FEBRUARY 11, 2022

ILHIC LEGISLATIVE CALL NOTES

THE ILLINOIS LIFE AND HEALTH INSURANCE COUNCIL PROMOTES AND ADVOCATES FOR A HEALTHY AND COMPETITIVE LIFE AND HEALTH INSURANCE INDUSTRY FOR THE FINANCIAL WELL-BEING OF EMPLOYERS, INDIVIDUALS, AND FAMILIES IN ILLINOIS.

1. **Antitrust Statement**
   - ILHIC committed to conducting all of our activities in compliance with federal and state antitrust laws. And then just add if at any time during the call the discussion should venture into matters that might conflict with antitrust laws, please feel free to speak up and we will stop the discussion and move forward in the agenda
2. **Session Update**
   - Things are finally speeding up in Springfield. This week, both the Senate and House held remote Committee Meetings. The Senate was in session this week and the House was not. Today marks the deadline for Senate committee deadline. Meaning, any bills moving must be passed through the Committee by today or an extension may be filed in some circumstances.
3. **Bills in Committee**
   - **Prescription Drug Affordability & Accessibility Committee Hearing**
     - Feb. 9, 2022 at 3:00 PM
     - **HB 3630 PBMs**

            - Requires insurers to replace a brand name drug with a new generic equivalent on the formulary once it becomes available in the market or move the brand name drug to the lowest cost tier. In provisions concerning a contract between a health insurer and a pharmacy benefit manager, provides that a pharmacy benefit manager must update and publish maximum allowable cost pricing information according to specified requirements, must provide a reasonable administrative appeal procedure to allow pharmacies to challenge maximum allowable costs, and must comply with specified requirements if an appeal is denied. The legislation also sets forth contracting requirements for PBMs, including fiduciary responsibilities. Identical to SB 2008 (Koehler). (Before Amendment 3)
            - OPPOSE
            - This bill was not called this week.
- **Senate Insurance Committee Hearing**
    - Feb 9, 2022 At 4:00 PM
    - **SB 2963 Group Life Continuation of Coverage**
        - Fixes Department concern that the new group life continuation of coverage provisions could potentially create an unintended gap in continuation of coverage for those active employees who may be receiving or eligible to receive benefits under the prior carrier's group life policy.
        - SUPPORT
        - This bill passed on the agreed bill list.
    - **SB 3910 Uniform ID Cards**
        - DOI INITIATIVE. Amends the Uniform Prescription Drug Information Card Act. There has been an agreement reached with all parties allowing removing OOP maximums, deductibles, and the NAIC number, from Dental plans. The only requirement for dental is that they place the regulating entity (DOI) and a toll free number to the card. The amendment should be filed soon. This includes removing the NAIC number and the fully insured/self insured portion for space as well as removing the dental card requirement on the No Surprises language
        - OPPOSE
    - **SB 3924 White Bagging**
        - Includes various prohibitions on "White Bagging"; which includes that PBMS may not 1. Require an enrollee to obtain a drug from a specified pharmacy; 2. Steer of offer incentives to the enrollee in order to incentivize them to choose the pharmacy identified by a PBM or health plan; 3. Limit or restrict benefits and coverage to an enrollee for medically necessary drugs obtained by a provider and not administered from a pharmacy that is selected by the health plan/PBM; 4. Condition

deny restrict or limit reimbursement to a provider for drugs administered that do not come from a specialized pharmacy; 5. Assess higher deductibles, copayments, coinsurance on clinician administered drugs that is not from a selected pharmacy; 6. Prohibition again the requirement for the enrollee to use a home infusion pharmacy to receive clinician administered drugs in their home or use a site of service selected by the PBM/ Health Plan. Similar to HB 4774 (Lilly)

