need to know how their benefits are  
12 changing because youth in former foster care have a  
13 different level of benefits sort of provided to them  
14 throughout their continuum of care, and particularly for  
15 all youth the change of EPSDT coverage and what that means,  
16 we're trying as much as possible to smooth that EPSDT  
17 coverage through youth, so that people are, as much as  
18 possible, continuing to receive specific care that they had  
19 been receiving. But that is always going to be a challenge  
20 of maintaining that EPSDT benefit in a way that we can,  
21 after that person is no longer eligible for EPSDT.

22 CHAIR JOHNSON: Thank you. Carolyn.

1           COMMISSIONER INGRAM: Thank you. And I want to  
2 thank the panelists for joining and taking the time to  
3 educate us today. Cindy, you go into some information  
4 about the budgets and budgetary constraints, and I wanted  
5 to know if you could just elaborate a little bit more on  
6 states that you're working with. Are they looking at  
7 limiting that population from 0 to 6 because of the  
8 budgetary constraints whereas other states, right now we  
9 just have the information about Oregon has done more  
10 expansive population with some of their kids, with children  
11 with special health care needs. Is it mostly based on  
12 those budget issues is why states are kind of picking  
13 certain populations over the others? That's my first  
14 question, and I have one more.

15           MS. MANN: Yeah. Good question, Carolyn. Thank  
16 you. I don't think that budget concerns are necessarily --  
17 I mean, obviously every state is different and every  
18 revenue situation is different in states, and evolve year  
19 to year, right. So there's no general answer as to how it  
20 will affect that.

21           But I think, by and large, states are thinking  
22 about what they want their policy to be. Initially, some

1 of the early states -- Colorado, I would say, even though  
2 it's not approved yet, it was an earlyish state, in  
3 legislation. They were not sure where CMS was going to go,  
4 not sure if CMS would approve going all the way up to age  
5 6, not sure what budget neutrality was.

6           So I think as things have gotten more clear, at  
7 least at the federal level, that there's no required  
8 offset, to the extent that states are aware of it, but that  
9 helps them think about some of the financial obligations  
10 that they will face. But there are some.

11           So, again, I think that once you get past it's  
12 not an expansion. It's really giving life to the  
13 commitment that's already been made to the children you  
14 already cover, on paper anyway, that the conversation about  
15 how that policy weighs with whatever cost it is to the  
16 state, and there are costs, has really been won out. I'm  
17 not aware. There may well be states where, oops, sorry, we  
18 floated it, it came with a price tag, and it was too much.  
19 They may have to tailor it a little bit. But it's been  
20 pretty warmly received, I think, by governor's office and I  
21 think by legislators.

22           COMMISSIONER INGRAM: Thank you. That's helpful.

1 And then my second question was just on the system issues.  
2 There's been a lot of talk lately that system issues are  
3 causing families or kids to fall off of eligibility. And  
4 I'm just wondering in your research -- well, I guess the  
5 whole panel -- if you all have seen that, that states need  
6 to maybe be more on top of those system issues, or if  
7 that's really actually happening in some areas, or if it's  
8 hard to say. Thanks.

9 MS. MANN: I mean, I think the system issues have  
10 been front and center during the PHE. I mean, even before  
11 the PHE, a lot of states adopted mitigation plans at the  
12 behest of CMS or at their own proposal, to say my system  
13 isn't doing everything it's supposed to be doing under  
14 regulations. And so many have adopted mitigation plans,  
15 and in addition CMS has issued guidance -- well, initially  
16 when the PHE started, that if you have noncompliance  
17 issues, you're going to have a couple of years after  
18 unwinding to try and get your systems into compliance.  
19 They recently issued guidance to states starting what that  
20 process will look like, releasing a template.

21 So yeah, I think the issue of ex parte  
22 determinations not being done appropriately for kids, in a

1 number of different states, which, you know, that's an  
2 issue that many states weren't aware of, that the feds  
3 weren't aware of, that came to light.

4           So those are all issues that I think are really  
5 both contributing to states wanting to move their programs  
6 forward and address these changes. They've got a lot on  
7 their plates, a lot to juggle. But also CMS being clear  
8 that within some reasonable period of time states need to  
9 bring those systems into compliance.

10           Meanwhile, continuous enrollment can, at least,  
11 be probably the most comprehensive mitigation plan because  
12 whatever the systems issues, at least if you can get in the  
13 program, you can stay in the program, for whatever period  
14 of time the CE period establishes.

15           CHAIR JOHNSON: All right. Thanks. I see  
16 Tricia, Mike, Heidi, and Dennis. We'll start with Tricia.

17           COMMISSIONER BROOKS: Thank you, and thank you  
18 all for being here. And you know how excited that my  
19 colleagues and I at the Georgetown Center for Children and  
20 Families are about this particular policy. And I've had  
21 more than a few conversations with all of you about this.

22           Emma, I know that you're new in your role in

1 Oregon, so if this question is putting you on the spot,  
2 please tell us you can get back to us. But Oregon has what  
3 has been framed as a school readiness metric. It was  
4 originally focused on the systems level and it has now  
5 moved to the individual social-emotional level. And I  
6 think one of the exciting things about multi-year CE for  
7 young children is identifying those developmental delays,  
8 addressing those so that kids are ready to enter school.

9 Can you share more about that particular metric  
10 and how that's going for Oregon, or do you want to take a  
11 pass and come back to us?

12 DR. SANDOE: I did not plan for this to be a  
13 question so I think I'm going to take this back and double  
14 check with my team, because I don't want to provide you  
15 with inaccurate information.

16 COMMISSIONER BROOKS: Well, thank you for that.  
17 And just another point. Cindy, thank you so much for  
18 raising the issue about hypothetical budget neutrality. It  
19 exists, and I think that's a good frame, not only for  
20 convincing states to go for an 1115 but also for making the  
21 case that this is a really important policy going forward.

22 I remember back in 2009; you first floated this



1 concept of multi-year continuous eligibility. What is your  
2 hope for if we can maximize the opportunity, what are we  
3 going to see at the end of these five-year waivers? What  
4 is the real outcome we want to be? Reducing churn is  
5 always great, but there's so much more that we can do here.

6 MS. MANN: Yeah. Thank you for all of your  
7 advocacy on this topic and for your question. You know, I  
8 think as Laura said, states will be obviously doing their  
9 evaluations. But I think there is a way states can get a  
10 window into exactly how this is working very quickly by  
11 looking at their claims data, by looking at various data  
12 that comes to them, and seeing whether those preventive  
13 care visits are actually happening at the pace at the  
14 American Academy of Pediatrics recommends and EPSDT  
15 requires then that periodicity. Are they happening, you  
16 know, I've looked at recent data, MedPAC's put out data,  
17 and even at the very young child's age it gets worse as you  
18 age. But we're missing a lot of kids.

19 But then there's also the T. There are the  
20 developmental screens, so important in hearing and vision  
21 and oral health. So important in terms of developmental  
22 disabilities, spotting a potential learning disability,

1 spotting other issues early enough and then moving to the  
2 treatment. And we saw recently, at the end of September,  
3 CMS issued guidance on what the benefit requirement is for  
4 kids, for all kids under 21 actually.

5           So really that's the goal is to make sure that  
6 kids get the early periodic screening, the diagnostic  
7 testing, and the treatment that the law promises them, and  
8 that I know states really want to see them have. There  
9 have been barriers on a lot of areas to kids getting that  
10 care. But one has been the churn. So that barrier goes  
11 away, and with that commitment and that commitment of  
12 financial support that the state is making; to say we are  
13 going to continuously cover our kids, comes a  
14 responsibility to make sure that care is actually delivered  
15 in all those areas.

16           Feedback loops with consumers, with families, how  
17 is it work, where are the access issues, as well as  
18 reviewing data, all of those kinds of mechanisms have  
19 always been really important, but now can be implemented  
20 and acted on in ways that otherwise you were hampered when  
21 you kept seeing kids losing coverage over the course of a  
22 year.

1 CHAIR JOHNSON: Thank you so much. Mike.

2 COMMISSIONER NARDONE: No. thank you all so much  
3 for this great presentation. I'm very excited about this  
4 continuous eligibility. I have spent some time in the  
5 Medicaid director's chair, and I've often had to make the  
6 case to skeptical budgeteers.

7 So I was curious, and I think you kind of touched  
8 on this. And Emma, I just was wondering, and maybe this is  
9 not a fair question either if you're kind of new at this  
10 role, I was wondering in your contact or in your  
11 conversations with budget folks, is there a business case  
12 that you've been able to make to them that it's important  
13 for them to be supportive of those kids and the eligibility  
14 policy or are there maybe particular metrics or indicators  
15 that as you're doing your monitoring and kind of the review  
16 of claims data that, you know, Cindy was talking about,  
17 might be kind of supportive of the move to continuous  
18 eligibility. Because I'm thinking it might be helpful to  
19 other states to also hear what the arguments are that have  
20 been persuasive, I guess, in kind of making the case for  
21 CE.

22 DR. SANDOE: Well, if the Commission would allow

1 me to remove my Oregon hat and put on a very old hat of  
2 North Carolina, I was very involved with the 1115  
3 development in North Carolina, which did include the  
4 continuous enrollment. And at the risk of speaking for my  
5 former state, I would just say that the evidence around  
6 working towards prevention and the importance of childhood,  
7 early detection of diseases, as well as treatment, all of  
8 the arguments that we make for EPSDT has been, and was part  
9 of the conversation around the importance of this  
10 particular policy.

11 I think that the commitment that states have to  
12 children is strong, and there are many strategic goals  
13 around ensuring early childhood development, because it is  
14 so crucial, that aligning this particular policy with those  
15 broader policies around early childhood education, early  
16 childhood social and emotional well-being, et cetera,  
17 because it is so intertwined. And the early data that we  
18 do have from the PHE period as well as other pre-PHE  
19 periods does indicate that children really that are  
20 eligible for Medicaid to begin with, remain in that  
21 eligibility level through their childhood.

22 So this is really more about alleviating that

1 burden, ensuring that people are getting care. Certainly  
2 providers have been instrumental in making that argument,  
3 as well, to legislators and others, because there have been  
4 so many instances where a child is receiving regular care  
5 or receiving treatment, and then that is interrupted by  
6 administrative policies and sort of having those children  
7 no longer be part of that work. And that has been a  
8 persuasive argument to many people because providers really  
9 see it at the individual level.

10 CHAIR JOHNSON: Thank you. That was really  
11 helpful. So we are actually at time, but I wanted to check  
12 with the panel to see if you are able to stay for a little  
13 bit longer, since we have a couple of other questions in  
14 the queue. Is that okay? All right. Perfect.

15 So Heidi.

16 COMMISSIONER ALLEN: I thought I was going to get  
17 cut off. I would be so upset. Hi. So happy to visit with  
18 you all. Thank you for this wonderful presentation. I  
19 have like one comment and one question.

20 My comment is, are you tracking parent insurance  
21 related to this policy change? I know there is compelling  
22 evidence that children's coverage continuity was tied to

1 parental coverage continuity, and I'm wondering about the  
2 converse relationship and whether, on the one hand you're  
3 getting fewer notices and renewal reminders from Medicaid  
4 because you're not getting them for your children. Does  
5 that make parents less likely to reenroll and more likely  
6 to fall off on coverage, or does not having to apply so  
7 much for their kids create more bandwidth that they are  
8 able to take care of themselves? I just think you might  
9 have to do some qualitative work on that to try to  
10 understand what's happening, but I think it would be super  
11 interesting.

12           And then my second kind of question/comment is  
13 related to, say this is a big success, and people are like  
14 it didn't actually cost that much money, it really improved  
15 all these outcomes, and we're really excited, we think this  
16 idea is very worthy. Would the next step be to go from 7  
17 to 13, or what would be the next waiver application?

18           And I just want to make a pitch for, if it's  
19 going to be that incremental, what about thinking about 13-  
20 to 19-year-olds, which is an area like 0 to 6, where  
21 there's a lot of very specific needs that have long-time  
22 implications for people's health. You know, adolescents

1 have sexual and reproductive health needs come up, and they  
2 have behavioral health needs come up, and that might be a  
3 better option than trying to just go incrementally, age by  
4 age. So I'm curious about that.

5 And I just want to say how happy I am to see you  
6 in Oregon, Emma, my home state. I know that Oregon is  
7 going to love you and that you're going to love Oregon. So  
8 I hope that this is all going well for you.

9 That's it for me.

10 CHAIR JOHNSON: Thank you, Heidi. Dennis?

11 COMMISSIONER HEAPHY: My question somewhat builds  
12 on Heidi's, and I'm thinking actually specifically folks  
13 with complex medical needs, and why wouldn't that extend to  
14 19, or actually beyond 19, to 22, or seeing these folks  
15 transitioning into adulthood, because we want to make sure  
16 they've got continuity of care.

17 So why isn't there more focus on folks with  
18 really medically complex needs to ensure there's continuity  
19 of care throughout their -- ensuring that that transitions  
20 into adulthood? It just seems like it's something that  
21 states would want to have in place, and I think probably  
22 cost savings if there's no reduced churn in those

1 populations. That's my question. Thanks.

2 DR. SANDOE: Are we allowed to respond?

3 CHAIR JOHNSON: You are allowed to answer the  
4 question, and sorry I didn't let you -- allow you to answer  
5 the last question. So feel free to do that one as well.  
6 Thanks.

7 DR. SANDOE: So one thing that I want to point  
8 out is since we do have the zero to six and the 12 -- or  
9 the 24-month for all populations, we are evaluating both.  
10 So we are getting additional data on enrollment and sort of  
11 income fluctuations to really be able to have better data  
12 and better understanding of sort of where there are people  
13 falling off for procedural reasons who remain eligible.

14 So part of the 1115 evaluation of this period is  
15 really focused on understanding with more granularity where  
16 in what age range we're seeing the income fluctuate to the  
17 point that people are no longer eligible and getting a  
18 better understanding of the -- both churn but also whether  
19 continuous enrollment for two years does increase some of  
20 those necessary visits and care coordination later in life  
21 as well, so in the 13 to 19 period and up through 22 and  
22 all the rest.



1           So, hopefully, we'll have more data, and I'm  
2 looking forward to all of your comments and recommendations  
3 on our renewal in the next 18 months or so.

4           COMMISSIONER HEAPHY: If I could just clarify my  
5 question and say that most of the folks, kids I'm talking  
6 about, will be on Medicaid for the rest of their lives.  
7 And so, like, doesn't it make sense to actually just ensure  
8 there's continuity of care?

9           DR. SANDOE: Yeah. And we are doing that  
10 analysis by eligibility group. So that will indicate, to a  
11 large extent, some of those more complex cases and where we  
12 see people potentially falling off in the two-year period.

13          DR. SMITH: And I can just add a little bit about  
14 some evidence on kids with special health care needs. I  
15 know that on the one hand, kids with complex health care  
16 needs are less likely to experience churn, but on the other  
17 hand, continuous eligibility policies, in particular, are  
18 shown to especially improve access and outcomes for that  
19 population, so definitely an important group of kids to  
20 cover continuously.

21          MS. MANN: And just to throw in, I think there's  
22 both -- as you hear from both Laura and Emma -- real

1 interest in states and thinking about different  
2 populations.

3 Certainly, I think kids and youth with special  
4 health care needs may be extending to adults As you  
5 suggest, Dennis, their situation isn't necessarily going to  
6 change in terms of their eligibility. Thinking of periods  
7 of, you know, transitions and particular stress, like the  
8 homelessness provision, like the transitioning to foster  
9 care, thinking about parents so that it's the whole family.  
10 So all of those, I think, are areas that are right for  
11 further attention.

12 I would just give the perspective that, you know,  
13 I have Medicare, and I have employer-sponsored coverage,  
14 and I don't renew every year. There's an expectation that  
15 it stays with me. I can leave it, but I don't renew.

16 Now, I understand, you know, Medicaid isn't a  
17 means-tested program and has different configurations, but  
18 there has to be something between losing, you know, 10, 12  
19 percent of the kids in any given year to thinking about how  
20 do we really just stabilize coverage and make sure that  
21 everybody has a place to get their coverage continuously  
22 and always.

1           So I think there's some bigger-picture thinking  
2   that needs to be done, but I think certainly that some of  
3   the groups that you're all flagging are likely ones for  
4   states to give more considerations to.

5           CHAIR JOHNSON: Thank you. That was a very  
6   helpful perspective.

7           Patti?

8           COMMISSIONER KILLINGSWORTH: So, as a mom of a  
9   child who had lifelong disabilities and special health care  
10  needs, I really understand and appreciate the value of this  
11  policy, especially for kids and youth with special health  
12  care needs.

13          I have missed those deadlines before personally  
14  in the midst of medical crises, and I just -- figuring out  
15  the way to make that easier is important.

16          My question is really about -- not so much about  
17  the policy, but about how to operationalize the policy in a  
18  way that states actually embrace it and do it. And I'm a  
19  little concerned about leveraging 1115 authority as kind of  
20  the mechanism to get there. I have a little bit of a love-  
21  hate relationship with 1115 authority, and it's so  
22  flexible. But it's also so hard sometimes, and the delays

1 are really lengthy.

2 I had an amendment, an 1115 amendment pending  
3 from 2020 when I left state government in 2022, that the  
4 last time I knew, it was still pending in 2024, right? And  
5 so it just has to be easier than that with some sort of  
6 alternative authority or maybe even like a template  
7 authority for states who are going to use 1115 that is  
8 specific to something like this that -- you know, that  
9 everyone agrees is really, really important.

10 MS. MANN: So I think they're listening to you.

11 So a couple of things. One is, there are some  
12 bills -- there's a proposal that President Biden made in  
13 his budget. There's some bills pending in Congress and  
14 also being developed in Congress that would turn both  
15 multi-year coverage for kids, in some cases for parents.  
16 There's not even an option for parents to do one year. So  
17 I think thinking about turning those into options for  
18 states is in the ether but will need some attention.

19 On the delays on 1115, obviously, there's an  
20 election, so we'll see what happens. And, hopefully, the  
21 strong support we've seen across the board on multi-year  
22 and continuous coverage will be seen, which I think rightly

1 it is, and we see this in some of the state legislators.  
2 It is not a partisan issue and hopefully will remain intact  
3 regardless of what happens.

4 But this administration is moving to templatize  
5 the request. It is a pretty simple 1115, and it does get  
6 lost in the queue, which is quite long. So both making it  
7 easier for states to apply and assuming a state adheres to  
8 what's been approved before, very easy and quick for the  
9 Feds to approve.

10 So, hopefully, you're going to see that  
11 developing soon, but I think, ultimately, getting away from  
12 the 1115 structure is a good thing, at least for some of  
13 these policies.

14 COMMISSIONER KILLINGSWORTH: That's exciting.  
15 Thank you so much.

16 CHAIR JOHNSON: Great. And I think we have one  
17 final question from Jami.

18 COMMISSIONER SNYDER: Thanks so much, Verlon, and  
19 thanks for staying on the line for a couple of additional  
20 minutes.

21 So I think this is super exciting in terms of  
22 ensuring that kids are able to connect with critical,

1 clinical, and preventive care. But I don't see this work  
2 in isolation of some of the really -- the other incredible  
3 work, especially, Emma, you're doing and states all over  
4 the country are doing related to health-related social  
5 needs and social determinants of health. So I'm kind of  
6 curious to know from you, Emma, and from you, Cindy,  
7 because I know you've worked with several states around  
8 their 1115 demonstrations related to social determinants of  
9 health, how you see this work as contributing to your  
10 efforts to connect families to housing, nutritional  
11 supports, and other health-related social needs.

12 DR. SANDOE: I feel like you teed me up to say we  
13 are now within 13 hours of launching our housing services  
14 in Oregon, the first in the country to go statewide with  
15 the housing HRSN benefit through the 1115 waiver. And  
16 there is a lot of asterisks to that, I realize. I  
17 recognize the important work that many other states have  
18 made in this work, but we are very, very thrilled to be  
19 launching that benefit.

20 That benefit and the existing climate benefits  
21 and the upcoming nutritional benefits are really meant to  
22 be connecting people to existing long-term services, but

1 that doesn't happen overnight. For example, the rental  
2 assistance can last up to six months, and that would be  
3 unfortunate if it were interrupted by a procedural  
4 determination, for instance.

5           This is really meant to be working hand in hand  
6 to ensure that we are getting the best value out of those  
7 investments we are making in health-related social needs,  
8 because again, the investments are meant to ensure that we  
9 are making health improvements that we will see in long  
10 term, because while there are very many immediate health  
11 improvements from ensuring people have housing, food, and  
12 climate-related services, they are also very much focused  
13 on those long-term health needs that we may not necessarily  
14 realize. So ensuring that people can get the full value of  
15 those services and that the Medicaid program also is able  
16 to do the full care coordination that is required to ensure  
17 that people are remaining on a pathway towards improved  
18 health is absolutely crucial.

19           And we're so excited for the next 13 hours. So  
20 we're looking forward to November here.

21           MS. MANN: You're making me do my Oregon Pacific  
22 time conversion so I can figure out exactly when this is

1     kicking off.

2                     [Laughter.]

3                     CHAIR JOHNSON: Exactly, exactly. That is very,  
4     very exciting.

5                     So I just want to say this has been a great panel  
6     conversation for sure. I think we've learned a lot, and  
7     I'm sure we'll have many other questions ahead of us as  
8     well. But, you know, this is -- you know, I think Jami  
9     shared from her opening statement, how exciting this all  
10    is. And to see the three of you, three true leaders in  
11    this area really helping us understand this and move  
12    forward is very exciting, I think, for all. So thank you  
13    so much for coming on.

14                    Joanne, anything else you need from the panels at  
15    all?

16                    MS. JEE: No. Just my thanks.

17                    CHAIR JOHNSON: All right. Thank you so much.  
18    We appreciate you.

19                    MS. MANN: Thank you.

20                    DR. SMITH: Thank you for having us.

21                    CHAIR JOHNSON: So we're now going to move into  
22    the Commissioner discussion. We obviously had a lot of



1 great information that was just shared with us. You all  
2 had some great questions and some observations, and so I'll  
3 open up the floor then for you all to ask away and lead us  
4 on.

5 Tricia.

6 COMMISSIONER BROOKS: Okay. So I could talk  
7 about this for all of the 15 minutes and more that we have  
8 left. So I'm going to touch on a few things that I didn't  
9 hear in the conversation.

