

SUMMARY MEETING MINUTES

November 17-18, 2010

The Negotiated Rulemaking Committee (hereafter the “Committee”) was convened for its third meeting at 9:31 A.M. on November 17, 2010 at the Legacy Hotel, Rockville, Maryland. The meeting was facilitated by Lynn Sylvester and Kathy Murray Cannon of the Federal Mediation and Conciliation Service.

Committee members present:

Marc Babitz
Andrea Brassard
Roy Brooks
Jose Camacho
Kathleen Clanon
Beth Giesting
David Goodman*
Daniel Hawkins
Sherry Hirota
Steve Holloway
Barbara Kornblau
Tess Kuenning
Alice Larson
Nicole Lamoureux
Tim McBride
Lolita McDavid
Alan Morgan
Ron Nelson
Charles Owens
Robert Phillips
Alice Rarig
Patrick Rock
Edward Salsberg
William Scanlon
John Supplitt
Don Taylor
Elisabeth Wilson

* Represented by a designated alternate for all or parts of the meeting

GENERAL ADMINISTRATIVE MATTERS

Ms. Sylvester reminded every Committee member to sign in each day. In addition, there was a reminder for members of the public to sign in and identify any request to address the Committee.

The presentation on NPRM-2, as requested by the Committee at the previous meeting, was not given via webinar prior to this meeting. The optional presentation will be given during the lunch of Wednesday's meeting. Each Committee member expressed interest in staying during lunch for the NPRM-2 presentation.

APPROVAL OF SUMMARY MINUTES

Prior to this meeting, the Committee reviewed the draft minutes from October's meeting. A Committee member suggested adding "A committee member raised a concern about data services that do not disclose their methodology and is not available without a fee" to the end of the section of "Preliminary List of Data Sources" on page 4.

These additional changes were suggested:

- Change "Technical Subcommittee" to "Data/Technical Subcommittee" throughout the minutes
- Add "and JSI" to the following sentence on page 7: Approaches to measuring need/demand revisited based on Subcommittee *and JSI* work

The suggestion was made to submit edits ahead of time (to HRSA staff); however, the Committee did not commit to this change.

The October meeting minutes were approved as revised.

A "ROAD MAP" FOR THE DESIGNATION NRM PROCESS

Mr. Salsberg gave a presentation entitled "HPSA and MUA/P Negotiated Rulemaking: A Draft Road Map" (Attachment 1) which summarizes how the proceedings are likely to go, according to HRSA. The presentation describes the statutory requirements in addition to the preliminary components for developing a model of underservice. Mr. Salsberg introduced a conceptual framework to use for each component the Committee considers. He also presented a proposed monthly timeframe for the Committee from November through July. HRSA would like the Committee to use the timeframe as a benchmark to assess the Committee's progress.

Commenting on the conceptual framework, a suggestion was made that Committee members address their constituents in between the second and third discussions on a particular issue, in order to return to be able to vote on consensus for the third discussion/meeting.

There were concerns raised about the proposed monthly timeframe. The timeframe proposes a conference call in December but Committee members were unaware, prior to the presentation, of any intent to meet in December. The decision of whether to have a conference call in December will be decided during tomorrow's meeting. The timeframe proposes a first presentation/discussion on rational service areas in January but a Committee member expressed concern about having not received information on rational service areas from a HRSA bureau that was supposed to be available two weeks ago. The Committee member wanted this information to be available prior to the Committee's discussion on rational service areas. Mr. Salsberg will contact the Bureau of Primary Health Care to determine if this information will be available prior to December 31, 2010. A Committee member noted that "facilities" was not listed as a topic to be discussed in the timeframe. Mr. Salsberg recommended that "facilities" be considered part of the "subpopulations" discussion. Overall, the Committee expressed appreciation for the proposed timeframe.

Based on the extensive proposed timeframe, the suggestion was made to return to 3-day meetings. In the alternative, the Committee discussed having conference calls, doing more work in between meetings and greater use of subcommittees. The suggestion was made to create guidelines for how subcommittees function. Committee Members were asked to research subcommittee protocol before the next day's meeting. The decisions on both 3-day meetings and subcommittee guidelines will be made during tomorrow's meeting.