        - OPPOSE
        - A stakeholder meeting was held and it was suggested by the sponsor that language be put forward by today. ILHIC is trying to address concerns listed by the stakeholders in the meeting, which includes, 1) addressing patient safety concerns;2) confirming date/time/location of delivery of the clinician-administered drug; and3) allowing for dosage changes (if patient's weight or condition change prior to administration).
        - ILHIC is participating in another Stakeholder meeting on Monday to discuss various feedback with stakeholders.
    - **SUBJECT MATTER SB 3926 STLD Prohibition**
        - DOI Initiative – Prohibits the sale of STLDs in Illinois. Effective January 1, 2023. This language also gives the Department rule making authority to prescribe specific standards for or restrictions on policy provisions, benefit design, disclosures, and sales and marketing practices for excepted benefits.
        - OPPOSE
        - A Subject Matter only hearing was held on this bill. A Board member from the American Heart Association, DOI, as well as a policy research testified in favor of the bill. Patient safety and consumer protection was at the forefront of their talking points. Yet, there was no specific mention of STLD complaints from the Department. The Department could not bring forth solid data on STLD complaint information. AHIP, ILHIC, and IIA testified in opposition of the bill. We discussed the importance of choice in a time when employment is so incredibly fluid, as well as the lack of data to support such a drastic change. Both sides did agree that there is a possibility of working with enhancing consumer disclosure (since that was a large issue with the Department) but the Sponsor as well as the Chair did not show much passion in passing the bill as is. We believe there may be discussion in the area in the future, but the idea that this bill would move as is this session is incredibly low.
    - **Bills Moved to Mandate Subcommittee**
        - **SB 3054 Coverage Mandate Compression Sleeves**
            - Mandates coverage for compression sleeves.
        - **SB 3067 Coverage Mandate Cleft Palate**

            - Mandates coverage for congenital defects including treatment of cranial facial anomalies that are medically necessary to restore normal function or appearance
        - **SB 4037 Coverage Mandate Liver Disease Testing**
            - Mandates coverage for preventative screenings for individuals 18 years of age or older and under the age of 65 at high risk for liver disease every 6 months without cost sharing
        - **SB 4041 Coverage Mandate Hearing Aid Coverage**
            - Mandates coverage for annual examinations for the prescription and fitting of hearing aids and for medically necessary hearing instruments and related services for all individuals under the age of 65 when a hearing care professional prescribes a hearing instrument to augment communication. Coverage is to be provided at no cost share.
- **Revenue and Finance Committee**
    - Feb. 10, 2022 at 9:00 AM
    - **HB 4214 Insurance Tax Credit Employee Benefits**
        - MONITOR
        - Remained in Subcommittee
- **Cybersecurity, Data Analytics, & IT Committee Hearing**
    - Feb. 10, 2022 at 10:00 AM
    - Committee was cancelled this week
    - **HB 3453 Geolocation Privacy Protection**
        - MONITOR
- **House Insurance Committee Hearing**
    - Feb. 10, 2022 at 11:00 AM
    - **HB 4271 Coverage Mandate Breast Reduction**
        - (Neutral with Amendment)
        - Mandates coverage for medically necessary breast reduction surgery
        - Amendment was filed moving the effective date to 1-1-24.
        - Bill passed out of committee 17-0
    - **HB 4335 Coverage Mandate Vaginal Estrogen**
        - (Neutral with Amendment)
        - Mandates coverage for vaginal estrogen without cost sharing.
        - Bill did not move this week
    - **HB 4337 Coverage Mandate Domestic Violence**
        - OPPOSE
        - Mandates coverage for aesthetic services and restorative care provided for the treatment of physical injuries to victims of domestic violence when medically necessary. No language is present regarding how that is determined by a physician.

