FEBRUARY 4, 2022

ILHIC LEGISLATIVE CALL NOTES

ILHIC
ILLINOIS LIFE & HEALTH INSURANCE COUNCIL

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. **Anti-Trust Statement**
    a. 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**
    a. **The snow has arrived in Illinois! Session was cancelled for the House and the Senate this week. However, both the House and the Senate show no interest in moving the deadlines, which will make for an incredibly packed next couple of weeks. House Insurance Chairman Representative Jones advised his committee to expect long committees in the next couple of weeks.**
3. **Governor's Budget and State of the State**
    a. The Governor delivered his annual State of the State and proposed FY 2023 spending plan virtually on February 2nd. the proposed spending plan does not rely on any tax increases or proposed changes and instead relies on increased receipts from individual and corporate income taxes along with federal relief funds to support existing spending obligations in addition to enhancements to public safety, education, state pension and bill backlog obligations, unemployment insurance fund relief, and temporary tax relief to individuals. he notes the impending appointment of a new Chief Behavioral Health Officer and further touts several

health insurance-related policy successes from the previous legislative session, including telehealth and coverage for infertility services. As expected, feedback was a mixed bag. Democrats touted the budget as one of the best in years and Republicans stated that much of the financial windfall was provided from the federal government and the tax cuts were more of a to groceries and gas were more of a political gimmick than meaningful. If you are interested in numbers, I am providing the Budget in Brief with the materials of today's call.

4. **Bills Filed**
   a. **HB 5172 (Grant)**
      i. **Hormonal Contraceptives Mandate Removal**
      ii. Removes the assessment and consultation of patients and dispensing of hormonal contraceptives from the "practice of pharmacy." Removes the mandate covering hormonal birth control 356z.43
   b. HB 5029 (Harper)
      i. **Family Medical Leave Insurance Program**
      ii. Creates the Family and Medical Leave Insurance Program Act. Requires the Department of Employment Security to establish and administer a Family Leave Insurance Program that provides family leave insurance benefits to eligible employees. Sets forth eligibility requirements for benefits under the Act. Contains provisions concerning disqualification from benefits; premium payments; the amount and duration of benefits; the recovery of erroneous payments; hearings; defaulted premium payments; elective coverage; employment protection; coordination of family leave; defined terms; and other matters. Amends the State Finance Act. Creates the Family Leave Insurance Account Fund. Provides phase-in periods for the collection of money and making of claims for benefits under the Act. Effective January 1, 2023.
   c. **HB 5254 (Wheeler)**
      i. **Mandate Hormone Therapy Coverage**
      ii. Mandates coverage for hormone therapy treatment to treat menopause that has been caused by a hysterectomy.
   d. **HB 5248 (Wheeler)**
      i. **Insurance Data Security Act**
      ii. Creates the Insurance Data Security Act based on the NAIC Cybersecurity Model Law. The provisions DO NOT contain suggested changes put forward by the joint trades (industry). This bill is similar to HB 3040 and HB 4653.
   e. **HB 5253 (Wheeler)**
      i. **Criminal Testing Insurance Mandate Reimbursement Removal**
      ii. 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.
   f. **HB 5243 (Wheeler)**
      i. **Cybersecurity Compliance Act**
      ii. Creates an affirmative defense for every covered entity that creates, maintains, and complies with a written cyber security program that contains administrative technical and physical safeguards for the protection of information conforming to an industry-recognized cybersecurity framework.
   g. **HB 5300 (Guzzardi)**
      i. **Insulin Drug Discount Programs**

ii. Allows pharmacists to dispense insulin if a patient can attest that they are in dire need of the drug. After dispensing the drug, the pharmacist notifies the provider. Mandates that drug distributors can reimburse pharmacies with refills of insulin or the amount that covers the pharmacies acquisition cost. Allows a drug manufacturer to send insulin directly to the patient. Mandates 30-day coverage of insulin not to exceed 35 dollars (changed from 100 dollars).

h. **HB 5305 (Nichols)**

i. Coverage Mandate for colonoscopy 39-75 years

ii. Mandates coverage for Medically necessary colonoscopies for persons ages 39-75 years old.

i. **HB 5318 (Ford)**

i. Mandate Expansion for Prostate Screenings No Cost Share

ii. 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.

j. **HB 5332 (Ness)**

i. Mandate for Glucose Monitors

ii. Mandates Coverage for continuous glucose monitors.

k. **HB 5334 (Stuart)**

i. Mandate Coverage for Genetic Testing Breast/ Ovarian Cancer

ii. 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.

