

Oregon Medical Insurance Pool  
Board Meeting Minutes  
January 4, 2012  
Wilsonville Training Center  
29353 Town Center Loop East, Rm. 111  
Wilsonville, OR

**Board Members Present:**

Kelly Ballas, Oregon Health Authority  
Patrick Allen, Department of Consumer and Business Services  
Sue Sumpter, General Public Representative  
Dave Houck, Public Representative Emeritus  
Rocky King, Public Representative Emeritus  
Robin Richardson, Reinsurer Representative  
Chris Ellertson, Non-designated Representative  
Ken Provencher, Health Care Services Contractor Representative  
Suzan Turley, Public Representative  
Jared Short, Domestic Insurance Representative  
Andrew McCulloch, Health Maintenance Organization Representative  
Robert Gluckman, M.D., Non-designated Representative

**Board Members Absent:**

All present

**OMIP Staff Present:**

Tom Jovick, Administrator  
Cindy Lacey, Data Analyst & Policy Advisor  
Matt Smith, Budget Analyst OPHP  
Napua Catriz, Administrative Assistant  
Linnea Saris, Program Development Specialist  
Don Myron, Program Development Specialist  
Paulos Sanna, Research Analyst  
Erica Hedberg, Data Analyst

**Others Present:**

Mark Jungvirt, Manager OPHP  
Eve Ford, Manager OPHP  
Judith Anderson, OMIP Legal Counsel  
Cindy Bowman, Operations and Policy Analyst OPHP  
Blair Thomas, Lund Report  
Nick Budnick, Oregonian

Melissa Allen, Fresenius  
Laurel Klause, Regence  
Don Antonucci, Regence  
Tenee Hawkins, American Kidney Fund  
Scott Burton, Regence  
Alison Goldwater, Regence  
Jonathan Eames, Fresenius  
Dr. Csaba Mera, Regence  
Gloria Corranado, Kaiser Permanente  
Steve Villanueva, Regence  
Karin Swenson-Moore, Regence  
Lynn Nishida, Regence  
LaVerne Burtin, American Kidney Fund  
Wendy Schrag, Fresenius  
Jean Stevens, Fresenius  
Barbara Dickhouse, DaVita  
John Westover, DaVita  
Olga Gerberg, Familias en Accion  
Marie Dahlstrom, Familias en Accion

### **Approval of Minutes**

Jared Short motioned to approve the October 12, 2011, Board meeting minutes. Suzan Turley seconded the motion and all approved.

### **Administrators Report**

Prior to reviewing OMIP and FMIP stat packs, Tom Jovick explained that staff is using a Regence report writer that does not allow access to all the data available in previous stat packs. OMIP staff is becoming more familiar with the contents accessible through the report writer. OMIP moved to the report writer because the Regence transition in 2011 to a new claims system created problems with the transfer of certain data elements to OMIP's claims data base, which has made access to critical data elements problematic. Regence staff expects these issues to be resolved in the second quarter of 2012.

For the children's reinsurance pool, insurers ceded 523 children to the pool as of 12/31/11.

In comparing data within the stat packs, 52% of OMIP costs are covered by premiums and 48% is through the assessment. In FMIP 22% of the costs are covered by premiums and 78% are covered by the federal government.

The OMIP Board decided to cap enrollment for the \$500 deductible plan beginning January 1; the plan currently comprises 42.3% of total enrollment. Those enrolled in this plan are "grandfathered in." FMIP will continue enrollment in the \$500 deductible plan. Ms. Sumpter requested that OMIP include the demographic data as presented in previous stat packs. Mr. Jovick assured Ms. Sumpter that OMIP staff will reproduce as much of the previous stat pack as possible, once staff has access to these data and reports.

## **Assessment**

In the October Board meeting, when OMIP was dealing with the new rates for 2012 in relation to the assessment, OMIP projected about \$46 million in assessment based on a 6% surcharge. Based on updated claims data OMIP is just a bit higher than the previous projection. OMIP analyzed the paid claims with a 13% medical trend to estimate the \$5.09 per covered life assessment. The average medical trend in the commercial market is 11%. Mr. Provencher requested a motion to accept the assessment at \$5.09. Mr. Ellertson made the motion to accept the assessment at \$5.09, and Ms. Sumpter made the second. The motion passed unanimously..

