

ILHIC Legislative Committee Update

March 26, 2021

Happy Committee Deadline Day (in the House at least)! The Senate has extended their deadline until April 16.

House and Senate Committee Action Update

Committee activity in the House this week can best be summed up as chaotic. Many bills passed out with an agreement to hold on Second Reading to try and work out language with opponents to get in front of the committee action deadline today. Highlights of action taken on key bills in the House include:

- **Telehealth Coverage and Reimbursement** – The House Health Care Access and Availability Committee unanimously passed [HB 3498 \(Conroy\)](#), codifying portions of [Executive Order 2020-09](#) including payment parity. ILHIC opposed the bill, which is supported by a coalition of providers and patient groups led by the IL Health and Hospital Association. The sponsor indicated that she will continue to work with the proponents and the Council to negotiate revisions to the bill. In the meantime, the House Insurance Committee also took action on [HB 3308 \(Jones\)](#), which, as introduced, includes a mandate for coverage of telehealth, but does not require payment parity. The sponsor filed [House Amendment #1](#) that replaces the language with provisions similar to those included in HB 3498 (such as payment parity) but with a narrower application to behavioral health services. The Council supports HB 3308, as introduced, but opposed HB 3308 as amended.
- **Prescription Drug Benefit Design – OOP Limitations** – The House Prescription Drug Access and Affordability Committee unanimously approved [HB 1745 \(Harris\)](#) as amended by [House Amendment #1](#) 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 amendment represented a compromise between ILHIC and the proponents.
- **Pharmacist Reimbursement – Patient Services for Contraceptives** – The House Health Care Licenses Committee [HB 135 \(Mussman\)](#) authorizing the IL Department of Public Health to issue a standing order for contraceptives to allow a pharmacist to dispense hormonal contraceptives. The legislation requires health insurers to cover patient care services related to the dispensing of hormonal contraceptives for pharmacists, to which the Council is opposed.
- **HDHP – HSA Restrictions** – The House Insurance Committee approved [HB 2948 \(Morgan\)](#) – a DOI initiative – that 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. The sponsor is holding the bill on Second Reading to allow the Department to obtain an IRS ruling that will indicate the copay accumulator ban violates federal tax rules as it applies to 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. ILHIC opposes the provisions related to the marketing requirements for HSA and non-HSA eligible HDHPs, but supports the exclusions for HSAs from the copay accumulator in order to preserve the tax advantages of these products.
- **Mental Health (SUD) – Medical Necessity Criteria** – The House Mental Health & Addiction Committee approved [HB 2595 \(Conroy\)](#) to require insurers to base medical necessity and utilization review for

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mental health and substance use on prescribed criteria (specifically exclusively using the criteria a nonprofit professional association). ILHIC opposes the bill, but the sponsor has agreed to hold the bill on Second Reading to allow the Council to continue discussions on concerns and proposed revisions with KFI and the other proponents.

- **Health Coverage Benefit Mandates** – The House and Senate Insurance, as well as the House Mental Health & Addiction Committees, took action on a number of bills that apply new benefit mandates for individual and group fully-insured health insurance plans:
 - [HB 1779 \(Flowers\)](#) - As introduced, prohibits health insurers from requiring prior authorization for biomarker testing for an insured with advanced or metastatic stage 3 or 4 cancer or biomarker testing of cancer progression or recurrence in the insured with advanced or metastatic stage 3 or 4 cancer. [HA #1](#) mandates coverage for biomarker testing for treatment and disease management purposes.
 - [HB 2406 \(Scherer\)](#) - Provides that an individual or group policy of accident and health insurance or managed care plan in effect on and after March 9, 2020 must provide coverage for the cost of administering a COVID-19 vaccination. Language is silent on vaccine as approved by the FDA, which is not addressed in [HA #1](#), which also includes cross-reference to HMOs.
 - [HB 2653 \(Mason\)](#) - Mandates first dollar coverage for a diagnostic colonoscopy. The provisions include HSA tax preservation language.
 - [HB 3709 \(Croke\)](#) - As amended by [HA #1](#), amends the current health insurance mandate for infertility treatment to allow those who cannot conceive a child naturally or due to a medical condition documented by a medical professional shall not be held to the one-year requirement of unsuccessful pregnancy before coverage begins. For those women aged 35 or older who are otherwise able to conceive shall only be required to a 6-month waiting period for coverage. ILHIC was neutral on the bill as amended.
 - [HB 3197 \(Conroy\)/ HB 3198 \(Conroy\)](#) - Creates the Suicide Treatment Improvements Act to require that all at-risk patients be provided with one-on-one suicide prevention counseling by the public or private psychiatric facility at which the at-risk patient is being treated and mandates individual and group health insurance coverage for these services. *(The bills are posted and could be heard a little later this morning in the House Mental Health & Addiction Committee.)*
 - [HB 2589 \(Conroy\)](#) - The bill includes provisions mandating coverage for ALL opioid antagonists approved by the FDA in addition to reimbursing a hospital for the hospital's cost of any FDA approved opioid antagonist. *(The bill passed last Friday out of the House Mental Health & Addiction Committee.)*
 - [SB 1854 \(Ellman\)](#) - Mandates coverage for A1C testing recommended by a health care provider for prediabetes, type 1 diabetes, and type 2 diabetes in accordance with prediabetes and diabetes risk factors identified by the CDC and coverage for vitamin D testing recommended by a health care provider in accordance with vitamin D deficiency risk factors identified by the CDC.
 - [SB 2158 \(Tracy\)](#) - Mandates coverage for the treatment, removal, elimination, or maximum feasible treatment of nevus flammeus (port-wine stains), including, but not limited to, port-wine stains caused by Sturge-Weber syndrome. The bill further prohibits insurers, including HMOs, from reducing or eliminating coverage due to coverage of port-wine stain treatment OR increasing rates due to the coverage requirement. The Senate Insurance Committee held a subject matter only hearing on Wednesday. ILHIC testified in opposition.

