

Joe Lombardo  
Governor

Richard Whitley, MS  
Director



# DEPARTMENT OF HEALTH AND HUMAN SERVICES

DIVISION OF HEALTH CARE FINANCING AND POLICY

*Helping people. It's who we are and what we do.*



Stacie Weeks,  
JD MPH  
Administrator

## Notice of Meeting to Solicit Public Comments and Intent to Act Upon Amendments to the Medicaid Services Manual (MSM)

### Public Hearing December 27, 2022 Summary

Date and Time of Meeting: December 27, 2022, at 10:07 AM

Name of Organization: State of Nevada, Department of Health and Human Services (DHHS), Division of Health Care Financing and Policy (DHCFP)

Place of Meeting: DHCFP  
1100 E. William Street  
First Floor Conference Room  
Carson City, Nevada 89701

#### Teleconference and/or Microsoft Teams Attendees

**(Note: This List May Not Include All Participants, Just Those Who Identified Themselves)**

Gabriel Lither, Senior Deputy Attorney General	Cecilia Chavez, DHCFP
Antonina Capurro, Deputy Administrator DHCFP	Heather Lazarakis, DHCFP
Suzanne Bierman, Administrator DHCFP	Keith Benson, DHCFP
Casey Angres, DHCFP	Sarah Dearborn, DHCFP
Rossana Dagdagan, DHCFP	Antonio Gudino-Vargas, DHCFP
Monica Schiffer, DHCFP	Melissa Medera, DHCFP
David Olsen, DHCFP	Melissa Laufer Lewis, DHCFP
Marcel Brown, DHCFP	Catherine Vairo, DHCFP
Russel Steele, DHCFP	Jeffery Stroup, DHCFP
Cindy Kirste, DHCFP	Michael Gorden, DHCFP
Briza Virgen, DHCFP	Monica Schiffer, DHCFP
Kimberly Adams, DHCFP	Jared Davies, DHCFP
Cynthia Leech, DHCFP	Lori Follett, DHCFP
April Coughron, DHCFP	Kirsten Coulombe, DHCFP
Robin Ochsenschlager, DHCFP	Lynette Aaron, DHCFP
Stacie Weeks, Deputy Administrator DHCFP	Kyрил Plaskon, Information Officer DHCFP
Kindra Berntson, DHCFP	Yvonne Vestal, DHCFP
Erin Lynch, DHCFP	Jessica Crouch, Division of Welfare and Supportive Services (DWSS)
Gladys Cook, DHCFP	Vickie Ives, Division of Public and Behavioral Health (DPBH)
Theresa Carsten, DHCFP	
Alicia Roman, DHCFP	

Lindsey Wood-Lopez, DPBH  
Eileen Hough, DPBH  
Megan Messerly, Politico  
James Wadhams, Black Wadhams Law  
Amy Shogren, Black Wadhams Law  
Jesse Wadhams, Black Wadhams Law  
Stephanie Berry, AHIP  
Samantha Sato, Carrara Nevada  
Lea Case, Belz & Case  
Vanessa Dunn, Belz & Case  
Jeanette Belz, Belz & Case  
Sarah Adler, Belz & Case  
Tiffany Saunder-Newey, Anthem (ANT)  
Vimal Asokan, ANT  
Luke Lim, ANT  
Joy Cleveland, ANT  
Alyssa Drucker, Gainwell Technologies (GWT)  
Susan Harrison, GWT  
Jennifer Ripley, Nevada Aging and Disability Services  
Division (ADSD)  
Sheila Garner, ADSD  
Shawna DeRousse, Health Plan of Nevada (HPN)  
Ryan Bitton (HPN)

Linda Anderson, Nevada Public Health Foundation  
(NPHF)  
Maeve Dwyer, PLUS Communications  
Mark Rosenberg, Fildelis Rx  
Tray Abney, Abney Tauchen Group  
Martin Fitzgerald, New Day Nevada  
Patrick Kelly, Nevada Hospital Association (NHA)  
Alex Tanchek, Silver State Government Relations  
Amanda Brazeau  
De  
Devan Seawright  
Teresa  
David Goldwater  
Cynthia Alejandre  
Betti Magney  
Catherine  
Lovia Larkin  
Maria Thorbourne  
Carissa Pearce  
Lea Tauchen  
William Mack  
Ashley Jonkey

### **Introduction:**

Casey Angres, Manager of Division Compliance, DHCFP, opened the Public Hearing introducing herself, Dr. Antonina Capurro, Deputy Administrator, DHCFP, and Gabriel Lither, Senior Deputy Attorney General.

