

## ILHIC Legislative Committee – Call Summary

March 6, 2020

The General Assembly adjourned yesterday and will not return to Springfield until after the March Primary Election on March 18<sup>th</sup> (also our ILHIC Legislative Committee Meeting and the Insurance Industry Legislative Day).

### **WEEK IN REVIEW:**

Committee action on key bills and issues was still relatively light this past week, but that will most likely change after legislators clear the March Primary on the 17<sup>th</sup>.

The House Insurance Committee passed legislation establishing new ***voluntary supplier diversity program reporting*** requirements for insurance companies with assets of at least \$50 million. [HB 3965 \(Welch\)](#) cleared committee with the understanding that the sponsor would continue to work with ILHIC to push reporting start dates out and limit reporting requirements to the Department of Insurance.

The committee also held a subject matter hearing on [HB 5230 \(Unes\)](#) that would require health insurers to cover medically necessary ***proton beam therapy*** for individuals in a registry or subjects of a clinical trial. The provisions also mandate reimbursement parity with therapeutically equivalent standard radiation therapy, as well as benefit parity with standard radiation therapy. ILHIC is not taking a position on the legislation at this time and the legislation is expected to be scheduled for a vote when legislators return to Springfield later this month.

The Senate Insurance Committee passed legislation that, as introduced, seeks to impose ***telehealth reimbursement parity*** requirements on insurers with the understanding that the proponents and the sponsor would continue to work on compromise language with ILHIC. [SB 2561 \(Fine\)](#) requires insurers to reimburse providers of telehealth services at the same rate as same services reimbursed for an in-person consultation and further mandates 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 the legislation, as introduced, but has offered language previously agreed to by the industry that would prohibit plans from excluding covered services or treatments rendered by telehealth and further allow insurers to enter into contracts with providers to deliver telehealth services with the reimbursement and facility fee terms subject to contract negotiation with that provider.

The House Prescription Drug Affordability & Accessibility Committee also took up a bill that would establish a new state-run ***Prescription Drug Affordability Board***. [HB 3493 \(Guzzardi\)](#), as amended, gives the Board the authority to review prescription drug market information and establish upper payment limits (UPL) for (non-ERISA and non-Medicare) insurance reimbursements, but the provisions of the legislation also prohibit providers from submitting claims over the UPL to ERISA and Medicare plans, which appears to run afoul of ERISA preemption. ILHIC testified in opposition to the bill. The bill failed to receive enough votes to pass out of a committee.

## **DOI – CORONAVIRUS COVID 19 BULLETIN & FAQs:**

ILHIC previously circulated a [DOI Bulletin 2020-02](#) issued on Monday followed by a set of [consumer FAQs](#) on Tuesday outlining health insurance coverage obligations, as well as travel insurance considerations related to COVID 19. The Bulletin and FAQs reinforce existing state statute and regulatory requirements relating to coverage, including prohibition on exclusion for preexisting conditions and balance billing protections, as well as urging insurers to give consideration to cost-sharing barriers that may impede access to testing and prescription drug supplies.

The Bulletin and FAQs were issued after the Governor held a press conference on Monday outlining the state's action plan as it relates to COVID 19, which included his call on health insurers to comply with existing statutes that protect consumers and encourage proactive steps towards removing barriers to ensure consumers seek appropriate testing and treatment per CDC guidance.

## **LEGISLATIVE ISSUES OF INTEREST:**

### **Investment Advisors – Financial Exploitation Reporting Standards**

[SB 3439 \(Crowe\)](#) amending the Illinois Securities Law to establish protections against the financial exploitation of persons 60 years of age or older and persons subject to the Illinois Adult Protective Services Act to require certain licensees to report suspected incidents of financial exploitation was not called for a vote in the Senate Judiciary Committee this week. ILHIC has offered amendatory language to remove agents/salespersons from the “qualified individuals” subject to the requirements of the bill and also add liability protections for third-party disclosures in addition to the existing protections extended to delay in disbursements or transactions when financial exploitation is suspected. If the amendment is accepted, ILHIC will be neutral on the legislation. Other members of the banking industry have urged the sponsor to hold off on taking up financial exploitation/mandated reporter requirements until the state's [Elder Abuse Task Force](#), which was just formed late last year, issues final policy recommendations.

