

NATIONAL COUNCIL OF INSURANCE LEGISLATORS
HEALTH INSURANCE & LONG TERM CARE ISSUES COMMITTEE
INTERIM COMMITTEE MEETING – JANUARY 26, 2024
DRAFT MINUTES

The National Council of Insurance Legislators (NCOIL) Health Insurance & Long Term Care Issues Committee held an interim meeting via Zoom on Friday, January 26, 2024 at 2:00 P.M. (EST)

Representative Jim Dunnigan of Utah, Chair of the Committee, presided.

Other members of the Committee present were:

Rep. Deborah Ferguson, DDS (AR)	Sen. Pam Helming (NY)
Rep. Dafna Michaelson Jenet (CO)	Asw. Pam Hunter (NY)
Rep. Tammy Nuccio (CT)	Asm. David Weprin (NY)
Rep. Rod Furniss (ID)	Sen. Bob Hackett (OH)
Rep. Rita Mayfield (IL)	Sen. George Lang (OH)
Rep. Rachel Roberts (KY)	Del. Steve Westfall (WV)
Rep. Brenda Carter (MI)	
Sen. Paul Utke (MN)	

Other legislators present were:

Rep. Brian Lohse (IA)	Rep. Kyle Mullins (PA)
Rep. Bridget Kosierowski (PA)	Del. Walter Hall (WV)

Also in attendance were:

Commissioner Tom Considine, NCOIL CEO
Will Melofchik, NCOIL General Counsel
Pat Gilbert, Manager, Administration & Member Services, NCOIL Support Services, LLC

QUORUM

Upon a Motion made by Sen. Bob Hackett (OH) and seconded by Sen. Paul Utke (MN), NCOIL Treasurer, the Committee voted without objection by way of a voice vote to waive the quorum requirement.

INTRODUCTORY REMARKS: CHAIR DUNNIGAN

Rep. Dunnigan thanked everyone for joining the meeting and stated that it's great to Chair NCOIL's first official meeting of 2024. We have only one item on today's agenda, but it's an item that is ready for a vote after a year of vigorous and healthy debate. And that item is the NCOIL Medical Loss Ratios for Dental (DLR) Health Care Services Model Act (Model).

CONTINUED DISCUSSION AND CONSIDERATION OF NCOIL DLR MODEL

Rep. Dunnigan stated that a lot of work has gone into developing this Model and the Model underwent significant changes since it was first introduced last year. The latest

version of the Model was distributed and is posted on the website. And importantly, the latest version is supported by representatives from both sides as indicated by the joint statement of support from the National Association of Dental Plans (NADP) and the American Dental Association (ADA) that was also distributed and posted. Rep. Dunningan stated that he wanted to stop there so as to not take any more time away from the sponsor of the Model, Del. Steve Westfall (WV). As a reminder, in addition to being sponsor of the Model, Del. Westfall Chaired this Committee last year so he deserves a lot of credit for overseeing everything that led us to this point.

Del. Westfall thanked everyone for their hard work on this Model. It's always great when a compromise can be reached with the end result being a good piece of public policy. And I want to stress that there was significant compromise from both sides on this issue. If you look at where the Model first started and look at where it is now – it really is a striking transformation. And I have to say I really learned a lot throughout this process and I'm glad we took some extra time to further discuss the issue. Back in November I was prepared to vote on the prior version of the Model, but I'm glad we didn't as now we get the best of both worlds. We have a Model that I believe is superior to what we had been discussing, and it's supported by representatives of both dentists and dental plans.

In terms of the substance of the Model, we ended up with what has been described as a "Colorado plus" version. And that means the Model doesn't simply require a specific DLR percentage for all dental plans. Rather, it requires dental plans to report DLR information to the Commissioner which the Commissioner then aggregates for each market segment. The Commissioner then calculates an average DLR for each market segment and identifies as "outliers" any dental plans that fall outside a certain scope of that average DLR. The Commissioner is then authorized to take enforcement actions against those "outliers", including ordering them to issue rebates. And then if a carrier remains an "outlier" for 2 consecutive years, that carrier is then subject to a minimum DLR percentage as determined by the Commissioner via rules. I'll stop there and just thank everyone again for all of their work on this. I'm going to introduce this version in West Virginia and I encourage my colleagues to do the same in their states as I believe this is a good piece of public policy.

Owen Urech, Director of State Gov't Affairs at NADP thanked the Committee for the opportunity to speak and stated that the compromise language in front of you today represents an important step forward in the policy discussions on DLR issues and I want to thank Del. Westfall, NCOIL staff, the ADA, and NADP membership for all their hard work in delivering this language to the Committee. In short, this Model establishes a data driven approach to DLR regulation which determines statistical outlier plans and directs Commissioners to remediate those plans which are outside those norms. For plans that are outside those norms for multiple years the Commissioner will set a loss ratio based on market average for the outlier dental plans to meet. NADP believes this represents a practical and thoughtful compromise between plans and providers which we hope will be considered by policymakers. Going forward we hope this is part of a continuing dialogue in dental coverage and oral health which is constructed towards the mutual goals of improving American's oral health.

Rep. Tammy Nuccio (CT), Vice Chair of the Committee, stated that I read the Model and I just want to be sure that we're not establishing a DLR but rather a reporting timeline where departments will calculate what the DLR is and calculate an average of what they are seeing and then anybody outside the average will be given guidelines to come within

the average, is that ultimately what we are saying? Cmsr. Tom Considine, NCOIL CEO, stated that it's not automatic that they will come within the average, rather the Commissioner has authority to take enforcement or remedial action including rebates that would then bring them into the average, but its not automatic. Rep. Nuccio stated that so we're really just collecting information now, not establishing a loss ratio. Cmsr. Considine stated that its something between the two – collecting information and empowering the Commissioner to take action if she believes it's warranted.

Rep. Rita Mayfield (IL), co-sponsor of the Model, stated that you mentioned rebates - how does that trickle down to the patient? Cmsr. Considine stated that on the Affordable Care Act (ACA) side, the rebate goes to the customer and I believe that is the same approach in the Model. Mr. Urech stated that is correct and the Model was intentionally written that way.

Sen. Hackett stated that I just want to thank Del. Westfall and the NCOIL staff for all the great work. I was a critic at first about this but a solution was developed that we all can support. Thanks for working this out.

Hearing no further questions or comments, upon a Motion made by Rep. Mayfield and seconded by Asw. Pam Hunter (NY), NCOIL Vice President, the Committed voted without objection via a voice vote to adopt the Model. Rep. Dunnigan thanked everyone and stated that the Model will now be placed on the Executive Committee's agenda at the Spring Meeting in Nashville for final ratification.

ADJOURNMENT

Hearing no further business, upon a Motion made by Del. Westfall and seconded by Asw. Hunter, the Committee adjourned at 2:30 p.m.