



**Consumers for  
AFFORDABLE  
Health Care  
COALITION**

*Advocating the right to quality, affordable  
health care for every man, woman and child*

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## **Response to the Advisory Council on Health Systems Development's Final Recommendations for Payment Reform**

### **Comments of Joseph Ditré, Esq., Executive Director, Consumers for Affordable Healthcare, On Behalf of the Consumers for Affordable Health Care Coalition**

December 11, 2009

Good morning, Chairman Rines, and members of the Advisory Council on Health Systems Development. My name is Joe Ditré. I serve as the Executive Director for Consumers for Affordable Health Care (CAHC). CAHC is Maine's largest consumer health coalition whose mission is to advocate for affordable, quality health care for every man, woman, and child. Our membership includes over one-hundred members, including about forty organizations and businesses. The organizations and business members, include consumer organizations such as the Maine Council of Senior Citizens, labor unions and organizations including the Maine Center for Economic Policy, Maine Equal Justice Partners, small businesses, faith-based organizations including the Maine Council of Churches and the Roman Catholic Diocese of Portland, and health care provider associations such as the National Alliance for the Mentally Ill/Maine, the Maine Chapter of the National Association of Social Workers, and many others. Its collective membership represents the health care and coverage interests of over 200,000 Maine citizens.

We acknowledge and respect the diligence and commitment that the Advisory Council on Health Systems Development's Payment Reform sub-committee has devoted to meet its legislative charge. Realizing the impact that payment reform will have on Maine's health care consumers, CAHC has been actively involved in discussions with our Coalition partners, health care professionals, national policy experts, and Maine's employer community to understand proposed ramifications and advocate a consumer perspective. While no individual member of our Coalition professes to know all of the nuances of current payment reform models, our collective membership has an incredible depth of knowledge regarding how our current health care delivery and payment system affects consumers, and we know that the system needs to be overhauled to better serve the interests of our members. Our Health Policy Committee actively endorsed all of the policy components contained in the passage of LD 1444, and are committed to delivering consumer participation and perspective to transform our current health care system that rewards volume, to one that is patient centered, of the highest quality, and delivers appropriate care in the appropriate setting. Consumers need to have input and influence in these reform efforts if the evolution is to succeed.

We have been active participants in all Council and Payment Reform Sub-committee meetings and have shared our thoughts and insight with you. On September 25<sup>th</sup>, I offered written comments to this Council outlining our consumer perspectives and concerns. We are thankful that many of our perspectives have been included in the Council's most recent draft. As we have observed the Committee's initial discussion and preliminary perspective to model reform efforts and recommendations of the Massachusetts Payment Reform Commission to enact unified system wide reform, evolve into the current incremental proposals, we acknowledge that among Maine

stakeholders, there is no current unifying vision or suggested system wide model. Stated simply, we understand that a “go big or go home” approach may not be feasible in the short term.

We know that the pilot projects offered for consideration by the state’s largest payers will affect thousands of Maine people. As such, legislators need to have all of the data and information required to prevent harm to Maine’s health care consumers before it endorses proposed models or grants waivers to Maine’s current consumer protection laws. Maine’s consumer protection statutes were enacted after considerable legislative deliberation, were data driven, and occurred in a publicly transparent process.

Our comments underscore the subcommittee’s commitment to payment reform, and we look forward to working with the state as these efforts continue. We have broken our comments into six focus areas:

## 1. **Accountability**

### CONCERNS:

- The recommendations as currently drafted do not answer the central question of who has authority to oversee payment reform pilot projects—from proposal to implementation and beyond. We believe there is insufficient structure for ongoing transparency, accountability and oversight of both pilot projects and payment reform efforts.
- The recommendations propose limited, if non-existent, involvement from the state. We believe that any payment reform pilot project that asks to waive existing rules must be subject to state monitoring, reporting and regulation.
- We urge the Council and the Legislature to consider using existing regulatory agencies as the regulators for pilot projects.
- The recommendations do not identify upfront expectations, measures and outcomes associated with payment reform projects. Discussion about quality guidelines and expectations should be associated with any payment reform effort.

