



ILHIC

Legislative Call

Summary



May 10, 2024

1. Session Overview

Friday marks the Senate's 3rd Reading Deadline. At this time in May, it is customary to see increased budget discussions. There is trouble in the Administration, as it seems that the Governor's Office does not have the necessary votes needed to pass their revenue bill. The Administration issued a memo suggesting to agencies to start cutting discretionary spending due to the budgetary gap. We should expect a long and brutal budget discussion to follow, as well as some of our policies to wrap up towards the very end of the session. In fact, we have received confirmation that our largest bill (HB 5395) will likely be a bargaining chip in the Senate until the Chambers finish their work this Spring.

2. Bills in Committees

Senate Judiciary

May 7th

2:00PM

409 Capitol

HB 4629- Junk Fee Bill (Broad Legislative Intent was read on the House Floor).

- This bill was not heard in Committee. The business community does not believe this will be moving this Spring session. As stated previously, it was unsure if the Senate had the appetite to pass this bill in the Spring.

House Healthcare Affordability and Accessibility Committee

May 7th, 2024

4:00PM

118 Capitol

SUBJECT MATTER: Pharmacy Benefit Managers

- The House Healthcare Affordability and Accessibility Committee held its second subject matter hearing on pharmacy benefit managers.
- Participants:
 - IL Pharmacist Association
 - Independent Pharmacists
 - IL Department of Insurance
 - PCMA
 - Prime Therapeutics
 - Express Scripts
 - Illinois Council of Health System Pharmacists
 - Capitol Rx

- IL Chamber
- Director Ann Gillespie opened with a comprehensive explanation on the operational mechanisms and historical evolution of Pharmacy Benefit Managers (PBMs). She highlighted how PBMs initially functioned akin to cost-saving coupons during periods of low medical expenditure, but over time, their role has expanded, leading to increased costs. Gillespie underscored the consolidation within the industry, with over 80% of prescription drug plans now under the control of just three major PBMs. During the presentation, slides illustrating this consolidation were presented, emphasizing the concentrated power held by these entities. Gillespie also explained the vertical integration of PBMs and their relationships with insurance companies. She explained how this corporate consolidation has adversely affected the viability of independent pharmacies, particularly in rural areas across the State. Finally, Gillespie pointed out that PBMs are withholding crucial information necessary for the Department to effectively carry out its responsibilities of oversight. She articulated her vision for Illinois to emerge as a trailblazer in regulating PBMs, advocating for increased transparency and accountability within the industry.
- PCMA testified on the critical role of Pharmacy Benefit Managers (PBMs) in driving down drug costs. They underscored that without PBMs, many medications would simply be unaffordable for most people. Additionally, PCMA highlighted the significant impact PBMs have within the union space, emphasizing their importance in ensuring access to affordable medications for union members.
- The Illinois Chamber provided an explanation of the pivotal role PBMs play in assisting veterans and seniors in affording their prescriptions, along with ensuring safe medication interactions. They also explained the trend of aging individuals selling their businesses to larger pharmacy networks, which is observed across various markets. Moreover, the Chamber described integration as a common business practice in various industries. They clarified that while vertical integration isn't illegal, it's rather a fundamental concept in business strategy aimed at enhancing efficiency and driving savings.
- The IL Pharmacist Association didn't mince words, pointing out that PBMs are attempting to reshape the narrative while operating with a concerning lack of transparency. They emphasized that pharmacists' roles extend far beyond merely filling prescriptions; they also play a crucial role in checking for drug interactions, thus safeguarding patient safety. The Association highlighted the instability in the pharmacy market, with pharmacies facing challenges in receiving adequate payment for their services. They explained that this instability not only threatens the viability of individual pharmacies but also raises significant concerns about patient care.
- Leader Manley inquired about the primary revenue sources for PBMs. Gillespie clarified that PBMs generate revenue through per-member-per-month (PMPM) fees from their members, rebates, and their purchasing power in the market. She elaborated that larger PBMs wield significant market influence, enabling them to negotiate discounts with wholesalers based on their volume of business. These discounts are then leveraged to obtain lower drug prices, while pharmacies may be charged slightly higher costs.
- Representative Schmidt asked about the potential impact of restricting PBMs on lowering drug costs for consumers. The IL Pharmacists clarified that proposed legislation wouldn't necessarily restrict PBMs but rather introduce transparency measures, which would dispel the mystery often associated with PBMs, thus removing the "smoke and mirrors" aspect. PCMA explained that not all contracts employ spread pricing, highlighting it as a mechanism for mitigating risk. The IL Chamber weighed in, citing the example of Ozempic and its projected impact on pricing for state employee plans. They emphasized that State PBMs have the capacity to negotiate substantial reductions in such significant costs for the state.
- The Pharmacists made it clear that the discussion revolves around inadequate compensation for their services. When Manley inquired about pharmacy closures, she was informed that while some were due to financial burdens, others stemmed from retirements.