10 So going to communications, which people  
11 recognize the importance of, but what I didn't hear are  
12 things like health literacy and health insurance literacy,  
13 because I think that is a key part of helping to educate  
14 families about the care their children need in order to  
15 have healthy development.

16 And then the role of the MCOs, it was touched on  
17 a little bit, but also health care providers. I don't  
18 think it will shock anybody in this room to know that if  
19 you say EPSDT, not every MCO and not every provider  
20 actually knows what it is or how to deliver on it. So we  
21 need more education with MCOs and health care providers,  
22 that training on EPSDT.

1           And then when you move further down, we have lots  
2 of tools for examining outcomes. We've got EPSDT  
3 screenings, the 416 report, the external quality technical  
4 reports from MCOs, the Child Core Quality Metrics, which  
5 are now mandatory.

6           But we can go deeper than that, and I lift up  
7 Louisiana as an example, because they have a great  
8 dashboard. I can't say that it's up to date, but they've  
9 got the makings of a dashboard that breaks down all of the  
10 quality measures, all of the HEDIS measures, in particular,  
11 which many of the core set measures are, by plan year after  
12 year is what we want to follow. And they break it down by  
13 demographics as well.

14           So, if we're going to get underneath all of this,  
15 we can look at outcomes to see, is this MCO performing  
16 better than that one? What are they doing differently, or  
17 is this population more affected? Where do we target our  
18 education? So I think that is a key here, at least on the  
19 monitoring side.

20           We need very clear MCO roles and  
21 responsibilities, and they tie back to the state quality  
22 strategy for MCOs. I tell advocates always, take a look at

1 your quality reports, take a look at your quality strategy,  
2 search for child, search for maternal, search for  
3 pediatric, and tell me what you find. And you will find  
4 that often there's not a lot of emphasis on these  
5 particular populations. Not so much on maternal health. I  
6 think that's changing a bit. But on kids, kids are cheap  
7 to cover. We're not going to save a whole lot of money,  
8 and the money that we are going to save getting to -- I  
9 think it was Mike's question -- is cross-sector  
10 educational. If we can reduce the cost of one IEP in  
11 schools, what is that worth? How many kids does that cover  
12 for six years?

13           And we need to expect more from the plans. Plans  
14 will have continuity of payment. They'll probably not want  
15 to see reductions in those cap rates, even if there were to  
16 be savings there. So what's the plan? Is the MCO  
17 responsible for provider engagement? Is the state, the  
18 MCO, and the providers all share in the responsibility? Is  
19 the network adequate and reimbursement sufficient? How are  
20 the health-related social need waivers going to be  
21 integrated into multi-year? Is prior authorization a  
22 barrier to pediatric services?

1           So these are some of the things where, you know,  
2 I floated the idea of having a different MLR for kids than  
3 for adults. If kids are contributing more to plans' profit  
4 or margin, shouldn't that be dedicated to improving  
5 children's health and not offsetting the cost of other  
6 populations?

7           And, lastly, I would say that kids have been  
8 anywhere from 40 to 50 percent of the enrollment, and in  
9 states that are non-expansion, even more than that. We  
10 should require plans to have a staff person dedicated to  
11 children's health and monitoring that and reporting  
12 directly to the CEO so that we know that it's a priority  
13 for the plans.

14           So let me get off my soapbox there.

15           Oh, can I just say one other thing? And that is,  
16 we keep talking about bending the cost curve. We have  
17 adults with multiple chronic conditions that are rooted in  
18 childhood. If we want to bend the cost curve long term, we  
19 have to invest in children's outcomes now, and maybe we'll  
20 start to see that we're bending the cost curve 20 years  
21 down the road. But we've been talking about bending the  
22 cost curve for decades now, and we aren't quite getting

1     there yet. Thank you.

2                   CHAIR JOHNSON: Thank you.

3                   Jami?

4                   COMMISSIONER SNYDER: I just want to say that as  
5     the evaluations are coming out and as data comes out, I'll  
6     be interested to see what changes look like in both overall  
7     spending and per capita spending, how capitation rates are  
8     affected, but also how the percentage of children with  
9     third-party liability coverage changes over time. I think  
10    that could be an interesting metric.

11                  CHAIR JOHNSON: Okay. Any other Commissioners?  
12    Any other aspects of CE demonstrations you're particularly  
13    interested in or want to think about from a monitoring  
14    perspective?

15                  Okay, Carolyn.

16                  COMMISSIONER INGRAM: Sorry. I can't seem to  
17    coordinate raising my hand and getting to the mic fast  
18    enough.

19                  I think the areas around quality, quality, I  
20    mean, Tricia raised some important points about who's  
21    responsible for making sure that we're training up folks to  
22    see outcomes in care and KPIs delivered for this

1 population, and that's a longstanding problem as Medicaid  
2 directors that we've all had, trying to raise the quality  
3 bar. So really being able to see that measurement is going  
4 to be exciting coming out of these states who have pulled  
5 this off and starting to see, you know, what are the actual  
6 changes on the ground. Did we get, you know, children into  
7 more services? Did we get better quality outcomes?

8           And all those things are -- I know are being  
9 tracked. So it will be exciting to see that as much as we  
10 can look into those items. Thanks.

11           CHAIR JOHNSON: That's great.

12           And I just want to put a pin into the health  
13 literacy piece that you talked about, Tricia. I think we  
14 did hear a little bit of that from Laura in terms of the  
15 elevation rates and folks not knowing exactly how to  
16 utilize the services. So I would love to see us do more  
17 around that if we possibly could or learn more about it.

18           Anyone else? Patti.

19           COMMISSIONER KILLINGSWORTH: Just a quick note,  
20 and we talked about this previously, so I'm sure Joanne has  
21 it, but really looking at this by population to understand  
22 based on the data that's available where we sort of see

1 longer periods of eligibility having the greatest impact  
2 and thinking about, you know, younger kids, children and  
3 youth with special health care needs. Dennis talked about  
4 sort of all the way up to, you know, young adulthood. So  
5 really being able to look at the data and the story that  
6 tells in terms of the value, I think, would be incredibly  
7 important and helpful to us.

8 CHAIR JOHNSON: Thanks, Patti.

9 Mike?

10 COMMISSIONER NARDONE: I was just going to say  
11 that the thing that struck me was the comments about how  
12 folks didn't know that they had eligibility, continuous  
13 eligibility during the PHE, and I guess that kind of leads  
14 me to kind of wanting to understand strategies. It's not  
15 just -- it's not quite health literacy. It's more  
16 engagement strategies so people are aware of what their  
17 benefits are and what the services are that are available  
18 to them.

19 CHAIR JOHNSON: Thank you. Anyone else?

20 [No response.]

21 CHAIR JOHNSON: Joanne, do you have information  
22 that you think will be helpful from this conversation?

1 MS. JEE: Yeah, lots of interesting points and  
2 lots of things to look for. As the monitoring happens and  
3 as the evals happen, you know, I know we all wish up the  
4 evaluations and the data could come faster, but I've got  
5 the list. So we'll be keeping our eyes on those things.

6 CHAIR JOHNSON: All right. Thank you for putting  
7 together a great panel. We appreciate it and, of course,  
8 from your opening remarks, too, as well. They're great.

9 All right. Now we're going to move back into  
10 another public comment session. So, again, I'm just going  
11 to remind you to raise your hand if you would like to offer  
12 comments, and once you do, please make sure you introduce  
13 yourself and the organization you represent, and we're  
14 asking you to keep your comments to three minutes or less.

15 **### PUBLIC COMMENT**

16 \* [No response]

17 CHAIR JOHNSON: Wait a few more seconds.

18 All right. Well, if you don't have comments now,  
19 just remember that you can submit them to the MACPAC  
20 website, and we will go ahead and go to break now until  
21 2:45. Thank you.

22 \* [Recess.]



1           VICE CHAIR DUNCAN: All right. Good afternoon,  
2 and welcome back to our last session of the day. I can't  
3 say that we always save the best for last, but again, I  
4 think this is a great session and a follow-up from our last  
5 meeting. We've got Melissa that's doing a little deeper  
6 dive into the youth use of residential treatment services,  
7 from some of her research. So Melissa, it's all yours.

8     **###           YOUTH USE OF RESIDENTIAL TREATMENT SERVICES:**

9           **FEDERAL AND STATE FINDINGS**

10    \*           MS. SCHOBBER: Good afternoon. Today I'll be  
11 continuing our work on appropriate access to residential  
12 services for youth with behavioral health needs. This  
13 presentation will begin by providing some context and  
14 background information, followed by a review of barriers  
15 identified in federal and state reports, before concluding  
16 with next steps.

17           As you heard last month, in this first phase of  
18 work, MACPAC is examining if states have the tools they  
19 need to provide appropriate access to residential treatment  
20 for youth with behavioral health needs. We are returning  
21 this month to present findings from a selection of reports  
22 prepared by state legislatures, organizations designated as

1 the state protection and advocacy system for people with  
2 disabilities, the U.S. Department of Justice findings from  
3 investigations related to the Americans with Disabilities  
4 Act.

5           Apart from a limited number of peer reviewed  
6 articles, these reports are the only published information  
7 on the demographic and clinical characteristics of youth  
8 seeking and receiving care in residential treatment  
9 facilities, the experience of beneficiaries and their  
10 families, and the challenges state child-serving agencies,  
11 including Medicaid, face in meeting the complex and diverse  
12 needs of these beneficiaries.

13           Staff conducted this supplemental review of a  
14 convenient sample of 11 federal and state reports to  
15 provide specific examples of challenges associated with  
16 providing residential treatment to further the Commission's  
17 understanding. Although the reports we reviewed are  
18 public, MACPAC will not name particular states during this  
19 presentation.

20           This examination was not included as part of our  
21 original scope of work, and the states that are the  
22 subjects of these reports were not part of our usual

1 qualitative methodology that begins by inviting states to  
2 participate in our work. The examples are illustrative of  
3 the range of issues states and facilities have grappled  
4 with in recent years, including a rising number of youth  
5 with behavioral health needs, as highlighted during our  
6 September presentation.

7           The Americans With Disabilities Act was enacted  
8 in 1990 to "ensure that qualified individuals receive  
9 services in a manner consistent with basic human dignity  
10 rather than a manner which shuns them aside, hides, and  
11 ignores them." Title II of the ADA requires that public  
12 entities administer services, programs, and activities in  
13 the most integrated setting appropriate to meet the needs  
14 of qualified individuals.

15           In 1999, in *Olmstead vs. L.C.*, the Supreme Court  
16 held that public entities must provide community-based  
17 services to person with disabilities when (1) such services  
18 are appropriate, (2) the affected persons do not oppose  
19 community-based treatment, and (3) community-based services  
20 can be reasonably accommodated after accounting for the  
21 resources available to the public entity and the needs of  
22 others who are receiving disability services from the

1 entity.

2           Subsequent rulings found that the ADA's  
3 integration mandate applies to people, including children  
4 and youth, who are currently institutionalized and those at  
5 risk of institutionalization, and that a state's failure to  
6 provide home and community-based services, or HCBS, may  
7 create a risk of institutionalization.

8           In response to complaints regarding the failure  
9 to provide care in the most integrated setting, the U.S.  
10 Department of Justice may investigate states for compliance  
11 with Title II of the ADA, as interpreted by Olmstead.  
12 State legislators, legislative auditors, or agencies may  
13 investigate state departments or programs to examine the  
14 characteristics of youth who meet medical necessity  
15 criteria for a residential level of care, but for whom no  
16 bed has been identified, youth who have experienced  
17 placement and residential overstay in which a youth is  
18 deemed ready for discharge but cannot be released because  
19 no family, foster care, or other placement setting is  
20 available.

21           These reports may also review the cost of  
22 institutional care and reimbursement rates, and may include

1 plans to increase the supply of in-state residential care  
2 and home and community-based services. Both federal and  
3 state reports typically include a review of data, such as  
4 the number of facilities, licensed and staffed beds, length  
5 of stay, and the clinical and functional characteristics of  
6 youth. Such reports may also include interviews with youth  
7 and family, state agency staff, and providers.

8 I'll discuss the barriers to appropriate access  
9 identified in our review of these federal and state  
10 reports.

11 Each of the reports we reviewed noted challenges  
12 in finding appropriate residential treatment in state and  
13 sometimes out of state for youth with complex or co-  
14 occurring conditions, particularly intellectual and  
15 developmental disabilities or substance use disorder. In  
16 addition, other common barriers to placement included prior  
17 juvenile justice or child welfare involvement, prior  
18 hospitalization, a history of elopement, sexualized  
19 behaviors, and older age. Federal and state reports also  
20 noted disparities in placement for youth of color,  
21 including indigenous youth.

22 Some states require that youth be denied

1 admission to every in-state psychiatric residential  
2 treatment facility before seeking out-of-state placement.  
3 The most frequently cited reasons for admission denial were  
4 externalizing behaviors such as aggression, and an  
5 inability to meet the health needs of the youth. A few  
6 states noted that prior placement disruption or repeated  
7 moves among foster care placement as a barrier to accessing  
8 residential treatment services. Frequent changes in  
9 placement may affect continuity of care by interrupting  
10 home, school, and community behavioral health treatment.

11 States and the DOJ reported that many youth with  
12 behavioral health conditions are able to receive treatment  
13 in their homes, schools, and communities, but that states'  
14 failure to ensure access to HCBS leads to unnecessary and  
15 sometimes prolonged placement in institutional settings,  
16 including residential treatment facilities. For example,  
17 one state reported that youth waited, on average, nearly a  
18 year for targeted case management services. Another report  
19 noted that "segregated settings are frequently seen as the  
20 only option for children with behavioral health  
21 disabilities, because the state fails to ensure access to  
22 community-based services that could prevent

1 institutionalization.

2           Children experience avoidable and often repeated  
3 hospitalizations. Children who experience the cycle of  
4 repeated hospitalization are frequently sent to long-term  
5 placements in residential treatment facilities. Many of  
6 these residential treatment facilities are outside the  
7 state, exacerbating the harms of segregation.”

8           Avoidable initial placement and continued stay  
9 constrains that availability for in- and out-of-state  
10 providers. A residential treatment facility may be well  
11 matched to meet the needs of the youth with complex  
12 behavioral health conditions, but be unable to serve them  
13 because all of the licensed and staffed beds are already  
14 occupied, including those occupied by youth who could have  
15 avoided this level of care if HCBS were readily available,  
16 and those occupied by youth unable to be discharge, which I  
17 will discuss next.

18           DOJ and state reports commonly found increasing  
19 lengths of stay in residential facilities, including  
20 periods where the youth remain in the facility beyond  
21 medical necessity, that is, the youth continues to reside  
22 in a residential facility even after a clinical team deems

1 the level of care is no longer necessary to continue safely  
2 treating the youth's behavioral health condition. Such  
3 prolonged and unnecessary admission limit the ability of  
4 referring providers and agencies to admit and treat other  
5 youth. Such youth could be served in less-restrictive  
6 settings, but the provider, and the state for youth under  
7 the care and custody of the child welfare agency, are  
8 unable to find appropriate community-based care and a  
9 supervised living arrangements with kin or foster family.  
10 Youth who are discharged to temporary or inappropriate  
11 placements and experience discontinuity of care are at risk  
12 of readmission, which may strain limited residential bed  
13 capacity.

14           Barriers to finding appropriate placement and  
15 care prior to discharge included intellectual and  
16 developmental disabilities, aggressive behavior, and  
17 extensive wait lists for home and community-based services.

18           Discharge planning is further complicated when a  
19 youth has been placed out of state. Caregiver engagement  
20 is significantly associated with positive treatment  
21 outcomes during and following treatment. When youth are  
22 placed out of state, the distance between the youth and



1 family may make it difficult for caregivers to engage in  
2 treatment, treatment planning, and care coordination to  
3 reintegrate the youth into their home, community, and  
4 school.

5           A few states also noted difficulty in obtaining  
6 real-time information on bed availability. Youth who  
7 experience a behavioral health crisis or exacerbation of  
8 symptoms may be transported to the emergency department.  
9 If the youth does not meet the medical necessity criteria  
10 for an acute hospital admission but does require intensive  
11 treatment, the ED may refer the youth for treatment in a  
12 residential facility. The ED much search, often by  
13 telephone, for an open-bed in a facility and then must  
14 apply for admission. This is a laborious process where the  
15 youth can wait for days before an appropriate placement is  
16 located, and safe, supervised transportation arranged.

17           According to the Joint Commission, this ED  
18 boarding increases "psychological stress on patients who  
19 may already be depressed or in psychotic state, delays  
20 mental health treatment that could mitigate the need for a  
21 mental health inpatient state, consumer scarce ED  
22 resources, worsens ED crowding, delays treatment for other

1 ED patients, some of whom may have life-threatening  
2 conditions, and has a significant financial impact on ED  
3 reimbursement."

4           Staff are beginning state and stakeholder  
5 interviews which will continue through the fall and winter  
6 of 2024. We plan to return after the new year with a panel  
7 discussion on appropriate access to residential treatment  
8 for youth with behavioral health needs. Following that  
9 panel, staff will share findings from our interviews with  
10 states and experts in the spring of 2025. During this  
11 meeting we welcome your questions on the federal and state  
12 reports, and if there are specific topics that would help  
13 the Commission inform your consideration of the issues  
14 related to appropriate access to residential services for  
15 Medicaid enrolled youth.

16           VICE CHAIR DUNCAN: Thank you very much, Melissa.  
17 I had shared earlier, during break, that of all the topics  
18 in my three years of serving as a MACPAC Commissioner, this  
19 is one that has generated calls and emails and word on the  
20 street from state officials, hospital officials, and more  
21 importantly, families that have been experiencing some of  
22 the things you just discussed. So thank you for sharing

1 the new findings, and with that I'll open up questions or  
2 comments from our Commissioners.

3 COMMISSIONER ALLEN: Thank you so much for this  
4 work. I thought it was an excellent compilation of what's  
5 out there, which is not enough information. And I find it  
6 to be such a particularly troubling situation.

7 From a personal level, I started my career  
8 working in residential treatment, and then went on to get a  
9 master's degree to become a social worker. And as the  
10 years have gone by, I often think of the three years that I  
11 worked there with a lot of shame. I think of all the kids  
12 that were put in restraints. I think of the kids that were  
13 sent in from other states, some of them kidnapped in the  
14 middle of the night by strangers and put on a plane. Some  
15 of them basically exiled from their states until they  
16 turned 18 and would then just be discharged to nowhere.  
17 Kids that got a lot better and then we just kept, because  
18 we didn't know what to do with them, for six months, a  
19 year.

20 I think of how they weren't allowed to date, and  
21 if they tried to date it could sometimes be even labeled  
22 grooming behavior. That they weren't allowed to form close

1 friendships because we didn't allow cliques. And thinking  
2 of how that was how these adolescents spent years of their  
3 life, thinking about how few of them went to school during  
4 the day, and how inadequate the school was, and what that  
5 means for the rest of their life. This just total losing  
6 out on social, developmental, academic milestones that they  
7 should be participating in.

8           And then I also think of it as a parent who has a  
9 kid with a significant mental health issue and how, in  
10 desperate times, when we were wondering if we could keep  
11 our kid safe at home, we were desperate for a place that  
12 had 24-hour people awake and watching, and that wasn't a  
13 hospital, there really was no treatment.

14           And so I really feel for these kids, and I feel  
15 for these families, and just the pervasive sense that I got  
16 reading the report was that this is, out of all the things  
17 we talk about in MACPAC, this may be one of the most wrong  
18 things I've ever seen. You know, I don't know even how to  
19 interpret disparities, because on one hand, as a parent  
20 navigating the mental health system, with excellent  
21 insurance, but finding that almost everything was out of  
22 reach. So you would then think that disparity is if people

1 are underrepresented in treatment, because obviously access  
2 is an issue. But on the other hand, what does it mean when  
3 kids are overrepresented in that system, considering the  
4 outcomes associated with losing years of your life in a  
5 treatment program like that.

6 And I'm desperately hoping that since I was an  
7 early social worker that things have changed, but then as I  
8 read through the report I'm like, it hasn't. It's just as  
9 traumatic. It is so traumatic.

10 So I don't even know, you know, partly, I think  
11 we really should have like a conversation about how we're  
12 going to think about disparities, how we're going to think  
13 about access. I think we just really need to figure out  
14 what we mean by that.

15 And then I think that this seems like an area  
16 that desperately requires innovation and new solutions, new  
17 options, new approaches. And I know that there are  
18 innovation waivers for a lot of different populations or  
19 special issues in Medicaid, whether there are any states  
20 that have created an innovation waiver around acute mental  
21 health, which could include inpatient hospitalizations.

22 And I hope that we really continue to look at

1 this issue and hopefully come up with some recommendations,  
2 because I think it's so important. Thank you.

3 VICE CHAIR DUNCAN: Thank you, Heidi. Anyone  
4 else? Patti.

5 COMMISSIONER KILLINGSWORTH: I won't be nearly as  
6 eloquent, I think, as Heidi was, but I will say that I  
7 think back on my 25 years in state government, so many of  
8 the conversations that I had at the very beginning of my  
9 career were the same conversations that I still have at the  
10 end of my career, as it related to behavioral health, both  
11 for children and for adults, and specifically for certain  
12 subpopulations, which made it even more challenging, and  
13 specifically people with intellectual and developmental  
14 disabilities.

15 I agree with Heidi that it is an area where  
16 innovation is desperately needed. Again, when I think back  
17 on 2 1/2 decades that this is an area that seems to have  
18 advanced the least in terms of what we know and understand  
19 about effective treatment models, in terms of a continuum  
20 of options, in teams of a real focus on continuity in  
21 community, and ideally, in families when we're talking  
22 about kids, for sure. Astonishing that we have so little

1 information about outcomes and efficacy in an area that's  
2 so incredibly critical.

3           And so I know this is specifically about  
4 residential treatment centers. I know we are also looking  
5 kind of beyond at the continuum. I'm trying to stay  
6 focused, but I think it's really hard to stay focused,  
7 because as a practical matter, if we're not careful  
8 residential treatment, as Heidi said, becomes a place where  
9 kids go and they stay, and they never leave and come back  
10 home, or they don't leave and go into sort of a less  
11 intensive but equally effective form of treatment that  
12 allows them to continue to live in the community.

13           So I think we have to think about this in the  
14 context of a continuum of care that is always focused on  
15 more integrated -- integrated into school, integrated into  
16 family, integrated into community -- and what we can do to  
17 really help people, help young people have the support that  
18 they need when they're young, and so hopefully they don't  
19 carry many of the same challenges with them into adulthood.