Casey Angres – The notice for this public hearing was published on December 2, 2022, and revised on December 6, 2022, and December 20, 2022, in accordance with Nevada Statute 422.2369.

1. **Public Comments:** There were none.
2. **Discussion and Proposed Adoption and Changes to Medicaid Services Manual**

#### **Subject: Chapter 1200 Prescribed Drugs**

Kindra Berntson, Social Services Program Specialist for Pharmacy Services Unit, DHCFP, presented DHCFP proposed revisions to MSM Chapter 1200 - Prescribed Drugs, to revise the current coverage limitations for over-the-counter (OTC) drugs. The proposed changes clarify that OTC drugs must be FDA-approved and manufactured by a pharmaceutical company participating in the Federal Medicaid Drug Rebate Program for coverage, as well as establishes a Maximum Allowable Cost (MAC) for all OTC drugs with the exemption of insulin. A document containing the therapeutic classes and MAC limits was included within the agenda for public review.

The following providers who prescribe, dispense, or administer these drugs may be affected by this change, including but not limited to the listed provider types (PT) on the agenda.

There is no financial impact on local government known.

The effective date of these changes is January 9, 2023.

At the conclusion of Kindra Berntson's presentation, Casey Angres asked Dr. Antonina Capurro and Gabriel Lither if they had any questions or comments, they had none.

**Public Comments:** There were none.

Dr. Antonina Capurro approved the changes, pending spelling and grammar checks.

Casey Angres – Closed the Public Hearing for proposed adoption and changes to MSM Chapter 1200 – Prescribed Drugs.

### **3. Discussion and Proposed Adoption and Changes to Medicaid Services Manual**

#### **Subject: Chapter 2500 Targeted Case Management, and Chapter 2700 Certified Community Behavioral Health Centers**

Marcel Brown, Social Services Program Specialist in the Behavioral Health Unit, DHCFP, presented DHCFP proposed revisions to MSM Chapter 2500 - Targeted Case Management (TCM) and MSM Chapter 2700 – Certified Community Behavioral Health Centers (CCBHC) are being proposed to ensure that duplication of services is not occurring for individual Medicaid recipients who are enrolled in a Medicaid Managed Care Organization (MCO) and receiving case management services through a CCBHC. Language in MSM 2500 and MSM 2700 are proposed to clarify the role of the Lead Case Manager. When a recipient is eligible for Medicaid through an MCO, it is the responsibility of the Lead Case Manager to ensure that the identified MCO is notified of the recipient's participation in TCM in addition to coordinating all care with the MCO.

A public meeting on this chapter was held during the October 31, 2022, Medical Care Advisory Committee (MCAC) to educate providers and members of the public on the overall structure of the chapter as well as updates and clarification to chapter language in Section 2502.3 to add clarifying language to the Lead Case Manager to ensure management services are not duplicated between TCM and CCBHC. Identical language was added to MSM Chapter 2700 Section 2703.16(K)(1).

The following PTs delivering Case Management Services may be affected by this change, including but not limited to: Behavioral Health Outpatient Treatment (PT 14), CCBHC (PT 17, Specialty 188), and Targeted Case Management (PT 54).

There is no financial impact on local government known.

The effective date of these changes is December 28, 2022.

At the conclusion of Marcel Brown's presentation, Casey Angres asked Dr. Antonina Capurro and Gabriel Lither if they had any questions or comments, they had none.

**Public Comment:** There were none.

Dr. Antonina Capurro approved the changes, pending spelling and grammar checks.

Casey Angres - Closed the Public Hearing for proposed adoption and changes to MSM Chapter 2500, Targeted Case Management and MSM Chapter 2700, CCBHC.

#### **4. Discussion and Proposed Adoption and Changes to Medicaid Services Manual**

##### **Subject: Chapter 1500 Healthy Kids Program**

Gladys Cook, Social Services Program Specialist in the Medical Programs Unit (MPU), DHCFP, presented DHCFP proposed revisions to MSM Chapter 1500 - Healthy Kids, to allow payment to providers to bill for a Well-Check Visit and a Sick Visit at the same time of service and for the same recipient. A public workshop was not conducted due to this being a policy recommendation from the American Academy of Pediatrics.

Under Section 1503.3A(3) Coverage and Limitations – updated policy language to allow reimbursement limitations of a Sick Visit and a Healthy Kids Exam for the same recipient at the same time of service and for the same provider. When both a Sick Visit and a Healthy Kid’s Exam is completed as mentioned, the Sick Visit will be reimbursed at 50% of the current rate. This reimbursement methodology and policy change follows current practices under the MCOs.