## **Public Testimony on Dialysis Costs and Premium Payment by the American Kidney Fund (AKF)**

### DaVita Testimony

John Westover, Regional Operations Director with DaVita and Barbara Dickhouse, representing social workers provided the testimony. DaVita is a dialysis provider/facility that serves over 1,200 dialysis patients, in 20 of Oregon outpatient facilities. Mr. Westover asked the OMIP Board to carefully consider the implications of restricting premium assistance for OMIP enrollees. He continued to explain that the patients DaVita serves are among the most vulnerable patients who have no other health insurance coverage. The proposed change would largely affect OMIP patients receiving assistance from the American Kidney Fund (AKF). His concern is this population, if unable to maintain health insurance, will seek care in a more costly hospital emergency care setting. These are patients that have numerous co-morbidity conditions related to cardiac, diabetes and hypertension and require a broad range of physicians in the health care system He stated that AKF health insurance premium payment (HIPP) program is “fully supported by undesignated contributions by dialysis providers and those donations are in no way tied to financial loss or gain by any donating entity.” He added that this premium assistance model itself and numerous safeguards have been validated previously by the Office of the Inspector General in an Advisory Opinion 97-1 issued June 1997.

Mr. Richardson asked, of the 1200 patients served, besides the ones in OMIP, what is the approximate breakdown of Medicare/Medicaid, and Commercial lives. Mr. Westover stated that the typical broad breakdown is 80% Medicaid/Medicare and 20% Commercial.

Mr. Gluckman confirmed that the AKF is specifically designated to pay premium assistance for patients on dialysis. In addition, Mr. Gluckman inquired if AKF would restrict premium assistance, if a patient were eligible for other treatment options, such as a renal kidney transplant, because it may be a better long-term treatment option for that particular patient and covered under OMIP benefits. Mr. Westover hesitated to comment on AKF’s policies. Mr. Gluckman stated he would ask the same of AKF, based on the concern that there are “potential ethical issues of restricting certain treatments to patients when the contributions to AKF largely come from dialysis providers; and are those patients best served from restricting treatment options rather than providing treatment that may be more effective for them.” He noted that the Board’s understanding is that the reimbursement that dialysis centers receive from OMIP is at least 10 times more than what they receive from Medicare. If so, he asked, are the patients optimally served by this type of pricing structure, which is so much greater than it is for the Medicare system? He also asked if AKF is really a charity or a business model constructed with the cooperation of the dialysis centers in a way to assure that significantly high reimbursements flow to the dialysis centers

for these y patients to generate extremely high profit margins. Mr. Gluckman requested comment on the dialysis profit margin on these patients and how it compares to Medicare.

Mr. Westover commented that OMIP is not the insurance carrier or the organization that administers the reimbursement for the OMIP patients and that Regence performs this function. DaVita and Regence have a contracted rate and to say that it's higher than the Medicare rate would be correct. "We lose money on all of the Medicare patients."

Mr. Provencher asked if DaVita would partner with OMIP directly on managing these costs because OMIP is the risk bearer and Regence is only administering the plan.

Mr. Westover stated DaVita is a publicly traded company and the annual net income is greater than \$6 billion. Mr. McCulloch asked, "What percentage of the overall business does the actual dialysis treatment account for?" Mr. Westover commented that it's the "bread and butter" of the businesses.

Mr. King re-stated Mr. Westover's comments noting that 80% are on Medicaid/Medicare and DaVita claims to lose money on those; 20% are on a commercial policy, including OMIP patients and DaVita makes money on those. So the 20% are not only making up the losses on Medicare but generating \$6 billion in profits and OMIP is contributing considerably to those profits.

Ms. Sumpter asked "what happens when an OMIP patient reaches their \$2 million lifetime maximum?"

Mr. Westover said they have not encountered that and he did not have an answer.

#### Fresenius Testimony

Jean Stevens, Regional Vice President of Fresenius Medical Care (FMC) provided highlights to the written testimony she submitted to the Board. FMC is concerned about what will happen to the patients who are covered by OMIP and who have premiums paid by AKF. FMC is currently treating 50 patients, who would be effected by eliminating the ability of AKF to pay premiums. Ms. Stevens said that FMC pays for all the dialysis costs incurred for OMIP enrollees during the first-six months when this coverage is excluded, which reduces their profitability. The funding comes from all of their operations, and also through products produced by the company. Mr. Gluckman asked how much revenue was generated by the enrollees whose premiums are paid by AKF and how much FMC donated to AKF. Ms. Stevens did not have this information.