20           I think we have to continue this work. I think  
21 we need to press for real data and real accountability for  
22 the way that care is delivered, and quite frankly, real

1 access, because access that is only available in another  
2 state, away from your family, and that not enough of the  
3 time leads people to actually get better and go back to  
4 their lives again isn't meaningful access.

5 VICE CHAIR DUNCAN: Thank you, Patti. I've got  
6 Sonja, Angelo, and then Dennis.

7 COMMISSIONER BJORK: Thanks. I would like to see  
8 some of the stakeholder interviews and follow-up research  
9 really focus on some of the tribal and Native American  
10 programs that are out there and might offer some really  
11 good information or best practices. And then I also always  
12 very much like to see the rural lens, because access is  
13 hard for pretty much everything. So many rural  
14 communities, they're so creative and innovative in ways  
15 that they find to take care of families and children, but  
16 they need support. So what is it that we can do to promote  
17 models that really help rural residents, rural children and  
18 families.

19 VICE CHAIR DUNCAN: Thank you, Sonja. Angelo.

20 COMMISSIONER GIARDINO: Thank you, Melissa. One  
21 thing I would ask in terms of our work is what is the  
22 conceptual framework that's operating in this area? So for



1 example, in some of the work that I've done with providers  
2 that do mental health, restraint and seclusion is really  
3 viewed as something that's not cool, and the better systems  
4 can really reduce the need for restraint and certainly for  
5 seclusion.

6           So with residential treatment, are there certain  
7 states that seem to have embraced a model that uses, let's  
8 say, home and community-based services to the extent that  
9 they really don't need much of a residential treatment  
10 alternative? So could we find those best practices and  
11 find out what they did so that they don't need to be  
12 sending tons of kids out of state for residential  
13 treatment, and they handle these really high-risk  
14 situations in a different way?

15           I'd really be interested, what is the current  
16 theoretical framework among professionals who work with  
17 these kids so that they don't need residential treatment.  
18 I assume there are some states that are quite good at  
19 avoiding the need for residential treatment for the  
20 children that they're responsible for, and that there are  
21 some states that are really at the other extreme, where  
22 their network of services, their system of care just

1   falters, and they have, on a population basis, a number of  
2   kids, and when compared to those other best practices in  
3   those other states that it's really an outlier.

4               So if we could really understand what the right  
5   thing is. I don't want to, I guess, kind of just be kind  
6   of a pedestrian in this area, and say, you know,  
7   residential treatment is bad, it's awful, it's warehousing  
8   kids. That is my perspective, but I don't know how well  
9   that's informed. And are there best practices where you  
10   can really serve these kids and not need residential  
11   treatment. And should our goal be that for the most part  
12   you don't need residential treatment in your system of care  
13   because the best practices drive you away from that  
14   practice, much like in a mental health facility. It really  
15   is viewed as a failure if you have to use restraints  
16   inclusion. Thank you.

17              VICE CHAIR DUNCAN: Thank you, Angelo.

18              Dennis?

19              Oh, go ahead, Melissa.

20              MS. SCHOBBER: I was just going to say, very  
21   briefly, so in the last month's memo in September, there  
22   was a reference to the community-based alternatives to

1 psychiatric residential treatment facility demonstration  
2 that had occurred with the, I believe, nine states over a  
3 decade now. Some of those states have sustained  
4 investments in their system of care and have reduced the  
5 use of residential treatment through things like a blended  
6 and braided approach to funding, increased funding for  
7 mobile crisis response, so that when a young person  
8 experiences a disruption or exacerbation of symptoms,  
9 they're treated in their home and community and avoid the  
10 ED, which can lead to residential treatment.

11 Certainly, in stakeholder interviews, we'll be  
12 asking about those opportunities and challenges in terms of  
13 residential treatment, partially as some of the other  
14 Commissioners have raised, to explore solutions that are  
15 good for rural communities, Indigenous and Tribal  
16 communities and other states, since I would expect but do  
17 not yet know that those solutions and practices probably  
18 vary by the population of young people to be served.

19 COMMISSIONER GIARDINO: Thank you, Melissa.

20 And, again, I take from what you're saying there,  
21 there really is kind of a model system and a system-of-care  
22 best practice that I would love to see how much evidence we

1 have that would support us embracing that.

2           And, again, you know, listening to Commissioner  
3 Allen, as a pediatrician, any approach to a system of care  
4 that interrupts children's ability to develop their full  
5 potential is really -- should be verboten. I mean, you  
6 know, we shouldn't be saying, you know, it's tough to take  
7 care of these kids, so residential treatment is okay. If  
8 that interrupts their normal developmental process, then  
9 they're not able to develop fully. So that should actually  
10 be kind of a red flag, and Medicaid should probably not pay  
11 for that service. And the state should be really  
12 encouraged to embrace things that allow children to develop  
13 fully and not interrupt their development so that we can  
14 control their behavior until they're 18 and then discharged  
15 to nowhere.

16           Thank you.

17           VICE CHAIR DUNCAN: Thank you, Angelo.

18           Dennis, then Mike.

19           COMMISSIONER HEAPHY: Thank you.

20           Thanks for that report. It was -- I found it  
21 overwhelming, to say the least, and it seems like the  
22 responses from other Commissioners, they were somewhat

1 overwhelmed by it as well.

2           And I'm wondering, from your perspective,  
3 greatest hope in terms of areas we should focus on in data  
4 collection? Because there's so much that needs to be done  
5 in terms of collecting appropriate data to track what's  
6 going on in the states and the quality of care these kids  
7 are receiving. That's my first question.

8           MS. SCHOBBER: Thanks for that. I think, not to  
9 oversimplify, but any data collection or regularized data  
10 collection would be an improvement over what we have now.

11           So, as I talked about in September last month,  
12 there isn't a national survey that adequately tracks all  
13 young people. So understanding with a routinized  
14 definition so that it's measured across all states in an  
15 identical form and function, which young people are  
16 accessing residential treatment not only within PRTFs,  
17 psychiatric residential treatment facilities, but also  
18 other kinds of residential treatment facilities would be a  
19 useful first step to understand access issues and to  
20 understand the age, demographics, and functional  
21 characteristics of young people who are receiving the  
22 services since we know so little now.

1           COMMISSIONER HEAPHY: Thanks. That was my  
2   takeaway is we need a national system of definitions and  
3   data collection to start. It's just like what should be  
4   collected in the data, kind of lost that.

5           But there's also things in terms of diversionary  
6   services and starting, like, higher up in the chain and  
7   start with peer services, respites, and then short of a  
8   hospital or residential treatment center, short-term stays  
9   at treatment centers in state, similar to what we have for  
10   adults. Why can't there be something tailored for youth  
11   that's very similar so they don't have to be taken out of  
12   their communities and places that people can go before they  
13   have an exacerbation of their condition, where they can  
14   say, hey, I'm feeling like I'm going to have something  
15   going on, I need to go somewhere? And then they can  
16   voluntarily just go to a short-term-stay place in the  
17   community, and they come out. And so it's a normalization  
18   of the symptoms they're experiencing, what it means to have  
19   a mental health condition or behavioral health need.

20           I've just seen that with folks in my life. The  
21   more we normalize folks and what they're experiencing and  
22   enable folks and encourage folks to just get treatment as

1 part of their everyday life activities, the less  
2 stigmatizing it is, the less traumatizing it is, the less  
3 they need for the high-level intensive treatment. And I  
4 just don't think out-of-state treatment should be allowed  
5 at all, particularly if there's no oversight. It's just  
6 unconscionable. So thanks.

7 VICE CHAIR DUNCAN: Thank you, Dennis.

8 Mike and then John and then Heidi.

9 COMMISSIONER NARDONE: I was just going to -- a  
10 couple of folks have mentioned kind of better understanding  
11 what some of the innovative service models are. I think  
12 some folks mentioned states that are doing a lot of this  
13 area. I'd actually be interested also in specific models  
14 at the provider level that have been effective in terms of  
15 basically allowing folks to remain in their homes and  
16 communities with a particular focus on some of the  
17 populations that you identified as being hardest to place  
18 in state, meaning folks who have IDD and also behavioral  
19 health needs.

20 I also would like to understand are there models  
21 of both providing services that allow folks to remain in  
22 the community or to remain in residential treatment

1 services for as little time as possible, institutional  
2 services, as well as potential models that allow folks to  
3 transition back home to their home state, again, with a  
4 particular focus on that population or those populations  
5 that are most susceptible to the out-of-state placement.

6           And I guess the other thing that I'm just curious  
7 about is, how do those models then fit with some of the  
8 requirements around Medicaid? So I'm thinking about, you  
9 know, it's only been recently that crisis services have  
10 actually been -- mobile crisis as an actual service that's  
11 recognized under Medicaid, right? I mean in the history.

12           People could cover it, right? But they were  
13 covering it through residential, through rehab services.  
14 So I'm wondering if there are other barriers or policy  
15 limitations that once we've kind of looked at these  
16 innovative models, what are the things that maybe Medicaid  
17 needs to do to allow these models to be more ingrained in  
18 the Medicaid program? And maybe we have all the tools, and  
19 there's nothing that needs to be done. It can all be done  
20 under HCBS. But I think just kind of understanding if  
21 there are limitations that maybe we could comment on.

22           VICE CHAIR DUNCAN: Thank you.



1 John?

2 COMMISSIONER McCARTHY: On this one, this is more  
3 for us in thinking of these things. I've heard a number of  
4 comments in which I agree with. We definitely do need to  
5 focus on home- and community-based services, crisis  
6 services, and doing everything you can up front.

7 Having said that, there is still -- I mean, we're  
8 -- humans are complicated, right? And so you can't just  
9 say we're going to totally eliminate something. There  
10 still might be a setting where you cannot help a child, and  
11 maybe residential is the only way to help them.

12 And, you know, the examples that I ran into here  
13 in D.C. when I was Medicaid director and in Ohio were very  
14 different. In Ohio, we had no PRTFs. There were zero  
15 PRTFs. They were concerned about putting kids --  
16 institutionalizing kids. So we really did focus on home  
17 and community services, but there were still some number of  
18 kids at any point that we were sending out of state. And  
19 it was like, you know, for a program that had close to a  
20 million kids in it, we would be sending, like, at any time,  
21 seven to ten out of state. But, you know, there still  
22 would be.

1           And those kids had such pervasive problems of  
2   there might be a fire starter. We had nobody in the state  
3   of Ohio. There wasn't so many kids that we were sending  
4   out. It might be one or two. You couldn't have a provider  
5   in Ohio that could specialize in that because it was so  
6   uncommon. So we also have to think about how many kids  
7   have some of these issues, and then how do we deal with  
8   that, and then how do we do the oversight of that? How do  
9   we have quality oversight of those things? So that's one  
10   issue.

11           The second issue -- and I saw both in D.C. and  
12   Ohio -- was there are just some times where there is zero  
13   family engagement, for whatever reason, and sometimes it's  
14   because it's been hard. So there's no place for this kid.  
15   Where they're living at home is not a very great place to  
16   be for various reasons. And so what do you do with those  
17   situations?

18           And sometimes they end up in residential for some  
19   period of time and then come back to a foster care system  
20   who may or may not be able to handle them either. Also,  
21   another issue.

22           So, as a part of looking at this, I don't want us

1 to get off the track of just saying, oh, PRTFs are bad, and  
2 so it's like that's it. They're out of the picture. I  
3 still think we need to focus on what we had started  
4 focusing on, which is payment rates, oversights, that  
5 piece, at the same time, looking at the other piece,  
6 because it's complicated. It's very complicated.

7 Just so everyone knows, I agree with Heidi too.  
8 I've seen also the terrible sides of these things, and we'd  
9 be bringing kids back. And you were like, hey, that  
10 provider was terrible, and we would turn that provider off.  
11 We would say we're not sending them there anymore. We  
12 report it to that state and say, hey, these bad things  
13 happened. And sometimes those providers got shut down;  
14 s\Sometimes they didn't. So it's a very complicated issue.  
15 I don't want us to view it as, oh, this is pretty  
16 simplistic. We just do this one thing. It is quite  
17 complicated.

18 VICE CHAIR DUNCAN: Thank you, John. I  
19 appreciate, again, bringing in the reality.

20 And Heidi?

21 COMMISSIONER ALLEN: Thank you again. Of course,  
22 I always think of things I forgot.

1           I want to know a little bit more about the  
2 "finding a bed" situation. As I read that, like, there's  
3 no way to know if somebody has a bed. I'm like, oh, if  
4 only something like a computer existed. I mean, thinking  
5 of the things that we can do with AI right now and yet you  
6 need somebody to go into like a phone book and call people  
7 and say, "Do you have a bed?"

8           But some of that's on purpose. Some of that's on  
9 purpose, because when I worked in admissions for an  
10 inpatient psychiatric hospital, we were taught to try to  
11 prioritize people with commercial insurance. So, if we had  
12 a bed that looked like it was going to be opening up, we'd  
13 start making a list, and we would make the list and  
14 prioritize based on who we thought would stay the longest  
15 and who had commercial insurance. And that's just the  
16 reality.

17           So what we had is we had the state buying beds.  
18 So the state essentially had something in the contract  
19 where they got so many beds. Then what people were waiting  
20 for was a Medicaid bed, and I'm curious of how often that  
21 currently happens. Is it a Wild West queue? Are  
22 commercially insured kids pushing out kids with Medicaid?

1 So that's one question that I wanted to add to the list.

2           And then the other thing is thinking on that  
3 continuum of care, there's the acute hospitalization, which  
4 many kids go to first, which when I first started working  
5 in acute mental health for kids was actually pretty long.  
6 The average length of stay was about 30 days, which, you  
7 know, not great, but it's at least time to try some meds,  
8 see if they're working.

9           And now I think the average length of stay is  
10 between seven to ten days, and when my kid was  
11 hospitalized, they basically did nothing in that time  
12 because there's nothing to do. The kid just sits there in  
13 the room alone and does nothing.

14           So I think that that part of the continuum of  
15 care is just -- it's a holding cell until either the kid is  
16 willing to say, "I'm safe, and I'll go home. And I'll be  
17 good." The parents are willing to say, "We'll take them  
18 home. This is terrible. I don't want them to stay in this  
19 condition," or they're able to find somewhere else to go.  
20 But most of the time, I think they're usually discharged  
21 from home, and if they need something else, they're on  
22 their own to find it.

1           And then that discharge into where, there's  
2   partial hospitalization. Are kids with Medicaid able to go  
3   into partial hospitalization? There's for the kids that  
4   nobody will pick up, because I know that some parents feel  
5   like they have to refuse to pick up their kids in order for  
6   their kids to get treatment.

7           If I pick up my kid, we'll be left alone entirely  
8   to deal with this problem on our own again. So I'm going  
9   to say I'm not going to pick them up. That way, they can  
10   stay and get treatment. Is there group homes that Medicaid  
11   pays for that people could go to before they're ready to go  
12   home, rather than going into the foster care system, which  
13   requires parents to give up custody?

14           So I'm interested in those two immediately  
15   pre/immediately post kind of transitions too.

16           VICE CHAIR DUNCAN: Thank you, Heidi.

17           Anyone else?

18           [No response.]

19           VICE CHAIR DUNCAN: Melissa, again, I think you  
20   hear the passion and interest.

21           Oh, Adrienne, okay. Thank you, Adrienne.

22           COMMISSIONER McFADDEN: Just figured I'd wait

1 until the last minute to throw you off, Bob.

2           So I think that the comment I had was actually  
3 spurred by John's comment, and so I think they're -- I am  
4 really interested in sort of making sure that we get back  
5 to sort of the reimbursement rates as well. I do believe  
6 that John has had a really valid point, and there may not  
7 be a specialist for those really special needs. But there  
8 are models out there for high specializations where you can  
9 get some cross-training so that those states with limited  
10 access can start to upskill their providers that are in  
11 state. And are there opportunities to have innovative  
12 models to be able to incentivize providers to do so?

13           Similarly, when the youth are actually sent out  
14 of state, I would think it's actually really hard to send  
15 them back to their state of residence for a less  
16 restrictive setting, particularly because institutions are  
17 used to working with institutions in their own state. And  
18 so I think that's also something that I would like to  
19 explore a little bit more around sort of the networks of  
20 sort of where they're repatriating into least restrictive  
21 settings even out of state.

22           VICE CHAIR DUNCAN: Thank you, Adrienne.

1 John?

2 COMMISSIONER McCARTHY: I want to go back to that  
3 out-of-state definition that we have. I know Dennis said  
4 earlier nobody should go out of state, but I think what he  
5 really means is people -- I won't speak for Dennis, but  
6 sending people far away from their homes.

7 So, for example, if the state of Ohio only had  
8 one PRTF and it was in Columbus and the child lived in  
9 Cincinnati and there was a PRTF that they needed to go to  
10 and it was in northern Kentucky, it would be 20 minutes  
11 away versus two hours away in Columbus. So an out-of-state  
12 placement may be better than an in-state placement,  
13 depending on location.

14 So this goes back to one of the things we had  
15 asked earlier. Is there any way we can get a map of where  
16 these facilities are?

17 MS. SCHOBBER: So we have a list from CMS of  
18 psychiatric residential treatment facilities, which are  
19 just one type of residential provider. So it's possible to  
20 highlight which states have PRTFs, but I do not know of any  
21 source that comprehensively collects all residential  
22 treatment settings because, again, like Ohio, although now



1 they've added PRTFs, but not all states have PRTFs. And  
2 even when they have PRTFs, children sometimes accrue to  
3 other residential treatment settings. So, unfortunately,  
4 there's no way for me to provide you a map that would be  
5 comprehensive of all residential treatment facilities  
6 across the nation.

7           Certainly, one of the state reports that was  
8 highlighted in the memo for the Commission this month noted  
9 that because it was a geographically small state, that  
10 there were neighboring residential facilities, including  
11 PRTFs, where children sometimes went because they were, in  
12 fact, geographically closer to home.

13           I think understanding some of the discussion from  
14 last month and this month, the concern, if I'm hearing  
15 feedback correctly, is about young people who are sent  
16 quite far from home and to your point about those young  
17 people being repatriated or reintegrated to their home and  
18 community when they've been at a great geographic distance.

19           VICE CHAIR DUNCAN: Anything else, John?

20           [No response.]

21           VICE CHAIR DUNCAN: All right. Dennis?

22           COMMISSIONER HEAPHY: Just a quick response to

1    what John was saying.  I definitely think geographic  
2    distance is a huge factor.

3                   But I'm also wondering this -- and I'm totally  
4    ignorant on this, but if laws are different in one state  
5    from another, does a child lose some of the rights?  Do  
6    those rights change to the family and access to that child  
7    in another state?  Because they'll say, "Well, we don't do  
8    things that way in Kentucky," "We don't do the things that  
9    way in Connecticut," whatever state it may be that's not  
10   the state the child's coming from.  So is there a shift in  
11   what the person's rights are, what the family's rights are,  
12   once they go from one state to another?  So that would be  
13   my concern, going from one state to another.

14                  VICE CHAIR DUNCAN:  Thank you, Dennis.  
15                  Heidi?

16                  COMMISSIONER ALLEN:  I will note that that's  
17   absolutely true, and I think the number one difference in  
18   rights is that some states require a child to consent to  
19   residential treatment if they're of age of consent.  Like,  
20   I think is 14 and above maybe in Washington state, which is  
21   why kids are kidnapped from their home and flown to states  
22   where they can't consent.

1           So some of it is very deliberate effort to take  
2 kids to a state where they have fewer rights than in the  
3 states where they reside. I don't know how that intersects  
4 with Medicaid, honestly.

5           VICE CHAIR DUNCAN: Thank you, Heidi.

6           As I was saying, Melissa, you can hear the  
7 passion and interest in this topic. I think you've got a  
8 lot there. But I'd just like to add my two cents worth  
9 here at the end.

10           You ask about a panel discussion, and I know this  
11 is a lot. But I think you've got to include particularly  
12 what I consider the safety net hospitals, where a lot of  
13 these patients get stuck, and that's children's hospitals  
14 and adult public hospitals.

15           The other is the states. I love that both Mike  
16 and Heidi mentioned, are there innovations taking place?  
17 But I'd like to hear from states that are doing innovative  
18 things, as well as states and their frustration, because  
19 that's what I've gotten since our first pane, is hearing  
20 from states who want to do something, want to figure a  
21 better path, and struggling.

22           And what I think is one of the most important is

1 to interview and talk to families who have gone through  
2 this at the risk of having to put their kids in the foster  
3 care system to get the access to services and what that  
4 means to them and what they're dealing with, because I  
5 think it's important to hear from their perspective of what  
6 we're seeing and hearing.

7           So, Melissa, thank you again for a job well done.  
8 I, like Heidi, when I read the report, I was extremely  
9 dismayed to see that much has changed in my experience in  
10 20-something years of dealing with the system. But this is  
11 important. So thank you.

12           And with that, Madam Chairwoman, I turn it over  
13 to you for public comment.

14           CHAIR JOHNSON: Thank you. Thank you again,  
15 Melissa. Thank you, Bob.

16           All right. Let's go ahead and move into our  
17 final public comment for today. So, as we said earlier, if  
18 you have a comment that you would like to share, please  
19 raise your hand and we will unmute you. You'll need to  
20 introduce yourself and the organization you represent, and  
21 again, you will have three minutes or less to provide your  
22 comments. So let's see.

1   **###           PUBLIC COMMENT**

2   \*           [No response.]

3               CHAIR JOHNSON: All right. We do not have any  
4 public comments right now, but again, if you think of one,  
5 please feel free to go to our website, our MACPAC website,  
6 and provide your comments there.

7               With that, I think we've reached the end of our  
8 day. I think it's been a very productive day, definitely  
9 one with a lot of information that we learned, we've  
10 shared, and we're looking forward for our conversations  
11 tomorrow that will begin promptly at 9:30 a.m. So we'll  
12 see you tomorrow. Thank you.

13 \*           [Whereupon, at 3:31 p.m., the meeting was  
14 recessed, to reconvene at 9:30 a.m. on Friday, November 1,  
15 2024.]

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PUBLIC SESSION

Ronald Reagan Building and International Trade Center  
The Horizon Ballroom  
1300 Pennsylvania Avenue, NW  
Washington, D.C. 20004

Friday, November 1, 2024  
9:30 a.m.

