

ILHIC Legislative Committee – Call Summary

February 14, 2020

The General Assembly was off this week, but they will return to Springfield on Tuesday, February 18. The Governor will deliver his Budget Address on Wednesday, February 19 where he will outline his spending and revenue plan for Fiscal Year 2021.

Today also marks the bill introduction deadline for 2020 (all bills introduced in 2019 will carryover). ILHIC will circulate a complete list of key bills along with positions early next week.

THE WEEK AHEAD:

The House Insurance Committee is scheduled to meet on Tuesday with the only [HB 4137 \(Morgan\)](#) creating the Flood Insurance Act to allow insurers to issue private flood insurance subject to form approval by the Department scheduled for the hearing.

The Senate Insurance Committee is scheduled to meet on Wednesday and a number of bills of interest have been posted for the hearing, including:

- [SB 1420 \(Murphy\)](#) mandating coverage of hippotherapy and other forms of therapeutic riding. ILHIC is opposed.
- [SB 2457 \(Morrison\)](#) removing the age limitation for mandated coverage of epinephrine autoinjectors (original mandate took effect 1/1/2020 for insureds aged 18 or under). ILHIC is neutral.
- [SB 2470 \(Murphy\)](#) prohibits any mid-year health insurance policy change with respect to providers, medication/formularies and benefits. ILHIC is opposed.
- [SB 2501 \(Murphy\)](#) provides for a “birthday rule” open enrollment with guaranteed issue for Medicare supplement plans. ILHIC is opposed.
- [SB 2740 \(Fine\)](#) sets forth network adequacy requirements for mental health providers (separate from those provisions currently set forth in the existing Network Adequacy and Transparency Act). ILHIC is opposed.
- [SB 2746 \(Morrison\)](#) prohibits arbitration and discretionary clauses in health insurance and disability policies. ILHIC is opposed.
- [SB 2771 \(Fine\)](#) prohibits an insurer, HMO, independent practice association or physician hospital organization from attempting a recoupment or offset until all appeal rights are exhausted.

The House Cybersecurity, Data Analytics & IT Committee is also scheduled for a hearing on Thursday morning where [HB 2736 \(Buckner\)](#) creating the “Right to Know Act” has been re-posted. The bill sets forth personal data privacy disclosures with an exemption for entities subject to the GLBA; however, the exemption language as it pertains to entities subject to HIPAA is not as explicit and therefore, ILHIC will oppose.

The House Human Services Committee is also scheduled to hear a bill- [HB 3993 \(Stuart\)](#) – that adds investment advisors and insurance adjusters to the list of mandated reporters of elder abuse. “Investment advisors” is not defined in the legislation and the proposal is a recommendation of the state’s Elder Abuse Task Force. ILHIC is not taking a position on the legislation.

Section 1332 Innovation Waiver Update

ILHIC is still trying to track down exact details, but the Governor may be proposing a Section 1332 waiver-like initiative this year that would provide some sort of state-subsidized insurance coverage program intended to compliment ACA coverage options. Governor Pritzker proposed a Medicaid Buy-In program during his campaign that, as proposed, seemed to suggest the creation of a low-cost state-operated coverage plan to compete with ACA marketplace plans, but has not proposed any specific legislative or policy initiatives since that time.

Several states have pursued a 1332 Innovation Waiver (requiring federal approval) to allow the respective state to offer health insurance marketplace reforms that create alternative paths to coverage that are no less favorable than ACA plan protection requirements. Many states that have sought this option (and received federal approval) are using these waivers to facilitate reinsurance programs aimed at reducing premiums in the individual market by providing payments to insurers to help offset costs of enrollees with large medical claims.

Federal approval is contingent upon a funding mechanism for these alternative coverage options in order to leverage federal funds. Illinois still maintains operation of its high-risk health insurance pool, which is subsidized by assessments on the private insurance market. Since the ACA, the number of insureds in the pool has shrunk significantly, which has in turn, resulted in lower assessments on the industry, which may be perceived as a funding opportunity for the Administration.

Again, ILHIC has not yet confirmed details or whether this may be an initiative included in the budget address next week, but we will share further information if and when this information should become available.

LEGISLATIVE ISSUES OF INTEREST:

Data Privacy

A new data privacy measure has been introduced this week (and it will probably not be the last). [SB 3299 \(Fine\)](#) sets forth numerous data privacy requirements, including a “right to be forgotten” with exceptions, as well as number of provisions not previously introduced in other data privacy proposals. The provisions include exemptions for certain data protected under HIPAA and GLBA.

Paid Family and Medical Leave

The General Assembly is expected to take up proposals mandating paid Family and Medical Leave (PFML) for Illinois employers. Several legislative measures were introduced and advanced last year, including [SB 471 \(Lightford/Gordon-Booth\)](#), which passed the House, but stalled in the Senate. The measure required employers to offer a minimum of 40 hours of paid sick time. Several legislators have indicated their intention to reintroduce legislation with similar requirements this session, including Senator Villivalam, who was the lead sponsor of [SB 1723 \(Villivalam\)](#) establishing a state-operated family and medical leave income protection insurance with no exception for the private market.

Legislative momentum for a state PFML proposal appears to be targeting mandated requirements on employers and not on establishing a state-run option insurance program.

Secondary Notice – Life Insurance Lapse

NAIFA IL will be introducing legislation later today that contains their proposed secondary notice for life insurance lapse language. NAIFA has not shared the latest version of the legislative language they are seeking, but once the bill has been introduced, ILHIC expects to meet with them to discuss concerns and urge them to delay any action on this.

ILHIC will circulate the bill once it has been introduced.