DETERMINING A STRUCTURE FOR ASSESSING NEED/DEMAND

Mr. Turer gave a presentation entitled, "Review of Barrier Free Approach and Additional Analysis of MEPS Data Related to 'Potential' vs. 'Experienced Barriers'" (Attachment 2). The presentation briefly explained the Barrier Free Approach presented at the prior meeting, including the potential benefits to such an approach, and presented the results of a comparative analysis using 'Experienced Barriers' which includes individuals in MEPS that stated that they actually faced access barriers. This analysis was in response to the Committee's request to look at the population that experienced barriers to care in MEPS and compare them to the "potentially barriered" approach described at the previous meeting. The results showed that the magnitude of the group reporting experiencing barriers was far too small to explain the utilization differences seen in the initial approach, however the group originally identified as 'Barrier Free' showed a lower incidence of delayed or avoided care, perceived a lower significance of experienced barriers care as a problem, and had very different

reasons for the barriers they experienced. It was also noted that those that experienced barriers were primarily those with high contact with the system.

A Committee member asked whether JSI had ever looked at people who have at least two of the barriers rather than one barrier. Mr. Turer said JSI had not done pairwise testing of the potential barriers as the intent was to identify a group without any barriers. Mr. Turer was also asked whether demographics of the group that reported experiencing barriers were tested to determine if the assumptions for the barrier free group held true. Mr. Turer indicated that JSI has not run those demographics yet; however, the findings presented do indicate that they are far more likely to have traits associated with barriers. In addition, Committee members expressed concern about particular age groups, the use of the terms “health status” and “outcomes,” the complexity of the models discussed thus far and models only using survey data. One committee member observed that the barrier free utilization approach seemed to be at least an improvement over the current population/provider approach. Another member raised concerns about the potential that current utilization rates may reflect overutilization and we would be basing a model on utilization rates that were artificially high. The suggestion was made to allow the Data/Technical Subcommittee to question the details of which model to adopt.

Mr. Turer next gave a presentation entitled “Health Status Adjustment to Initial Barrier Free Demand Estimate” (Attachment 3) which outlines the purpose for health status adjustment to demand and potential approaches for making such an adjustment. One member suggested the WHO definitions for limited or restricted activity as an option to consider. As discussed by the Committee, concerns and challenges arise when accounting for diverse populations, particularly those that live in the same geographic areas, as well as the use of county levels for analysis. One Committee member explained that the problem of diverse populations only arises in the implementation process – when decided what scale to use – rather than in the model itself.

TECHNICAL SUBCOMMITTEE STATUS REPORT

The Data Technical Subcommittee reported that they have yet to define any alternatives to the Barrier Free approach to estimating demand (as presented by JSI) or the NPRM-2 approach. They have been brainstorming about datasets and need measurable variables to test. The Subcommittee discussed health status measures and outcomes to determine if they were a better starting point than population. The Subcommittee will look at the pros and cons of different approaches and prepare an interim report for the Committee in about six weeks, then report back to the Committee in January. Mr. Scanlon and Mr. Babitz will join the Data Technical Subcommittee.

The Committee expressed concern about using the term “barrier free” and made suggestions including, “impeded/unimpeded” and “ideal.” The discussion of what term to use has been placed in the parking lot.

OPTIONAL WORKING LUNCH – NPRM-2 PRESENTATION

Mr. Turer gave a presentation entitled, “NPRM-2 Overview: Review of Proposed Methodology for Historical Context” (Attachment 4). The presentation outlined the steps in the framework for the proposed NPRM-2 methodology. Overall, the Committee felt the presentation was constructive and beneficial. There were some concerns about the methodology, however, including collecting nurse practitioner data, the designation of special populations and the complexity of the methodology.

