MHBE

Abortion Care Coverage Consumer Information Workgroup

November 29, 2022
1:00PM – 2:30PM
Via Google Meets

Members Present:
Maya Greifer
Allison Mangiaracino
Emily Hodson
Deb Rivkin
Brian Espindola
Cynthia Baur
Jamie Sexton
Kat Boyd
Laureen Rodgers
Pat O'Connor
Robyn Elliott
Zachary Peters

Staff
Becca Lane
Amelia Marcus
Annapurna Kocherlakota

Members of the Public
Melissa Munster
Nic Nemec

Welcome and Introductions
Allison Mangiaracino, Co-Chair, welcomed attendees to the meeting.

Agenda
Ms. Mangiaracino reviewed the agenda.

Approval of Meeting Minutes
Ms. Mangiaracino asked for a motion to approve the minutes from the November 1 meeting, which were previously shared with Workgroup members. Deb Rivkin moved to do so. Zachary Peters seconded. Among those voting, the Workgroup voted unanimously to approve the minutes. Robyn Elliott abstained, as she was not present at the November 1 meeting.

Takeaways from Previous Meeting
Becca Lane, Senior Policy Analyst at the Maryland Health Benefit Exchange (MHBE), presented the proposed guiding principles for abortion care coverage information for inclusion in the Workgroup's report; changes to these principles based on the discussion at the Workgroup's previous meeting have been added in italics. The first of these changes clarifies that the Workgroup recommends consistency regarding the definition of the abortion care benefit rather than a consistent location across documents for different carriers. The second change is the addition of the searchability

principle, meaning that abortion coverage information should be searchable using plain language key terms and that documents should be machine readable by assistive devices.

Next, Ms. Lane shared the recommendation for Maryland Health Connection (MHC) on which the Workgroup settled. The recommendation is that MHBE add a category called “Reproductive Health and Pregnancy Care” to the Plan Details/Comparison page. “Family planning,” “Abortion,” “Infertility treatment,” “Prenatal and postnatal care,” and “Delivery and all inpatient services for maternity care” may all be included in this category. She noted that their options are limited to this list since the Plan Details page must only include benefits listed on the Plan and Benefits template that is used to populate that page.

Cynthia Baur voiced her support for moving the “Prenatal and postnatal care” benefit from “Physician Services” to the new “Reproductive Health and Pregnancy Care” category as suggested. However, she expressed disagreement with the use of the term “Reproductive Health,” arguing that it does not align with the plain language principle.

Ms. Lane asked whether Ms. Baur has a suggestion for a term that could be used as a substitute. Ms. Baur responded that she does not have anything more to add to the discussion at the last meeting about whether to favor specificity or a broader category.

Ms. Mangiaracino stated that her organization, Kaiser Permanente, pulled data on search terms related to abortion used on their website during the past year. She shared that “abortion” was the most common term used, followed by “family planning,” and that “reproductive health” was not in the top twenty-five terms. She acknowledged that data on search terms used on Google or on other carriers’ websites may have different results.

Ms. Rivkin commented that the Workgroup will need additional time to review draft recommendations if any changes are made.

Plan Language

Ms. Lane then moved on to a discussion of potential recommendations for plan language. She stated that the Summary of Benefits & Coverage (SBC) template cannot be changed due to requirements from the Centers for Medicare & Medicaid Services (CMS). However, she noted that edits can be made to the parentheses next to the place where the abortion benefit is listed under “Other Covered Services.” She commented that the Workgroup has floated the idea of adding a disclaimer here about the extent to which limitations might apply to abortion but noted that this may be confusing, as the assurance that “no limitations apply” within the abortion care list item may seem at odds with the required header that reads, “Limitations may apply to these services.”

Ms. Elliott remarked that, as of January 1, Maryland law will allow no limitations on coverage of abortion services. She contended that “No limitations apply” is not a useful addition and may make consumers wonder what limitations exist. She also noted that

some stakeholders may feel that this phrase implies that abortion is covered and legal up to the moment of birth.

Ms. Rivkin agreed, adding that the SBC is too rigid for substantive changes.

Ms. Lane noted that Ms. Rivkin's feedback aligns with what MHBE has heard from carriers: that it makes more sense to change the Evidence of Coverage (EOC) document or carrier contracts than the SBC. She added that making changes to the SBC would make Maryland the only state to do so.

Next, Ms. Lane presented on the ways that abortion care coverage is currently described in the plan documents for individual market plans under each of the carriers. She highlighted the differences in the locations and categories used by different carriers for the abortion benefit, noting that it would be difficult to mandate a specific place for the information to be housed.