Mr. Gluckman stated that the "lion's-share" of OMIP's costs is paid to dialysis centers and the board is quite concerned about this disproportionate cost OMIP pays relative to Medicare and also relative to the premiums that the dialysis centers fund through AKF. The reimbursement rate structure needs to be re-examined on the basis of what the community could be expected to bear because excess costs above premiums are passed to the commercial market to bear in the premiums charged to individuals and employers.

Mr. Short suggested pursuing an OMIP-specific contract and Ms. Stevens agreed it would be a good idea.

Ms. Stevens noted that Fresenius is a dialysis provider with 35 clinics in the Portland area treating approximately fourteen OMIP enrollees. She noted that the involvement of AKF in paying premiums for

OMIP enrollees is important to Fresenius. Furthermore, she stated that insurers are billed the same rate and the payers determine the rate they will pay. Fresenius has a no contracted rate with Regence but is working with Regence to develop a contract that includes OMIP patients. Currently, four of their patients have reached their \$2 million lifetime maximum. At this time, Fresenius continues to cover those patients, but the company will review these cases annually to determine how long it will continue to provide treatments.

Board members inquired as to where money comes from that fund OMIP patients in their first six-months when the dialysis treatments are subject to the pre-existing conditions wait period. Jean stated that FMC is covering these costs. Mr. Jovick said that the funding really comes from the excessively high payments OMIP makes for dialysis for these patients once their treatment is covered.

Another concern Board members expressed is the extremely high payment OMIP must make for the care, which forces patients to reach their \$2 million lifetime limit relatively quickly. OMIP Board requested that Fresenius consider negotiating with Regence to establish a rate specific for OMIP patients. Mr. Gluckman states, "Transplantation is not common as it requires patient compliance, mental health or alcohol issues, weight, or even Medicare; very multi-faceted." Tom asked if OMIP can control the influx by possibly negotiating commercial rates with Fresenius. Jean said that Fresenius wants to have these conversations with OMIP than adds that in considering costs and in conversing; they would factor in the first 6 months of taking on expenses for OMIP patients. Tom explained further that, given the considerably high reimbursement that OMIP pays for dialysis, in effect, we are subsidizing the first six months. Dr. Gluckman commented that not a single OMIP patient has received a transplant.

LaVarne Burton and Tenee Hawkins of American Kidney Fund (AKF) provided a written testimony confirming AKF's mission.

Dr. Gluckman thanked Ms. Burton for all the work she has done. He asked "if there is a patient who is currently receiving premium assistance through the American Kidney Fund, who is currently on dialysis, who then undergoes transplantation, would the American Kidney Fund continue to provide assistance for them or not?" Ms. Burton responded, "We do not have the resources to do that." Ms. Sumpter stated "One of the things that become exceptionally troubling is that this almost becomes a moral or ethical issue. This OMIP population that we are talking about is a very vulnerable population and we are very concerned about that; don't doubt our concern for the welfare of these patients. If any of these patients were actually able to receive transplants and do, then they lose their OMIP coverage; they are prisoner to their dialysis for the rest of their lives."

Dr. Gluckman added, "We have to try and make this distinction of what is charity and what is a revenue generating business model? The purpose of us asking these questions is to create transparency about this issue. I think that if you are truly advocating for the patient that is something your organization needs to take a look at." Ms. Burton replied, "We share the same concern of costs going through the roof and providing services to people. Our mission is to focus on the dialysis population."

Mr. Richardson asked about dialysis provider contributions to AKF, and Ms. Burton did not have any information. Mr. King added, "You are a victim... (Because the) majority of HIPP money goes to you and back to them (the dialysis centers).... We need you to partner with us to avoid this conspiracy of money laundering." Ms. Burton replied, "We certainly do not consider ourselves victims. We have one of the

best jobs in the world.” Mr. King, “To admit that you are a victim would mean admitting that the dollars flowing to you are part of some kind of scam. I understand your position.”

Mr. Houck added, “I only heard of this kidney problem six to eight months ago. Nobody has ever gone over the two million dollar limit we have for healthcare and here we are with four people on dialysis that are going over the line (exceeded the \$2 million lifetime benefit limit). The balloon is popping out and people are making money, the system is bad.”