COMMISSIONERS PRESENT:

VERLON JOHNSON, MPA, Chair  
ROBERT DUNCAN, MBA, Vice Chair  
HEIDI L. ALLEN, PHD, MSW  
SONJA L. BJORK, JD  
TRICIA BROOKS, MBA  
DOUG BROWN, RPH, MBA  
JENNIFER L. GERSTORFF, FSA, MAAA  
ANGELO P. GIARDINO, MD, PHD, MPH  
DENNIS HEAPHY, MPH, MED, MDIV  
CAROLYN INGRAM, MBA  
PATTI KILLINGSWORTH  
JOHN B. MCCARTHY, MPA  
ADRIENNE MCFADDEN, MD, JD  
MICHAEL NARDONE, MPA  
JAMI SNYDER, MA

KATHERINE MASSEY, MPA, Executive Director

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# PROCEEDINGS

[9:30 a.m.]

3 CHAIR JOHNSON: Good morning, good morning, and  
4 welcome to our second day for our October MACPAC meeting.  
5 Our first session today will focus on Medicaid managed care  
6 external quality reviews, or EQR as we call it, policy  
7 options. And so I will turn it over to Allison, our  
8 principal analyst, and Chris, our policy director, to tell  
9 us more. Thank you.

10   ###           MANAGED CARE EXTERNAL QUALITY REVIEW POLICY

11                   OPTIONS

12 \* MS. REYNOLDS: Good morning. Thank you,  
13 Commissioners. Today we'll continue our discussion of  
14 Medicaid managed care external quality review from  
15 September's meeting.

16           This presentation will begin with a quick recap  
17 of the external quality review process, or EQR as it's  
18 known. We'll then review the study we conducted and what  
19 this study revealed in terms of limitations and challenges  
20 with the EQR process, accounting for the impact of the 2024  
21 Medicaid managed care rule. Next, we'll present three  
22 policy options intended to further improve the EQR process



1 and beneficiary access to quality care. We'll conclude  
2 with next steps in light of today's discussion.

3 Let's briefly review the key elements of the EQR  
4 process relevant to our study findings and policy options.

5 This graphic illustrates managed care quality  
6 oversight at a high level, specifically how the regulatory  
7 requirements of quality strategies, quality assessment and  
8 performance improvement plans, and EQR are interrelated.  
9 For the purpose of today's discussion, we will be paying  
10 special attention to the part of the cycle where feedback  
11 from a state's EQR Annual Technical Report should be used  
12 by the state Medicaid agency to inform their review of and  
13 updates to their quality strategy.

14 Of all of the concepts involved with external  
15 quality review, our focus today is on two specific  
16 elements: one, the role CMS plays through development of  
17 EQR protocols for each activity that guide the state-  
18 contracted external quality review organization in  
19 performing its work, and two, the Annual Technical Reports  
20 that states must publish of all EQR activities conducted by  
21 their EQRO the previous year.

22 After the publication of the managed care final

1 rule earlier this year, CMS has specified four mandatory  
2 EQR activities that states with qualifying managed care  
3 plans must conduct and seven optional activities that  
4 states may choose from. Today we will be particularly  
5 interested in opportunities to improve mandatory compliance  
6 activity 3, the triennial compliance review.

7 CMS provides technical assistance to states,  
8 EQROs, and managed care plans with EQR protocols. These  
9 protocols provide states and EQROs with the purpose of each  
10 activity, acceptable methodologies to conduct each  
11 activity, and offer practical tips, suggested questions,  
12 and best practices. CMS issued the first set of protocols  
13 in 2003, and the current versions were issued in February  
14 of 2023. CMS is required to review the protocols and make  
15 necessary revisions every three years or when new  
16 regulatory changes require updates. Therefore, CMS will  
17 need to update the protocols in response to the 2024  
18 managed care final rule, and states will have one year from  
19 the issuance of the applicable protocol to comply.

20 Once the EQRO has completed the mandatory and any  
21 optional activities for a state Medicaid agency within a  
22 calendar year, the EQRO produces an annual technical report

1 summarizing those activities, each plan's performance, and  
2 the state's managed care program overall. For today's  
3 discussion we will be highlighting the new requirements to  
4 include any outcomes data and results from quantitative  
5 assessments from three of the four mandatory activities in  
6 the Annual Technical Report. We will also focus on the  
7 requirements regarding posting the Annual Technical Reports  
8 online.

9           Now that we've reviewed the EQR process and  
10 requirements let's turn our attention to the study we  
11 conducted and what it revealed regarding limitations and  
12 challenges with the current process.

13           In our prior review of the EQR process we  
14 identified a few limitations and challenges that are listed  
15 here. We will discuss these in greater detail over the  
16 next few slides.

17           The first challenge our study found is the EQR  
18 process and protocols focus on process, not outcomes.  
19 Specifically, the focus has been on validation and  
20 compliance with federal managed care requirements and the  
21 process elements of the CMS-designed protocols. This leads  
22 to findings that report levels of compliance with federal

1 requirements but does not provide more useful information  
2 on actual plan performance and outcomes. Stakeholders we  
3 interviewed told us that when EQR activities are focused on  
4 outcomes they reveal trends in performance that help inform  
5 where to focus resources for improvement.

6 In the 2024 managed care final rule, CMS  
7 partially addressed this concern by requiring outcomes data  
8 to be reported for three of the four mandatory activities.  
9 However, this requirement does not apply to the triennial  
10 compliance review activity.

11 Second, our environmental scan revealed EQR and  
12 state quality strategies are not always aligned. As  
13 discussed earlier, the EQR process is supposed to be  
14 connected to other quality monitoring and improvement  
15 requirements in Medicaid managed care, including the  
16 state's quality strategy. However, our study found this  
17 connection between EQR activities and the state's quality  
18 strategy has been historically limited. Rather than the  
19 continuous feedback loop represented by the earlier  
20 graphic, one interviewee described the EQR process and the  
21 state quality strategy as operating on parallel paths.  
22 Interviewees did tell us that they had recently seen

1 efforts by states to align their EQR activities with their  
2 state quality strategies, and this also appears to be a  
3 growing area of focus for CMS.

4 Third, states vary on enforcement of EQR  
5 findings. Since state Medicaid agencies are not required  
6 by CMS to act on EQR findings, our study found states took  
7 a variety of approaches incorporating findings into their  
8 managed care oversight process. On the passive end of the  
9 spectrum, some states reported simply documenting the EQR  
10 findings. Other stakeholders reported states freezing  
11 auto-assignment of enrollees to plans that perform poorly  
12 on EQR activities, and described this freeze as an  
13 effective action to bring about improvement to a plan.

14 The fourth limitation our study identified is  
15 that CMS oversight of the EQR process appears limited.  
16 Despite the EQR guidance documents and technical assistance  
17 CMS provides to states and EQROs, our study did not reveal  
18 evidence that CMS is utilizing EQR findings to directly  
19 oversee or bring about improvement in state Medicaid  
20 managed care programs. For beneficiary advocacy groups,  
21 this could be described as a missed opportunity for CMS.

22 Our fifth and final challenge with the current

1 EQR process is that Annual Technical Reports are not always  
2 accessible and findings are hard to use. Even with  
3 transparency requirements built into the 2024 managed care  
4 final rule, Annual Technical Reports, as currently  
5 required, do not present their content or findings in a way  
6 that stakeholders reported as digestible or useful. The  
7 lack of an executive summary or a template for the report's  
8 layout or a standardized approach to evaluating plans'  
9 performance were noted by interviewees as challenges with  
10 Annual Technical Reports.

11 Now that we've reviewed the challenges with the  
12 current EQR process let's discuss some options to make  
13 improvements.

14 Here we've identified the five challenges found  
15 by our study, and we have mapped all five challenges to  
16 three policy options. Next, we will review the policy  
17 options one at a time before coming back to this comparison  
18 slide for the Commission to provide us feedback. Overall,  
19 these three policy options seek to shift the focus of EQR  
20 activities from process and compliance to meaningful  
21 outcomes and actionable data, and to improve the usability  
22 of EQR reporting through standardization and summarization.

1 Policy Option 1. Our study found EQR activities  
2 focused on process and compliance rather than plan  
3 performance and meaningful outcomes. This finding was  
4 partially addressed by CMS in the 2024 managed care final  
5 rule. CMS indicated its intention to require outcomes data  
6 be reported in the Annual Technical Report for three of the  
7 four mandatory EQR activities is to make the EQR process  
8 more meaningful for driving quality improvement. However,  
9 CMS did not require this quantitative analysis for the  
10 triennial compliance review activity.

11 A review of the protocol for the triennial  
12 compliance review activity reveals numerous outcomes-based  
13 suggested questions and potentially responsive documents  
14 containing quantitative data. For example, regarding the  
15 availability of services standard, the protocol suggests  
16 asking MCOs how often in the last year has your managed  
17 care plan had to arrange for services or reimbursements to  
18 out-of-network providers. For the coverage and  
19 authorization of services standard, a suggested question of  
20 utilization management staff is what was the volume of  
21 denied claims for emergency and post-stabilization services  
22 in the most recent year.

1           A third example comes from the grievance system  
2 standard, where it is suggested to ask what types of  
3 services require preauthorization, how does your managed  
4 care plan track requests for covered services that the plan  
5 or its providers has denied, and what was the volume of  
6 denied requests for services in the most recent year.

7           Similarly, the 2023 protocol identifies several  
8 applicable plan documents for the EQRO to review, including  
9 measurement or analysis reports on service availability and  
10 accessibility, data on enrollee grievances and appeals,  
11 data on claims denials, and performance measure reports.

12           Based on our study findings and our analysis of  
13 the 2024 managed care final rule our first policy option  
14 is: CMS should amend 42 CFR 438.364(a)(2)(iii) to require  
15 the EQR Annual Technical Report include any outcomes data  
16 and results from quantitative assessments collected and  
17 reviewed as part of the triennial compliance review  
18 mandatory activity specified at 42 CFR 438.358(b)(1)(iii).

19           Policy Option 2. We believe our second policy  
20 option addresses all five challenges identified by our  
21 study. CMS gives states flexibility in the way states  
22 evaluate their plans' performance during EQR activities and



1    how they report those results. Stakeholders reported to us  
2    flexibilities in these particular areas make it difficult  
3    to identify key findings and place plan performance in  
4    context. Stakeholders indicated the desire for an EQR  
5    process that balances flexibility with standardization and  
6    consistency.

7            There are several design considerations where  
8    standardization could be implemented. For example,  
9    identifying KPIs of plan performance and standardizing the  
10   reporting of these KPIs. Also, CMS creating a standardized  
11   template for an executive summary of key findings and  
12   recommendations.

13           Revisions to the EQR protocols, both in terms of  
14   how activities are conducted but also how findings are  
15   reported, could improve the usability of the Annual  
16   Technical Reports for all stakeholders.

17           Our second policy option is: CMS should issue  
18   guidance and protocols to include more prescriptive and  
19   consistent standards for reporting on EQR activities.

20           Policy Option 3. Stakeholders reported that  
21   finding the most recent Annual Technical Reports and  
22   compiling those reports from all 50 state websites is

1 challenging. And while CMS currently publishes summary  
2 tables of Annual Technical Reports, those tables do not  
3 include findings that would allow stakeholders to use the  
4 summaries to assess plan performance. CMS officials  
5 indicated to us that it was challenging to post Annual  
6 Technical Reports on Medicaid.gov currently as the reports  
7 vary from all 50 states and would require resources that  
8 aren't currently available to make them 508 compliant.

9           As we recommended in Policy Option 2, a  
10 standardized template for an EQR Annual Technical Report  
11 executive summary would allow CMS to post 508-compliant  
12 documents for all 50 states. Together, Policy Options 2  
13 and 3 could provide stakeholders access to the key EQR  
14 findings across all states in one central location,  
15 Medicaid.gov.

16           Our third policy option is: CMS should improve  
17 the accessibility of EQR findings by publicly posting the  
18 Annual Technical Reports on Medicaid.gov.

19           What's next? If the Commission decides to move  
20 forward with any of the three policy options, then we will  
21 be back in December with recommendations language, and in  
22 the new year we would review the draft chapter and vote on

1 those recommendations.

2           During this meeting we look forward to the  
3 Commission's feedback to the challenges identified by our  
4 study and the three policy options presented to address  
5 them. Thank you.

6           CHAIR JOHNSON: Thank you, Allison and Chris.  
7 Very helpful. I think that this slide here obviously helps  
8 to show us where each of the different areas can address  
9 the concerns that we had. But I'm wondering, for the sake  
10 of this conversation, if it may be better to go through  
11 each of the different options one by one. So let's go  
12 ahead and go to the first one.

13           MS. REYNOLDS: Sure.

14           CHAIR JOHNSON: Thank you. So I'll open the  
15 floor to the Commissioners, but just keep in mind again,  
16 based on what you've heard today, we need your feedback on  
17 the different options that we potentially would want to  
18 advance, that there are suggested modifications to the  
19 options as written that will be helpful to you, as well.  
20 And again, while we're going through it one by one, it will  
21 be really good to hear collectively your thoughts on if  
22 there are some that may be well-suited to still be together

1 or different combinations. So I'll open up the floor right  
2 now.

3 All right. Tricia.

4 COMMISSIONER BROOKS: Thank you, and I already  
5 was planning to talk on all three before you said one, so I  
6 might be a little out of range here.

7 CHAIR JOHNSON: Please do.

8 COMMISSIONER BROOKS: Thank you for this work. I  
9 was not an interviewee, but honestly, you captured  
10 everything I would've said to you. I have spent a lot of  
11 time trying to help educate the policy and advocacy  
12 community about how you engage and understand where quality  
13 is and what drives quality in the process.

14 Your flow chart, I actually have one similar to  
15 that but it's got a fourth bucket, and that is the RFP  
16 process and procurement, that the quality strategy should  
17 drive that, then you have the quality assessment program,  
18 then you have the evaluation under EQR.

19 So, Madam Chair, if you will forgive me to say I  
20 am in favor of all three, and I won't have to raise my hand  
21 again. Thank you.

22 CHAIR JOHNSON: Thank you so much, Tricia. All

1 right. Next up, Angelo.

2 COMMISSIONER GIARDINO: First, I wanted to say  
3 thank you for what was really an elegant policy analysis  
4 over the last number of months, and this has really  
5 resulted in a real clarity around what the potential  
6 options are. So I think this is a real great case study of  
7 how we do some work, we look at what the literature is, and  
8 then we find an opportunity to perhaps improve the program.  
9 So thanks for that investment of time and effort.

10 I would also speak in favor of all three options  
11 because I think, fundamentally, what you're talking about  
12 is the value of standardizing a reporting mechanism that's  
13 in place for a very good reason. But by standardizing it  
14 we allow stakeholders to really understand the issue much  
15 better across the nation, which is very important. And I  
16 think fundamentally what you're talking about is basic  
17 quality improvement principles, where if you're going to  
18 invest time in a monitoring effort you should do it in a  
19 standardized way that allows comparisons which then could  
20 improvement the program. So aligning what the EQRO is  
21 doing with what the state plan is trying to improve is  
22 useful locally, and then across the country it's great if

1 it's standardized, so we can see if the whole program is  
2 benefitting.

3 So I really applaud your effort, and I will take  
4 my prerogative and say I support all three directions.  
5 Thank you.

6 CHAIR JOHNSON: Thank you, Angelo. We may as  
7 well go to the fuller slide, so let's see that. It looks  
8 like that's the way we're going to go. Patti, how about  
9 you?

10 COMMISSIONER KILLINGSWORTH: So I also appreciate  
11 this great work. It's a complicated subject with a lot of  
12 moving pieces, and I think you've done an excellent job of  
13 laying all of it out for us.

14 I support all three options, but would like to  
15 suggest that we consider a slight modification to Policy  
16 Recommendation 2, which would make sure that it's clear  
17 that as we focus on kind of standardizing some of the  
18 things that we're looking at that we make sure that  
19 stakeholders are a part of those discussions, that feedback  
20 is received from states as well as other interested  
21 stakeholder groups in kind of putting that together.

22 I always worry a little bit about unintended

1 consequences, and one of the examples that you mentioned,  
2 by the number of out-of-network providers that are  
3 approved, that can be a sign of an inadequate network. It  
4 can also be a sign, though, of plan flexibility and really  
5 meeting unique needs and preferences of members. I don't  
6 want to sort of create unintended incentives for a plan to  
7 not be as flexible in allowing out-of-network options if  
8 that sort of becomes an indicator of something that's  
9 perceived to be negative. So I just think a really good  
10 discussion before we begin to standardize is really  
11 important.

12           And then if you could show the slide that sort of  
13 maps the issues to the policy options. It did feel like  
14 there's one thing missing, and that is kind of transparency  
15 around enforcement, and just making sure that we sort of  
16 understand the end of the feedback loop around how when  
17 there are compliance concerns that those really get  
18 addressed and what that really looks like. And if it's  
19 there and I missed it I apologize, but I don't really see  
20 that we've captured that well maybe in the policy options.

21           MR. PARK: Yeah, we can make that clear. I think  
22 part of that is trying to standardize that executive

1 summary. You know, part of the protocol to ask the EQROs  
2 to kind of identify the issues, and then in the next year  
3 kind of report on how the state may have addressed those  
4 issues, state and plans. But sometimes those findings  
5 could be buried and it's not always easy to find. I think  
6 the goal was to kind of have a more standardized summary  
7 that really highlights those key findings, and compliance,  
8 and how the plans and states have addressed it would be  
9 part of that. But we can make that more clear in the  
10 rationale and text.

11 CHAIR JOHNSON: Thank you. John.

12 COMMISSIONER MCCARTHY: This one's hard for me  
13 because I do believe strongly in measurement and using  
14 EQROs to oversee our managed care programs. And I did it  
15 extensively in the places I've worked with. What I kind of  
16 feel with some of our options that we're proposing it's  
17 like that email that goes out to everyone at a workplace  
18 when people are late to work, and you kind of just send it  
19 to everyone, "Hey, it's important that you be on time to  
20 work." And the person who is always late doesn't know that  
21 they're the person always late.

22 So when we talk about standardization there can



1 be good from that, but as Patti said there can also be bad  
2 that comes from it. And we say, oh, we want it  
3 standardized, but I don't know what that standardization  
4 looks like, so it's hard for me to say I agree with that  
5 standardization.

6 And Chris and Allison, this isn't against  
7 anything you've proposed. I'm just saying in general this  
8 is what we run into. Because if we were to standardize  
9 something, obviously I have a bias because being a Medicaid  
10 director twice I would be saying, well, we would want any  
11 Medicaid director's input on what does standardization look  
12 like, not just CMS coming up with a standardization and  
13 having people, you know, what is important on some of these  
14 things.

15 So that's where I get stuck on this is right now,  
16 I can't support 1 and 2 because of that. Again, it's not  
17 that I don't agree that there could be some possibilities  
18 in there. But it feels like there are some states that we  
19 would be punishing who are doing great things, and their  
20 report might be the best, but we would be taking things  
21 away because there's standardization. I know that's not  
22 what we intend to do, but it's one of those unintended

1 consequences.

2           But we do need to get these reports easier to  
3 find, so Option 3, which is having a place that they all  
4 can be, I think is really important. I've been arguing  
5 about this for a long time with CMS of making things easier  
6 to find, and I know we had said that one of the issues is  
7 they're not 508 compliant. Maybe that's one of the places  
8 we start is saying to states you have to make it 508  
9 compliant, and then have it put in a place to say we keep  
10 this all in one place.

11           The last thing I'll say is states are different  
12 and programs within those states are different. So just to  
13 make a blanket statement that, oh, that all EQRO reports  
14 have to be the same for those different programs sometimes  
15 just won't catch the nuance.

16           And I want to go back. We have a lot of  
17 standardized reports at CMS. Mike Nardone and I used to  
18 fight about these things when he was at CMS, even like a  
19 CMS 64 or a CMS 37. Those are all standardized, yet you  
20 would almost argue you can't compare them, because when you  
21 do try to compare them, the data sometimes shows things  
22 that aren't quite true. So it's like then how do you use

1     that data.

2                 I guess I had one more comment, lastly, and this  
3     is just for all the things I said. If we're going to do  
4     things like that, to me it just feels like it's not just  
5     about standardization but then how do we incentivize states  
6     to then do the right thing and make improvements. So again  
7     I'm going to go back to is there something in the future we  
8     look at as a policy option that says if you're not doing  
9     this your FMAP goes down, or if you're doing a good job on  
10    this your FMAP goes up, to provide that incentive for  
11    states to do things. Because there are incentives already  
12    to do EQRO reports, because they're matched at 75/25. So  
13    that's why you often see a lot in EQRO reports. Thanks.

14               CHAIR JOHNSON: Thank you, John.

15               Heidi and then Dennis.

16               COMMISSIONER ALLEN: Well, as a researcher, I  
17    very much support having data that allows you to compare  
18    apples to apples and see how things change over time. Data  
19    without that, and especially with weak evidence that it's  
20    actually being used in a meaningful way, is really not  
21    worth collecting and not worth the investment and energy.

22               So I support all three policy options based on

1 the really good reasons that have already been mentioned,  
2 and I support working through the issues of flexibility and  
3 standardization, so having a mix and having important  
4 stakeholders define what would be standardized in  
5 partnership with CMS.

6           And I really like what sounds to me like what  
7 could be the next work cycle, which is thinking about how  
8 these would be used for contracting and for procurement,  
9 and then also how we measure enforcement. So that seems  
10 like that could be, you know, a next stage body of work if  
11 we do approve these three policy options.

12           But I'm always wary of saying like, "Oh, well,  
13 it's difficult and nuanced, so let's not do it" as a  
14 reason, because yes, it's difficult and it's nuanced, but  
15 it's also not rocket science. There's some very basic  
16 things that we want to know about quality that we should be  
17 able to assess across managed care plans and across time,  
18 and it doesn't have to be super complicated. If we get a  
19 lot of feedback, we can hopefully identify those potential  
20 areas of unintended consequences and avoid them, or we  
21 could have a trial period where you work through some of  
22 these things and see how well they perform. And if they

1 don't perform, then you go back to the drawing table and  
2 come up with other ones. It doesn't have to be a one-and-  
3 done.

4           So thank you for bringing these forward. Thank  
5 you for this great work, and I think that this is a very  
6 productive example of taking an issue and trying to come up  
7 with solutions and then thinking about what the next steps  
8 could be to even make it better.