### RECOMMENDATIONS:

- State government must take a leadership role in guiding payment reform efforts. The experience with the current Patient Centered Medical Home (PCMH) pilot project shows that without legislative or other state pressure, it can be difficult to ensure fair and adequate participation amongst various stakeholders. For example, there is one insurance carrier who will not be ready to go when the pilots are launched on January 1. They have signaled that they may not be ready within the year, which transfers a significant amount of risk onto the providers participating in the pilot.
- Payment reform pilot projects must be subject to outcome measures that adhere to quality guidelines and demonstrably improve the quality of patient care.
- Any pilot project subject to state regulation must have, as part of its design, an independent third party evaluation. The evaluation should take into consideration basic measures in quality improvement and cost containment. The evaluation should also consider where savings were achieved and how those savings are spread among patients, providers, and payers.
- Any assessment of payment reform efforts should make use of claims and quality data to assess both the costs and benefits of payment reform on a given population and system wide and health spending patterns should be evaluated to further understand broader economic impacts in areas affected. That assessment must be made available to the public.

- An assessment of payment reform efforts should also include a consumer satisfaction component that creates a baseline before implementation of reforms and traces it to satisfaction levels once reform efforts are fully operational.

## 2. **Unifying Vision**

### CONCERNS:

- The recommendations do not appear to support a “unified payment system” as laid out in enacting legislation.

### RECOMMENDATIONS:

- While recognizing that adopting a unified payment system across all payers may not be feasible in the short term, absent a unifying vision or system for payment reform, we urge the state to create a long term strategy for ongoing exploration of payment reform in Maine. Such a strategy must include the development of timeline and specific benchmarks for the creation of a unified system across public and private payers by 2020.
- In service of a unified payment system—which we acknowledge could encompass several models of payment (bundled payments, ACOs, etc.) the state must ensure “unified oversight” of payment reform pilot projects that seek to waive current law.
- In choosing, implementing, and monitoring pilot projects, the state should follow the recommendations included in the Commonwealth Foundation’s “Bending the Curve” report, with particular focus on protecting programs for vulnerable populations while advancing payment reform efforts.
- In order to build payment reform efforts, the state must create a mechanism for pilot project learning to be spread and adopted across providers in Maine. This shared learning will ensure transparency and collaboration across the state, and it should include lessons in payment reform from outside of Maine.

## 3. **Consumer Engagement and Protection**

### CONCERNS:

- The most recent draft improves consumer engagement and protections, but we feel that more can be done to improve such efforts:
  - A) consumers must have an increased and defined role in ongoing payment reform discussions and
  - B) consumers must be protected explicitly from harm in any payment reform model proposed.

### RECOMMENDATIONS

- If payment reform necessitates more engagement from consumers—and we believe it does—then the group with jurisdiction over payment reform efforts must create legitimate opportunities to get consumers at the table.
- Consumers should be given more representation to the expanded ACHSD Payment Reform sub-committee.

- The state should to interact with other consumer-oriented engagement efforts, such as the Aligning Forces for Quality project, the Patient Centered Medical Home pilot project, and other similar legislatively mandated efforts. If payment reform requires consumers to look at data in order to choose the best doctors or systems, then the state must implement the public reporting requirements in Section A of LD 1444.
- Changing—or waiving—Rule 850 or other consumer protections may have a range of impacts on access, quality and cost for consumers. We must have a way to ensure full disclosure of that impact.
- Errors that occur within the pilot projects must not be borne on the backs of consumers.
- Payment reform efforts should pay particular attention to those most vulnerable populations; i.e., Medicaid, Medicare, dual eligibles.

#### 4. **Use of Existing Flexibility to Innovate**

##### CONCERNS:

- There exists some flexibility in Rule 850 (public Law 357) that would allow for innovations in payment. While the changes to the law have been in effect only since July, it is our understanding that no request has been submitted with respect to these changes. If this flexibility exists and yet no one is taking advantage of it, why do we need to amend or waive consumer protections even more?

##### RECOMMENDATIONS:

- Encourage proponents of community based reform projects to use existing flexibility already available under Maine statute.
- Ensure that agencies with regulatory authority over state and federal law are engaged in the approval of payment reform proposals.

