



# Illinois Life and Health Insurance Council

Veto 2022 Summary  
December 2

## 1. Overview

- a. Besides a coverage mandate, this was another slow veto week for life and health insurance. We received confirmation from the Department on Tuesday of this week that Market Conduct would not be pursued in Veto. They will likely move this language in Lamé Duck. However, the Council has not received any redline to our comments as of this morning from the Department. While meeting with the Department at the Capitol, we were informed that no Lamé Duck nor Spring 2023 legislative proposals were approved through the Administration, and therefore, the Department is unable to share any proposals.

## 2. Policy Issues

### a. PANDAS/PANS Benefit Coverage Mandate

- i. It wouldn't be Illinois without a coverage mandate. There was mention after the first week of Veto that Senator Fine was interested in pushing some coverage mandates in relation to Pandas/Pans Pediatric autoimmune neuropsychiatric disorders. Mothers and families of children suffering from these disorders are passionate advocates in Illinois and made the aggressive timeline to push something through in Veto. There will be multiple iterations of the bill language that stakeholders wanted us to look at before the language filed to [Senate Amendment #1 to House Bill 3080](#). Multiple language drafts caused confusion on what the issue was being presented from the stakeholders were. At first, the stakeholders wanted to mandate that all health insurance companies change medical policies to create a carve out for one state's requirements. We explained that this would be incredibly costly and unnecessary if the mandate was clear, and the policy contract is clear to the consumer.
- ii. The stakeholders then shared that they were having problems with companies denying the treatment. They presented pages of copied complaints. However, they did not include policy numbers or any information. We inquired to see if these were complaints from members with plans that are outside of the jurisdiction of the Illinois Department of Insurance. They assured us they did not. However, I did ask the Department if they had any complaints regarding Pandas and was told there were three for the entire year, all related to additional treatments, which was included in the language. The Stakeholders still held firm that these issues were under the authority of the Department.
- iii. The Department came up with language that removed insurance companies' ability to apply medical necessity and prior authorization from the coverage mandate, stating that the issuer shall defer to the attending provider's determination when the attending provider has

determined it to be medically necessary until codes were created and assigned. The Council had deep concerns regarding this language.

- iv. So, Senate Amendment #1 is negotiated includes clarification that additional treatments or if the patient has received other treatments does not exclude coverage for Pandas Pans. If you are thinking that this could have been resolved with a bulletin, you are not alone. However, the Department waived at this request and here we are with this legislation. The legislation also requires companies to adhere to recommendations of professional consortiums convened for the purposes or researching, identifying, and publishing best practice standards that are assessable for medical professionals and are based on positive clinical outcomes. The language also includes that companies may request treatment notes as well as anticipated treatment and outcomes. The bill does have an effective date that initially concerned the Council. However, the Department informed us that policies did not have to be refiled, because they interpreted the language to be a process change, not a mandate expansion.
- v. Senate Amendment #1 was passed in Senate Insurance on the agreed bill list. There was some initial opposition. However, [Senate Amendment #2](#) addresses concerns. The language coverage will not be limited to a lifetime of the insured unless the patient is not benefiting from the treatment. The additional language was filed as a floor amendment and was sent to the House. The House Sponsor (Representative Flowers) did file a motion to concur with the amendments. However, the Amendments were not acted upon. There might be another push to this bill through in Lane Duck.

#### **b. Disability Income Insurance Working Group Update**

- i. The Disability Income Working Group has met throughout the year to discuss mental health parity regarding disability income insurance products. Initially, this Working Group was intended to be a legislative mandate all mental health to disability income insurance products. The legislative mandate failed on multiple accounts. However, the attorney pushing this mandate has led an aggressive and persistent campaign. To appease the attorney, the working group was established. The Disability Income Working Group was tasked with providing recommendations on the economic feasibility and cost effectiveness of requiring individual and group short-term and long-term disability income insurance to cover behavioral health conditions. The Working Group shall submit finding and recommendations to the Governor and General Assembly by December 31, 2022. The stakeholders are working through the information and reporting drafts now. As we assumed, Industry and the attorney do not agree on some if not most of the understanding of the product and its economic feasibility. Therefore, the idea is to have separate portions in the report from both industry and Mark Debofsky, the attorney co-chairing the Working Group. The next meeting will be held on December 12<sup>th</sup> with the possibility of having a meeting on December 21<sup>st</sup> to finalize the report. The Council will send out information and agendas as we receive it.

#### **c. Mental Health Parity Working Group Update**

- i. The Mental Health Parity Working Group, established by P.A. 100-1024 is charged with developing the NQTL reporting template and instructions for insurance companies. On November 10<sup>th</sup>, the Council issued a letter to the Department explaining their concerns to the Department's recent Market Conduct Examination Report of Celtic Insurance published on October 18<sup>th</sup>. In the letter, the Council requested that 1) the Department provide a detailed justification as to why they believe the working group failed to comply the statute; 2) the Department submit proposed rules clarifying their 2 interpretation of the reporting standards required under the statute since no such rules exist to date; and 3) work with members of the

General Assembly to amend the statute to dissolve the working group and assume control of the reporting requirements going forward.