9           CHAIR JOHNSON: Thank you, Heidi.  
10           Dennis?

11           COMMISSIONER HEAPHY: Thank you.

12           I support all three options, and I will say as an  
13 advocate working in this space, it's very frustrating to  
14 see contract requirements conflated with quality measures  
15 and that focusing on outcomes is critically important.

16           I appreciated John's point about 508 compliance  
17 should be a baseline requirement for states in their  
18 sharing their information, and also, Heidi's point about  
19 the apples-to-apples comparison.

20           I don't view these as making states all comply  
21 with cookie-cutter requirements, but as a baseline that all  
22 states would comply with a certain set of reporting

1 standards on outcomes. And I do think that's really  
2 critically important. I think Patti and Heidi both raised  
3 this as having stakeholder involvement and all stakeholder  
4 involvement engaged in this process to determine what those  
5 actual outcome measures, quality measures, will look like  
6 that are collected nationally.

7           So I'm really excited about this opportunity and  
8 appreciate the work you put into it.

9           CHAIR JOHNSON: Thank you, Dennis.

10          Doug, and then we'll go to Bob.

11          COMMISSIONER BROWN: Allison, Chris, thank you  
12 for the report. Very detailed, very clear.

13          A comment and then a question. I support the  
14 transparency that is required here, and I think several of  
15 these, as we dig into them, several of these options, I  
16 would be in favor of.

17          I want to go back and ask a quick question. You  
18 mentioned that CMS did not require outcomes as part of the  
19 triennial report, if I've got that correct, and the  
20 question is, did you go back or have you had any follow-up  
21 conversation with CMS as to why they didn't include that in  
22 that report and what the concerns were if they shared any

1 of those with you all?

2 MS. REYNOLDS: Sure. Thank you so much.

3 So we -- both in the commentary to the rule,  
4 there was no discussion of why they didn't include it, and  
5 so we did ask that explicit question in follow-up  
6 conversations with CMS. And there was no specific  
7 rationale given.

8 I would say a fair characterization of that  
9 conversation might have been perhaps an intimation that  
10 maybe those kinds of data weren't available in that  
11 activity, and that was one of the reasons that we dug into  
12 the protocol so specifically, to pull out just a few of  
13 many potential questions where there actually are lots of  
14 places already in the protocol that would lend themselves  
15 to gathering that kind of data.

16 MR. PARK: Yeah. Certainly, when you look  
17 through the protocol, a lot of the questions are focused on  
18 more general policies and procedures and compliance with  
19 those. So there's definitely reasons why there may not be  
20 a lot of outcomes or quantitative data there.

21 But, as Allison mentioned, looking through some  
22 of the questions, there are places where they are trying to

1    assess compliance with network adequacy requirements, and  
2    they do look at certain things like use of services, how  
3    many were denied. So there are places where some of that  
4    information could have been reviewed as part of the  
5    assessment of compliance, and so that's where we thought it  
6    might be useful to at least report 10 percent of people had  
7    a denial of service for this area if the EQRO had looked at  
8    that as part of their assessment of compliance.

9            COMMISSIONER BROWN: Thank you.

10          CHAIR JOHNSON: Thanks, Doug.

11          Bob?

12          VICE CHAIR DUNCAN: It's been said, but I'll say  
13    it again. Fantastic work, Allison and Chris, on bringing  
14    these three options to us. And I always appreciate the  
15    view and lens from which our Commissioners bring to the  
16    table and their expertise.

17          To John's statement around what other states may  
18    be doing, I appreciated his thoughts on that, as well as I  
19    go back to Commissioner Patty Killingsworth's statements  
20    around soliciting the feedback from stakeholders. I think  
21    by doing that, we can circumvent some of the concerns that  
22    John had.



1           With that stated and making sure we solicit that  
2 feedback as we look at creating some standardization, I'm  
3 in favor of all three policy options.

4           CHAIR JOHNSON: Thank you, Bob.  
5 Mike?

6           COMMISSIONER NARDONE: Hi, everybody.  
7 I'm generally supportive of all these options. I  
8 think that I don't like John taking my name in vain, but I  
9 do want to really focus on the second one, because I do  
10 think that having reviewed several of the ATRs in prep for  
11 this, there's a lot of information in those. But I think  
12 it's pretty impenetrable for the most part, and trying to  
13 understand what is really in those reports would really  
14 benefit, I think, from some sort of standardization around  
15 what are the key elements.

16           So I think that that is an effort that's  
17 definitely worth it, because I think there is a lot of  
18 information that is published on the performance of the  
19 plans. I just think it's very difficult to kind of -- at  
20 least in looking at some of the reports that I did, to kind  
21 of reach what are the conclusions that you would make about  
22 the MCOs, because I think -- you know, I share the view

1 that we need to hold our plans accountable, providing the  
2 services that they're intended to provide for our  
3 beneficiaries.

4 I would say, though, that one of the things I'm  
5 trying to understand a little bit better and I kind of  
6 think is where all of the results and data that we're going  
7 to be collecting from the EQROs and the standardization  
8 fits into a number of the other things that are kind of  
9 coming down the pike here with respect to quality  
10 measurement of plans. So we're going to have the -- we  
11 have the MCPAR reports that are kind of being submitted.  
12 We have the QRS that's in development. We have the access  
13 reporting that I think is also mentioned.

14 And I think kind of, I just -- I think we need to  
15 kind of figure out, a little bit, how does this fit into  
16 the grand scheme of accountability and holding the  
17 accountability for plans? I mean, I hear that there's a  
18 feeling that we haven't -- you know, we could do a much  
19 better job on that, but I think that there are these other  
20 mechanisms that are also coming down the pike.

21 And I just want to make sure that we're not  
22 duplicating efforts, we're just not adding requirements,

1 because one of the things we don't do a very good job of  
2 when we add new requirements is also making sure about how  
3 do we rethink a new framework for holding managed care  
4 accountable for services.

5           So I noticed that in some of the analyses that  
6 you all did. I appreciate this presentation around how  
7 does EQR fit, but I do think if we're looking at  
8 standardization, you know, I think we don't want to be  
9 duplicating other things that are also kind of in process,  
10 because then we just inundate ourselves with too much  
11 information, which I know is not the problem now. But I'm  
12 just saying, I want to understand how it all fits together.

13           MR. PARK: Yeah. And, Mike, we can certainly  
14 make that more clear in the rationale that as part of this  
15 process, you know, CMS needs to take a more holistic look  
16 at kind of how it fits in with all these other new  
17 requirements that were put in place with the 2024 rule.

18           CHAIR JOHNSON: All right. Thank you, Mike and  
19 Chris.

20           Jami?

21           COMMISSIONER SNYDER: Yeah. Mike, I was going to  
22 mention the same thing. I think it's just really important

1 that we look at the overarching quality framework that was  
2 advanced in the managed care rule as we look at enhancing  
3 transparency and consistency in reporting and in particular  
4 the QRS requirement, which I know goes into place in 2028,  
5 so just wanted to mention that.

6 I'm generally supportive of all three policy  
7 options. I am sensitive to the state-to-state nuance that  
8 John mentioned and the challenges in creating a level of  
9 consistency in reporting when states are so unique. I  
10 think it's -- as others have mentioned, Bob, Patty, and  
11 others, I think it is really important to have stakeholders  
12 at the table, and most notably, because there's such -- you  
13 know, states are unique in terms of how they approach  
14 quality. It will be really important to have Medicaid  
15 directors at the table.

16 And I think the good news is there's precedence  
17 for that, right? And the kind of one example I'll give is  
18 around the CMS scorecard, and I think the National  
19 Association of Medicaid Directors did a really nice job of  
20 bringing CMS and Medicaid directors to the table to discuss  
21 how to kind of structure that scorecard in a way that  
22 really took into account some of the nuances state to

1 state. And I think you could use that model as you look  
2 for more consistency in the EQRO reporting as well.

3 CHAIR JOHNSON: Thank you, Jami.

4 John?

5 COMMISSIONER MCCARTHY: I just want to go back to  
6 what Mike said earlier, and he said that -- what I was  
7 trying to say is what Mike said exactly, which is there's a  
8 lot of things coming, and before we start adding more to  
9 that, can we look at those other things first? And then  
10 with the knowledge of that, build off of what we learned  
11 from those, these new pieces, because otherwise I feel like  
12 we're just rushing into some of these.

13 And last, I do want to say -- and again, holding  
14 plans accountable and doing all this is really important,  
15 but we don't do any of this for fee-for-service, and fee-  
16 for-service is still 28 percent of the people who are  
17 served and often people who have some chronic conditions.  
18 It's not the moms and kids and things like that. So it's  
19 people with a lot of health care needs. So there's another  
20 question about that of then we're looking at one part of  
21 the program, but we're not totally ignoring the other part  
22 of the program.

1 CHAIR JOHNSON: Carolyn?

2 COMMISSIONER INGRAM: Thanks.

3 Thank you for putting these forward for us in  
4 such a clean way to review them.

5 I had a couple of questions first. Did we look  
6 at the cost associated with implementing any of these yet?

7 MR. PARK: We have not been to CBO to see if  
8 there's a score on it yet. Until we get the official  
9 recommendation language, we won't do that.

10 COMMISSIONER INGRAM: Okay. And then the second  
11 question I had, I think, goes a little bit to Jami and  
12 John's point, but have we reached out to NAMD at all or the  
13 Medicaid directors to get feedback on what they'd like to  
14 see?

15 MR. PARK: No. And we can do that as part of our  
16 process.

17 COMMISSIONER INGRAM: Okay. I think I'll  
18 probably hold off on supporting 1 and 2 until we get some  
19 of that feedback, but obviously, No. 3, I think, is  
20 important. I ran our communications and marketing and  
21 branding and those types of things at the health plan I  
22 work at, and hitting the 508 compliance is really not that

1     difficult to do.

2                   I think back to John's comment. States can put  
3     things in that format, and we can do a link or something to  
4     it or make it in a way that it's not so hard. So I can  
5     support that one.

6                   On the first two policy options, I think we need  
7     a little bit more information. Back to the point John and  
8     Mike are trying to make is there's a lot going on, and  
9     having run a health plan right now on the ground and having  
10    to submit all these reports to the state, it does become  
11    duplicative over time. We have a lot of things that we  
12    already produce that show outcomes, and so it's not a bad  
13    idea to move to standardization. Standardization of the  
14    product, I think, is going to help us be able to compare  
15    things nationally, help people like Heidi who's trying to  
16    do research out there.

17                  But there is a lot of information already out  
18    there, and so that's why I would say let's go back and talk  
19    to NAMD and the Medicaid directors and find out what  
20    they're interested in seeing, because a lot of this is  
21    already available, and maybe it's easy to have our reports  
22    go in this fashion or move and make this change because

1 it's already out there. But I think a little bit more  
2 research and talking to them will be helpful.

3           Secondly, on the ground, each state has its own  
4 way and unique way of doing these things, but there is a  
5 lot of publication around things where they're trying to  
6 compare health plans so that consumers can access those.  
7 Sometimes it's report cards and other pieces, and so I just  
8 think listening to them a little bit and getting their  
9 feedback about what they're already doing on the ground and  
10 is there some way we can make this consistent for  
11 comparison purposes and align with those other tools will  
12 be important.

13           So thank you for the work.

14           CHAIR JOHNSON: Thank you, Carolyn.

15           And just to Carolyn's point about cost, you did  
16 do some analysis on impact for CMS, I believe, right, in  
17 terms of administrative burden? Is that correct? Are you  
18 still working on that one?

19           MR. PARK: So the way we do our cost estimates is  
20 we usually send the recommendations over to CBO, and they  
21 estimate the effect on federal spending, because a lot of  
22 these are directed toward CMS and they already have



1 existing authority to develop protocols and such.  
2 Historically, CBO has not scored that as an increase in  
3 federal spending because it's something that can be done  
4 under existing authority.

5 COMMISSIONER INGRAM: Okay.

6 CHAIR JOHNSON: Thanks, Chris.

7 Tricia?

8 COMMISSIONER BROOKS: Just a quick point. I'm  
9 totally in agreement with the comments that have been made  
10 about including stakeholders, but I hope, based on some of  
11 the discussion, that we aren't talking about limiting it  
12 just to Medicaid directors, that it would include  
13 stakeholders that use this information that are outside of  
14 state government.

15 Thank you.

16 CHAIR JOHNSON: Thanks, Tricia.

17 Angelo?

18 COMMISSIONER GIARDINO: I would just add that a  
19 really good quality improvement effort does focus on  
20 alignment. So if there are a lot of things coming our way,  
21 part of the design element would be to make the EQR process  
22 aligned with all those other wonderful things that we

1 support. So that doesn't frighten me. I just think that  
2 we need to give voice to what the alignment is. So I would  
3 just ask maybe you could bring some of that forward.

4 To the concern that this doesn't apply to fee-  
5 for-service, that's always the way. So the 80/20 rule, you  
6 fix the bigger part of the problem. So I just don't find  
7 that compelling that we shouldn't do it because it doesn't  
8 apply to fee-for-service. You could use that for every  
9 single thing we look at.

10 So this needs, I think, some comment on the  
11 alignment, but I think it would be fairly straightforward  
12 to align some of those other quality improvement efforts  
13 with this quality improvement effort, particularly since  
14 this is an existing monitoring process that I think your  
15 work has shown misses the mark. So if something misses the  
16 mark, you don't keep doing it. You fix it.

17 So thank you.

18 CHAIR JOHNSON: Thank you, Angelo.

19 And then Carolyn again.

20 COMMISSIONER INGRAM: Yeah, I just wanted to go  
21 back on the cost issue. I'm not talking about the cost for  
22 CMS to put out some regulations. I'm talking about the

1 cost that it spends down.

2           So once they put out the regulations and the  
3 Medicaid agency has to go out and implement and make those  
4 changes, all of the reporting and documentation that has to  
5 happen at that level, all of the reporting and  
6 documentation that then has to happen at the managed care  
7 level, as Angelo points out, that if these things are  
8 already going to be going on in another fashion, maybe it's  
9 not going to be an increased cost.

10           But I do think we should look at the cost, not  
11 just to CMS, but what does the cost imply that's going to  
12 occur as we make these changes, so thank you.

13           CHAIR JOHNSON: All right. Any other  
14 Commissioners?

15           [No response.]

16           CHAIR JOHNSON: All right. So I think we've  
17 heard a lot of great comments here and -- oh, Sonja. Okay.  
18 I missed Sonja.

19           COMMISSIONER BJORK: Thanks.

20           I just want to support the comments that were  
21 made about attention to nuanced and unintended consequences  
22 and, in particular, the measure about out-of-network

1 services for plans that have responsibility for children  
2 with special health care needs. Gosh, there's lots of  
3 times when you send kids out of state, even to the  
4 Cleveland Clinic or, you know, many other places, and we  
5 don't want that to be seen as a negative.

6           And then time for agencies and plans to set up  
7 their systems to properly capture all of this reporting.  
8 If it's retro and you find out later, oh, my goodness, the  
9 administrative burden is really difficult for putting  
10 things in a template that you never used before or  
11 expectations, so time for agencies to set things up from  
12 the beginning so that you're collecting things correctly  
13 and that it's not as big of an administrative burden.

14           And then, of course, I support all the comments  
15 about alignment. You know, we have a lot of reporting.  
16 Every health plan, every state does, and so let's try to  
17 align with things that are already happening.

18           Thank you.

19           CHAIR JOHNSON: Thank you, Sonja. That was a  
20 great comment.

21           Okay. So you've heard a lot from all of us, of  
22 course, some concerns generally supportive of the options,

1 some modifications, but is there anything else that you  
2 need from us?

3 MS. REYNOLDS: I don't think so. Thank you so  
4 much for so much robust discussion and feedback. It's very  
5 much appreciated.

6 CHAIR JOHNSON: All right. Thank you, Allison.  
7 Thank you, Chris.

8 [Pause.]

9 CHAIR JOHNSON: All right. Now we have time for  
10 public comments. We will open it up. We, of course,  
11 invite the audience to raise your hand if you'd like to  
12 offer any comments. We do ask that you introduce yourself  
13 and the organization that you represent, and we also ask  
14 that you keep your comments to three minutes or less.

15 **### PUBLIC COMMENT**

16 \* CHAIR JOHNSON: So, with that, first up, we have  
17 Eli. Can you please unmute yourself, Eli?

18 [Pause.]

19 CHAIR JOHNSON: You're still muted.

20 Okay. So next, while we wait on Eli, let's go to  
21 Arvind.

22 [No response.]

1 CHAIR JOHNSON: Arvind stepped away as well.

2 Let's go to Shawn, then, for right now. If you  
3 can unmute yourself, Shawn.

4 MR. FRIESEN: I have no comments. Thank you.

5 CHAIR JOHNSON: Thank you, Shawn.

6 All right. Eli. If you can unmute yourself,  
7 Eli.

8 [Pause.]

9 CHAIR JOHNSON: All right. I think while Eli is  
10 working on his technology, let's go to Monica.

11 MS. TREVINO: Good morning, everyone. Thank you  
12 for this opportunity to speak. I'm Monica Trevino. I'm  
13 the Director of the Center for Social Change at the  
14 Michigan Public Health Institute.

15 I really just wanted to echo the comment from the  
16 Commissioner related to speaking to other stakeholders  
17 about the utility and usefulness of the technical reports.  
18 I appreciate thinking beyond just the scope of state  
19 employees for that. They are useful for folks who are not  
20 employees of the state of the Medicaid agency, especially  
21 the folks who do work across Medicaid agencies. So thank  
22 you.

1 CHAIR JOHNSON: Thank you, Monica.

2 Any other comments?

3 [No response.]

4 CHAIR JOHNSON: All right. So if you have future  
5 comments, please feel free to go to the MACPAC website, and  
6 you can submit your comments there.

7 Okay. Let me try Arvind one more time before we  
8 exit.

9 Arvind?

10 MR. GOYAL: Can you hear me now?

11 CHAIR JOHNSON: We can hear you now. Go for it.  
12 Thank you.

13 MR. GOYAL: Thank you very kindly. My name is  
14 Arvind Goyal. I'm a Medicaid Medical Director in Illinois,  
15 my 13th year in the running, and previously, I served as  
16 Chair for Medicaid Medical Directors Network for various  
17 programs.

18 So I have really learned from this presentation  
19 by Allison, Chris, and many Commissioners. However, I  
20 wanted to put these thoughts in the mix. Unless we define  
21 specific outcome measures, we are really not making a  
22 difference, and the clock is ticking. I want to say that

1 again. While the patients don't get the care or patients  
2 don't get the expected or optimal care, we need to take  
3 some steps. And since MACPAC is a respected agency in the  
4 country for Medicaid purposes, I wish that this would be an  
5 opportunity to fix whatever hasn't been fixed as far as  
6 managed care is concerned.

7           As far as the outcome measures are concerned,  
8 they need to be very specific. For example, we get a value  
9 for where A1C should be for a diabetic patient, not just  
10 did you do an A1C. That is not an outcome measure. Did  
11 you prescribe or did you -- enough of your providers  
12 prescribed opioid MAT is not a measure that will affect the  
13 outcomes. But the outcome measure would be, did you reduce  
14 opioid deaths percentage-wise in your population?

15           Similarly, maternal deaths during pregnancy and  
16 postpartum period. Again, vaccine preventable illnesses,  
17 not just what percentage of your patients got the vaccine,  
18 but what percentage of your patients developed a vaccine  
19 preventable disease or did not develop a vaccine  
20 preventable disease? So outcome measures need to be very,  
21 very specific.

22           The second point I want to make is that you've



1 heard enough about network inefficiency or network  
2 inadequacy. I think there needs to be a central  
3 appointment system somehow where the appointments are set  
4 by a central managed care portal, and so nobody can say,  
5 oh, you're on Medicaid, where your next appointment is in  
6 13 weeks or 6 months. Central appointment system, it cures  
7 the issue of adequacy, because now it's in the lap of  
8 managed care organizations.

9           There needs to be a registry for denials. I  
10 think the registry issue was discussed, the central  
11 registry.

12           And the last point I want to make is that you've  
13 heard enough, not maybe at this meeting, about PA process.  
14 And the PA process is really one-sided right now. You've  
15 heard from AMA. You've heard from multiple organizations,  
16 provider organizations. I think one way to fix it is to  
17 require that once you have a PA, that means payment at the  
18 level of published fee schedule is guaranteed.

19           And I would stop there. I would be very happy to  
20 connect with the staff offline afterwards if time permits.  
21 Thank you very kindly for listening to me.

22           CHAIR JOHNSON: Thank you very much, Arvind. We

1 appreciate it.

2           Again, if anyone else has any comments, feel free  
3 to go to our MACPAC website, and you can submit your  
4 comments there.

5           In the meantime, we will be taking a 10-minute  
6 break. So we will return here at 10:35 Eastern. Thank  
7 you.

8 \*           [Recess.]

9           VICE CHAIR DUNCAN: All right. Good morning and  
10 welcome back. We have got Linn and Ava to bring us up to  
11 speed on their findings dealing with transitions of care  
12 for children and youth. And with that I'll turn it over to  
13 Linn, or Ava.

14 **###           TRANSITIONS OF CARE FOR CHILDREN AND YOUTH WITH**  
15 **SPECIAL HEALTH CARE NEEDS (CYSHCN): INTERVIEW AND**  
16 **FOCUS GROUP FINDINGS**

17 \*           MS. WILLIAMS: Thank you and good morning,  
18 Commissioners. Today Linn and I will be presenting on our  
19 interview and focus groups' findings from our work on  
20 children and youth with special health care needs  
21 transitions of care.

22           I will start by briefly giving some background on

1 children and youth with special health care needs and  
2 recapping findings from a previous presentation in March.  
3 I will then present our findings from the interview and  
4 focus groups we conducted over the spring and summer. Then  
5 Linn will continue our discussion of the findings, before  
6 ending with next steps and questions for Commissioners.

7           As a reminder, almost 1 in 5 children have  
8 special health care needs, and children and youth with  
9 health care needs have a wide range of conditions. The  
10 majority of children and youth with special health care  
11 needs are covered by Medicaid on the basis of income, under  
12 an SSI pathway, or an optional disability pathway.  
13 Additionally, most Medicaid-enrolled children and youth  
14 with special health care needs are enrolled in managed  
15 care. Children and youth with special health care needs  
16 can also receive services and supports from state Title V  
17 agencies.