#### 5. **MaineCare**

##### CONCERNS:

- The recommendations suggest that the legislature give the ACHSD authority to act as a liaison between state DHHS and federal DHHS in matters related to payment reform. We believe this authority is unnecessary and creates another level of complexity that does not benefit the program or aid in coordination efforts.

##### RECOMMENDATIONS:

- Strike the recommendation that allows for the ACHSD to act as a liaison.

#### 6. **Guiding Principles**

##### CONCERNS:

- We believe that any payment reform project should not harm consumers. The principles themselves do not go far enough in spelling out consumer engagement structures or ensuring protection for Maine people.

- More definition is needed on how these guiding principles will be used to evaluate a potential pilot project during its design and/or implementation.

#### RECOMMENDATIONS:

- Please see **revised mark-up version** of guiding principles for specific recommendations below.

1. The Legislature adopt the following set of core principles to guide payment reform efforts toward a common vision. Specifically, core principles will be used to (a) determine whether and what policy and regulatory changes are needed to achieve our payment reform goals; (b) evaluate the merits of proposed payment reform strategies requiring state support for implementation; (c) assess our progress in fulfilling our vision over time; and (d) determine additional actions that should be taken by state government to meet payment reform objectives. While no one payment reform strategy will fulfill all principles, collectively our efforts should, and in no case should the commitment to protecting patients and consumers fall by the wayside in implementing various payment reform strategies:

#### A. Support integrated, efficient and effective systems of care delivery and payment.

- Clear points of accountability for clinical and financial management.
- Payment arrangements that encourage more affordable and effective care options.
- Reduction in the growth of health care costs with savings shared by providers, payers, purchasers and patients.
- Improved communication and coordination that reduce redundancy.

#### B. Promote a patient-centered approach to service payment and delivery.

- Improve the effectiveness and efficiency of care from a consumer perspective.
- Promote best practices regarding shared decision making among patients and clinicians that recognizes patient values and preferences.
- Reward successful patient outcomes.
- Incorporate linguistic and cultural awareness in payment reform efforts.
- Develop service payment and delivery models that are explicit in promoting the coordination of care.

#### C. Encourage and reward the prevention and management of disease.

- Rebalance payments to promote primary and preventive care.
- Recruit and support an adequate network of primary care.
- Create collaborative approaches that foster self management, the appropriate use of community resources, and communication across clinicians, consultants, institutional providers and settings.
- Use of shared savings that incent the right delivery system and outcomes.

#### D. Promote the value of care over volume to measurably lower costs.

- Encourage the use of evidence to guide clinical decision making.
- Incent providers for meeting individual patient needs and effectively managing resources.
- Discourage ineffective and inappropriate care and eliminate waste.

- Encourage patients and providers to select high quality care systems at the best price, and use clinicians and settings that deliver better, more comprehensive quality care more affordably.
- Assure savings are shared with consumers through lower costs.

E. Support payments and processes that are transparent, easy to understand, and simple to administer for patients, providers, purchasers and other stakeholders.

- Disclose provider payment arrangements.
- Identify provider incentives.
- Report impact on quality of care, costs, satisfaction.
- Use data to support accountability to those within and outside the delivery system

~~F. Balance the interests of patients and providers against the need for change~~

F. Any payment reform proposals, including community based pilot projects must not adversely impact patients.

- Assure access to patient safety net providers.
- Provide choice of providers in urban and rural areas.
- Specify that developed incentives have to protect vulnerable consumers particularly those who are low income, older, chronically ill, or live in rural areas.
- ~~Eliminate perverse incentives that exclude adverse conditions or complex patients~~
- Prohibit the development of incentives that encourage the exclusion of adverse conditions or complex patients.
- Incentives should be phased in so that they are carefully and measurably integrated into provider practice and behavior.
- Avoid cost shifting within and outside provider networks.
- Recognize that payment reform requires change and shared responsibility to achieve its goals.
- Any integration of a new care and payment delivery system must encourage consistent and thorough engagement of and feedback from all stakeholders including consumers and primary care providers.