Joint Retirement Account Loan

[HB 4904 \(Mason\)](#) requires that prior to any loan made from a joint retirement account or a joint retirement account is used as a security for a loan, a plan representative must obtain the consent of both spouses. The legislation also provides specifics around the time frame by which spousal consent must be obtained.

HEALTH INSURANCE ISSUES:

Telehealth Reimbursement Parity

Two new measures have been introduced requiring reimbursement parity for telehealth: 1) [HB 4963 \(Didech\)](#) requires telehealth services to be paid at the same rate as in-person services and further requires reimbursement for a telehealth originating site facility fee (and further allows licensed Nursing Home facilities to serve as an originating site) and 2) [HB 5079 \(Reitz\)](#) outlines coverage requirements for telehealth services, including requiring reimbursement parity for telehealth services. As introduced, the bill is very similar to [SB 27 \(Manar\)](#), including the application of the reimbursement requirement to supplemental policies. ILHIC and the insurance industry worked last year to offer compromise language that removes the application to all supplemental policies and applies parity to the benefits (and not provider reimbursements) as has been the agreement struck in other states.

Another proposal was introduced last month - [SB 2561 \(Fine\)](#)- requiring insurers to reimburse providers of telehealth services at the same rate as same services reimbursed for an in-person consultation and further mandating originating site facility fee reimbursement of \$25 per telehealth services giving the Department of Insurance authority to increase the facility fee every 5 years.

ILHIC is opposed to all of these bills as introduced.

PBM and Rx Restrictions

Several bills have been introduced, and more are expected, targeting regulation of PBM activity, as well as prescription drug pricing and how that impacts consumer cost-sharing.

[SB 3117 \(Manar\)](#) requires PBMs to have a fiduciary duty to a third party with whom they are contracted. The US DOL has already ruled that PBMs do not have a fiduciary duty because they do not assume risk – the risk would apply to the insurer with whom the PBM contracts as a third-party administrator. ILHIC is opposed.

House Majority Leader Greg Harris has also introduced a measure - [HB 4477 \(Harris\)](#)- that requires insurers to offer at least 51% of individual and group plans provided within a service area and level of coverage specified by federal law a plan that follows 1) a co-payment structure to the entire drug benefit; 2) applies a monthly out-of-

pocket cost to a specified amount for prescription drugs; or 3) applies an annual out-of-pocket cost to a specified amount for prescription drugs.

A similar measure passed out of the House, but stalled in the Senate last year - [HB 2174 \(Willis/Fine\)](#) – that requires every health insurer to ensure that no less than 25% of plans offered in the individual and group plan market applied a flat-dollar copayment structure to the entire drug benefit.

Prior Authorization Reform

The Illinois State Medical Society will be introducing (later today) prior authorization transparency legislation. The bill will propose requirements for transparency, clinical validity, and responsiveness by insurers in their prior authorization programs, including provisions that will place requirements on how long a prior authorization must remain in effect for an insured.

House Majority Leader Greg Harris and Senate Assistant Majority Leader Linda Holmes are expected to sponsor the bill.

Health Coverage Mandates – First Dollar Coverage

There are already a number of proposed health insurance mandates introduced and more expected to be introduced later today, as well as through the amendment process later in the session. There will also likely be an uptick in the number of mandates that remove cost-sharing requirements, as has been introduced in the two bills below thus far:

[HB 4876 \(Pappas\)](#) mandates first dollar coverage for follow-up colonoscopy screenings. The provisions include exclusions for health savings accounts tied to high-deductible health plans.

[HB 5040 \(Mazzochi\)](#) prohibits cost sharing for any diagnostic testing for a pediatric autoimmune neuropsychiatric disorder if the testing is ordered by a physician (cost sharing may be applied if the diagnostic test is requested by the parent or guardian). The provisions do not currently exclude health savings accounts tied to high-deductible health plans.

As ILHIC determines which mandates may be gaining momentum, we will work with members to determine needed revisions, including effective date and any exclusions for HSAs tied to high-deductible health plans for first dollar coverage mandates, among other changes.

DOI Working Group Update – Medical Necessity Criteria (P.A. 101-0461) and Mental Health Parity Compliance Reporting (P.A. 100-1024)

The DOI Working Group regarding the Development of Medical Necessity Criteria will hold its first meeting later today at noon. Members of the public, including interested parties, can attend the meeting in-person at either the Department’s Chicago or Springfield location. Call-in information and the agenda for the meeting is [HERE](#).

The working group was created by [P.A. 101-0461](#) to establish the medical necessity criteria for new bundled treatment models for first episode psychosis treatment and assertive community treatment that insurers will be required to cover January 1, 2021.

Additionally, the Working Group established under [P.A. 100-1024](#) that has been tasked with developing the mental health parity compliance reporting insurers will be required to provide annually to the Department of Insurance has been appointed and the meetings have been set for the following dates:

February 28, 2020 from 11:00AM-12:00PM

March 27, 2020 from 2:00PM-3:00PM

April 24, 2020 from 11:00AM-12:00PM

May 8, 2020 from 1:00PM-2:00PM

The Department will post agenda and call-in information ahead of each meeting.

ILHIC and the IL Chamber have been appointed to represent the interest of the industry. Other Working Group appointees include the IL Association of Medicaid Health Plans, the IL Health and Hospital Association, the IL Association of Behavioral Health, the Kennedy Forum IL and representatives from Meridian Health Plan, BCBSIL, Haymarket Center, Turning Point, and Rosecrance.

UPCOMING MEETINGS/IMPORTANT DATES:

February 19, 2020 – Budget Address

March 17, 2020 – Primary Election Day

March 18 – Legislative Committee Meeting; Insurance Industry Legislative Day - Springfield

June 8-10 – ILHIC Annual Meeting – Lake Geneva

November 3, 2020 – General Election Day