The Senate Insurance Committee also approved [SB 2112 \(Harris\)](#) to require life insurers to provide a secondary notification for pending lapse, including notifying the agent of record. The bill was moved out with the

understanding that NAIFA-IL and the independent agents will continue to work on language with ILHIC and ACLI to allow for secondary notification (similar to LTC policies) without mandating notification also go to the agent of record (the revisions will also remove language applying the requirements to only those individuals aged 64 and older).

The Senate and House sponsors of legislation seeking to impose significant restrictions and reimbursement requirements on PBMs convened a stakeholder discussion on Wednesday to allow opponent and proponents to summarize concerns with [SB 2008 \(Koehler\)](#). ILHIC, PCMA and the IL Association of Medicaid Health Plans were among those participating along with Senate Insurance Chairman Harris. The bill was not called in Senate Insurance, but the sponsors look to work over the legislative break to gather comments and proposed revisions to develop a new amendment prior to the new Senate Committee deadline on April 16.

Finally, the Senate concurred (along party lines) on the amendments to [SB 72 \(Crowe/Hoffman\)](#) on Thursday to send a new ITLA-backed pre-judgement interest bill to the Governor. The new bill, which represents a compromise between the trial lawyers and the IL Hospital Association and nursing home groups applies a 6% interest to judgements. The Governor also vetoed [HB 3360 \(Hoffman/Harmon\)](#) the same day that sought a 9% interest rate. HB 3360 passed quickly during the 101st General Assembly lame duck session in January. The Governor is expected to sign SB 72 despite strong opposition from business groups, the insurance industry, and doctors, including some individual hospital systems.

ILHIC Legislative Priorities

The General Assembly will begin their two-week legislative spring break next week. The House and Senate have scheduled some virtual committee hearings during that time, but the session is not scheduled to reconvene until April 6.

ILHIC will NOT hold a regular legislative committee call next week, but given the number of priority bills that are pending on the House and/or Senate floor/committees, Council staff will work to convene specific calls as needed and/or circulate language for revisions to the following priority bills:

Life & Supplemental Bills:

- ***Risk-based pricing restrictions (SUD recovery support)*** - [HB 33 \(Mason\)](#) : ILHIC is working on language to 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. The Council will circulate draft language for review and feedback next week.
- ***Risk-based pricing restrictions (felony conviction)***: [HB 228 \(Mayfield\)](#) : The sponsor has not yet filed a new amendment, but ILHIC is continuing to work with staff, the sponsor and Senate staff on an advocacy strategy moving forward.
- ***Irrevocable assignment – final expense for Medicaid eligibility*** - [HB 295 \(Manley\)](#): The proponents have circulated new draft language that ILHIC previously circulated, and another discussion has been scheduled with the proponents and the various agencies – the Comptroller’s Office, DOI, HFS, and DHS – next week to discuss next steps. ILHIC will schedule another call to discuss the new language and seek feedback to try and achieve a compromise before lawmakers return from the spring break.
- ***Secondary Notification- Life Insurance*** - [SB 2112 \(Harris\)](#): ILHIC is working with ACLI on preparing amendatory language to allow for individuals, upon application, to identify a secondary addressee, including an agent of record, if the applicant so chooses. We will circulate proposed language once that has been drafted.

