Meeting #3

Date: September 29, 2015 1:00 PM

Location: 200 Park Ave, New York NY

Attendees:

TD II Meeting 3 Attendance.pdf

Overview

This was the third meeting in a series of meetings for the Technical Design II Subcommittee (SC). The purpose of the meeting was to discuss the draft recommendations (see agenda below), introduce new topics and raise any questions or concerns.

The specific agenda for this meeting included the following:

1. Review of Recommendations:
    1. What activities/services should remain Fee-for-Service (FFS) and be considered VBP?
    2. Should certain services or providers be excluded from VBP?
2. Deep Dive: What should be the criteria and policies for the VBP Innovator Program?
3. Introduction to New Topics:
    1. Financially Challenged Provider status: what does it mean?
    2. What will be included in the planned assessment of progress made in VBP participation and market dynamics?
    3. What should be the process for addressing impasse situations during VBP contract negotiations?
4. Next Steps and Action Items

Key Discussion Points (Reference slide deck "Technical Design II Subcommittee Meeting #3")

1) Review of Recommendations: FFS as VBP and Exclusions from VBP

The co-chairs opened the meeting with a review of the recommendations that the SC had previously developed on FFS as VBP and Exclusions from VBP. Both recommendations were approved by the Subcommittee and can be finalized pending an edit (it was requested that the term "inpatient" be removed from the description of financially challenged providers in the Exclusions recommendation). While discussing the subject of exclusions, a SC member brought up the concern that Medicaid members who are auto-assigned to PCPs should also be considered for exclusion from VBP, as providers may not have sufficient time to make contact with them. The SC was reminded that the Exclusions recommendation exists as a guideline, and therefore can be modified to fit the needs of providers and MCOs within their respective contracts.

2) Deep Dive: What should be the criteria and policies for the VBP Innovator Program?

The Subcommittee reviewed the State's VBP Innovator Program goals as stated in the VBP Roadmap, in order to help facilitate the conversation on its development. The SC was reminded that the Innovator Program is not intended to limit provider networks or patient choice when selecting appropriate health care.

The group then reviewed the following components of the Innovator Program, with the goal of developing standards and/or guidelines.

Component 1: Which VBP risk arrangements are eligible for the Innovator Program?

The SC was reminded that it is critical for the selected Innovators to have the capacity to manage higher levels of risk, whether in a high risk Level 2 arrangement, or Level 3 TCTP and Subpopulation arrangement. There will be no special status for Innovators, and these groups will still be required to comply with Regulation 164 and other applicable regulations. The comment was made that allowing for only Level 3 arrangements in the Innovator Program (Option 2) would help to establish a more uniform set of criteria, but allowing for Level 2 arrangements (Option 1) would allow for a greater variety of groups to participate.

It was shared with the SC that applications to the Innovator Program could be on an open enrollment basis starting in Q1 2016, and that the Program could start by first accepting only Level 3 groups and then include Level 2 arrangements once program efficacy is established.

Component 2: What is the applicant review process for the Innovator Program?

The approach to the applicant review process will be dependent on the risk arrangements included in the Program. The Subcommittee was leaning towards Options 2 and 3, where clear criteria are established for the Innovators to meet. It was highlighted that as part of the Regulatory Impact SC scope, a 3-tier contract review process is being developed. Tiers depend on the level of risk taken and aligns with an appropriate level of review from DOH and DFS. High risk Level 2 and all Level 3 arrangements will fall under the joint DFS/DOH review process, subject to Regulation 164.

Component 3: Criteria for Participation

The Subcommittee was reminded that in order to participate in the Innovator Program, it will be critical for groups to have a proven track record of success in VBP contracting, given the high level of risk involved. The SC discussed how to best evaluate a group's track record, particularly given the fact that in Level 3 arrangements there will be a greater number of functions for groups to manage.

Also, it was decided that one criteria for participation, number of Medicaid members, should be a minimum number of members attributed to a potential Innovator, rather than a percentage of members attributed to the Innovator within a region.

Component 4: Is there an appeals process?

The SC felt that if a clear and transparent set of criteria was established for applying to the Innovator Program, then no appeals process would be necessary.

Component 5: Innovator Program Benefits

The Subcommittee reviewed the proposed Innovator Program benefits as they are outlined in the VBP roadmap. The goal of the conversation was to create a guideline by which both plans and providers could operate when agreeing upon the premium pass through percentage. The SC discuss the possibility of delegating some of the administrative functions to the providers. By doing so, the administrative burden would be partially alleviated on the MCO side. It was agreed that the percentage would change based on the amount of administrative work the parties would take on. Some of the administrative functions include the following:

- Utilization Review (UR)
- Utilization Management (UM)
- Claims Administration
- Appeals
- Drug Utilization Reviews (DUR)
- Legal
- Member Enrollment/Advertising
- Quality
- Compliance
- Fraud, Waste and Abuse
- Other.