Instead, Ms. Lane suggested that the description of the abortion benefit could be standardized. She presented sample language that could be used as a standardized description for the EOC, as follows: "Abortion care services – termination of pregnancy, elective or therapeutic. Services may be medication-based or procedural/surgical." She added that language could be included to indicate that the member will have zero cost sharing for the service. Carriers have expressed support for this wording and have communicated that changes to the description in the contracts and EOCs would be less operationally challenging than changes to the SBC.

Ms. Elliott commented that the phrase "elective or therapeutic" is not consumer-friendly and implies that the service is optional. She supported the distinction this wording makes between medication-based and procedural/surgical abortion. She expressed her concern about the language that Ms. Lane presented from one carrier's EOC that specifies that abortion will be covered as permitted under state law; she stated that this caveat separates abortion from other healthcare services and implies that there is something specific about abortion that may make it illegal. She remarked that this carrier's EOC appeared to be a list of excepted circumstances where abortion would be covered, adding that it appears not to be in compliance with the legal requirement that abortion must be a covered service.

Ms. Baur agreed with Ms. Elliott that "elective or therapeutic" is not in alignment with the plain language guiding principle and added that "procedural/surgical" is not plain language either. She suggested using the term "ending a pregnancy" instead of "termination." She argued that using multisyllabic words sparingly will help the Workgroup limit itself to the most frequently used, familiar language. She suggested replacing "medication" with "medicine" and providing a definition for "procedural/surgical" within the benefit description.

Ms. Rivkin agreed with Ms. Elliott that the carrier language describing how abortion is covered under excepted circumstances should not be legal in Maryland. She also

expressed an inability to agree to a language change today, noting that she will need to have legal and contract review within her organization because it would be necessary to change the language in all contracts rather than just in the individual and small group markets.

Ms. Lane clarified that the meeting is only meant to be a discussion where feedback is welcomed and that Workgroup members will be given plenty of time to review and approve official recommendations.

Ms. Rivkin suggested putting a standard definition of the abortion benefit on the MHBE website rather than locating it within the EOC.

Ms. Hodson agreed with each of Ms. Baur's suggestions, noting that including a definition for "medicine-based" versus "procedural/surgical" is likely especially important given that many consumers may have difficulty understanding the distinction.

Ms. Rivkin asked how the Workgroup's recommendations will be implemented. Ms. Lane replied that they will initially be included in a report to the legislature, but that MHBE will likely implement them through a plan certification standard or an issuer letter.

Ms. Elliot added that there is no intention to make this a bill and that it will be implemented instead through an administrative process.

Laureen Rodgers suggested that the phrase "medication-based or procedural/surgical" could be replaced with "inpatient, outpatient, or medicine-based" in order to circumvent consumer confusion about what constitutes a procedural or surgical service.

Ms. Baur suggested that a full-blown plain language version might read something like, "Your provider might prescribe medicine, do an in-office procedure, or refer you for surgery."

Ms. Lane expressed support for Ms. Baur's suggested wording.

Ms. Rivkin underscored the importance of taking action that applies to all markets, as creating an issuer letter will not have authority over other markets besides the individual and small group markets, which could create a problem due to language inconsistency between markets.

Ms. Lane asked for confirmation that Ms. Rivkin is referring to changes that would be made to on-exchange plans versus other plans in the Maryland market. Ms. Rivkin replied in the affirmative.

Pat O'Connor asked Ms. Rivkin to share the legal provisions she is referring to. She asked whether Ms. Rivkin means to say that these changes cannot be made. Ms. Rivkin responded that the existing contracts have been approved based on Maryland law, meaning that the current language was deemed correct and legally sufficient and is

consistent across markets. She clarified that her problem is not with the prospect of changing the language but that the definition of the abortion benefit will not be changed across all markets, resulting in inconsistent language. She reiterated her recommendation that the definition be put on MHBE's website.

Ms. O'Connor asked whether the position of Ms. Rivkin's organization is that the Workgroup is limited to working outside of the contracts currently in use. Ms. Rivkin responded that she can take new proposed language back to her organization's legal and contract teams. She clarified that she is presenting her individual gut reaction rather than communicating her organization's position; she stated that she may be wrong and it may not be an issue for her organization but that they will need additional time to consider proposed language changes. She reiterated that she does not think her organization can agree to having inconsistent language across markets.