        - We are currently working with ISMS on an amendment. They are unsure if they would like to push this bill anymore this session. They suggested a larger conversation.
    - **HB 4324 Producer Licensure Credit**
        - ILHIC is in Support.
        - In provisions concerning insurance producer licenses, provides that an insurance producer's active participation in a State or national professional insurance association may be approved by the Director of Insurance for up to 4 hours of continuing education credit per biennial reporting period.
        - Bill passed out of committee 17-0
    - **HB 4338 Coverage Mandate Prenatal Vitamins**
        - (Neutral with Amendment)
        - Mandates coverage for prenatal vitamins. (This medication already required to be covered under the ACA.)
        - An amendment was adopted changing the effective date.
        - Bill passed out of committee 17-0
    - **HB 4408 Coverage Mandate Naloxone No Co Pay**
        - (Neutral with Amendment)
        - Mandates plans that provide coverage for naloxone do so without cost sharing.
        - An amendment was drafted and agreed to by Representative Conroy, which moves the effective date to 2024, as well as adds a carve out for high deductible health plans. ILHIC will be neutral with the amendment.
    - **HB 4433 HSA HDHP Carve Out**
        - SUPPORT
        - This language includes model language for Copay Accumulators. This language was agreed to by the Stakeholders, DOI, and ILHIC.
        - Bill passed out of committee 17-0
    - **HB 4493 Annuity Non-Forfeiture Rate**
        - Moves the percentage for annual non-forfeiture rate from 1% to .15% aligning with NAIC.
        - SUPPORT
        - This bill did not move this week. There was conversation that the Diversity bill (HB 5516) would be attached to the DOI Admin bill.
    - **HB 4703 No Surprises Act**
        - Neutral
        - ILHIC will be neutral on the bill in committee as I believe the underlying intent is to align with the federal NSA and give the Department more authority to enforce, which we appreciate. However, ILHIC is hoping to work through the provisions

referenced below to get further clarification as it will otherwise make compliance difficult for the insurers on the back end.

    - Bill passed out of committee 17-0

4. **Looking Forward to Next Week**
    - **Bills Assigned to House Insurance**
        - **HB 4349 Coverage Mandate Congenital Anomaly**
            - Mandates coverage for congenital defects including treatment of cranial facial anomalies that are medically necessary to restore normal function or appearance. Cosmetic changes are included in coverage requirement.
            - Amendment 1 was filed to HB 4349 which will remove ILHIC opposition. The amendment prohibits coverage regarding cosmetic changes as well as includes medical necessity to specific treatments and moves the effective date to January 1, 2024.
        - **HB 4413 Dependent Coverage Classification for Parent**
            - Provides that a group or individual policy that provides dependent coverage shall make dependent coverage available to an insured's parent or stepparent who meets the qualifying relative definition and resides within the insurance policy's service area.
            - ILHIC OPPOSES this bill. The plans listed in the bill are Marketplace Plans, and dependents are already defined in Federal law. To require an expansion of that federal definition might conflict with said federal law. Dependents are used in Marketplace tax credit calculation, and dependent parents may be included only if they are their tax dependents. Who's included in your household | HealthCare.gov
        - **HB 4483 Coverage Mandate 3 Primary Care Behavior Health Visits**
            - Mandates coverage with no cost sharing for 3 primary care visits and 3 behavioral health visits. Treatment limitations for each of the 6 covered visits cannot be more restrictive than the treatment limitations applied to other primary care visits or behavioral health visits covered by the plan. Separate treatment limitations are prohibited.
        - **HB 4941Contracting 90 Days**
            - Mandates insurers, independent practice associations, physician hospital organizations to provide contracted health care professionals or providers with notice of fee changes at least 90 days before the fee change. Changes to fees cannot be made retroactively and providers cannot waive advance notice of fee changes. If there is a fee change that is totals more than

a 3% reduction of the Medicare rate for a stated year, the provider can propose alternative fee schedules. Any fee changes must be final at least 30 days before the effective date of the change.

- Representative Mah is also working with the speech pathologists and audiologists to push this legislation.
- We are collecting member feedback. ILHIC opposes placing contracting within the Code. We did speak with Staff and they agreed with the notion to leave contracting out of leghislation.