DETERMINING A FRAMEWORK FOR ADDRESSING SUB-POPULATION METHODS

Mr. Turer gave a presentation entitled, “Concepts for Approaching Population Group Designations” (Attachment 5). The current approaches for designating population groups were briefly described. A Committee member raised a concern that all Native American groups were not given automatic HPSA designation (as suggested in the presentation). Mr. Turer outlined the considerations related to designation of population groups and a conceptual framework for approaching them. Mr. Turer also included a list of potential sub-population groups to consider based on the Committee’s discussion on underservice at the previous meeting, which had been categorized as those determined by social factors and those determined by economic factors.

The Committee discussion on subpopulations was tabled until the following day’s meeting.

SUBCOMMITTEE PROTOCOLS

The working group on subcommittee protocols was able to meet and research information during a break. The group has suggested the following guidelines for subcommittees:

- Subcommittees will designate a Chair and Vice-Chair before leaving the meeting at which they have been established.
- Subcommittees will convene within the first week of establishment to discuss their charge and schedule
- Subcommittee Chairs will report back to the full Committee with something in writing (presentation)
- Subcommittees will be fact finding (identifying pros and cons) and describe their discussions
- Subcommittees can seek additional members

- Subcommittees will preferably meet every two weeks (by webinar/conference call)
- Subcommittees will attempt to fully respond to their charge

In addition, it is understood that HRSA & JSI will help the subcommittees when appropriate. The Committee reached a consensus on using the above guidelines for subcommittees.

*******Day Two*******

ADMINISTRATIVE MATTERS

The Committee discussed whether to have a conference call in December. There were concerns about whether the subcommittees would have information to discuss by then, discussing a key issue on a conference call and the resources to make the conference call open to the public (as required by statute). The Committee decided not to have a conference call in December; however, the subcommittees would hold conference calls in order to make progress before the January meeting. The subcommittees will report back to the full Committee with a written document/presentation of their progress/discussions.

SUB-POPULATION DISCUSSION

Committee members discussed subpopulations of importance to them, including people with disabilities, homeless, migrant and seasonal farm workers, public housing residents, the LGBT community, Indians, Asian-Pacific Islanders, the HIV/AIDS community and the low income population. In addition, Committee members discussed free clinics, community health centers and rural health clinics. A rich discussion took place with many committee members voicing their concerns about the needs of the various special populations. As a result of the discussion, a Subpopulations Subcommittee was created with the charge to return in January with recommendations for what and/or how subpopulations should be considered in the new designations. The Subpopulations Subcommittee is comprised of Ms. Kornblau, Ms. Lamoureux, Ms. Giesting, Mr. Phillips, Ms. Wilson, Ms. Clanon, Ms. Hirota, Ms. Larson, Mr. Brooks, Mr. Rock and Ms. Smith.

Committee members had some comments and questions about information in Mr. Turer's presentation from the previous day.

SUBCOMMITTEE BREAKOUTS

The full Committee took a short break so that the two subcommittees could meet to establish subcommittee leadership and meeting schedules.

The Data/Technical Subcommittee appointed Ms. Rarig as Chair and Mr. Taylor as Vice-Chair. They have decided to meet every Friday (with the exception of a few weeks) until January.

The Subpopulations Subcommittee appointed Ms. Wilson as Chair and Ms. Hirota as Vice-Chair. They have decided to meet at least three times before the January meeting to outline their charge, draft options and discuss how to address the issue.

SUPPLY/CAPACITY

Mr. Turer gave a presentation entitled, “Concepts for Assessing Primary Care Provider Capacity” (Attachment 6) which described current approaches to assessing provider capacity, outlined considerations for the Committee related to assessing capacity, and highlighted two potential approaches to estimating capacity: (1) based on individual provider characteristics and (2) based on claim/visit records.

Committee members addressed many of the issues raised in the presentation, including: the inclusion of residents in NPRM-2, H-1B visa grantees, non-doctor providers and state specific variants, access for particular sub-populations such as the uninsured, Medicaid, and language access, use of claims data, and facilities and specialties.

A question was posed about forming a provider/capacity subcommittee; however, the general consensus was for the Data/Technical Subcommittee to add this topic to their charge/agenda.