Ms. Mangiaracino stated that her organization's perspective is that the Workgroup's purpose is to create a consistent definition for the EOC across carriers to facilitate consumers' plan shopping and comprehension of benefits. She expressed understanding that it may be necessary to make changes for one market and not others but remarked that they may be able to come up with a definition that applies regardless of the market, adding that adjustments could be made as necessary for specific markets. She noted the differences in the ways carriers currently define abortion and stated that they currently have no guidance on how to do so.

Mr. Peters voiced his agreement with the points made by Ms. Mangiaracino and Ms. Rivkin, reiterating Ms. Rivkin's point that language changes will have far-reaching effects. He added that timing will be an important consideration for this process.

Discussion

Ms. Lane opened the floor for discussion on several questions, which are listed in full in the presentation for this meeting. She noted that Workgroup members will be sent updated proposed language after this meeting.

Ms. Rivkin reiterated the importance of consistency across plans and markets.

Ms. Baur observed that Healthcare.gov contains language that reads, "You have the right to an easy-to-understand summary about a health plan's benefits and coverage. Insurance companies and job-based health plans must provide you with: A short, plain-language SBC and a uniform glossary of terms used in health coverage and medical care." She highlighted that this shows that the Affordable Care Act and Heatlhcare.gov have weighed in with this stated goal for the SBC. She acknowledged that House Bill (HB) 937 has a specific scope but argued that the stated overall intended purpose of health insurance information is to achieve easy-to-understand, plain language.

Ms. Mangiaracino stated that her organization's preference is to leave the SBC document unchanged, citing the high-level nature of the document. However, her

organization encourages a uniform definition for the EOC. She expressed support for the suggestions made so far that help the document move toward plain language.

Ms. Lane referred to Ms. Baur's earlier suggestion of a plain-language substitute for current EOC language: "Your provider might prescribe medicine, do an in-office procedure, or refer you for surgery." She noted, however, that Ms. Elliott had made the point that abortion is not considered surgery. She asked for the Workgroup's thoughts around including language referring to surgery and suggested that the language could instead read, "Your provider might prescribe medicine or do an in-office procedure."

Ms. O'Connor asked whether the carriers can offer feedback on how procedures and surgeries are typically defined within plan documents. Ms. Elliott responded that the word "surgical" has a history, as it means "cutting." She explained that prohibitions apply to where the term "surgical" can be used, including where a procedure is performed and who performs it. She noted that the best alternative language that her organization has devised is something along lines of "in-office procedure," as most consumers understand the elements of an in-office procedure.

Ms. O'Connor asked the carriers to indicate whether using just the term "procedure" has the potential to result in a narrower scope of coverage for the abortion benefit.

Ms. Rivkin stated that she needs to ask her colleagues.

Ms. O'Connor remarked that, if the concern about a narrower scope of benefits is not founded, her organization is in favor of using only the term "procedure" rather than "surgical."

Ms. Rivkin asked for confirmation that the next steps for Workgroup members will be fully captured. Ms. Lane responded in the affirmative, adding that MHBE staff will follow up with action items in writing.

Ms. Mangiaracino stated that she does not think changing the language would result in a narrower benefit but indicated that she will ask as well. Mr. Peters responded similarly, noting that he will also check.

Ms. Lane asked for confirmation that the question is whether abortion is considered surgery and what the legal implications would be for considering it surgery. Ms. O'Connor responded that, based on Ms. Elliott's comments, "surgery" seems to be a loaded term that it would be helpful to eliminate, but she wants to ensure that there is no risk that doing so would limit the availability of surgery.

Ms. Elliott commented that HB937 was clear that all types of abortion care are covered, with no limitations regarding whether the service is procedural or medical.

Ms. Baur asked whether Ms. Elliott means that the term “surgical abortion” is inaccurate as well. Ms. Elliott replied in the affirmative, noting that the term is commonly used but that there is no such thing as a surgical abortion.

Ms. Baur remarked that this is important information for applying the clarity principle and setting expectations correctly: if a consumer is not going to undergo surgery, they should know that, but the current language may lead consumers to think that surgery is involved. She stated that another issue is how to communicate that the abortion may happen in the office of a consumer’s regular provider, or they may be sent somewhere else.

Ms. Elliott commented that it is a common misconception that abortions must be done in an operating room. On the contrary, she noted that the procedure can usually be done safely in office setting with a provider who has the right training.

Ms. Baur noted that this underscores that there may be clarity concerns that need to be addressed besides just swapping “surgery” for “procedure.”

Ms. Lane expressed appreciation for the discussion and stated that MHBE staff will draft a new definition that incorporates all of the feedback given and present it to the Workgroup.