The following PTs may be affected by this change, including but not limited to: Outpatient Hospital (PT 12), Physician Services (PT 20), Advanced Practice Registered Nurse (PT 24), and Physician Assistant (PT 77).

There is no financial impact on local government known.

The effective date of these changes is December 28, 2022.

At the conclusion of Gladys Cook’s presentation, Casey Angres asked Dr. Antonina Capurro and Gabriel Lither if they had any questions or comments, they did. Dr Antonina Capurro asked for confirmation if Gladys Cook reviewed the reimbursement methodology for the two services that were on the same date of service. Gladys responded that it was mentioned and confirmed it would be reimbursed at 50% of the current rate. Gabriel Lither did not have a question, however he appreciated Dr. Antonina Capurro’s question and stated he also missed that information during the presentation. He thanked everyone for the clarification and there was nothing further.

**Public Comment:** There were none.

Dr. Antonina Capurro approved the changes, pending spelling and grammar checks.

Casey Angres - Closed the Public Hearing for proposed adoption and changes to MSM Chapter 1500 – Healthy Kids Program.

## 5. Discussion and Proposed Adoption to State Bulletin

### Subject: State Plan Option

Stacie Weeks, Deputy Administrator of Managed Care Program, DHCFP. This bulletin represents new guidance from DHCFP regarding its implementation of the Public Option Program, which was passed into state law during the 2021 Legislative Session. State law requires the director of Nevada Department of Health and Human Services (DHHS), in consultation with the Commissioner of Insurance, and the Executive Director of the Exchange to design, establish, and operate a Public Option. As far as implementation, the director must seek a Federal Section 1332 Waiver for the new plans, which if approved, will allow the state of Nevada to receive new federal pass-through funds to reinvest in the healthcare system. To ensure the waiver application reflects the state's approach to meeting the new premium reduction targets through its contracts with carriers that will be offering the Public Option plan, the director is using his express authority under Nevada Revised Statute (NRS), Chapter 695K.200(5) to revise the premium reduction targets.

Specifically, NRS 695K.200(5) states the director may revise the requirements of that subsection which includes the premium target requirements provided that the average premium for the Public Option must be at least 15%. In other words, the director can revise the premium reduction target if the director is able to meet the 15% target that is in the statute over the first four years of the Public Option. Although state law does not require the director to promulgate regulations to effectuate these revisions, the division still seeks to ensure public transparency regarding its revisions under this broad express authority and statute, this includes collecting feedback at this Public Hearing. Prior to these revisions, the Public Option reduction targets would have resulted in a 20% premium reduction over the first four years as compared to other premiums and the qualified health plans in 2024.

Based on feedback from stakeholders and advice from actuaries, the director has agreed to lower this reduction target to 16% over the first four years of the Public Option and to apply the Consumer Price Index (CPI) for medical services. CPI is the cost growth trend factor instead of Medicare Economic Index (MEI) to adjust for the actual inflation in the individual market. These changes are being made after consultation with the exchange, as well as the Department of Insurance (DOI) and are intended to ensure that premiums offered by carriers for Public Option will be able to account for the high cost of inflation in the states market and ensure provider rates in the Public Option do not fall below the state statutory rate floor, which is set to no lower than Medicare rates. DHCFP appreciates any feedback on these revisions during this Public Hearing. Feedback can be offered in writing or verbally here, and if there are any questions, please submit them to the Public Option at [dhhs.nv.gov](http://dhhs.nv.gov) or [dhcfp.nv.gov](http://dhcfp.nv.gov) for the Public Option. The purpose of this agenda is to provide an opportunity for public transparency and comment.

At the conclusion of Stacie Weeks's presentation, Casey Angres asked Dr. Antonina Capurro and Gabriel Lither if they had any questions or comments, they did. Dr Antonina Capurro added a side note that this presentation is informational only and would leave it for public comment. Gabriel Lither echoed what Dr. Antonina Capurro and Stacie Weeks stated that this agenda is a bit unusual. However, the reason it is a part of the Public Hearing today is because DHCFP wants to be as transparent as possible in an effort to allow everyone in the public an opportunity to see the direction that is occurring with the Public Option. Casey then thanked both Dr. Antonina Capurro and Gabriel Lither and opened it up for public comment.