PUBLIC COMMENT

The Committee was provided with written comments from “Jean Public” (Attachment 7). In addition, the Committee was notified of a comment posted electronically from Miriam Yeung, Executive Director, National Asian Pacific American Women’s Forum (Attachment 8).

Three individuals addressed similar concerns about how access issues in suburban communities where needy populations are often disbursed can be addressed:

Miguel McInnis, from the MidAtlantic Association of Community Health Centers, referenced a Brookings Institute Study.

Elizabeth Vaidya, from the Maryland Department of Health and Mental Hygiene, read a statement from Andrea Mathias, Chairperson, Maryland Primary Care Office Advisory Council (Attachment 9).

Uma Ahluwalia, from the Montgomery County Department of Health and Human Services, gave a statement about the high levels of need and medical underservice in Montgomery County, Maryland (Attachment 10).

Roberta Freedman, from the International Medical Graduate Taskforce, read a statement from Kristen Harris, Advocacy Committee Chair, International Medical Graduate Taskforce (Attachment 11).

Kellan Baker, from the National Coalition for LGBT Health, gave a statement about the medical needs of the LGBT population.

Ms. Wilson, read a statement from Clarissa Kripke, University of California, San Francisco, Office of Developmental Primary Care (Attachment 12).

Tim Knettler, CEO, American Academy of Nurse Practitioners expressed willingness to help the Committee throughout the negotiated rulemaking process.

FUTURE MEETINGS

The Committee discussed whether to lengthen future meetings to three days. The suggestion was made that the January and February meetings should be scheduled as 3-day meetings, but that future meetings be limited to two days as they will be more oriented to decision making rather than discussion. The Committee was informed that hotels are available for 3-day meetings in January and February. There is a hotel available in Crystal City for January but not for February.

The Committee agreed to meet for three days in January and February. The second half of the third day will be set aside for subcommittee meetings.

The next meeting is scheduled for January 18-20, 2011, in Crystal City, Virginia. The following meeting is scheduled for February 16-18, 2011, in Rockville, Maryland.

DEVELOP AGENDA FOR NEXT MEETING

The Committee agreed to follow the proposed timeframe presented by Mr. Salsberg. Thus, January's meeting will include (in no particular order):

- Presentation on health status/outcomes analysis and options
- Discussion on incorporating health status/outcomes into a model
- Charge for analysis of the model with status/outcomes incorporated
- Consensus on need/demand component
- Second discussion on provider supply and incorporation into model
- Second discussion on subpopulations
- First presentation/discussion on rational service areas

Health Resources and Services Administration
Negotiated Rulemaking
Designation of Medically Underserved Areas/Populations & Health Professional Shortage Areas

- First presentation on thresholds

In addition, the Subcommittees will report their progress/discussions to the full Committee.

The meeting adjourned on November 18, 2010 at 4:30 p.m.

**NOVEMBER 17-18, 2010 SUMMARY MEETING MINUTES
ATTACHMENTS**

1. HPSA and MUA/P Negotiated Rulemaking: A Draft Road Map (PowerPoint)
2. Review of Barrier Free Approach and Additional Analysis of MEPS Data Related to 'Potential' vs. 'Experienced Barriers' (PowerPoint)
3. Health Status Adjustment to Initial Barrier Free Demand Estimate (PowerPoint)
4. NPRM-2 Overview: Review of Proposed Methodology for Historical Context (PowerPoint)
5. Concepts for Approaching Population Group Designations (PowerPoint)
6. Concepts for Assessing Primary Care Provider Capacity (PowerPoint)
7. Written Comment from "Jean Public"
8. Written Comment from Miriam Yeung, Executive Director, National Asian Pacific American Women's Forum
9. Written Comment from Andrea Mathias, Chairperson, Maryland Primary Care Office Advisory Council
10. Written Comment from Uma Ahluwalia, Director, Montgomery County Department of Health and Human Services
11. Written Comment from Kristen Harris, Advocacy Committee Chair, International Medical Graduate Taskforce
12. Written Comment from Clarissa Kripke, University of California, San Francisco, Office of Developmental Primary Care