▪ **HB 4946 Coverage Mandate Domestic Violence**

- Prohibits any provision denying benefits for treatment of an injury sustained as a result of domestic violence. Prohibits denying expenses incurred in a provision of mental health treatment or therapy to an insured who is a victim of domestic violence. Mental health services and health benefits shall be provided to the same extent as other coverage in a policy.
- HB 4946 includes language prohibiting companies from denying coverage for an injury sustained by an insured as a result of domestic violence. While the language still refers back to the "source of injury" to prohibit lack of coverage, this language can be perfected by stating that **A group or individual policy of accident and health insurance that is amended, delivered, issued, or renewed on or after January 1, 2024 may not include a provision in its policy denying benefits incurred in the treatment of an injury solely on the basis that the injury is caused by domestic violence.**

▪ **HB 4979 Prepaid Funeral Burial**

- As introduced, the provisions currently require insurers to issue an irrevocable assignment of benefits to a funeral home in an amount not to exceed the purchase price of a funeral or burial expense policy. The language is intended to address a current issue with Medicaid beneficiaries seeking eligibility and avoidance of current asset limitations. Current law allows exemptions in assets up to a certain dollar amount in addition to exemptions for final expense policies that must be irrevocably assigned. Similar to HB 295 as introduced
- ILHIC had a stakeholder meeting to discuss this issue. It seems like the Agencies, Funeral Homes, and Cemeteries are at a stand still on negotiations. The Funeral Homes do not want the finances to go into a trust, while some agencies suggest it for consumer protection purposes. Conversations are continuing.

▪ **HB 5142 Easy Enrollment Program**

- Amends the Illinois Insurance Code. Provides that the Department of Insurance shall use taxpayer income information provided by the Department of Revenue to determine if an individual is eligible for a premium tax credit under the Patient Protection and Affordable Care Act.

▪ **HB 5253 Crime Victim Medical Expenses**
  - Criminal Testing Insurance Mandate Reimbursement Removal. Removes mandate for insurers to release information to the Department of Public Health regarding information testing of a victim. Removes the ability for the Department of Public Health to receive reimbursement when paying all or part of hospital or medical expenses from insurance companies.

▪ **HB 5254 Coverage Mandate Hormone Therapy**
  - Mandates coverage for hormone therapy treatment to treat menopause brought on by a hysterectomy.

▪ **HB 5305 Coverage Mandate Colonoscopy**
  - Coverage Mandate for colonoscopy 39-75 years. Mandates coverage for Medically necessary colonoscopies for persons ages 39-75 years old.
    - ILHIC OPPOSEs this bill. ILHIC would like to provide a suggestion to lower the age from 75 to 65 (the age where an individual is placed on Medicare) as well as a 1-1-24 effective date.

▪ **HB 5318 Coverage Mandate Prostate Screening**
  - Mandate Expansion for Prostate Screenings No Cost Share. Mandates prostate cancer screenings without cost sharing, broadening cancer screening testing beyond prostate specific antigen tests and digital rectal exams. The mandate coverage includes follow up testing including 1. Urinary analysis, serum biomarkers, and medical imaging, including, but not limited to magnetic resonance imaging.
    - ILHIC OPPOSES this bill. ILHIC isn't opposed to the underlying bill, we would simply work with the sponsor to get an effective date change to 1-1-2024 in order to simplify policy filings. We would also suggest the addition of "medical necessity" for subsequent follow up testing. Finally, we would suggest a HDHP HSA carve out because the bill has a no cost sharing component. I have included some boilerplate language below. A policy subject to this Section shall not impose a deductible, coinsurance, copayment, or any other cost-sharing requirement on the coverage provided; except that this subsection does not apply to coverage

of vaginal estrogen to the extent such coverage would disqualify a high-deductible health plan from eligibility for a health savings account pursuant to Section 223 of the Internal Revenue Code