l. **HB 5327 (Stoneback)**

i. All Payer Claims Database Act

ii. Provides that the Department of Insurance shall establish an All Payer Claims database for sharing limited use health care data. DOI shall determine criteria for plans to submit. The database will serve as a resource for insurers, providers, consumers, and state agencies to continuously review utilization, expenditures, and performance. DOI shall make information regarding healthcare costs public on its Website. Requires plans to submit health insurance price information annually.

m. **HB 5426 (Mazzochi)**

i. COVID-19 Safe Treatments for Early Response

ii. Mandates that physicians may dispense drugs used to treat COVID-19 if certain conditions are met. Allows a pharmacist to consult a patient after a self-assessment on COVID-19 treatments. Allows a pharmacist to refer patients to providers for the treatment of COVID-19.

n. **HB 5383 (Mason)**

i. Coverage Mandate for Hippotherapy/Therapeutic Riding

ii. Mandates Coverage for hippotherapy and other forms of therapeutic riding.

o. **HB 5399 (Hammond)**

i. Coverage Mandate for Proton Therapy

ii. 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.

p. **HB 5454 (Crespo)**
   i. **COVID-19 Testing Coverage**
   ii. 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.

q. **HB 5514 (Manley)**
   i. **Hearing Instrument Mandate**
   ii. Mandate of Coverage for Medically Necessary coverage of hearing instruments for all individuals (Removal of under 18 language).

r. **HB 5516 (Jones)**
   i. **Supplier Diversity Report**
   ii. Requires every company with at least 50 million in assets to submit a 2-page report on its voluntary supplier diversity program to the Department. The Report shall include Contact information; local and state certifications for minority-owned, women-owned, LGBT -owned and Veteran Owned business Status; narrative explaining diversity goals and program; voluntary goals for the calendar year. The Department is tasked with holding an annual insurance company supplier diversity workshop in 2023 to discuss reports with companies and vendors. The department shall also provide the template.

s. **HB 5534 (Jones)**
   i. **Insurance Business Transfer Act**
   ii. 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.

t. **HB 5539 (Kelly)**
   i. **Healthcare Cost Info**
   ii. Provides that each insurer shall make available on its publicly accessible website or through a toll-free telephone number an interactive mechanism where any member of the public may access specified health care cost information. Provides that an insurer shall provide notification on its website that the actual amount that a covered person will be responsible to pay following the receipt of a particular health care service may vary due to unforeseen costs that arise during the provision of the service. Provides that each estimate of out-of-pocket costs provided shall provide the out-of-pocket costs a covered person may owe if he or she has exceeded his or her deductible and the out-of-pocket costs a covered person may owe if he or she has not exceeded his or her deductible. Provides that an insurer may contract with a third party to satisfy part or all of the requirements. Provides that nothing in the provisions shall prohibit an insurer from charging a covered person cost sharing beyond that included in the estimate provided if the additional cost sharing resulted from unforeseen provisions of additional health care services and the cost-sharing requirements of the unforeseen health care services were disclosed in the covered person's policy or certificate of insurance. Provides that some of the provisions do not apply to a health maintenance organization.

u. **HB 5585 (Lilly)**
   i. **Home Health Services Mandate**
   ii. Mandates coverage for access to home health services for the duration of medically necessary care.

v. **HB 5579 (Durkin)**
    i. **Healthcare Providers ID Act**
    ii. Requires healthcare providers to care ID on them when treating patients.
w. **HB 5590 (Batnick)**
    i. **Health Care Billing Equity Act**
    ii. Mandates the Department of Public Health shall research, accept information on, and maintain a database of any and all billing information, billing codes, and CPT codes used to bill health care plans, providers of policies of health insurance, and individual patients for health care procedures carried out in this State. Provides that, effective on January 1, 2024, any health care bill that contains any element in which the charge upon an individual who has received care billed by health care plans or providers of policies of health insurance that exceeds the bill for the same element of health care when billed to individual patients is prohibited. Provides that the Department of Insurance and the Department of Healthcare and Family Services shall cooperate with the Department of Public Health to further the implementation of the Act. Creates the Health Care Billing Equity Act Disciplinary Committee to study the implementation of the Act and to submit a report to the Governor and the General Assembly, no later than March 31, 2023, on ways and means to discipline health care licensees who fail to comply with the requirements of the Act. Contains other provisions. Amends the Illinois Insurance Code. Provides that a company authorized to do business in this State or accredited by the State to issue policies of health insurance must disclose to the Department of Healthcare and Family Services any and all CPT codes and billing codes used by health care providers to bill insurers for health care services rendered. Effective immediately.