18           As discussed in March, there are no federal  
19 Medicaid requirements for states to provide transition of  
20 care services for children and youth with special health  
21 care needs. However, some states have transition of care  
22 policies, some documented in home and community-based

1 1915(c) waivers and MCO contracts. While there are no  
2 federally prescribed or endorsed transition of care  
3 processes for this population, some organizations have  
4 developed frameworks. Examples include Got Transition's  
5 Six Core Elements and the American Academy of Pediatrics'  
6 Overarching Principles for Transitions. However, there is  
7 insufficient evidence to support the use of a particular  
8 health care transition approach.

9           Next, I'll present on interview and focus groups  
10 findings. It is important to note for this work we  
11 narrowed our definition of children and youth with special  
12 health care needs to those covered by Medicaid under an SSI  
13 pathway, under the Tax Equity and Fiscal Responsibility  
14 Act, also known as TEFRA, and Katie Beckett Authorities.

15           The goal of the interviews and focus groups was  
16 to understand how states and MCOs operationalize their  
17 transition of care policies for children and youth with  
18 special health care needs, how beneficiaries and families  
19 experience transition, and how barriers to transitions can  
20 be addressed. We interviewed a variety of stakeholders  
21 including state officials from five states. We also  
22 conducted four focus groups, two groups of beneficiaries

1 and two groups of families and caregivers of children and  
2 youth with special health care needs who were in the  
3 process of transitioning and those who had transitioned to  
4 adult care.

5 Overall, there is variation in how state Medicaid  
6 agencies and MCOs identify and notify children and youth  
7 with special health care needs who are approaching  
8 transition age. There are a number of ways states and MCOs  
9 can identify children and youth with special health care  
10 needs, including identifying beneficiaries who are enrolled  
11 through a disability pathway and tracking when they are  
12 approaching transition age. There are also a number of  
13 different processes for notifying children and youth with  
14 special health care needs of the upcoming transition that  
15 vary in how far in advance individuals are informed and  
16 who, at the state or managed care plan, is responsible for  
17 notification.

18 For example, notification can vary by waiver  
19 program. In our review of state waivers some specified  
20 that those enrolled were notified by care coordinator a  
21 year in advance of losing eligibility, while some were  
22 notified 60 days prior to losing eligibility.

1           There is also variation in how MCOs notify  
2 beneficiaries. Some MCOs' contracts specify for a  
3 transition specialist or care coordinator to notify  
4 beneficiaries at age 14 or 15 of the upcoming transition.  
5 Other contracts are less specific, allowing plans the  
6 flexibility to create their own policies.

7           Some states cover transition services through  
8 state plan and waiver authorities, often through targeted  
9 case management and care coordination services. Transition  
10 services can be provided by clinical or non-clinical  
11 professionals and can include services such as transition  
12 readiness assessments, identifying adult providers, and  
13 developing a transition plan.

14           For example, some states may task care or service  
15 coordinators or require MCOs to develop transition of care  
16 plans for this population. In one state, transition  
17 specialists from the MCO are responsible for developing a  
18 transition plan with the youth around age 15. However,  
19 another state indicated that service coordinators for its  
20 waiver are not required to develop a plan, and often do  
21 not. Providers can also be involved in the transition  
22 process. For example, they may engage in provider-to-

1 provider warm handoffs to support the sharing of  
2 beneficiary health information and improve the  
3 beneficiary's understanding of the transition to the adult  
4 system.

5           Although state Medicaid programs can cover  
6 transition of care services, many states have now neglected  
7 to cover transition-related CPT codes and other transition  
8 of care services, such as warm handoffs between pediatric  
9 and adult providers. Findings from the literature and  
10 interviewed national experts and researchers indicate that  
11 warm handoffs and joint visits are an important part of the  
12 transition process and can help facilitate smooth  
13 transitions. However, warm handoffs may require same-day  
14 billing by multiple providers, which is generally  
15 considered a duplicative service.

16           CMS has issued guidance on same-day billing for  
17 warm handoffs in the context of other types of services,  
18 but they have not indicated whether or how this guidance  
19 may apply to transitions of care for children and youth  
20 with special health care needs.

21           Most beneficiaries, families, and advocates  
22 describe the process of transitioning from pediatric to

1 adult care as frustrating and confusing. Some expressed  
2 that they did not have a designated person from the state  
3 Medicaid program or MCO to support them through their  
4 transition, and if they did the assigned staff was often  
5 uninvolved and unhelpful. The lack of support left  
6 beneficiaries and families to feel as if they were  
7 responsible for initiating the transition process.

8           Participants also expressed frustration over the  
9 lack of clearly documented information about the transition  
10 of care process from the state Medicaid program or MCO, and  
11 noted the need for clear, up-to-date, and accessible  
12 website that details this process.

13           Finally, beneficiaries and families had mixed  
14 experiences with their state or MCO-developed transition  
15 plan. For example, only a few participants had a  
16 transition plan, and of those some expressed that the plan  
17 became unhelpful as the child aged or moved out of state.

18           Through our findings, we have identified a couple  
19 of key barriers related to transition of care process. The  
20 first area is around the lack of clearly documented and  
21 communicated state policies for transitions of care.  
22 Several interviewees and focus group participants indicated



1 that in states' documented policies it can be difficult to  
2 understand them, which leads beneficiaries and their  
3 families to feel ill-informed and unprepared for their  
4 transition process. Additionally, families shared that the  
5 service or care coordinator that they worked with were  
6 often uninformed about the transition process and unable to  
7 help them.

8           The second barrier is the lack of guidance to  
9 states on covering transition of care services. The lack  
10 of an option for providers and professionals to bill, and  
11 guidance on how to bill for transition services can be a  
12 barrier to ensuring beneficiaries and their families  
13 receive needed transition support and care.

14           Interviewees highlighted several policy options  
15 available to states. States have the flexibility to cover  
16 transition-related CPT codes, but some states may not  
17 include them in their fee schedule and some MCOs may not  
18 cover them. Additionally, existing billing codes that may  
19 be related to transition of care do not always account for  
20 the added work related to longer visits used to discuss the  
21 transition process.

22           Further, some states' plans and providers may not

1 understand how or if aspects of the transition process,  
2 such as warm handoffs between multiple providers, can be  
3 covered. For example, in states where provider warm  
4 handoffs occur, state officials and plans were unsure of  
5 how or whether both providers are reimbursed for providing  
6 the same service, and shared that in many cases providers  
7 would conduct joint visits without billing for their time.

8           Finally, some states use targeted case management  
9 for this population, and that may include or overlap with  
10 children and youth with special health care needs. The  
11 provider services can be transition related, but none of  
12 the interviewed states used TCMs specifically to provide  
13 transition of care services for children and youth with  
14 special health care needs. CMS indicated that states can  
15 use TCM for this purpose, but have not provided guidance on  
16 the topic.

17 \*           MX. JENNINGS: Thanks, Ava. So now moving on to  
18 our findings related to the monitoring and measurement of  
19 transitions of care, there are no federal Medicaid  
20 monitoring requirements for this population and their  
21 transitions of care, so CMS does not require state Medicaid  
22 programs to collect or report data related to this

1 population, their transitions, or their health outcomes  
2 after the transition.

3           The state policy scan identified very few states  
4 that are currently monitoring these transitions. However,  
5 there were some examples from state agencies and MCOs that  
6 collect quality data that may capture some information  
7 related to this population and their transition of care  
8 process. For example, one Medicaid agency conducts a  
9 utilization case review to assess if MCOs are correctly  
10 assessing beneficiary needs and if their beneficiaries are  
11 receiving the needed services, and some of these services  
12 may be transition related and detailed in their care plan.

13           Advocates and researchers have raised the need to  
14 develop and collect data about the transition of care  
15 process and the health outcomes after the transition to  
16 adult care, to understand how this population is served by  
17 federal and state policies and if there are gaps in access.

18           Interviewees raised two primary barriers to  
19 measuring transitions of care, one that there are currently  
20 very few measures related to the transition of care process  
21 and the transition and health outcomes after the transition  
22 to adult care, and there are some measures that are

1 currently collected in survey data, such as the National  
2 Survey of Children's Health, that collects some process  
3 measures. But there are some limitations with these data  
4 as well, due to small sample sizes for subpopulations  
5 within the children and youth with special health care  
6 needs population and limitations to the fact that these  
7 measures really focus on pre-transition process measures  
8 and don't have any outcome measures after the transition.

9           The other barrier is that because there aren't  
10 requirements related to monitoring or measurements of the  
11 transitions of care for this population, most states are  
12 not collecting the data, and from the states that we spoke  
13 with, none are collecting metrics that specifically track  
14 post-transition outcomes.

15           Now moving on to our findings related to the role  
16 of the state Title V programs. The Maternal and Child  
17 Health Block Grant Program funds state Title V programs,  
18 and these state programs are required to use 30 percent of  
19 their Title V block grant funds to provide and improve  
20 services for children and youth with special health care  
21 needs. And the role of state Title V programs in  
22 supporting these transitions varies with some providing

1 direct support and direct services, but many provide  
2 educational resources and information to families or  
3 partner with or fund advocacy organizations that support  
4 children and youth with special health care needs and their  
5 families through these transitions.

6           State Medicaid agencies are required to establish  
7 an interagency agreement, or an IAA, with the state Title V  
8 agency, and the IAA should describe how they coordinate  
9 their services and benefits that they provide with their  
10 overlapping populations. However, there are no  
11 requirements related specifically to the transition from  
12 pediatric to adult care.

13           In our state policy review and our review of the  
14 IAAs, we found that very few described specific roles and  
15 responsibilities for the state Title V and Medicaid  
16 agencies that are related to this transition of care. And  
17 in our interviews, as well, advocates shared that they were  
18 not aware of many coordinated efforts between state  
19 agencies, and that beneficiaries and their families often  
20 didn't experience that coordinated effort.

21           Findings from our interviews indicate that the  
22 primary barrier to this cross-agency coordination is a lack

1 of established roles and responsibilities for each of these  
2 agencies. Even if there are some collaborative efforts  
3 between these agencies, advocates who support children and  
4 youth with special health care needs and their families and  
5 caregivers reported that they may not be aware of who is  
6 responsible for which pieces of the transition and how this  
7 transition process should work.

8           Another contributing factor to the limited  
9 communication and collaboration is that several states that  
10 we spoke with noted that the Title V and Medicaid agencies  
11 are housed in separate divisions or departments, and so  
12 there weren't established working relationships. However,  
13 we did hear, in our state interviews, that several state  
14 officials and advocates, especially Title V officials,  
15 didn't express an interest in working more closely with  
16 Medicaid agencies on these transition of care policies.

17           So now moving on to our next steps and  
18 discussions questions for today, the findings from this  
19 work indicate that there are several challenges related to  
20 the transition process, the monitoring of transitions of  
21 care, and coordination with Title V agencies. And so today  
22 we would appreciate your reactions to the interview and

1 focus group findings, and in particular we'd appreciate  
2 your thoughts on federal and state policy opportunities to  
3 address the identified barriers, which we have on this  
4 slide.

5 And then based on the conversation today we'll  
6 return with potential policy options for the Commission to  
7 consider as we work towards developing a chapter.

8 And I'll leave these questions up to guide  
9 discussion and turn it back to the Vice Chair.

10 VICE CHAIR DUNCAN: Thank you, Linn. Thank you,  
11 Ava. Fellow Commissioners, Patti, then John, then Angelo.

12 COMMISSIONER KILLINGSWORTH: Thank you, Linn and  
13 Ava. I'm just going to jump right in and say that I do  
14 think there is opportunity for improved federal policy  
15 here, and I would certainly support a federal requirement  
16 that mandates that there is effective transition planning  
17 for children, from pediatric care, if you will, to adult  
18 care.

19 And I think that needs to include three specific  
20 areas. I think there needs to be transition support  
21 related to eligibility or coverage to benefits, since those  
22 benefits are different, and also as it relates to pediatric

1 versus adult care providers. I think that all of those are  
2 important areas where assistance is needed really to ensure  
3 continuity as much as we can.

4 I do also think there is a huge difference  
5 between notification and assistance, and I think both are  
6 important. So I think effective transition planning has to  
7 include both really clear education around all of those  
8 areas but also support and assistance in all of those  
9 areas.

10 My experience has been that when that  
11 responsibility is delegated to a waiver service agency that  
12 oftentimes it's not effective because they may not even be  
13 aware of all of the implications of transition as it  
14 relates to the rest of the Medicaid benefits. It's part of  
15 the struggle of kind of the fragmented way that home and  
16 community-based services are oftentimes delivered.

17 So there has to be an entity who sort of owns the  
18 primary responsibility and is aware of all of the different  
19 impacts that may occur to that child as a result of this  
20 important transition. And I think it has to include a  
21 requirement for coordination between, in the case of  
22 children who are in managed care, the managed care entity.



1 Certainly if home and community-based services are  
2 delivered separately, the entity who is responsible for  
3 that, and then the Title V agency. Really, this is a time  
4 of coming together and making sure that the individual and  
5 the family is informed and supported, to make sure that  
6 that child's need continue to be met as they transition to  
7 adulthood.

8 VICE CHAIR DUNCAN: Thank you, Patti. John.

9 COMMISSIONER MCCARTHY: I'm going to say  
10 something I normally don't say in these, and this is I  
11 don't think we've gone far enough, and I agree with Patti.  
12 I mean, to me on this one, one of the things that we should  
13 be looking at is a recommendation to Congress to change a  
14 law to include the things that Patti talked about, in a  
15 requirement. I mean, some of the ones that I'm really  
16 passionate about is paying for warm handoffs, and allowing  
17 both providers to bill for that.

18 Because I know that is a huge issue in a number  
19 of states, and I had a hard time dealing with it and just  
20 how to get your systems to work to pay for those things and  
21 get it to happen, but also making those meaningful  
22 transitions. So from a legislative standpoint I think

1 that's really important, that we may need to go to that  
2 level.

3           Then the second part is more for recommendations  
4 to states, and this is also an area that we haven't hit on,  
5 but where does value-based purchasing fall in on this one,  
6 and rewarding providers who do well around this, because  
7 it's super helpful. It's very complicated, so how do we  
8 reward providers for doing that, taking these cases on and  
9 helping the individuals that need help.

10           So those would be two areas I think we should  
11 take a look at.

12           VICE CHAIR DUNCAN: Thank you, John. Angelo.

13           COMMISSIONER GIARDINO: Well, this is a banner  
14 day for kids, so thank you for addressing this issue.  
15 Health care transition is such an important element to  
16 pediatric and young adult care, but it needs to occur in a  
17 planned way.

18           So a couple of things I'd ask you to look at as  
19 we're trying to build the case for some of these really big  
20 changes that we're probably going to recommend, is if you  
21 could reach out to some of the clinical literature. So I  
22 think there is a growing body of literature that

1 demonstrates that a planned transition, particularly for  
2 conditions like congenital heart disease, diabetes, and it  
3 goes from there, that a planned transition actually  
4 promotes better post-transition health and well-being, just  
5 clinically.

6           And then also from a health services perspective,  
7 when a transition starts to fall apart I believe there  
8 might be some literature that shows that these kids then  
9 stream into, let's say, an emergency department or to an  
10 urgent care with a provider who is not well-positioned to  
11 help them. So I think not only does their care get worse  
12 but that discontinuous, fragmented care costs more money.

13           The other thing is, just again, to make the  
14 argument, this is a part of development, so we want our  
15 teenagers to become productive young adults. So we  
16 encourage adequate development on all the domains except  
17 this one. You know, we want the kids to get their driver's  
18 license. We want the kids to have work-related services so  
19 they can either pick employment or go to college, et  
20 cetera. This is just one of those transitions, so I think  
21 our system has to reflect that.

22           And then finally, I do think there is a need in

1 any policy recommendation to recognize that there is a  
2 wobble when transition occurs. This is a really big thing.  
3 You know, think about it. If you have congenital heart  
4 disease you've been seeing the same pediatric provider for,  
5 you know, 13, 14, 15, 18 years. Now you're seeing somebody  
6 on the adult side. The adult side is a little bit  
7 different than the pediatric side. And sometimes the care  
8 goes back and forth for a while. So a transition is a  
9 process. It's not just a one and done. So somehow the  
10 policy has to reflect that we need to kind of have that  
11 back-and-forth until it's okay.

12           And then I guess my last comment would be this  
13 idea that you've hit upon in terms of interagency  
14 agreements, you know, HRSA and Title V are just so good at  
15 training providers and helping systems become capable, and  
16 then obviously Medicaid pays for those services and the  
17 care management that's so essential. So I would really  
18 love to push on that a little bit and see if there are some  
19 model programs in certain states that we could highlight  
20 where Title V has taken the responsibility of training up  
21 the community, and then Medicaid takes responsibility for  
22 doing the infrastructure work so that people can get paid

1 for this.

2 But this is very exciting. I think you've done a  
3 great job, and I just can't wait to hear what the  
4 recommendations are that you come forward with. Thank you.

5 VICE CHAIR DUNCAN: Thank you, Angelo. Heidi.

6 COMMISSIONER ALLEN: Thank you for this work.

7 I'm very much in support of us digging into this issue.

8 I like the term you used, wobble, Angelo, and  
9 there are some wobbles that are unavoidable, like the  
10 transition from pediatric to adult health care. You know,  
11 you can't expect somebody to be an expert across the  
12 lifespan. So that's an unavoidable wobble.

13 But we have other wobbles. We have the wobble of  
14 changes in eligibility and benefits, and we have the wobble  
15 of graduating and leaving high school and moving into  
16 whatever is next. And I feel like that's too many wobbles  
17 for families to have to manage. And I worry about the  
18 instances where the change in eligibility equals a  
19 reduction of support, because you've got all these wobbles  
20 happening, you have a reduction of support, and all of this  
21 is also happening as parents age, and as kids' health care  
22 needs often increase. Some of these kids only get sicker

1 as time goes by. They don't get healthier.

2           So in other federal programs related to  
3 eligibility we have decided that 26 is the age of  
4 adulthood. You know, that the case in the Marketplace,  
5 where kids could stay on their parents' coverage until 26.  
6 I think we have different ages for eligibility for kids  
7 coming out of foster care. And I wonder if this might be a  
8 population for which we should consider thinking about  
9 having the age of transition not happening at the same time  
10 as all of these other really intense transitions are  
11 happening, to provide a little bit of continuity for  
12 families to get their feet under them before they have to  
13 transition to different types of benefits and potentially  
14 different programs.

15           And I think that, you know, ultimately, it's all  
16 with the goal of trying to help kids maintain their health  
17 and their independence and not putting people in a  
18 situation where they then end up having to go to some kind  
19 of institutional care because their health care needs  
20 aren't being met.

21           And so I think that, you know, I definitely  
22 would, you know, be in support of proposals to try to pay

1 for things like warm handoffs and care coordination, nut I  
2 would also be in support of changing program eligibility to  
3 26.

4 VICE CHAIR DUNCAN: Thank you, Heidi.  
5 Dennis?

6 COMMISSIONER HEAPHY: I really appreciated  
7 Angelo's comments on moving kids from pediatric providers  
8 to adult providers, and there's so many. I think we need  
9 to hold MCOs more accountable to ensuring that network  
10 adequacy includes providers for youth transit. Someone 40  
11 years old is not seeing the same cardiologist they saw when  
12 they were 10 years old. It's just -- it's endemic in the  
13 system. And so how do we hold MCOs more accountable to  
14 that?

15 And then in terms of the services, children will  
16 be available, kids will be available, once they transition  
17 out of schools at the age of 22, the turning-22 cliff, do  
18 we have to look at medical as broader than just direct  
19 medical service and look at other services they have?  
20 What's going to happen to these kids?

21 I remember I went to a graduation of kids in one  
22 year, very many complex kids, and was told by the principal

1 that that day was both the worst and the best day of these  
2 kids' lives, the best because there's this great  
3 celebration of all the success that they achieved and what  
4 the family achieved, but then the worst day of their lives  
5 because that was probably the last time those kids  
6 interacted with their peers or engaged in the community.  
7 They become isolated, and they become alone.

8           And so I raise this because there's this siloed  
9 system between the medical system and the school system,  
10 and so how do we ensure that MCOs are working with schools  
11 to ensure the IEPs, that the individual education plans  
12 that really shape what folks are going to be eligible for  
13 after they transition out or included in what the medical  
14 teams are actually working on? So that there's not just a  
15 handoff but an engagement throughout as these folks are  
16 transitioning to ensure that the kids are eligible for all  
17 the services they require once they leave and they turn 22,  
18 because if they're not in place and the medical folks are  
19 not talking to school folks, these kids are not going to  
20 get all the services they were ready to get once they turn  
21 to be adults.

22           VICE CHAIR DUNCAN: Thank you, Dennis.



1 Patti then Angelo, then Tricia, then Mike.

2 COMMISSIONER KILLINGSWORTH: Super quick  
3 additional thought and potentially an area for innovation.  
4 This might be an area where peer support would be really,  
5 really helpful, both to the young adult but also  
6 potentially to the family. And so I'd be interested to  
7 know if any state has thought about or would consider  
8 offering peer support as sort of a demonstration type of  
9 benefit to really support people through the transition  
10 process.

11 VICE CHAIR DUNCAN: Thank you, Patti.

12 Angelo?

13 COMMISSIONER GIARDINO: Yes. Since we're using  
14 metaphors, so wobble is one. The other one is -- that  
15 Dennis had mentioned this, but the policy lab at the  
16 Children's Hospital of Philadelphia and University of  
17 Pennsylvania has this concept of falling off the cliff.  
18 And they have this wonderful report that's in the public  
19 domain. It's on the internet. But it has a great graphic,  
20 and it really tells the story of what it feels like for  
21 these kids from an eligibility perspective and then from  
22 where you get your insurance perspective, and they truly

1 fall off a cliff at 21. So I think we should incorporate  
2 that imagery where we can, because it's quite dramatic, and  
3 it's well documented that that cliff really has clinical as  
4 well as developmental elements.

5           And then I guess the only other comment I would  
6 make is, in your briefing materials, you talked about the  
7 AAP and Got Transition. My sense is all those  
8 organizations -- and I would include the Society for  
9 Adolescent Medicine. All of them, if you had a meeting and  
10 they were on a panel, they would all agree to harmonize  
11 their plans, and I think we could have a best practice  
12 that's consensus driven. I'm not sure you're ever going to  
13 have an evidence-based one, but for right now, I think all  
14 those organizations that put out transition protocols would  
15 be willing to harmonize them because they're all very  
16 similar at a very fundamental level, so thank you.

