

ILHIC Legislative Committee Update

March 19, 2021

Committee Action Update

The House Insurance Committee passed several bills out of committee this week:

- **Risk-based pricing restrictions (SUD recovery support) - [HB 33 \(Mason\)](#)**: The sponsor agreed to hold the bill on Second Reading to continue working with ILHIC on amendment language. The sponsor has agreed to conceptual language that would prohibit discrimination solely *and without sound actuarial principles or reasonable anticipated experience* in addition to limiting the provisions to those individuals who have been out of a treatment or recovery support program for at least 5 years.
- **Risk-based pricing restrictions (felony conviction): [HB 228 \(Mayfield\)](#)**: The sponsor passed the language out as introduced and ILHIC has continued to work with the sponsor to try and narrow the scope to only those final expense policies that are marketed and sold exclusively to cover funeral and burial expenses. The sponsor has also rejected language that would limit the felony convictions in any way. ILHIC anticipates a new amendment will be forthcoming and we will circulate and discuss once the amendment has been shared.
- **Irrevocable assignment – final expense for Medicaid eligibility - [HB 295 \(Manley\)](#)**: The sponsor moved the bill out of committee with [House Amendment #1](#) removing the Insurance Code provisions and maintaining provisions that allow Medicaid applicants to spend down assets before eligibility takes effect (rather than at time of application). ILHIC is continuing to work with the proponents and will meet with the Departments of Insurance, Human Services, and Healthcare and Family Services, and the Comptroller's office during the legislative spring break.
- **DOI Initiatives – Holding Company Act updates; Credit for Reinsurance & Group Capital Calculation, Pre-licensing webinars – [HB 1955 \(Jones\)](#), [HB 1956 \(Jones\)](#), and [HB 1957 \(Jones\)](#)**: The committee unanimously approved all three of the DOI initiatives. Technical clean-up amendments will be forthcoming. ILHIC supports the bills.
- **TMJ Mandate - [HB 2649 \(Yednock\)](#)**: The committee approved legislation that requires health insurers to cover (rather than offer optional coverage for an additional premium) reasonable and necessary medical treatment of temporomandibular joint disorder and craniomandibular disorder.

The House Health Care Access and Availability committee passed [HB 62 \(Flowers\)](#) along party lines, which establishes a Health Care for All single payer health care program. The sponsor has passed the bill previously out of committee, but it has never advanced out of the House. She also indicated that there would be no fiscal impact to the state if the bill were to become law. ILHIC is opposed to bill.

The Senate Insurance Committee held a subject matter hearing only on [SB 147 \(Murphy\)](#) establishing a “birthday rule” for Medigap policies to provide that an existing Medicare supplement policyholder would be entitled to an annual open enrollment period of 60 days or more commencing on their birthday with guaranteed issuance of a replacement policy that offers benefits equal or less than those provided by the previous coverage. A representative from the Dialysis Patient Coalition testified in support of the bill, stating that patients with End Stage Renal Disease (ESRD) who qualify for Medicare before the age of 65 are held to the highest premium rate

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allowed for Medigap policies. ILHIC testified in opposition. The sponsor has agreed to work with both parties to try and find a compromise approach.

The House Insurance Committee will convene this afternoon to hold a subject matter hearing on “Telehealth in the wake of COVID-19.” There are a number of telehealth-related measures before the General Assembly this session, including [HB 3498 \(Conroy\)](#), codifying portions of [Executive Order 2020-09](#) including payment parity that is being pushed by a coalition of providers and patient groups led by the IL Health and Hospital Association. ILHIC provided redline comments and revisions to the bill, which is expected to be heard in House Health Care Access and Availability next week. ILHIC prefers to negotiate telehealth reforms off of [HB 3308 \(Jones\)](#), which includes a mandate for coverage of telehealth, but does not require payment parity.

