Session 90OF, Perspectives on Medicaid Rate Setting

**Moderator/Presenter:**
Jennifer L. Gerstorff, FSA, MAAA

**Presenters:**
Kevin T. Geursten, FSA, MAAA
Colby R. Schaeffer, ASA, MAAA
2018 SOA Health Meeting

KEVIN GEURTSEN, FSA, MAAA
COLBY SCHAEFFER, ASA, MAAA
JENNIFER GERSTOFF, FSA, MAAA

Session 90, Perspectives on Medicaid Rate Setting
June 26, 2018
Active participation in the Society of Actuaries is an important aspect of membership. While the positive contributions of professional societies and associations are well-recognized and encouraged, association activities are vulnerable to close antitrust scrutiny. By their very nature, associations bring together industry competitors and other market participants.

The United States antitrust laws aim to protect consumers by preserving the free economy and prohibiting anti-competitive business practices; they promote competition. There are both state and federal antitrust laws, although state antitrust laws closely follow federal law. The Sherman Act, is the primary U.S. antitrust law pertaining to association activities. The Sherman Act prohibits every contract, combination or conspiracy that places an unreasonable restraint on trade. There are, however, some activities that are illegal under all circumstances, such as price fixing, market allocation and collusive bidding.

There is no safe harbor under the antitrust law for professional association activities. Therefore, association meeting participants should refrain from discussing any activity that could potentially be construed as having an anti-competitive effect. Discussions relating to product or service pricing, market allocations, membership restrictions, product standardization or other conditions on trade could arguably be perceived as a restraint on trade and may expose the SOA and its members to antitrust enforcement procedures.

While participating in all SOA in person meetings, webinars, teleconferences or side discussions, you should avoid discussing competitively sensitive information with competitors and follow these guidelines:

- **Do not** discuss prices for services or products or anything else that might affect prices
- **Do not** discuss what you or other entities plan to do in a particular geographic or product markets or with particular customers.
- **Do not** speak on behalf of the SOA or any of its committees unless specifically authorized to do so.
- **Do** leave a meeting where any anticompetitive pricing or market allocation discussion occurs.
- **Do** alert SOA staff and/or legal counsel to any concerning discussions
- **Do** consult with legal counsel before raising any matter or making a statement that may involve competitively sensitive information.

Adherence to these guidelines involves not only avoidance of antitrust violations, but avoidance of behavior which might be so construed. These guidelines only provide an overview of prohibited activities. SOA legal counsel reviews meeting agenda and materials as deemed appropriate and any discussion that departs from the formal agenda should be scrutinized carefully. Antitrust compliance is everyone’s responsibility; however, please seek legal counsel if you have any questions or concerns.
Presentation Disclaimer

This presentation is intended to for educational only and is not complete without oral comment. Nothing in this presentation is intended to replace independent professional judgment. The views expressed in this presentation are those of the presenters, and not those of the their employers, the Society of Actuaries, its cosponsors, or its committees. The Society of Actuaries does not endorse or approve, and assumes no responsibility for, the content, accuracy or completeness of the information presented.

Attendees should note that the sessions are audio-recorded and may be published in various media, including print, audio and video formats without further notice.
To Participate, look for Polls in the SOA Event App or visit health.cnf.io in your browser

Find The Polls Feature Under More In The Event App

Type health.cnf.io In Your Browser

Choose your session

Respond to Polls when they appear
Objectives of this Session

This session is intended to provide a forum to discuss situations common in Medicaid capitation rate setting.

Situations and issues explored in this session assume the audience has a base understanding of Medicaid capitation rate setting.

The session is meant to stimulate discussion and provide alternative perspectives to rate setting and how information and data is shared among stakeholders.
What Data Should be Used?

Multiple data sources may be available
- MCO encounter data
- MCO/FFS claims data
- Supplemental data requests
- MCO self reported information (ad-hoc issues)

Key considerations:
- How do you handle payments not in encounters (risk arrangements, etc.)
- Data reliance and ASOP 23
- What time period should be used as a cutoff to utilize data in prospective rate setting and retrospective rate setting (amendments, risk adjustment, etc.)
Asymmetric Information

Who knows what, and when?

- Key stakeholders (State, State Actuaries, MCOs, CMS) are not always in sync
- Each MCO often has information on claims and enrollment patterns sooner, but that is only a partial picture of the data that can be used
- States may have it all, but may be delayed while the data is aggregated
- What is shared? What should be shared? What can be shared?

Key considerations:

- What is the role of data transparency?
- Can MCOs collaborate to disseminate information?
- How do you validate self reported MCO data?
Poll: In your opinion, do you think that the State's actuaries should be more transparent?
In your opinion, do you think that the State's actuaries should be more transparent?

- Yes: 84%
- No: 0%
- It's just right: 16%
Poll: In your opinion, do you think that the MCO actuaries should be more transparent?
In your opinion, do you think that the MCO actuaries should be more transparent?

- Yes: 52%
- No: 4%
- It's just right: 43%
Is There a “Best” Approach to Trend

Common approaches are never perfect

- Regression models
- Published studies
- MCO expectations

Key considerations:

- How much detail is reasonable
- How much will the future look like the past
- When should a trend component be instead reflected as a base data adjustment
Poll: In general, for a mature managed care program, how should utilization trend be estimated? (non-pharmacy only)
In general, for a mature managed care program, how should utilization trend be estimated? (non-pharmacy only)
Handling Differences in Key Assumptions

Key assumptions where differences of opinion are likely to arise
- Claim completion (IBNR)
- Program changes
- Other base data adjustments
- Trends (utilization, unit cost, member mix)
- Forecasted administrative costs

Key considerations:
- Point estimates within a range of possible results
- How do you estimate the unknown?
- Unresolved differences, what now?
What is “Sufficient Clarity”? 

ASOP 41 Section 3.2 Actuarial Report

In the actuarial report, the actuary should state the actuarial findings, and identify the methods, procedures, assumptions, and data used by the actuary with sufficient clarity that another actuary qualified in the same practice area could make an objective appraisal of the reasonableness of the actuary’s work as presented in the actuarial report.

Key considerations:

- Who is the intended user? State? CMS? MCOs?
- Actuarial Report vs. part of the report?
- Obligations to your Principal vs. obligations to the public
What is Material?

ASOP 49, 3.2.18 Inaccurate or Incomplete Information Identified After Opinion or Rate Certification

If the actuary determines after the opinion or certification was issued that he or she used inaccurate or incomplete information, the actuary should notify the principal if, in the actuary’s professional judgment, the new information is material to the actuarial soundness of the rates and is not inherent in the assumptions already included in the rates.

Key considerations:
- What is material? How much?
- How do we planning for changes
Poll: What is the most granular level that materiality should be evaluated?
What is the most granular level that materiality should be evaluated?

- State program level: 4%
- Category of aid (LIM, Duals, etc.): 4%
- Rate cell: 64%
- Category of service (IP, OP, etc.): 28%
Poll: In your opinion, what level of variation do you consider material?
In your opinion, what level of variation do you consider material?
Determining Appropriate Guidance

Guidance and standards can have conflicting views
- Subjective nature (sufficient clarity, reasonable, etc.)
- Do CMS questions on rate certifications deem the need more detail in future certifications?
- Texas vs. HHS Rule

Documentation requirements
- State’s intentions
- MCO questions
- CMS guidance
- ASOPs