5. **Bills In Committee This Week**
    a. **House Insurance Committee**
        i. **No Bills In Insurance Committee Were Called This Week**
        ii. HB 4271 Coverage Mandate Breast Reduction
            1. ILHIC currently opposes the bill as introduced, but we have spoken with the sponsor about amending the bill to move the coverage mandate effective date back to 1/1/24 (from 1/1/23) to better align with current policy filing timelines and she has agreed to do that
        iii. HB 4335 Coverage Mandate Vaginal Estrogen
            1. ILHIC currently opposes the bill as introduced. ILHIC offered suggestions to move the effective date back to January 1, 2024 as well as add medically necessary to the mandated language. Representative Stuart has agreed to pushing the effective date. However, we are all still working through the medical necessity suggestion. Without the medical necessity addition, ILHIC will remain opposed.
        iv. HB 4337 Coverage Mandate Domestic Violence Treatment
            1. ILHIC currently opposes the bill as introduced for similar reasons as HB 4271 (establishing a 1/1/24 effective date), but we have also expressed some concern with language that references coverage of treatment for "aesthetic purposes." ILHIC has reached out to Representative Cassidy with these concerns and she has indicated that she is still working through them with the proponents. ILHIC is working with the Illinois State Medical Society on an amendment for the effective date and narrowing requirements.
        v. HB 4408 Coverage Mandate Naloxone

1. ILHIC currently opposes the bill as introduced. ILHIC suggested moving the effective date to 2024, as well as adding a carve out for high deductible health plans. Representative Conroy has agreed to the suggestions, an amendment has been drafted and will be filed shortly.

b. Healthcare Licenses Committee

i. HB 3268 Was Not Called In Committee This Week

ii. HB 3268 Patient Billing Collection

1. Amends the Fair Patient Billing Act to prohibit a hospital from aggressively pursue debt collection for non-payment of a hospital bill against a patient with an annual household income of $51,000 or less and further provides that a hospital whenever possible and after reviewing the patient eligibility, shall charge as much as possible of the patient's hospital bill to insurers. ** ONLY EFFECTS THE PUBLIC AID CODE

c. Cybersecurity, Data Analytics, and IT Committee

i. This Committee Was Cancelled This Week

ii. HB 3453 Geolocation Privacy Protection

1. Creates the Geolocation Privacy Protection Act to require a private entity that owns, operates, or controls a location-based application on a user's device from disclosing geolocation information from a location-based application to a third party unless the private entity first receives the user's affirmative express consent after providing a specified notice to the user. The provisions include an exemption for HIPAA and GLBA-regulated entities.

d. Prescription Drug Affordability and Accessibility Committee

i. This Committee Was Cancelled This Week

ii. HB 3630 PBM

1. 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).

e. House Police and Fire

i. This Committee Was Cancelled This Week

ii. HB 4480 Coverage Mandate for Police Annual Exam

1. Provides that the regular mandatory annual mental health wellness checks for probationary and permanent police officers shall be provided through the law enforcement agency's health insurance carrier at no cost to the law enforcement agency that employs the officers. Amends the Counties Code, Illinois Municipal Code, and Illinois Insurance Code making conforming changes.

f. House Revenue and Finance

i. HB 4214 Had A Subject Matter Hearing This Week

ii. HB 4214 Income Tax Hospitality Insurance Benefits

1. Amends the Illinois Income Tax Act. Creates an income tax credit for hospitality employers, for taxable years that begin on or after January 1, 2022 and begin prior

to January 1, 2023, in an amount equal to 100% of the amount paid by the taxpayer to provide vision and dental benefits, life insurance, and short term disability coverage for its employees during the taxable year. Effective immediately.