Key Bill Update

- **Civil Rights Violation – Mental Health Parity (Health Insurance & DI) - [SB 202 \(Morrison\)](#)** : ILHIC spoke with Senator Morrison regarding concerns with her bill including the latest [Senate Amendment #1](#) that would require health, accident, and disability income policies to apply equal terms of coverage to protected classes under the Act. The Council is encouraging the sponsor to push for appointments and convening of task force to study disability income insurance and parity for behavioral health conditions that we worked with her on in 2019 ([P.A. 101-0332](#)).
- **Secondary Notification – [SB 2407 \(Harris\)](#)**: ILHIC and ACLI are currently working on language to address concerns and align secondary notification with requirements set forth in CT. [SB 2112 \(Harris\)](#) contains similar language that was introduced last year that originally applied the requirements to those individuals age 64 and older. SB 2112 is currently assigned to Senate Insurance, but SB 2407 has yet to be assigned.
- **Insurance Data Security Act - [HB 3040 \(Wheeler\)](#)**: The sponsor has indicated interest in moving the bill this session. The bill incorporates the NAIC model act provisions but does not include joint trade changes currently. We are encouraging the sponsor to meet with the Department first before further discussion about possible revisions occur.
- **Prescription Drug Benefit Design – OOP Limitations** – ILHIC and members of the industry have reached an agreement on language to amend [HB 1745 \(Harris\)](#) to phase in limitations on out-of-pocket expenses for prescription drugs across a certain percentage of individual health insurance plans beginning January 1, 2023. The bill, along with a forthcoming amendment, is expected to be heard in the House Prescription Drug Access and Availability Committee next week.
- **PBM Restrictions and Transparency** – The House and Senate are expected to convene negotiations on [SB 2008 \(Koehler\)](#), which contains a number of problematic requirements on health insurers and pharmacy benefit managers, including subjecting certain insurance coverage/PBM requirements to the Consumer Fraud and Deceptive Practices Act.
- **Prior Approval – Health Insurance Rates** – ILHIC met with Senator Fine and proponents of [SB 1971 \(Fine\)](#) that sets forth a public posting and public comment period requirements before approval. The Senator has noted that this is her priority for this legislative session, but it has not yet been assigned to committee. [SB 1590 \(Fine\)](#) has been assigned to Senate Insurance, which sets forth prior approval time frames similar to provisions introduced in the last General Assembly and does NOT include the public comment/posting requirements.
- **HDHP – HSA Restrictions - [HB 2948 \(Morgan\)](#)** seeks to address protections for HSAs with respect to state mandates, including the copay accumulator ban, that may run afoul of IRS rules. The provisions of the bill also require insurers to identify a non-HSA eligible HDHP and offer a non-HSA eligible product if they do provide an HSA-eligible HDHP. ILHIC met with the Department this week to outline concerns and the sponsor is expected to move the bill out of committee and hold on Second Reading to allow time for the

Department to meet with the IRS to discuss their interpretation of how these state mandates interplay with current IRS rules regarding the current tax rules for HSAs. The Department has also committed to continue discussions about the other provisions of the bill that require certain HDHP offerings and labeling of products.

Other Legislative & Regulatory Updates

The House passed out [SB 72 \(Crowe/Hoffman\)](#) as amended, which represents an agreement between the hospitals and the trial lawyers (ITLA) to lower the pre-judgment interest to 6%. Business groups, the insurance industry, and doctors are still opposed to the bill. ITLA was successful in passing a bill during the lame duck session- [HB 3360 \(Hoffman/Harmon\)](#) - that applies 9% interest. The bill is currently on the Governor's desk, but he is expected to veto the bill. The Senate is expected to concur on the amendment to SB 72 and send it to the Governor's desk next week.

The state's Mental Health Parity Working Group is scheduled to meet later this morning. Members are expected to adopt Phase II reporting template and instructions with reporting to begin July 1, 2023. A complete agenda is available [HERE](#) and the Phase II documents are available [HERE](#) and [HERE](#).