17           VICE CHAIR DUNCAN: Thank you, Angelo.

18           Tricia.

19           COMMISSIONER BROOKS: Yes. Thank you for this  
20 work.

21           I think as a starting point, we absolutely need  
22 to recommend that there be a federal definition of children

1 and youth with special health care needs.

2 I was actually sort of intrigued by Heidi's  
3 suggestion of aligning the upper age eligibility at 26, and  
4 I think you could probably look at something like if it's -  
5 - the question is, if you do that, are we talking about  
6 just the benefits and eligibility, or are we talking about  
7 provider services and whether the pediatric community is  
8 ready to take on up to age 26 when do you make that  
9 transition in that part? Although we know that pediatric  
10 dentists often are who actually continues to give services  
11 to people with IDD and DD -- you know, the IDD and DD  
12 populations.

13 And so I think you could look at something like  
14 extending EPSDT to age 26 for special populations like  
15 children with special health care needs, and I would throw  
16 former foster youth into that particular group. And then  
17 the question is, do you apply the children's eligibility  
18 levels in a state to -- the income eligibility to age 26,  
19 so there's less of that cliff, little more time to  
20 transition in?

21 So I think there are a lot of ideas percolating  
22 here that will be interesting to continue to consider and

1 research. Thank you.

2 CHAIR JOHNSON: Thank you, Tricia.

3 Mike.

4 COMMISSIONER NARDONE: I was just going to add,  
5 to Tricia's point, it would be helpful to have a specific  
6 definition of what children and youth with special health  
7 care needs are.

8 I would also just suggest maybe -- I don't have -  
9 - I'm supportive of a lot of the things that my fellow  
10 Commissioners have said -- well, almost all -- all of them.  
11 But I would like to look at that there may be nuances with  
12 different groups that make up that larger category around  
13 what transition services might be particularly helpful.  
14 For instance, for someone who is IDD graduating through the  
15 system versus someone with physical health needs versus  
16 maybe someone with behavioral health needs, foster care, I  
17 mean, it would seem that maybe taking a further dive into  
18 not just the broader things that are needed, but also are  
19 there specific things unique to some of the populations  
20 that are within that grouping that also would be helpful to  
21 move policy forward? Because this is something we've been  
22 at for a long time.

1           And I hearken back to when I was in Medicaid in  
2 Massachusetts nearly 30 years ago, and we were talking  
3 about kids who were turning 22 and the initiative around  
4 turning 22. So this has been around for a long time. We  
5 have a lot more work to do on this, and hopefully, we can  
6 make progress in this area.

7           VICE CHAIR DUNCAN: Thanks, Mike.

8           Carolyn, then Verlon.

9           COMMISSIONER INGRAM: Sure. Thank you.

10           A lot of folks have listed out a lot of the  
11 things that are going to be important to look at, but just  
12 to reiterate a couple of those, there are best practices  
13 implemented out there in the field around -- sometimes it's  
14 around foster care kids that we could look at. And I know  
15 we have a method for records and those types of things  
16 traveling with the individuals so that when they do move  
17 on, that they're able to have access to those things or  
18 know about them and how to get them.

19           Also, looking at are there any innovations or  
20 best practices in dealing with youth who may be in rural  
21 communities and not as able to access some of the services  
22 that they need as they're transitioning out into adulthood

1 or those with culturally different backgrounds. I think of  
2 people in Tribal communities and things like that, where  
3 they may have gotten a lot of assistance. Are there best  
4 practices to helping link them to services?

5 I know we have some that we implemented our plan,  
6 but there's got to be some other things besides just what  
7 we're doing as well. So I think a lot of things to look at  
8 there that will be important.

9 Thank you.

10 VICE CHAIR DUNCAN: Thank you, Carolyn.

11 Verlon.

12 CHAIR JOHNSON: I think this is a very good  
13 discussion. I definitely hear your passion and everything  
14 that you're saying, and obviously, children are very  
15 important to us. We want to make sure that we're always  
16 thinking about them and their families.

17 I do want to remind us, though, that for this  
18 cycle here, we had planned on really focusing on more of  
19 the transition of care. We're looking at '24 and '25 as  
20 the eligibility pieces of it. So I think a lot of the  
21 comments that were brought up around the '26 and other  
22 things, we want to make sure that as Commissioners, we're

1 keeping that top of mind as we move into those  
2 conversations and the staff starts to do more research  
3 around that for the next quarter.

4 I just want to go on record and say, too, I've  
5 heard over and over around the need for national guidance,  
6 and that's really important. I mean, if we look at  
7 particularly what we're hearing from the beneficiaries and  
8 their families and the complications around that, it just  
9 feels like if we can really put a stake in the ground and  
10 have a national standard of care, that would be really  
11 helpful.

12 And then I think, Patti, you said it early on  
13 too. You talked about really thinking about more around  
14 the education and piece of it, and more of those holistic  
15 approaches are really important, so not just the medical  
16 services when you think about that, but also the social,  
17 the educational, and of course, the community research  
18 supports. I just want to make sure that I highlighted  
19 that.

20 So thank you, Bob.

21 CHAIR JOHNSON: Thank you, Verlon.

22 And then I'd also like to add, we've used

1 "wobble." I'm going to use the word "weeble" as we think  
2 about this. And it's been brought up. Michael brought up  
3 the -- I can't even say the word -- nuances of all this.  
4 And then, Carolyn, I appreciate your comments around both  
5 the rural and our Native American population.

6 But the reality is, I think, from a nuance, what  
7 you need to put into the conversation is, some of these are  
8 what we consider pediatric diseases, and there is no real  
9 true transition to adulthood because some of these kids are  
10 living today that didn't live in the past.

11 Even in the state of Connecticut, a lot of our  
12 adult providers do not feel comfortable treating some of  
13 the pediatric diseases. So, as a pediatric system, we're  
14 seeing patients up to the age of 40 to 70 years of age with  
15 some of these. And so as we think about these transitions,  
16 having that resource in that community or that state may  
17 look very different, and so I think part of this as we  
18 think about transition is not only in age, but the disease  
19 itself and what is the medical system prepared for.

20 So they may transition from an age standpoint,  
21 but they still may be in the care of a pediatric provider  
22 for a majority of their life with a different set of



1 benefits. So I just want to add that to the mix of all the  
2 things we've brought forward.

3 Angelo.

4 COMMISSIONER GIARDINO: Just to further add to  
5 that, Bob, one of the models that's emerging is that the  
6 system could allow that pediatric provider who knows a lot  
7 about that very, very specific condition that starts in  
8 pediatrics to consult on an ongoing basis with an adult  
9 provider, because truly as a trained pediatrician, when you  
10 get to be 45 or 50, cardiovascular and cerebrovascular,  
11 there's diseases that we don't train in as pediatricians.  
12 So we know a lot about that very, very rare condition, but  
13 we don't know anything about the adult thing.

14 So the system would have to have the  
15 permissiveness to allow a pediatric provider to, on an  
16 ongoing basis, consult on these very unusual cases. But  
17 the best practice would really be if they work together,  
18 and truly, it is not cool to have a 45-year-old in a bed  
19 next to a 2-year-old. We don't want to have a system that  
20 does that. That's not good for the 2-year-old. It's not  
21 good for the 45-year-old. And it's certainly not good for  
22 the nursing staff and the physicians.

1           VICE CHAIR DUNCAN: Thank you for putting more  
2 detail around that, Angelo.

3           Any other comments or feedback?

4           [No response.]

5           CHAIR JOHNSON: Linn, Ava, do you feel like you  
6 got enough? Anything hanging out there you need answers  
7 to?

8           MX. JENNINGS: No. This discussion was great. I  
9 think we have a lot of good ideas. So we'll be excited to  
10 come back and look into some of these things. So thank  
11 you.

12          VICE CHAIR DUNCAN: Thank you. Great work.

13          Back to you, Madam Chairwoman.

14          CHAIR JOHNSON: All right. Thank you. I agree,  
15 a very good conversation, and thank you to both.

16          [Pause.]

17          CHAIR JOHNSON: All right. So we're going to  
18 have Asher and Chris join us again -- or have Chris join us  
19 again, and Asher coming for the first time, right?

20                 So our final session today will focus on state-  
21 directed payments within Medicaid managed care, and so  
22 they're going to have some great conversations around some

1 of the key findings around some of our CMS-approved  
2 directed payment arrangements as well as some changes that  
3 were introduced in the 2024 managed care rule.

4 So I will turn it to Asher and to Chris.

5 **### DIRECTED PAYMENTS IN MEDICAID MANAGED CARE**

6 \* MR. WANG: Hi. Good morning, Commissioners.

7 Today we'll be presenting on directed payments in  
8 Medicaid managed care.

9 Earlier this week, we had published an issue  
10 brief on our review of directed payments, and we'll be  
11 sharing some of our key findings in this presentation.

12 We'll start off with some background information  
13 on supplemental payments in managed care and then describe  
14 what directed payments are and how states can use them.  
15 We'll then share the trends and characteristics of directed  
16 payments that we found from our most recent analysis of  
17 directed payment preprints, which are highlighted in the  
18 slides above. Finally, we'll talk about some major  
19 regulatory updates that CMS made to directed payments in  
20 the latest managed care rule and conclude with our next  
21 steps.

22 To start off with some background, in fee-for-

1 service, states can make supplemental payments up to the  
2 upper payment limit, or UPL, which is based on what  
3 Medicare would pay for hospitals. However, states are not  
4 allowed to make UPL supplemental payments for services  
5 provided in managed care. This is because managed care  
6 rates are supposed to be actuarially sound and sufficient  
7 enough to be able to cover the reasonable costs of  
8 services, so additional payments wouldn't be needed.

9           Even so, some states initially used Section 1115  
10 demonstrations to make supplemental payments through  
11 uncompensated care pools or DSRIP payments. States also  
12 made pass-through payments, which required managed care  
13 plans to pass through additional payments to providers.

14           Over time, CMS has gradually phased out the use  
15 of pass-through payments and DSRIP funding and created a  
16 new option in 2016 called "directed payments." Since their  
17 introduction, the use of directed payments has grown  
18 rapidly and evolved as a way for states to make additional  
19 supplemental payments in managed care.

20           The directed payment option allows states to  
21 direct managed care plans to pay providers according to  
22 specific rates or methods. Under existing regulations,

1 states must meet certain criteria required to use directed  
2 payments. Most importantly, directed payments have to be  
3 tied to the utilization and delivery of covered services.  
4 They also have to advance at least one goal in the state's  
5 managed care quality strategy, and they cannot be  
6 conditioned on provider participation in financing  
7 arrangements such as an intergovernmental transfer.

8           Most directed payment arrangements also have to  
9 be approved by CMS prior to implementation. In order to  
10 get approval, states have to submit a preprint application  
11 to CMS for review, which describes the directed payment and  
12 projects the amount of estimated spending.

13           Directed payments are usually approved one year  
14 at a time and not automatically renewed. So most directed  
15 payment arrangements have to go through the preprint  
16 process for each renewal.

17           We've organized directed payments into three  
18 broad categories. First, minimum or maximum fee schedules  
19 set the base payment rates that plans pay for specified  
20 services. This could be using a state plan rate, Medicare-  
21 approved rates, or another alternative fee schedule that  
22 the state develops.

1 CMS does not require prior written approval for  
2 fee schedules tied to state plan rates, and under the most  
3 recent managed care rule, fee schedules set at 100 percent  
4 of Medicare-approved rates will also be exempt from prior  
5 preprint approval going forward.

6 Uniform rate increases require plans to pay a  
7 specified uniform dollar or percentage increase in the  
8 payment above negotiated payment rates. These payments are  
9 most similar to lump-sum supplemental payments in fee-for-  
10 service, where there is an add-on or additional payment  
11 over the base rate. As we will later show, the majority of  
12 directed payment spending goes towards uniform rate  
13 increases.

14 Finally, value-based payment arrangements require  
15 plans to implement value-based payment models that tie  
16 payment to a specific performance or outcome. These  
17 include pay-for-performance models, shared savings  
18 arrangements for accountable care organizations, or other  
19 alternative payment mechanisms.

20 As the chart above shows, managed care directed  
21 payments are a substantial share of Medicaid payments to  
22 hospitals. In 2022, we found that directed payments

1 accounted for around one-third of managed care payments to  
2 hospitals. Directed payment estimates were also larger  
3 than other types of supplemental payments for hospitals.

4 Now we'll move on to discuss the trends and  
5 characteristics of directed payments that we observed in  
6 our most recent analysis.

7 For our analysis, we reviewed directed payment  
8 preprints approved on or after February 1st, 2023, which  
9 CMS has made publicly available online. This does not  
10 include minimum fee schedules tied to state plan-approved  
11 rates because they are exempt from prior preprint approval.

12 In total, we included 302 distinct directed  
13 payment arrangements approved between February 2023 and  
14 August 2024 in our analysis, and in order to use the most  
15 recently approved and updated directed payment, we excluded  
16 preprints that were subsequently renewed or amended and  
17 used directed payment preprints that did not use the old  
18 preprint template.

19 The payment amounts represent annualized amounts  
20 for the most recent rating period, which may not be tied to  
21 the most recent calendar year and differ from actual final  
22 spending.

1           This analysis updates our previous directed  
2 payment analyses where we had analyzed directed payments  
3 approved up to February 2023.

4           This chart represents our directed payment  
5 analyses from our separate review periods. Since the first  
6 directed payments were implemented in 2017, there has been  
7 a substantial growth in the use of directed payments,  
8 especially for uniform rate increases.

9           In 2022, MACPAC reviewed all directed payments  
10 approved up to December 2020, and we found 61 distinct  
11 arrangements for uniform rate increases. We replicated  
12 this analysis in 2013 for directed payments approved  
13 between July 2021 to February 2023, and we found 177  
14 directed payments approved for uniform rate increases.

15           Our most recent analysis found that the number of  
16 uniform rate increases approved between February 2023 and  
17 August 2024 has grown to 204 distinct direct payment  
18 arrangements.

19           Similarly, we also found a dramatic increase in  
20 annual directed payment spending. This increase is again  
21 concentrated in uniform rate increases.

22           This year, we estimated that directed payments



1 approved between February 2023 and August 2024 totaled  
2 \$110.2 billion per year, which is nearly 60 percent greater  
3 than the \$69.3 billion in projected annual spending from  
4 our previous review. And while the spending projections is  
5 substantial, these numbers should be interpreted with  
6 caution because the numbers reported in preprints are  
7 spending projections and not actual spending expenditures.

8           This slide shows the count and spending  
9 distribution of different types of directed payment  
10 arrangements. We found that about two-thirds of directed  
11 payments approved between February 2023 and August 2024  
12 were uniform rate increases. Fifteen percent were minimum  
13 or maximum fee schedules discounting those that use state  
14 plan rates. Twelve percent were value-based payment  
15 arrangements, and 6 percent were more than one type of  
16 arrangement.

17           Uniform rate increases also accounted for a  
18 disproportionately large amount of projected spending.  
19 Although two-thirds of directed payment preprints were  
20 uniform rate increases, they represented nearly three-  
21 quarters of total spending.

22           In contrast, while the value-based payment

1 arrangements accounted for 12 percent of directed payment  
2 arrangements, they only represented 3 percent of the total  
3 funding. However, because some arrangements use more than  
4 one type of directed payment, it's difficult to allocate  
5 the estimated payment amounts for each payment type.

6           In our review, we also analyzed the ways that  
7 directed payment arrangements were targeting providers and  
8 their financing sources. For uniform rate increases and  
9 value-based payment arrangements, the most commonly  
10 targeted providers were hospitals and hospital-affiliated  
11 providers, while minimum or maximum fee schedules most  
12 commonly targeted behavioral health providers.

13           Although less common, directed payment  
14 arrangements also targeted nursing facilities, home- and  
15 community-based service providers, dental providers, and  
16 others.

17           Most uniform rate increases were financed by  
18 provider taxes or intergovernmental transfers, especially  
19 those that target hospitals, and most minimum or maximum  
20 fee schedules were financed by state general funds.

21           We also found that the targeting of directed  
22 payment arrangements appears related to their financing

1 sources. Directed payment spending often went towards  
2 providers who also financed the non-federal share of the  
3 payment.

4 For the 29 largest directed payment arrangements  
5 that were projected to spend more than \$1 billion a year,  
6 24 of them were targeted to hospitals, and 26 were financed  
7 by provider contributions.

8 Our analysis also found that the methods states  
9 used to pay out directed payment arrangements varied based  
10 on the directed payment type.

11 There are two ways that states can incorporate  
12 directed payments. They can incorporate them as  
13 adjustments to plans' base capitation rates or use separate  
14 payment terms, which are separate, typically predetermined  
15 pools of funding that states deliver outside of the base  
16 capitation rate.

17 We found that most uniform rate increases and  
18 value-based payment arrangements use separate payment  
19 terms. Out of the \$81.5 billion of annual projected  
20 spending on uniform rate increases, separate payment terms  
21 accounted for 87 percent of these dollars, although this  
22 does not include directed payments that use both capitation

1 rate adjustments and separate payment terms. There also  
2 seems to be a correlation between provider financing and  
3 the use of separate payment terms.

4           We found that provider taxes and  
5 intergovernmental transfers financed 78 percent of the  
6 uniform rate increases that were incorporated as separate  
7 payment terms, while provider contributions only financed  
8 34 percent of uniform rate increases incorporated as base  
9 rate adjustments.

10           Given the common use of separate payment terms,  
11 CMS had concerns that separate payment terms undermine the  
12 risk-based nature of managed care. So CMS eliminated  
13 separate payment terms in the 2024 managed care rule. This  
14 elimination will go into effect in July 2027, and directed  
15 payments that currently rely on separate payment terms will  
16 need to be restructured as adjustments to the base  
17 capitation rates.

18           With respect to quality goals, most directed  
19 payment arrangements stated goals relating to access to  
20 care, but they did not clearly specify how directed  
21 payments would lead to improved access. Directed payment  
22 arrangements often did not provide clear nor consistent

1 measures of improved access. For example, some directed  
2 payment arrangements relied on measures of utilization,  
3 while others considered the timeliness of care and keeping  
4 providers within planned networks. But it wasn't always  
5 clear how the additional payments would be tied to these  
6 measures of access.

7           There were some directed payment arrangements  
8 that focused on improving access for specific providers or  
9 services, such as safety net hospitals, hospitals with a  
10 high percentage of Medicaid patients, children's hospitals,  
11 and providers of maternal and behavioral health services.

12           Although states must have an evaluation plan to  
13 assess how the directed payment arrangement advances state  
14 goals, there is a lack of publicly available evaluation  
15 results, and CMS has reported that evaluation results were  
16 often incomplete. So it's not clear the extent to which  
17 directed payments have achieved meaningful improvements in  
18 access.

19           Finally, we will review recent policy updates  
20 that CMS made to the directed payment option.

21           As we saw from our findings, directed payments  
22 have continued to grow rapidly since their initial

1 implementation. In July 2024, CMS finalized a managed care  
2 rule that issued several updates to improve the oversight  
3 and transparency of directed payment arrangements.

4           As mentioned earlier, CMS eliminated the use of  
5 separate payment terms, which may have particular  
6 implications for hospitals that receive large uniform rate  
7 increases from directed payments that use separate payment  
8 terms.

9           CMS also prohibited the use of post-payment  
10 reconciliation processes. This means that plans can no  
11 longer use historical utilization to make periodic payments  
12 and then reconcile to actual service utilization. These  
13 provisions will be effective for the first rating period on  
14 or after July 2027.

15           In addition, CMS also issued stricter reporting  
16 requirements. States must report provider-level data on  
17 directed payments via T-MSIS once CMS releases reporting  
18 instructions.

19           CMS also added more evaluation plan requirements,  
20 and states are now required to submit evaluation reports  
21 with three-year results for directed payment arrangements  
22 that exceed 1.5 percent of total managed care costs.

1           States must also collect provider attestations  
2   that indicate they did not participate in any unallowable  
3   hold-harmless arrangement.

4           While this final rule did partially address some  
5   of MACPAC's prior recommendations by requiring states to  
6   collect provider-level data, there are still further  
7   opportunities to fully implement our recommendations.

8           We've recommended that states should also be  
9   required to report the provider-level costs of financing  
10   the non-federal share, so that we can fully analyze the  
11   relationship between net provider payments and improvements  
12   in access and quality.

13          For next steps, we plan to update a hospital  
14   payment index that will incorporate directed payment data  
15   to make payment-level comparisons across states and  
16   Medicare, and alongside our payment index work, we'll also  
17   review narratives from UPL payment reports and continue to  
18   review new directed payment preprints.

19          Thank you for your time, and we welcome your  
20   feedback on our findings and any additional information  
21   that you would like us to monitor on directed payments.

22          CHAIR JOHNSON: Thank you, Asher and Chris.

1 All right. So we're going to open it up for  
2 Commission feedback here. We're looking for some feedback  
3 on the findings as it was presented and if there's  
4 additional information that will be helpful as we continue  
5 the discussion as well. So I'll open up the floor.

6 All right. Tricia.

7 COMMISSIONER BROOKS: I just have a question.  
8 Could you go back to slide 10? Can't get there, huh?  
9 Okay.

10 So, if I'm looking at these time frames correct,  
11 the middle one was for a 19-month time frame, and the one  
12 on the far right, the most recent, is for seven months?

13 MR. WANG: Eighteen months.

14 COMMISSIONER BROOKS: It says February -- okay.  
15 Never mind. Thank you. I can't read that small print.

16 MR. WANG: No problem. It's a small font.

17 COMMISSIONER BROOKS: Nice presentation, though.  
18 There's a lot of stuff to think about here.

19 CHAIR JOHNSON: Thank you, Tricia.

20 Sonja?

21 COMMISSIONER BJORK: Thank you.

22 What a great presentation. So much work goes



1 into these, and we sure appreciate you putting it all  
2 together for us like this.

3 Well, I have several comments. The first is one  
4 that I've made before that, you know, that the stated goal  
5 is -- one of the stated goals is strong networks and  
6 access. So I continue to be very disappointed that CMS  
7 removed the requirement that providers be contracted with  
8 the managed care plan in order to take advantage of the  
9 directed payment program. It turns out that's one of the  
10 really big incentives for providers to contract with their  
11 local plans.