- Manley sought clarification on the process of adding and removing drugs from the formulary. PBMs elaborated that pharmaceutical committees oversee this process, determining which drugs make it onto the formulary and which are removed. They also explained that drugs can be removed from the formulary due to safety concerns (such as black box warnings) or shifting to non-preferred tiers.
- Manley raised concerns about the level of oversight over PBMs. The Department responded, stating that they have initiated market conduct examinations. However, they have seen challenges, including receiving heavily redacted forms and encountering inconsistencies in claim payments. These hurdles hinder the ability to detect potentially inappropriate or unfair practices in the market. The Department stated that enhanced transparency would facilitate a clearer understanding of the payment structure and its impact on consumers.
- Howder voiced concerns suggesting potential anti-competitive behavior based on the testimony. He questioned whether HB 4548 would improve transparency and sought clarification on its drawbacks. PBMs responded by indicating their scrutiny of states impeding competitive markets, cautioning that such actions could ultimately lead to higher costs for consumers. Lou Sandoval raised the point that the proposed fee would eventually be borne by employers, as they would likely incorporate it into premiums, thus making it ultimately the consumer's expense.
- Minority Spokesperson Haas sought clarification on the purpose behind HB 4548, acknowledging that significant revisions are necessary for the bill. Manley suggested that a discussion on the matter should occur in the presence of the Sponsor, as Jones was absent from the subject matter hearing.
- Manley mentioned that there were more meetings forthcoming.
- Industry is hearing rumors that the Governor's Office is taking over this policy topic and has interest in running a bill towards the end of session. We will keep members updated on any emerging changes.

Senate Insurance

May 7th, 2024

5:30 PM

400 Capitol

SB 2442 Fair Patient Billing Act- No position

- The Bill passed on the agreed bill list.

SB2744 Vaccine Admin Fee- The Council is NEUTRAL with Senate Committee Amendment #1.

- The Bill (and amendment) passed on the agreed bill list.

SB 3305 Dental Loss Ratio- (technical amendment needed). We requested coverage to begin on 1-1-2026. We reached out to the stakeholders to correct the oversight. With that change we will be neutral with Senate Amendment #2.

- Senator Fine testified on the bill, which included an amendment shifting the effective date to 2026. Senator Syverson passionately voiced his frustration regarding a constituent issue and actions of an insurance carrier. Despite his general opposition to mandates, he emphasized the necessity of this mandate bill, asserting that it will pave the way for improved assistance to families in need of care. He stressed the importance of insurance companies adhering to this mandate to ensure families receive the care they deserve.

HB 2385 Colonoscopy Coverage Mandate- OPPOSE. We would request that coverage begin on 1-1-2026 to align with the Department of Insurance's policy filing timelines. When the bill was introduced last year, the House sponsor did change the effective date to align with the timelines provided by the Department. However, this bill is now moving in 2024 (and not 2023), so we would request the timeline be moved to align with the timelines once again. The Council did express these concerns with the Senate Sponsor.

- The Bill (and amendment bringing the Council to Neutral) passed on the agreed bill list.

HB 2472 Adverse Determination- No Position

- The Bill passed on the agreed bill list.

HB 4055 Prior Authorization- No Position

- The Bill passed on the agreed bill list.

HB 4180 Mammogram- No Position

- The Bill passed on the agreed bill list.

HB 5258 Dependent Parent- No Position

- The Bill passed on the agreed bill list.

HB 5317 Dental Care- No Position

- The Bill passed on the agreed bill list.

HB 5493 Insurance Various- No Position

- The Bill passed on the agreed bill list.

HB 5543 Pregnancy- No Position

- The Bill passed on the agreed bill list.

Senate Labor

May 8th

10:30 AM

212 Capitol

HB 2568 Senate Amendment #5 and #6- 403 B Plans

- **ILHIC opposes.**
 - The bill was not called in Committee. Currently, there is no extension for the bill, and the Sponsor has committed to reintroducing an amendment for further vetting in Committee.

3. Items of Note

a. HB 5395 Governor's Healthcare Bill.