- ii. The Department did not proactively address the letter during the meeting. They planned on having members discuss how the third phase would be implemented. The Council and the Medicaid Association expressed that industry is not comfortable moving forward until they get clarity from the Department on how the Working Group failed to comply with the statute. Advocates pushed back, stating that it was unnecessary to slow the process down to get clarity on definitions. There was a robust conversation with industry and the advocates explaining that the definitions are foundational to understanding and implementing the instructions. While the Department was not prepared to discuss the letter, they did come prepared with their General Counsel, who explained that they would attempt to provide clarity to their crit and how the Working Group did not follow the statute in the January Meeting.

### **3. Upcoming Dates**

#### **a. Lame Duck**

- i. The Senate has released their Calendar for Lame Duck as well as the upcoming Spring Legislative Session. Lame Duck will be held on January 4<sup>th</sup> through the 7<sup>th</sup>. Spring Session starts on the 11<sup>th</sup> and ends on May 19<sup>th</sup>( Senate). Calendars will be sent out with the summary of this call. The House has not yet released their Calendar. Hopefully it runs parallel with the Senate. Once it is published we will send it to members.

#### **b. Legislative Calls**

- i. Legislative Calls will be scheduled for Lame Duck as well as Spring 2023. I will send out the zoom invites as I receive solidified schedules from the Chambers.

#### **c. JCAR**

- i. **Upcoming JCAR Meeting:** The following regulations were published in the Illinois Register on November 28, 2022, and are scheduled to be discussed at the December 13, 2022 JCAR Meeting. Please let us know if you have any questions or concerns.

##### **1. Infertility Coverage - 50 Ill. Adm. Code 2015**

- a. This proposed rule implements various changes to the Illinois insurance code pertaining to group health insurance policies that provide pregnancy-related coverage to businesses with 25 or more full-time employees. Rulemaking aligns the definition of infertility to the recent bill that was pass (now PA 102-170) which includes a failure to establish a pregnancy or carry to live birth after 12 months (6 months for women over the age of 35). The rulemaking also requires the freezing and storage of sperm, oocytes, or embryos to be covered for a covered individual undergoing medical treatment that could cause infertility. The rule also removes abortion as an exclusion, while removing the word "women" to make language more inclusive.
- b. The Council did follow up with JCAR staff regarding Department interpretation the proposed amendments to interact with the application of the mandate under 215 ILCS 5/356m to groups of 25 or more and the Essential Health Benefits (EHB) that apply to individual and small group plans (2 - 50). The Council also reached out regarding concerns surrounding the surrogate and

medical management of an individual who is not covered by the plan. JCAR staff is currently working with the Department and raising those questions.

## **2. Registration of Insurers - 50 Ill. Adm. Code 652**

- a. The Rule allows insurance holding company groups to request an exemption or to request to file a limited filing after making a full Group Capital Calculation filing in the first year. The full Group Capital Calculation filing can be a significant effort (time and expense) for groups. This amendment removes the requirement for a first-year filing for insurance holding company groups if they are otherwise exempt from filing or authorized to make a limited filing.

## **3. Insurance Department Consumer Complaints - 50 Ill. Adm. Code 926**

- a. Part 926 is intended by the Department to apply to all entities and individuals licensed or otherwise approved by the Department to do business in Illinois. As currently written, Section 926.20 could be interpreted to apply to all entities and individual insurance producers, but not other individual licensees such as public adjusters, navigators, or pharmacy benefits managers. This amendment seeks to avoid any misinterpretations of the scope of the rule.

## **4. Universal Life Insurance 50 Ill. Adm. Code 1411**

- a. being amended to remove “or Sex” from the heading and text since this language contradicts the language in 215 ILCS 5/224(1)(d) (does not include sex). If there is a misstatement of age or sex in the individual application or group enrollment form, the policy shall provide that the amount of the death benefit shall be that which would be purchased by the most recent mortality charge at the correct age or sex.

## **5. Suitability in Annuity Transactions Part 3120 of Title 50**

- a. This rule requires producers to act in the best interest of the consumer when making a recommendation of an annuity and to require insurers to establish and maintain a system to supervise recommendations.
  - b. The Flinn Report published today indicates that the proposed rule is now on Second Notice and will be considered at the December 13 meeting. The Comment Letter Response is attached to the materials.
- ii. **Network Adequacy:** We have yet to receive any comments for the Network Adequacy comment letter we provided the Department. We will request an updated timeline in anticipation of a response.
  - iii. **Medical Necessity Memo:** On October 14<sup>th</sup>, the Council submitted a memo requesting additional guidance for [Public Act 102-0579](#), which establishes that nonprofit criteria be used to determine medical necessity for patient placement for individuals in need of mental health services. For non-placement purposes, other criteria may be utilized. The effective date for companies to implement these changes is January 1, 2023. We have yet to receive feedback on the memo. I will include it in the documents for reference. We will renew our request with the Department on a response.

## **d. End of Year Survey**

- i. The Council will be sending an End of Year Survey to members with a summary of this call today. Please help us in making the Council more efficient and targeted by completing the survey and sending it back to us by Jan, 2, 2023. I will be sending the document out via word document as well for those that are unable to submit electronically due to firewalls. If you are filling out the document via word, please send your responses to Kate at [kmorthland@ilhic.com](mailto:kmorthland@ilhic.com). We appreciate and are thankful for all of your responses.