### Public Comment:

Patrick Kelly, CEO of the Nevada Hospital Association, thanked Stacie Weeks and Suzanne Bierman for holding office hours on the Public Option. “These series of conversations help everyone better understand the Public Option, and it opened a much-needed dialogue between the state providers and insurers. As the Public Option scored, a few fundamental concerns exist: Nevada has a fragile healthcare delivery system, and the Public Option will place additional financial and capacity strains on it. Today’s proposed action makes it clear that the state recognizes the challenges that the Public Option creates for healthcare providers and insurers, and ultimately actuarial soundness. Unfortunately, it will take legislative action and state funding to alleviate the burden on providers and make the Public Option operable. Access to healthcare is a huge problem for Nevada. We are ranked 50th in the nation with an inadequate number of physicians, we rank 50th in the nation for primary care physicians and are low in many specialties. Nevada needs more than 1,500 positions just to meet the national average. Moving patients from commercial insurance to Medicare level reimbursements when they negatively impact physician revenues. We already have trouble recruiting and retaining positions and this will not help. We also have a nursing shortage that impacts all healthcare. We need more than 7,500 Registered Nurses (RNs) and Licensed Practical Nurses (LPNs) just to meet the national average. Both the physician shortage and the nursing shortage currently cause access problems. Unless steps are taken to create the proper financial incentives, Nevadans will continue to have access problems, including those on the Public Option. Nevada is 49th in the country for non-medical drug use and 2.8 million Nevadans live in federally designated mental health professional shortage areas. Where will these people go for mental health services? We encourage the state to examine the basic foundations of our health care delivery system and address those challenges so that every Nevadan has access. Healthy individuals are needed to balance the Public Options insurance risk pool. Currently 83% of Nevada’s uninsured population is eligible for Medicaid or subsidies on the silver state exchange. That population does not participate in either program. The actuarial analysis assumes that the uninsured people purchasing insurance on the exchange will be the primary users of the Public Option. We question that assumption. They are not enrolling in free or subsidized health care now. Most people shop for insurance based on price. If the cost of Public Option insurance is less than commercial insurance, people will switch. We will have the wealthy rather than the poor purchasing Public Option insurance and furthering the cost shift on those remaining in the group commercial insurance market. That is not right. The basic building blocks of our health care delivery system need shored up, and provider safeguards need to be created before the Public Option is implemented. Thank you.”

Casey thanked Patrick Kelly for the comment and asked if there were any further comments. There was one.

Martin Fitzgerald, New Day Nevada, thanked DHHS and Medicaid for their work on the Public Option and shared their voice in favor of the proposed premium reduction targets and new CPI medical cost inflator that was outlined. “As everyone is aware of Section 10, Subsection 5 of SB420 of the 2021 Legislative Session, explicitly gives the director authority to revise the premium reduction targets. The language in this section is clear and unequivocal, and the action proposed today aligns exactly with the intent of the legislation. Indeed, the Division specifically passed SB420 to initiate these actions of the Public Option so it is ready for its legislatively mandated launch year of 2026. Not only was DHHS given statutory authority to initiate these changes that are proposed today in SB420, but the legislature also appropriated specific funding from budgetary authority to the department so they could hire staff actuaries and outside experts. The Public Option of Medicare MCOs already for the mandated procurement process still may need an SB420. We applaud the department and the director for taking the necessary preparatory administrative actions they've taken today. Just this year, helping trans premiums increase health insurance plans have increased their premiums by 7% and have been increasing their premiums every year since the start of health

exchanges. Making it clearer now more than ever, that the Public Option offers the only path to provide relief to Nevada families. This is exactly why the American Medical Association (AMA); House of Delegates, took the groundbreaking step in mid-November to support the advancement of Public Options like Nevada's. As Dr. Ryan Mire, president of the American College of Physicians said, "The Public Option is not single payer. It is an option for those who do not have insurance and those who fall within the gaps of coverage." And as AMA president Susan Bailey explained, Public Options maximize competition and increase healthcare options across the market. This is exactly what Nevada Public Option does. We applaud the administrative steps taken today that strengthens the individual market. This also helps bring down the cost so more divided families can afford high quality health care and inject more competition into Nevada's healthcare marketplace. We support DHHS's continued to work in developing program design of the Public Option and then work in meeting the legal meeting of SB420."

Casey Angres – Thanked Martin Fitzgerald for their comment and asked if there were any further comments. There were none.

Casey Angres - Closed the State Bulletin related to the Public Option and concluded the Public Hearing.

## 6. **Adjournment**

There were no further comments and Casey Angres closed the Public Hearing at 10:17 AM.

***\*An Audio (CD) version of this meeting is available through the DHCFP Compliance office. For more detailed information on any of the handouts, submittals, testimony and or comments please contact Jenifer Graham at [documentcontrol@dhcfp.nv.gov](mailto:documentcontrol@dhcfp.nv.gov) with any questions.***