Ms. Mangiaracino shared that she performed a quick search of her organization’s search terms data and that it did return some results for “procedure” as well as for “service,” though she acknowledged that this is anecdotal evidence. She suggested that using “in-office service” or “in-office procedure” might be helpful.

Ms. Lane asked about a potential change to the recommendation that the Workgroup discussed at the previous meeting: under “Plan Details” on the MHC plan shopping view, instead of recommending a category called “Reproductive Health and Pregnancy Care,” they could call the category “Family Planning and Pregnancy Care.” This would better reflect the search terms data that Ms. Mangiaracino referred to indicating that the phrase “family planning” was searched far more frequently than “reproductive health.”

Ms. Elliott stated that her organization seeks to push back against the notion that women use abortion as birth control, which marginalizes the service. For this reason, she argued against subsuming abortion under “family planning,” suggesting that instead the category could be called “Abortion, Family Planning, and Pregnancy Care.” Ms. Lane noted that the Workgroup can revisit that discussion.

Next, Ms. Lane moved on to discussing the timeline. MHBE asked carriers what a reasonable timeline would be for implementing recommended changes to the EOC. One carrier said January 31, while another said by the end of December. If required, SBC changes would take 90 days to implement.

Ms. Rivkin indicated that her organization could agree to either the end of December or January 31 but that receiving updated EOC language by January 31 would cut it close, so their preference is by the end of December. She reiterated that she does not think the SBC should be changed.

Ms. Mangiaracino asked if there would be time to build in the definition by the end of December or whether it would just apply to 2025 onward given the short timeframe. Ms. Lane responded that the deadlines for the language that will apply to 2024 are rapidly approaching, so the changes will most likely be for Plan Year 2025.

Next Steps
Ms. Lane noted that the next meeting is the Workgroup's final scheduled meeting and that the plan has been to review and vote on the recommendations and report during that meeting. She stated that she is working on drafting a report for the Workgroup to review but will need more consensus to finalize it. She commented that it may be necessary to conduct a virtual vote a week or two after the final meeting to make sure the Workgroup approves of the report and recommendations before it is finalized. The timeline for the report may extend beyond the final meeting date. She indicated that a draft report will be sent to the Workgroup for review before the next meeting and that action items and revised draft EOC language based on today's discussion will be sent before that.

Ms. Mangiaracino asked for confirmation that the Workgroup is still working on the language for the new category in the MHC plan shopping view and the definition of the abortion benefit for the EOC. Ms. Lane responded in the affirmative, adding that MHBE staff will discuss further and send the Workgroup draft language for each.

Ms. Mangiaracino asked when the report is due to the legislature. Ms. Lane responded that it is due January 1, 2023.

Ms. Baur suggested calling the new category in the MHC plan shopping view "Family Planning, Abortion, and Pregnancy Services" rather than "Abortion, Family Planning, and Pregnancy Services," as the former puts family planning in the most prominent spot rather than abortion.

Ms. Lane noted that she will review the poll that the Workgroup conducted at its previous meeting regarding the wording of a new category name for the MHC plan shopping view to ensure that the most recent language iterates on those ideas. She indicated that she will reference her review of the poll in the follow-up to this meeting.

Public Comment
None offered.

Adjournment

Ms. Mangiaracino thanked attendees and adjourned the meeting. The meeting adjourned at 2:10 pm.

Chat Log

00:00:53.001,00:00:56.001
Amelia Marcus -MHBE-: Reminder to all this meeting is being recorded

00:01:33.915,00:01:36.915
Robyn Elliott: I am abstaining from this vote since I wasn't at the meeting

00:27:01.174,00:27:04.174
Robyn Elliott: Sometimes we describe procedural abortion as an in-office abortion procedure

00:29:00.600,00:29:03.600
Cynthia E Baur: A full-blown plain language version of the second part might be something like this: Your provider might prescribe medicine, do an in-office procedure. or refer you for surgery.

00:29:24.386,00:29:27.386
Robyn Elliott: Just fyi. Abortion is not considered surgery

00:40:01.396,00:40:04.396
Cynthia E Baur: FYI, from healthcare.gov, "You have the right to an easy-to-understand summary about a health plan’s benefits and coverage.
Insurance companies and job-based health plans must provide you with:
A short, plain-language Summary of Benefits and Coverage (SBC)
A Uniform Glossary of terms used in health coverage and medical care"

00:48:41.896,00:48:44.896
Maya Greifer: We (UHC) can take this back as well