- **Medigap – Birthday Rule- [SB 147 \(Murphy\)](#):** The sponsor held a subject matter hearing on this bill last week and ILHIC will reconnect with Senator Murphy over the break to discuss her intentions and next steps.
- **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 still encouraging the sponsor to push for appointments and convening of a task force to study disability income insurance and parity for behavioral health conditions that ILHIC worked on with her in 2019 ([P.A. 101-0332](#)).

Health Insurance:

- **Telehealth Coverage and Reimbursement** – As noted previously, there are several bills in the House ([HB 3498 \(Conroy\)](#), [HB 3308 \(Jones\)](#), as amended, and [HB 3759 \(Spain\) with House Amendment #1](#)) that attempt to address telehealth coverage reforms, including parity requirements on reimbursement. ILHIC will work on drafting language to incorporate provisions the Council could support or at least be neutral on. Once language has been pulled together, the Council will schedule a separate call on this issue over the break.
- **PBM Regulations & Reimbursement** – ILHIC is working on finalizing comments and proposed revisions to [SB 2008 \(Koehler\)](#) to submit to the sponsors and staff over the break at their request. ILHIC is working closely with PCMA and IAMHP to highlight concerns that impact PBMs and health insurance benefits for commercial and Medicaid plans.
- **Medical Necessity Criteria – MHSUD** – ILHIC is working on finalizing comments and proposed revisions to [HB 2595 \(Conroy\)](#) to share with the sponsor and proponents over the break.
- **Prior Approval and Public Comment on Health Insurance Rates** – Discussions on [SB 1971 \(Fine\)](#) that sets forth a public posting and public comment period requirements before approval have not resumed since ILHIC first met with the sponsor and proponents of the bill. The Council will work on developing an advocacy strategy, but some of this work may likely be informed by the pending release of the state's Health Care Affordability Feasibility Study.
- **Prior Authorization Reform** – Stakeholder negotiations have not yet convened on [HB 711 \(Harris\)](#), which sets forth extensive restrictions on prior authorizations conducted by health plans. The bill passed out of the House Human Services Committee in early March and the Council submitted comments and proposed revisions along with a coalition of groups – PCMA, IAMHP and AHIP – to the sponsor and proponents earlier this month.
- **Routine COVID-19 Testing at Nursing Home/LTC Facilities** – ILHIC is also continuing to work with Leader Harris and Senator Gillespie on securing clean-up trailer language to [P.A. 101-0655](#), which included provisions requiring coverage for routine COVID-19 testing of all nursing home employees and contractors.

Other Legislative & Regulatory Updates

- **Vision Care Regulation** – The sponsor and proponents (IL Optometric Association) of [SB 2086 \(Castro\)](#) have indicated that they do not intend to move the bill this session. However, they are interested in ILHIC concerns. The Council is opposed to the bill, which is assigned, but not yet posted to Senate Insurance.
- **Legislative Black Caucus Legislative Pillars** - The Governor signed into law the Legislative Black Caucus' economic equity pillar - [P.A. 101-0656](#) – that passed during the 101st General Assembly lame duck session. ILHIC did not weigh in on the bill, but the omnibus measure contained several provisions

impacting employers, including a provision that will require employers who have more than 100 employees to obtain an equal pay registration certificate from the IL Department of Labor and to provide wage data categorized by gender, race, and ethnicity. The economic equity package was one of four pillars of the Legislative Black Caucus' initiative for the lame duck session. The Governor previously signed the education and criminal justice reform pillars into law, and the Senate just yesterday concurred on an amendment to [HB 158 \(Lilly/Hunter\)](#) to send the final health care reform pillar to the Governor. The health care package includes several reforms that are primarily focused on the Medicaid program and enhancing the behavioral health care workforce.

- **Annuity Non-Forfeiture Rate** - ILHIC and ACLI met with DOI staff this week to 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. If the Department and the Governor's office provide support, ILHIC will begin working on a legislative strategy to address the annuity non-forfeiture rate this session; however, the Council does not intend to move forward if the Department and/or the Governor's office is not supportive.

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 – House Committee Deadline

March 29 – April 5 – Legislative Spring Break

April 6 – Consolidated Election

April 16 – NEW Senate Committee Deadline

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 – Scheduled Adjournment