- **HB 5332 Coverage Mandate Continuous Glucose Monitors**
  - Mandate for Glucose Monitors. Mandates Coverage for continuous glucose monitors.
  - We worked on this language in the Senate to get to an agreement with Senator Morrison.
- **HB 5334 Coverage Mandate Genetic Testing BRCA1 BRCA2**
  - Mandates coverage for genetic testing of the BRCA1 and BRCA2 genes to detect an increased risk for breast and ovarian cancer if recommended by a health care provider in accordance with the United States Preventive Service Task Force's recommendations for testing.
  - ILHIC is NEUTRAL on this bill. A 1-1-2024 effective date is present and there are some guardrails around when testing should be conducted (if recommended by a healthcare provider in accordance with the United States Preventative Task Force's recommendations for testing). We would prefer "medical necessity" be included. However, we know Representative Stuart is uncomfortable with that approach and we appreciate some guardrails provided to the coverage mandate. We would like to note that each time a mandate is passed without the medical necessity language, law makers do create a different standard of care, which can lead to a dangerous pandora's box.
- **HB 5383 Coverage Mandate Hippotherapy**
  - Coverage Mandate for Hippotherapy/Therapeutic Riding. Mandates Coverage for hippotherapy and other forms of therapeutic riding.
- **HB 5399 Coverage Mandate Proton Therapy**
  - Requires coverage (in 2024) for medically necessary hypofractionated proton therapy protocols the same payment level as that of the same biological dose with standard radiation protocol delivered if certain conditions are satisfied. Cost sharing cannot have a limitation that is greater than what is required for radiation therapy and other similar benefits.
- **HB 5454 Coverage Mandate COVID-19 Testing**
  - Mandates Coverage for COVID-19 Diagnostic Testing without cost sharing if the purpose of the testing is for the individualized diagnosis or treatment of COVID-19, in accordance with the Federal Cares Act. Mandates all testing sites to collect insurance information from patients.

- **HB 5514 Coverage Mandate Expansion Hearing Aids**
  - Mandate of Coverage for Medically Necessary coverage of hearing instruments for all individuals (Removal of under 18 language).
- **HB 5534 Insurance Business Transfer Act**
  - Insurance Business Transfer Act. Creates the Insurance Business Transfer Act. Create notice requirements, application procedure, application to a court for approval of a plan, approval and denial of insurance business transfer plans, and fees and costs.
  - Representative Jones has informed us that this bill will not move this session. However, he might call the bill for a subject matter.

a. **House Bills Moved to 2nd Reading**

   i. **HB 1811 Limit Predictive Analytics Use**

      1. Amends the Equal Pay Act and the Consumer Fraud and Deceptive Business Practices Act to restrict use of predictive data analytics used to determine a job applicant's credit worthiness or a hiring decision to include information that correlates with the race or zip code of the applicant for credit or employment.
      2. We are monitoring this bill

   ii. **HB 2992 Hospital Workforce Insurance**

      1. Requires the Department of Insurance to conduct a study to better understand the gaps in health insurance coverage for uninsured residents, including the reasons why individuals are uninsured and whether insured individuals are insured through an employer-sponsored plan or through the Illinois health insurance marketplace. P.A. 101-649 requires the DOI and HFS to conduct a health care affordability feasibility study to address some of the same issues, which is expected to be released by February 28. The bill also requires all hospitals to provide health insurance to their employees.
      2. We are monitoring this bill

b. **Senate Bills Moving**

   i. **SB 3209 Pharmacy HIV Care**

      1. Amends the Pharmacy Practice Act. Expands the pharmacist's scope of practice to include the initiation, dispensing, administration of drugs, laboratory testing, assessments, referrals, and consultations for PrEP treatment. Language states that pharmacists shall be covered and reimbursed for these services ordered and administered by a pharmacist at least 85% of the rate that physicians are reimbursed for Medicaid and other payers.
      2. Identical to HB 4430 (Cassidy)

3. We are monitoring this bill. (Broad other payer language)