12 You know, we continue to encounter pretty big  
13 hospital systems, that they don't want enter into a  
14 contract, but they sure do want to take advantage of  
15 directed payments. And so I just wanted to go on the  
16 record that although states are allowed to require that, it  
17 was much stronger when it was a CMS requirement for part of  
18 the whole program.

19 Directed payment quality goals. They should very  
20 much be aligned with what are required by the states of the  
21 managed care organizations. There have been instances  
22 where the quality goal was different than the ones that are

1 being required by the state and the managed care plans, and  
2 it sure is helpful when everybody is moving in the same  
3 direction on quality issues. So I would advocate for that.

4 Let's see. The new regulations, as you've noted,  
5 the directed payments no longer have the separate terms.  
6 That starts in July of 2027. This means that the payments  
7 will eventually be included in MCO base rates.

8 Now, our actuary specialist, Jennifer, can opine  
9 on this, you know, if needed. But essentially, what this  
10 means is that it goes into the risk of the managed care  
11 plans, and if the actuaries don't get the utilization  
12 assumptions correct, then it puts the health plans at risk  
13 for -- you know, it could be millions or billions of  
14 dollars, and we haven't had risk in that way before. So  
15 there's a danger of non-alignment with utilization  
16 assumptions.

17 To solve that, we could have a longer phasedown  
18 period of the special terms, and that would give the states  
19 time to work through the issues.

20 Additionally, another possibility is that CMS  
21 could allow narrow risk corridors, and that would lessen  
22 the risk on everyone.

1           So those are my comments, and I look forward to  
2   our next round. Now that I've been a Commissioner for  
3   several years, I understand that this is our perennial  
4   topic and that we will always be focusing on this. I can  
5   see from your chart that the use of directed payments sure  
6   is growing, and so we'll need to pay attention to all the  
7   things that MACPAC cares about, including transparency,  
8   consistency, and topics like that. So thank you.

9           CHAIR JOHNSON: Thank you, Sonja.

10          Patti?

11          COMMISSIONER KILLINGSWORTH: I'll just make a  
12   quick comment, and it is one, too, that I have raised  
13   before. But, as noted on slides 12 and 13, a significant  
14   portion of these payments are funded through provider  
15   taxes, provider taxes which heavily favor institutional  
16   providers, and thereby have at least the potential to  
17   significantly expand access to institutional benefits while  
18   inadvertently, perhaps, reducing access to home- and  
19   community-based providers who don't have access to those  
20   same provider taxes to fund directed payments. And I just  
21   think it's an issue that we need to continue to be aware of  
22   as we continue our work on this topic.

1 CHAIR JOHNSON: Thank you, Patti.

2 Mike?

3 COMMISSIONER NARDONE: I wanted to ask a question  
4 on the Slide 10, Chris and Asher. I was trying to  
5 understand where it says the analysis excludes prior  
6 versions of directed payments that were renewed or amended.  
7 Does that mean that this is actually a low number, in terms  
8 of the directed payment arrangements, or am I  
9 misunderstanding the notes?

10 MR. WANG: Yeah. So some directed payment  
11 arrangements they have multiple preprints for -- because  
12 they submit a preprint for each renewal period. So for  
13 example, if they submit a preprint for 2021, they might  
14 submit it again in 2022 to renew. But they might have  
15 different numbers for their projected spending. So in  
16 order to remove any duplicates we would use the latest,  
17 most updated directed payment preprint. So older ones that  
18 were updated with the new preprint, those were excluded.

19 COMMISSIONER NARDONE: I see. Okay. And I know  
20 that, first of all, this is really helpful to have the  
21 understanding of the directed payments, and also  
22 understanding -- this is a lot of money, so how do these

1 expenditures, are they meeting the goals of what they're  
2 intending to achieve? So I think the transparency around  
3 this is really important in understanding where these  
4 dollars are going and how they're being utilized.

5 I think the one thing that I struggle with a  
6 little bit is we don't have, and apparently, we don't have  
7 access to this, is what are the resources that are going  
8 into funding the provider taxes. So some of these directed  
9 payments, at least the way I'm understanding it, some of  
10 these directed payments would be offset by the amount of  
11 dollars that providers are putting into the provider taxes.  
12 And I just note that to say that, you know, just to make  
13 that point, and that's, I think, part of putting these  
14 dollars in context. I guess we don't really have any sense  
15 of that, right?

16 MR. PARK: Yeah, so we don't have the actual  
17 financing amount to individual providers. What we've done  
18 in the past, which is rough estimates, is the GAO did a  
19 survey of states in terms of how they're using different  
20 sources of non-federal share financing. And so that is  
21 what we did with our previous hospital payment index, and  
22 these are pretty rough buckets of managed care, DSH

1 supplemental payments, non-DSH supplemental payments, and  
2 fee-for-service. It's very rough. The data are older.  
3 The most recent one is from 2018.

4           So that's really the best source of information  
5 that we have in terms of non-federal share contributions to  
6 different types of payments. You know, certainly in our  
7 last report cycle we had made recommendations that this  
8 information is important to really understand what  
9 individual providers are getting, because these payments  
10 are targeted for specific providers, for specific reasons,  
11 and we really do need all that information to really  
12 understand if they're meeting the stated goals.

13           COMMISSIONER NARDONE: And I guess I just want to  
14 also understand separated payment terms, what the impact of  
15 that is. Even though the dollars -- this is my assumption  
16 so I just want to ask the question -- even though the  
17 dollars are put into the base rates, would there also be  
18 some provision elsewhere in the contract that said the  
19 expectation was that the plans paid a percentage increase  
20 over their rates or additional money, whatever the  
21 requirements were of the directed payment?

22           MR. PARK: Yes. So there's nothing prohibiting

1 these uniform rate increases in terms of saying, you know,  
2 hospitals would get a 20 percent increase in their payment  
3 rates or the exact dollar amount, the \$100 per admission,  
4 however the state went and set that up. As Sonja  
5 mentioned, the separate payment terms is allowed to kind of  
6 sit outside of the per capita capitation PMPM that the  
7 state pays to the plan. So these are more like the fee-  
8 for-service supplemental payments that can be paid on a  
9 lump sum basis. So it might be paid out on a quarterly  
10 basis, based on the utilization, like the actual admissions  
11 to a particular hospital.

12 When it gets incorporated into the capitation  
13 rate, as Sonja mentioned, the plan does have that risk in  
14 terms of over or under utilization. So then also depending  
15 on how -- all the dollars are going to the plan, but then  
16 depending on the utilization to different providers, the  
17 providers may not get the same amount they would've gotten  
18 under the separate payment term, necessarily.

19 So the amount of dollars could still be the same,  
20 but the effect and how the dollars are flowing may look  
21 differently.

22 COMMISSIONER NARDONE: Okay. Thank you.

1 CHAIR JOHNSON: Thank you, Mike. Sonja.

2 COMMISSIONER BJORK: Verlon, I didn't quite hear  
3 you. Did you call on me?

4 CHAIR JOHNSON: I did. I'm sorry, Sonja.

5 COMMISSIONER BJORK: No, that's okay. I just had  
6 a follow-up to Patti's comment about what's covered and  
7 what's not and who participates. It reminded me of the  
8 possible unintended consequence where we say in our paper  
9 that we want to promote other models, like value-based  
10 purchasing or capitation, but when only certain services  
11 are subject to these rate increases through directed  
12 payments, you know, this has all been retroactive, so can  
13 you imagine the amount of administrative work to go back  
14 and parse out, in a capitated arrangement, which services,  
15 you know, first figuring out the value and then making sure  
16 that those services or service providers get the increase.

17 So I just want to make note of that, and Chris,  
18 you and I have probably talked about that before, but I  
19 just want to make sure it's on the radar. Thank you.

20 CHAIR JOHNSON: thank you. Heidi.

21 COMMISSIONER ALLEN: Thank you for this work,  
22 and, you know, I think it really underscores how helpful



1 transparency would be for everybody. Like we're assuming  
2 nothing untoward is going on here, but if it's transparent  
3 then everybody can see the way that it's being used and  
4 why. And I think that benefits every stakeholder.

5           One thing I want to mention about the way,  
6 though, that it's happening, is I don't think it does  
7 anything or enough to reduce the stigma of treating the  
8 Medicaid patient, because it is so back door, because it  
9 happened after the encounters. You know, so many providers  
10 say, "I don't want to accept Medicaid because I don't get  
11 paid enough," and so many providers won't even contract  
12 with Medicaid because they say that they don't get paid  
13 enough. And you go onto these state websites and you try  
14 to understand what the base rate is, and you're like, oh  
15 wow, that's really, really low. But it's not actually what  
16 providers are getting.

17           So I feel like if it's not going to be integrated  
18 into the capitation and to the base rates, then there has  
19 to be some way, though, to be able to quantify how it's  
20 impacting provider rates in a meaningful way, so that we  
21 can actually say, oh, a provider here who sees Medicaid  
22 patients for this kind of thing gets paid this much. And I

1 think that's such a simple outcome.

2 I mean, why is it a mystery? Why can't we just  
3 know how much providers are getting paid to serve a  
4 Medicaid patient, so that we can really have a conversation  
5 about whether it's enough or it's not enough? And these  
6 kinds of payments, I think, make that really, really  
7 difficult. So I hope it continues to stay on our radar. I  
8 hope we can improve transparency and really make our voice  
9 towards ensuring that this significant portion of the  
10 Medicaid budget will be used for access and quality and the  
11 things that we really care about.

12 CHAIR JOHNSON: Thank you, Heidi. Jenny.

13 COMMISSIONER GERSTORFF: First, I want to say how  
14 excited I still am about the hospital index that you guys  
15 are updating. I think that will be great.

16 But I also wanted to ask here on Slide 10, when  
17 you deleted the duplication of preprints, was that within  
18 each period or was that across all time?

19 MR. WANG: This was within each period.

20 COMMISSIONER GERSTORFF: Within each period.

21 Okay. Perfect. Thank you.

22 CHAIR JOHNSON: Any other questions? John.

1           COMMISSIONER McCARTHY: Yeah. I want to hit on  
2 what Heidi said. I think a part of what we run into on  
3 some of these things is because there's non-transparency on  
4 some of it then people will fill in ideas around what's  
5 going on in some of these. So as we voted last time, to be  
6 a little more transparent on this, I think it would be  
7 quite helpful.

8           The second point I want to make is there is a lot  
9 of nuance in this, and I know in your analysis you're  
10 breaking some of these things out. And I think we'll keep  
11 pressing you on some of these different pieces, just from  
12 the standpoint of what provider types are we looking at for  
13 these payments. Are we looking at hospitals? Are we  
14 looking at physicians? Are we looking at nursing homes?  
15 Like whoever it is, to get a better understanding of those.

16           Lastly, I think it is also hard in some of these  
17 when you're looking across the country -- and I'm making  
18 this one up, and I'm not saying there's directed payments  
19 around this -- but you're looking across the country and  
20 you see rural hospitals closing. And we know that's a  
21 fact. I mean, that's not happening. It is happening. And  
22 so if a state puts in a directed payment, for instance, for

1 rural hospitals, and they're using either a tax or an  
2 intergovernmental transfer, whatever they're using, and we  
3 say we're measuring access, well, the access might be that  
4 the hospital stays open, but they're not going to see more  
5 people. So how do you measure that, because it's hard to  
6 measure, well, the hospital would've closed or not closed.

7           There are things that we still have to keep in  
8 the back of our heads, and the nuances, as we talk about  
9 these, and because of the words we use, if they've got  
10 negative or positive connotations on some of these, because  
11 I think there are a lot of different problems, people we  
12 are trying to solve. And the biggest one is probably just  
13 payment rates that aren't adequate, and I think that can  
14 become an issue.

15           Even like Sonja said, I get what Sonja said  
16 around making a requirement to contact with the plan in  
17 order to get the payment. And that, at the service level,  
18 makes sense, and I have done that in the past. But I think  
19 one of the problems that you come into is what if a plan  
20 says -- and I'm not saying Sonja's plan does this, but I'm  
21 saying if a plan said something like, "Well, okay, we're  
22 going to offer you 25 percent of fee-for-service because

1 you have to contract with us in order to get this other  
2 payment," well, that's not a good way to do this either.

3 So there are a lot of different pieces and a lot  
4 of different nuances around these things, so it will be  
5 interesting, as we move forward, how do we look at that and  
6 break down maybe specific policy questions for different  
7 areas of this.

8 CHAIR JOHNSON: And as he does when he talks, we  
9 have thousands of people wanting to respond. So I will  
10 turn to Mike Nardone.

11 COMMISSIONER NARDONE: I was just going to say,  
12 just to reflect on John's point about some of the nuances  
13 here, when I reflect back on my time as a Medicaid  
14 director, we initiated I guess what now would be a directed  
15 payment to hospitals. That was funded by a hospital tax.  
16 And it was taking place during the period of the Great  
17 Recession. And it also allowed us to generate additional  
18 revenues to the program as well as supporting the hospital,  
19 increased resources for hospitals.

20 So it's hard because we're looking at one side of  
21 this, the payment side, and we don't have the same level of  
22 transparency or understanding around the financing side.

1 So I applaud these efforts to get there, but I just also  
2 want to make sure that these are put in the appropriate  
3 context.

4 CHAIR JOHNSON: Thanks, Mike. Sonja, I thought I  
5 saw your hand up.

6 COMMISSIONER BJORK: Well, you did. John's  
7 comment just made me want to mention that I see usually the  
8 exact opposite of what John said in that the hospitals or  
9 big systems say Medi-Cal base rates and what you're  
10 offering as a Medi-Cal plan, they're way too low so we're  
11 not contracting with you. And they do not, at all, have a  
12 willingness to acknowledge that the directed payment  
13 program, you saw on the pie chart, my goodness, that  
14 increases the reimbursement by about 30 or 40 percent.  
15 That is substantial. And they'll say, "Well, we're not  
16 going to count that as part of contracting or as part of  
17 your offer."

18 So we usually see the exact opposite, but John's  
19 point is taken. Thank you.

20 CHAIR JOHNSON: Thank you, Sonja. And then  
21 Carolyn.

22 COMMISSIONER INGRAM: Yeah. I just have to chime

1 in with Sonja. I appreciate John's comment, as well,  
2 because he's great about being skeptical about these  
3 things. But the directed payments, at least in the states  
4 that we operate in, are used to increase access to care,  
5 and they're used as a way to ensure that we've got  
6 providers who want to participate in programs because they  
7 end up increasing the rates to those providers on the  
8 ground.

9           So I guess it could happen somewhere else, but  
10 Medicaid, as we all know, because there are a lot of us on  
11 here who have dealt with these budget issues besides just  
12 Medicaid directors, the legislature and the governor's  
13 office gives you the money as a Medicaid agency, that  
14 they're going to give you. Sometimes you'd really like  
15 them to give you increased amount for rates.

16           And I'll just do a shout-out to New Mexico. Our  
17 legislature has done that. Our rates are going up to 150  
18 percent of Medicare in New Mexico. Thank you, governor and  
19 legislature, for doing that. So it's going to be amazing  
20 in terms of increasing access to care in the state because  
21 they've put that funding behind the program.

22           I think not all states are able to do that. So

1 some states are creative and come up with other ways to  
2 increase the rates because they want to increase access to  
3 care. They can't all come up with that state general fund  
4 to do that, or the mechanism there. So I'll just throw  
5 that out there for us to think about.

6 I still agree with Heidi and others that we need  
7 more transparency in this process so that we can see what's  
8 actually going on. Especially as this managed care rule  
9 gets put in place, that will be the more important. Thank  
10 you.

11 CHAIR JOHNSON: Thank you. Anyone else?

12 All right. Well, Asher and Chris, this is a  
13 definitely a very good conversation. I think we had a lot  
14 of key points that came out of it. I will just say, too,  
15 that as I initially read the report and looked at some of  
16 the numbers, particularly around the uniform rate increase,  
17 it was a little like, hey, is this really achieving what  
18 we're supposed to achieve with this? And I think you all  
19 did a nice job of at least reminding us of the key  
20 principles we're looking for in transparency, quality, and  
21 access.

22 But what I also heard, I think, from my fellow



1 Commissioners, is that we want to continue monitoring and  
2 really be able to evaluate those longer-term impacts as we  
3 move forward.

4 But I just wanted to pause and see if you all  
5 heard anything differently or if there's anything else that  
6 you feel that you need from the Commissioners at this time?

7 MR. PARK: Nothing else at this time.

8 CHAIR JOHNSON: Okay. All right. Thank you so  
9 much.

10 CHAIR JOHNSON: All right. So with that, that  
11 was our last session, but we do have time for more final  
12 public comments. At this time we'll ask that people raise  
13 their hand if they would like to offer comments. Remember  
14 to introduce yourself and also the organization that you  
15 represent. And as always, we ask that you use keep your  
16 comments to under three minutes.

17 All right. So we have Chelsea.

18 **### PUBLIC COMMENT**

19 \* DR. FOSSE: Yes, hello. Thank you so much. I  
20 want to thank the MACPAC staff and the Commissioners for  
21 such an important conversation around the transition from  
22 pediatric to adult care for children with special health

1 care needs.

2           My name is Chelsea Fosse. I'm on staff at the  
3 American Academy of Pediatric Dentistry. I'm a general  
4 dentist, and when I worked clinically, I worked primarily  
5 with adults with disabilities, so that population that  
6 would definitely benefit, and hopefully we'll see more  
7 providers for adults in the clinical environment doing this  
8 care.

9           I believe Commissioner Brooks stated in dentistry  
10 it's all too common, as I'm sure many other segments of  
11 health care, for people with special health care needs,  
12 people with disabilities to be seeing their pediatric  
13 providers while into adulthood. That is absolutely the  
14 case in dentistry where we have pediatric dentists doing a  
15 lot of this care.

16           Right not at AAPD we're fortunate to have the  
17 support of the CareQuest Institute as we dive into figuring  
18 out the clinical transition in dentistry, how we can guide  
19 and advise pediatric dentists and general dentists to work  
20 together in this space. We'll turn to many of the  
21 resources you've all mentioned, Got Transition, AAP,  
22 looking at best practices in foster care, and we've

1 established a transition advisory group of pediatric and  
2 adult dentists to help us roll this out.

3 I'm grateful for the conversation on the  
4 definition of special health care needs, as well. We've  
5 thought a lot about that too. I believe one of the recent  
6 CMS state health official letters rephrased this a bit to  
7 children with disabilities and other complex conditions.  
8 We're looking at that sort of terminology, as well, and  
9 making sure it's defined well, comprehensive enough.

10 So I thank you all for this conversation. It's  
11 extremely important. We'll be sure at AAPD to share our  
12 work with the Commission when it becomes available. And  
13 thank you for your incorporation of dentistry in these  
14 conversations, as well. So thank you so much, and we look  
15 forward to hearing how the Commission moves forward with  
16 this.

17 CHAIR JOHNSON: Thank you so much, Chelsea.

18 Julie, would you like to make a comment?

19 MS. KOZMINSKI: Yes, thank you, and good morning,  
20 everyone. My name is Julie Kozminski, policy manager at  
21 America's Essential Hospitals. Thank you for your work on  
22 directed payments and the opportunity to provide comments.

1 We submitted written comments for the record, but I wanted  
2 to highlight what we've heard from our members on the  
3 important role of state-directed payments in improving  
4 access and about some new barriers to implementing directed  
5 payments that were added by the new managed care rule.

6           America's Essential Hospitals is a leading  
7 association for hospitals dedicated to equitable, high  
8 quality care for all, including those who face social and  
9 financial barriers to care. Our more than 300 members  
10 provide a disproportionate share of the nation's  
11 uncompensated care, and three-quarters of their patients  
12 are uninsured or covered by Medicare or Medicaid.

13           First, I wanted to highlight the fact that the  
14 ability for states to pay Medicaid providers the same rate  
15 as other payers has been truly transformational for many of  
16 our members. Not only do these payments help offset low  
17 Medicaid payment rates but they also help to fund  
18 investments in quality and access.

19           We recently published a new policy brief  
20 highlighting many of these successes, and we urge MACPAC to  
21 consider the important role directed payments play in  
22 improving access to care as it monitors the implementation

1 of the new access rules.

2           Second, we also recognize that the Commission has  
3 an important role in monitoring spending associated with  
4 state-directed payments, and we appreciate the new analysis  
5 that the Commission shared today. However, we are  
6 concerned that the Commission's report on state and federal  
7 spending do not consider the costs of intergovernmental  
8 transfers and provider taxes that reduce the net payments  
9 that hospitals receive.

10           Lastly, we are concerned about two barriers in  
11 the managed care rule, the elimination of separate payment  
12 terms and the prohibition on interim payments based on  
13 historical utilization. These provisions do not change the  
14 amount of directed payments providers are eligible to  
15 receive, but they will add administrative costs to states,  
16 health plans, and providers with no meaningful benefit for  
17 patients, and will reduce payment transparency.

18           Eliminating separate payment terms will  
19 disproportionately harm essential hospitals because it will  
20 make it more difficult for states to target directed  
21 payments to safety net providers. Further, interim  
22 payments help states make more timely and predictable

1 payments to providers, which is important for maintaining  
2 cash on hand at essential hospitals.

3           We have shared with the Commission a letter we  
4 sent to CMS detailing these concerns, and we hope that we  
5 can continue to be a resource to MACPAC as it seeks to  
6 learn more about how directed payment policies are working  
7 on the ground at essential hospitals.

8           Thank you for the opportunity to provide  
9 comments.

10           CHAIR JOHNSON: Thank you so much, Julie. Thank  
11 you for all the comments.

12           I do want to remind others, if you have  
13 additional comments that you'd like to submit you can  
14 definitely go to our MACPAC website and submit the comments  
15 there.

16           And with that, as we conclude these two days of,  
17 I think, very important discussions that we've had, I just  
18 want to thank the staff for their in-depth analysis and  
19 their research. It was very helpful. I also want to thank  
20 my fellow Commissioners for your thoughtfulness, of course,  
21 and the contributions and engagement that you made, as  
22 well. And, of course, the public for your support and your

1 input is always valuable.

2                   And we are looking forward to our next meeting  
3 which will occur on December 12th and 13th. And let me  
4 just get a nod that that's correct. Okay. We're looking  
5 forward to seeing you all there.

6                   So thank you very much, and enjoy your weekend.

7 \*                [Whereupon, at 11:57 a.m., the meeting was  
8 concluded.]

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