Dr. Gluckman also added, “The impact is on people on OMIP who can’t afford their premiums. Some are subsidized, some are not. If patients with kidney disease are consuming 21% of our resources and it’s because of egregious pricing. That is actually reducing coverage or eliminating coverage for other people from the plan .... We take this very seriously!” He also indicated that the practice is egregious and must be changed. Ms. Burton agreed and commented that putting a barrier on companies such as AKF is not the resolution and would like to have this discussed among stakeholders.

#### **Executive Session:**

The Oregon Medical Insurance Pool Board met in executive session held pursuant to ORS 192.660(2)(f) which allows the board to meet in executive session to consider information or records that are exempt from public inspection, such as written advice from its attorney, and to consult with counsel concerning the legal rights and duties of the Board with regard to current litigation or litigation likely to be filed.

Representatives of the news media and essential OMIP staff were allowed to attend the executive session. All other members of the audience were asked to leave the room. Representatives of the news media were specifically directed not to report on any of the deliberations during the executive session, except to state the general subject of the session as previously announced. The Board may not vote on issues in Executive Session.

#### **Following the Executive Session, the board returned to its open session.**

#### **Benefit Change:**

Mr. Provencher explained that OMIP is a social program which is funded by member premiums and assessments to insurance companies. He then summarized the incredible work OMIP’s Board of directors has done over the years of managing their fiduciary responsibility with a brief overview of several challenges. Given this responsibility and the data showing dialysis currently at the top, there is possible need for designation of a subcommittee. Jared moved that the board establish a subcommittee in partnership with Regence representatives to develop a recommended pricing and benefit solution for OMIP members. Ms. Sumpter seconded the motion with the condition that there will be a final decision made at the next OMIP Board meeting on April 4. The motion passed unanimously. The volunteers for the subcommittee are Sue Sumpter, Jared Short and Dr. Robert Gluckman. Mr. Provencher clarified that the expectation will be reviewing expenses and level of reimbursement in conjunction with benefits and meet with dialysis providers to come up with a recommendation either to accept new reimbursement rates with the dialysis providers or to change the per treatment benefit for dialysis to either Medicare rates or a percentage above them .

### **Proposal to Develop Cadre of Latino Community Health Workers:**

During the October Board meeting, Board members discussed utilizing federal grant funds to reach out to OMIP's Latino community, rather than apply it to offset the assessment. Familias en Accion is a nationally recognized 501(c)(3) charitable outreach program founded in 1998. OMIP approached Familias en Accion requesting a proposal including assessment and evaluation components for the Board to evaluate.

Marie Dahlstrom, Doctor Gloria Coronado, and Olga Gerberg of Familias en Accion presented an OMIP specific outreach proposal to the Board. The proposal implements and evaluates a patient navigator program that will improve quality of healthcare for Hispanic patients beginning with high risk individuals such as those on dialysis. They proposed to utilize an evidence-based model by Community Health Access Programs (CHAP). Patient navigators will work with Regence and healthcare providers to develop a plan for diagnostic management. This model will reach patients and promote preventative care resulting in lowering cost.

Mr. Jovick asked Ms. Dahlstrom to reconfigure the budget and to keep it within the grant amount and looked to the Board for direction on the issue. Ms. Turley and Ms. Sumpter noted that the proposal seemed too expensive and needs revision to keep the cost at or below the amount of the grant funds. Mr. Provencher assigned Mr. Jovick and staff in coordination with Regence and Board members Mr. Jovick felt he needed to involve focusing on revising the proposal and bringing it to the April Board meeting. He also directed Mr. Jovick to determine if there were additional proposals for the board's consideration

### **Appoint Committee**

Mr. Provencher established three additional subcommittees:

- High Deductible Plan committee. Volunteers were Mr. Ellertson, Mr. Ballas, and Ms. Turley.
- Assessment Reduction Program committee. Volunteers were Mr. Richardson, Mr. Houck, and Ms. Sumpter, who will be analyzing the need for the assessment reduction program.
- Nominating Committee which consists of Ms. Sumpter, Mr. Short, and Mr. Richardson.
- A Future of OMIP Committee, at Mr. King's suggestions to discuss legislative concepts for 2013 related to potential futures of OMIP. Volunteers were Mr. King, Mr. Provencher, and Mr. McCulloch. Mr. King will coordinate these meetings with OMIP staff .

Meeting adjourned at 4:18pm