- i. The Council met with Napoleon Harris, The Governor's Office, and the Department yesterday to go over the reaming items within HB 5395. Much of the conversation centered around the large group rate filing. Similar to previous conversations, the Department was unable to describe why this regulatory change was needed, nor could they point to any complaints surrounding this policy change. The Council also addressed

the tabled amendment #2 that is now within the bill. The Governor's office took a bit of a different stance, stating that the tabled amendment was brought to them by stakeholders, and they wanted to include that language in the bill. The Council assured all parties in the conversation that if the second amendment remained, the Council would have very serious concerns with the language. Senate staff understood and was not amused at the inclusion of a tabled amendment with language the parties were unable to discuss. After the meeting, next steps included sending additional comments to Senate Staff and stakeholders. Chairman Harris stated that he wanted to continue having the conversation and that there will be time still this Spring session to "land the plane."

- ii. We were cautioned that this bill might not see passage until the final stretch of the session. It's anticipated that the bill will be used as leverage in negotiations with the Senate and other priorities of the Governor's Office. So, it looks like we're in for a long haul. The Council is prepared for the May marathon ahead.

b. HB 4475 Mental Health

- i. Senate leadership has expressed that they are not fully supportive of the reimbursement rates proposed in the bill. As it stands, the bill hasn't been granted an extension in the Senate, nor has it been assigned to any committees. With the approaching Friday deadline for committee hearings, the bill would have to be heard in a senate committee by then. While there's potential for the bill's language to be incorporated into another legislative vehicle, there's currently no indication or rumors suggesting that this might happen.

c. SB 2641 Network Adequacy Specialists

- i. This is another bill that had a committee deadline of May 10th and is currently sitting in Senate Insurance. To summarize from previous conversations, the Council remained opposed to the current language. Industry stakeholders are concerned that hospitals may not be able to promptly inform insurers of changes in their provider staff, leading to potential delays and inaccuracies in tracking. Manley and the Department are crafting language mandating a 1:1 ratio of pathologists, a clause acceptable to all involved. However, pathologists have voiced concern that omitting reporting requirements would signal their opposition. Despite this opposition, there's a mutual desire for swift resolution.

d. HB 2586 Teledentistry

- i. The Dental Society, Council, and ACLI came to an agreement in the middle of the week that would address most of the stakeholder's concerns. The changes:
 1. Includes language to the definition of patient of record, which includes, an established a relationship with a patient through an exchange of protected health information for the purpose of providing emergency care, treatment, or services in accordance with subsection (c).
 2. Striking language stating that "A dentist may treat a patient through teledentistry in the absence of a provider-patient relationship when, in the professional judgment of the dentist, dental or medical emergency care is required."
 3. Adding a new section that states: (c) A dentist may treat a patient of record to provide emergent care or conduct an initial consultation using teledentistry for the purpose of treating or assessing for acute pain, infection, injury or any intraoral or perioral condition that presents immediate harm or discomfort to the patient for which treatment cannot be postponed. A provider of dental services rendering emergent care or conducting an initial consultation through teledentistry must direct the patient to receive appropriate in-person care after the provision of teledentistry services.

- ii. Sponsor Representative Moeller signaled that she wishes to move the bill next week.
- e. **Prior Authorization SB 3732**
 - i. Senator Castro's SB 3732 aims to prohibit prior authorization for chronic, long-term, or mental health conditions that have been prescribed for six months or more. This bill also expands the scope of applicability to the State Employee Group Insurance Act. The Council is opposed to this bill, and Senator Castro has agreed to hold the bill on second and collaborate with stakeholders to develop alternative language. We are currently waiting for the alternative language, as well as figuring out how this bill will fit into the overarching step therapy proposals within the larger HB 5395.
- f. **SB 371 Postcard Bill**
 - i. As the session is coming to an end, the Council is collaborating with the business Coalition to explore avenues to incorporate the Coalition and AG's agreed language that would address the broad interpretation of the recently passed SB 1441. As discussed in previous updates, the Sponsor has instructed us not to work with any other sponsors or to move our agreed language, fearing that it may lead to unpleasant conversations with previous stakeholders. This has left the coalition with limited options. We have been informed that it is unlikely for this language to move during this session. However, there are opportunities in the future. Unfortunately, due to the Sponsor's instruction not to work with other sponsors and her belief that changes are unnecessary, the coalition cannot move the language this spring as anticipated. The AG has stated that due to the underlying bill's broad interpretation, the agency does not know how to enforce the statute.

4. Next Week

- a. Next week, the House will be in session from Monday through Friday, while the Senate will convene from Tuesday through Friday. Both chambers have a 3rd Reading Deadline set for next Friday, May 17th. Despite this, numerous bills are already receiving extensions. President Harmon indicated that the Senate plans to adjourn on May 24th, but the uncertainty surrounding many pressing matters suggests that the session might spill over into contingent session days.

5. Important Dates

- i. **Senate Committee Deadline- May 10th**
- ii. House 3rd Reading Senate Bills- May 17th
- iii. Adjournment- May 24th
- iv. Possible contingent session (May 25th- May 31st)