To better facilitate this conversation, a matrix will be created prior to the next Subcommittee meeting that will delineate the number of functions managed by either a plan and/or a provider within an arrangement, and can be used as a tool to determine the appropriate pass through payment to the provider as based on the delegation of these functions.

Component 6: How is the Innovator's performance measured?

The SC agreed that the performance measurements for Innovators should be aligned with the existing DSRIP and other applicable measures.

Component 7: What is the status maintenance and contract termination/program exit criteria?

The SC members agreed that a transition plan will be key if Innovators status is terminated. This will allow for a smooth and timely transition out of a contract. The group talked through the differences with Level 2 and Level 3 groups exiting, namely how the differences in FFS versus capitated payment impacts each group. Data sharing as it pertains to evaluating the success of the Innovator Program was also discussed, recognizing the importance of giving both providers and plans more effective tools for tracking their progress. The State is creating the Medicaid Analytics Performance Portal (MAPP tool) to support this type of analysis.

Component 8: In the case of poor performance, should there be contract cooling off periods?

Although the SC did not directly deliberate on this topic, the request for a clear transition plan was made when discussing component 7, suggesting support for a cooling off period following contract termination.

Additional comments were made in the Innovator Program discussion, including the suggestion that there be further review of the Innovator Program's potential impact on the communities in which they are operating, as there may be positive and unintended negative consequences. One way to track these consequences could be to have an open public comment period following the start of the Program.

3) **Introduction to New Topic #1: Financially Challenged Provider status: what does it mean?**

The SC reviewed the topic of Financially Challenged Providers (FCPs), and addressed whether the definition of FCPs should include inpatient facilities only or also include other ambulatory facilities. The subcommittee felt that ambulatory/outpatient facilities should also be included in the definition, and agreed with the formulation of the suggested approach as to the limitations applied to FCPs. The SC will draft a recommendation reflecting this decision.

4) **Introduction to New Topic #2: What will be included in the planned assessment of progress made in VBP participation and market dynamics?**

The SC reviewed possible approaches to tracking VBP progress. It was suggested that additional metrics could be added to existing reporting requirements, in order to make the tracking of VBP progress more efficient. It was also suggested that this discussion be postponed for about 6 months later, after the Medicaid Model Contract is finalized. The SC will draft a recommendation reflecting this decision.

5) **Introduction to New Topic #3: What should be the process for addressing impasse situations during VBP contract negotiations?**

The last topic reviewed by the Subcommittee was whether the State should build in existing support for groups who may be having difficulties agreeing on contract terms. It was determined that no concrete support is needed at this time, but the State will continue to serve as a neutral convener and will monitor the market to ascertain whether a more definite type of support is required. No formal recommendation will be drafted with respect to this decision.

Materials that have been distributed during the meeting:

#	Document	Description
1	Technical Design II Subcommittee Meeting #3  TD II Meeting 3_Presentation Slide	A presentation deck providing the following: an overview of the decisions made during the last session; a deep dive discussion on the Innovator Program; and an introduction to financially challenged provider status, the assessment of VBP progress, and VBP contract negotiations.

2	Meeting #2 Summary Meeting 2_VBP Tech Design II_Summ	Meeting minutes and a review of decisions made during the last meeting.
3	Innovator Program Brief NYS VBP TD II_Brief_Innovator Pr	A document detailing the options and considerations around the design of the Innovator Program.
4	Draft Recommendations on: Exclusions, FFS as VBP and Technical Assistance NYS VBP Technical Design II_DRAFT Rec NYS VBP Technical Design II_DRAFT Rec NYS VBP Technical Design II_DRAFT Rec	Recommendations on Exclusions (services and providers that should be excluded from VBP arrangements), FFS as VBP (addressing which activities and services should remain FFS and be considered VBP), and Technical Assistance (how technical support should be provided to providers in VBP arrangements encountering performance challenges).

Key Decisions

Prior to the next meeting, Subcommittee members will receive the finalized recommendations discussed in this meeting (FFS as VBP and Exclusions), as well as a draft recommendation on the definition of FCPs and a decision on the State's role in contract negotiations. To further clarify and simplify the Innovator Program criteria, a matrix outlining critical plan and provider functions in VBP arrangements will also be shared with the Subcommittee for their comment.

Conclusion

The next meeting will place at the MetLife Building in Manhattan at 1:00 pm on October 22, 2015. Subcommittee members will be notified if any changes in meeting schedule or logistics occur.

In the next meeting the SC will review and finalize the recommendations made on the above topics, and be introduced to the following new topics:

1. What should be the Quality and Outcome measures in the TCTP arrangement?
2. How should the workforce measures (generic level) be defined?
3. What will be the best way to align MCO measures with VBP measures?