ILHIC is also expected to meet with KFI next week on their initiative to require insurers to base medical necessity and utilization review for mental health and substance use on prescribed criteria. ILHIC testified last week in a subject matter hearing before the House and Senate behavioral health committees on barriers to access in mental health services, including provisions set forth in [HB 2595 \(Conroy\)](#)/ [SB 697 \(Fine\)](#). Representative Conroy is expected to call [HB 2595 \(Conroy\)](#) next week in committee.

ILHIC has put in a request with Director Popish Severinghaus to meet and discuss the Department's potential support for a legislative change that would amend Section 229.4a of the Insurance Code to reduce the minimum rate from 1% to 0.15% in line with the NAIC model.

Joanna Coll is the new General Counsel for the DOI. Joanna previously served as an assistant GC with the DOI, but most recently served as an assistant GC for the Office of the Treasurer.

Committee/Session Highlights – Next Week

House Insurance is scheduled to meet Monday, March 22 at 10 am. Senate Insurance Committee has yet to post their scheduled meeting, but it is expected to meet next week. Committee deadline will be extended in the Senate and will likely be extended in the House (committee deadline is currently March 26).

The Senate will return in-person next week again, but the House is not expected to return in-person until after the legislative spring break on April 13.

DOI Pending Regulations Update

- **Proposed Amendment to Part 916 – Policy Form Filing Requirements** – the proposed amendment would require life and health insurance companies to submit complete policy forms for all products by prohibiting matrix pages, insert pages, or modular filings. ILHIC and ACLI joint comment letter is available [HERE](#) and DOI responses to questions is available [HERE](#). *Rule status: First Notice (published in [April 24, 2020 IL Register](#), beginning on pg. 6211)*
- **Proposed Amendment to Part 2018 – Creating a Uniform Electronic Prior Authorization for Prescription Benefits** – the proposed amendment implements provisions set forth in P.A. 101-0463 that requires the Department to develop a uniform prior authorization form for prescription benefits based

on input from interested parties, including the insurance industry, that beginning July 1, 2021, prescribing providers will be required to use and insurers will be required to accept. The proposed rule incorporated much of the feedback and input provided by ILHIC and member companies during the working group process. **Rule status: First Notice (published in [September 11, 2020 IL Register](#), beginning on pg. 14406)**

- **Proposed Amendment to Part 2019 – Applying a OOP Maximum on Cost-Sharing for Insulin** -the proposed amendment implements P.A. 101-0625 to apply a \$100 maximum cap on cost-sharing for a 30-day supply of insulin. The proposed rule also clarifies that the coverage requirement applies to group POS plans offered by limited health services organizations, as well as group voluntary health services plans. **Rule status: First Notice (published in [September 11, 2020 IL Register](#), beginning on pg. 14416)**
- **Proposed Amendment to Part 2001- Extension of Corporate Name Disclosure Requirements to Excepted Benefits**- the proposed rule makes changes to allowable incentive for wellness programs, as well as extends corporate name disclosure requirements applied under Section 2001.13 to comprehensive medical policies (effective August 28, 2020) to excepted benefit policies and short-term limited duration policies. These changes include prohibiting reference to DBAs (Doing Business As) and providing the corporate name in the footer of every policy page. ILHIC submitted comments available [HERE](#). **Rule status: First Notice (published in [November 6, 2020 IL Register](#), beginning on pg. 17603)**

The DOI has also published their 2021 regulatory agenda in the [January 8, 2021 IL Register](#), beginning on pg. 819. The agenda includes a proposal to revisit Part 916 form filing requirements.

UPCOMING MEETINGS/IMPORTANT DATES:

March 26 – Committee Deadline

April 6 – Consolidated Election

April 23 – Bill Crossover Deadline

April 26-27 – Insurance Industry “Virtual” Legislative Day (held jointly with IIA, IIA of IL, NAIFA-IL, and IAMIC)

May 31 - Adjournment