6. **Next Week**
    a. **House Insurance**
        i. HB 4271 Coverage Mandate Breast Reduction
            1. Mandates coverage for medically necessary breast reduction surgery
        ii. HB 4324 Producer License Credit
            1. 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.
        iii. HB 4335 Coverage Mandate Vaginal Estrogen
            1. Mandates coverage for vaginal estrogen without cost sharing
        iv. HB 4337 Coverage Mandate Domestic Violence
            1. 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.
        v. HB 4338 Coverage Mandate Prenatal Vitamins
            1. Mandates coverage for prenatal vitamins. (This medication already required to be covered under the ACA.)
        vi. HB 4408 Coverage Mandate Naloxone (No Co Pay)
            1. Mandates plans that provide coverage for naloxone do so without cost sharing.
        vii. HB 4433 HDHP/ HSA Carve Out
            1. This language includes model language for Copay Accumulators. This language was agreed to by the Stakeholders, DOI, and ILHIC. (NCOIL Model)
        viii. HB 4493 Annuity Non-Forfeiture Rate
            1. In provisions concerning standard non-forfeiture for individual deferred annuities, changes an interest rate to 0.15% (rather than 1%).
        ix. HB 4703 Surprise Billing
            1. DOI Initiative- Surprise Billing Language. Provides that when an insured receives emergency services or covered ancillary services from a nonparticipating provider or a nonparticipating facility, the health insurance issuer shall ensure that cost-sharing requirements are applied as though the services had been received from a participating provider or facility, and that the insured or any group policyholder or plan sponsor shall not be liable to or billed by the health insurance issuer, the nonparticipating provider, or the facility beyond the cost-sharing amount.

    b. **Senate Insurance**
        i. SB 2963 Group Life Insurance
            1. 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.

ii. SB 3054 Coverage Mandate Compression Sleeves
    1. Mandates coverage for compression sleeves.
iii. SB 3067 Coverage Mandate Cleft Palate
    1. 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.
iv. SB 3466 Insurance Rebates/ Products
    1. In provisions concerning prohibited payment or acceptance of rebates, provides that nothing in the language shall prohibit an insurer, by or through its employees, affiliates, insurance producers, or third-party representatives, or an insurance producer acting on its own behalf, from offering or providing products or services that are at least tangentially related to an insurance contract or the administration of an insurance contract for free or for less than fair market value as long as the receipt of the products or services is not contingent upon the purchase of insurance and the products or services are offered on the same terms to all potential insurance customers based on documented objective criteria and in a manner that is not unfairly discriminatory.
v. SB 3729 340B Drug Pricing Program
    1. 340B Drug Pricing Program Restrictions. Includes prohibitions on contracts between PBMS and 340B covered entities, including 1. Reimbursement at a lower cost than that of a 340B covered entity; imposing fees, chargeback, or rate adjustments that is not imposed on a pharmacy that is not a 340B program; impose a fee, chargeback, or rate adjustment that exceeds what is imposed on a non 340B covered entity; prevents or interferes with an individual's choice to receive a prescription drug from a 340B entity; exclude any 340 covered entity from a pharmacy network, requires a 340 entity to use a billing modifier to indicate that the drug was purchased under the program; and any other violation that discriminates against a 340B entity.
vi. SB 3819 Coverage Mandate Palliative Care
    1. Mandates coverage for community-based pediatric palliative or hospice care. Provides that the care shall be delivered to any qualifying child by a trained interdisciplinary team in accordance with all the terms of the Pediatric Palliative Care Act, which allows a child to receive community-based pediatric palliative and hospice care while continuing to pursue curative treatment and disease-directed therapies for the qualifying illness.
vii. SB 3910 Insurance ID Cards
    1. DOI INITIATIVE. Amends the Uniform Prescription Drug Information Card Act. Mandates that uniform Rx cards issued by health plans shall display on the card the regulatory entity that holds authority over the plan, whether the plan is fully insured or self-insured, the issuer's National Association of Insurance Commissioners company code, any deductible applicable to the plan, any out-of-pocket maximum limitation applicable to the plan, and a toll-free telephone number and Internet website address through which the cardholder may seek consumer assistance information. Provides that a discounted health care services plan administrator shall issue to its beneficiaries a card that contains information about the regulatory entity that holds authority over the plan and whether the plan is fully insured or self-insured. Provides that a health care benefit information card or other technology containing uniform health care benefit information

issued by a health benefit plan or a dental plan shall specifically identify and display on the card the regulatory entity that holds authority over the plan, whether the plan is fully insured or self-insured, the issuer's National Association of Insurance Commissioners company code, any deductible applicable to the plan, any out-of-pocket maximum limitation applicable to the plan, and a toll-free telephone number and Internet website address through which the cardholder may seek consumer assistance information. Makes other changes. Effective January 1, 2023.

viii. SB 3924 White Bagging
    1. 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)

ix. SB 3926 Prohibitions of STLDs
    1. 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.

x. SB 4037 Coverage Mandate Liver Disease Preventative Screening
    1. 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

xi. SB 4041Coverage Mandate Hearing Instruments
    1. 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.

7. Important Deadlines

a. 2-10-22 Senate Committee Bill Deadline
b. 2-18-22 House Committee Bill Deadline
c. 2-25-22 Senate Bills 3rd Reading
d. 3-3-22 House Bills 3rd Reading