### **Prohibition on Mandatory Arbitration/Discretionary Clauses**

Legislation seeking a prohibition on mandatory arbitration and discretionary clauses in life, health, and disability insurance policies has changed chief sponsors. Senator Gillespie took over as chief sponsor of [SB 2746 \(Gillespie\)](#) from Senator Morrison. The bill was posted to the Senate Insurance Committee this week, but was not called. ILHIC has spoken with Senator Gillespie who has expressed interest in pursuing this legislation, but is open to discussing concerns with the Council further.

### **Secondary Notice – Life Insurance Lapse**

A NAIFA IL proposal - [SB 3714 \(Harris\)](#) - requiring agent of record notification in addition to secondary notification requirements for any insureds age 64 and older that have a life insurance policy in force for at least one year has been officially assigned to Senate Insurance Committee. As reported previously, ILHIC will work on amendatory language that follows the secondary notification law in CT to require all new life insurance policies to provide applicants (regardless of age) the opportunity to designate a third party for impending lapse notification purposes (with no agent of record notification requirements included).

## **HEALTH INSURANCE - ISSUES OF INTEREST:**

### **High Deductible/Health Savings Account – Copay Accumulator Fix**

ILHIC met with the DOI on Monday to discuss concerns with their proposal - [SB 3862 \(Manar\)](#) – that provides clean-up of HSA-eligible high deductible health plan (HDHP) exemptions with respect to certain IL mandates that eliminate cost-sharing requirements of otherwise non-preventive services (including addressing co-pay accumulator requirements set forth in P.A. 101-0452).

DOI noted that the primary intent of the legislation is to fix the copay accumulator language, which did not include an exemption for HSA-eligible HDHP plans. HHS pulled back on its own copay accumulator language included in the [2020 Notice of Benefit and Payment Parameters](#) that would allow plans to accumulate coupons towards an insured's out of pocket costs, but only in cases where a generic alternative was not available. HHS later issued [FAQ Part 40](#) in August 2019 citing the copay accumulator conflicts with IRS rules. Illinois, however, was one of four states (including AZ, VA, and W. VA) that passed copay accumulator laws in 2019 before HHS reversed itself on the copay accumulator provisions.

The provisions included in SB 3862 were the Department's attempt to preserve HSA tax advantages for 2020 plans in the absence of IRS safe harbor guidance, which would have placed complex filing and disclosure requirements on insurers for the 2020 plans in 2021. The Council has urged DOI to move forward with language that carves HSA-eligible HDHPs from the copay accumulator provisions for 2021 and work with NAIC to get clarification from the IRS as to how they will treat 2020 tax returns that include HSAs in those states like IL that have already codified copay accumulator requirements.

#### **Prior Authorization Reform – Member Comments/Feedback**

ILHIC is compiling member feedback on the IL State Medical Society's proposed prior authorization reforms introduced in [HB 5510 \(Harris\)](#) and [SB 3822 \(Holmes\)](#) outlining requirements concerning disclosure and review of prior authorization requirements, denial of claims or coverage by a utilization review program, and the implementation of prior authorization requirements or restrictions. HB 5510 is currently assigned to the House Human Services Committee but was not called this week in committee (SB 3822 is still in Senate Assignments).

The Council will share comments on the legislation with the sponsor and ISMS next week to begin negotiations.

#### **Mental Health Parity – Insurer Compliance Reporting (P.A. 100-1024)**

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 convened its first meeting last Friday. ILHIC and the IL Chamber participated representing commercial insurers. Other working group members, including representatives from the IL Association of Medicaid Health Plans, BCBSIL (Medicaid), the IL Health and Hospital Association, the IL Association of Behavioral Health (IABH), the Kennedy Forum IL (KFI) and Haymarket Center also participated along with staff from the Departments of Healthcare and Family Services and Insurance.

Representatives from KFI and IABH briefly outlined insurer requirements under the federal and state mental health parity laws, including compliance with quantitative and non-quantitative treatment limitations, and the Department of Insurance summarized the workgroup objectives under the statute.

KFI suggested using reporting templates from NY and PA as a starting place to gather plan feedback; however, after those templates were circulated, the level of data and information requested, is extensive and used mainly for those respective state department internal analysis and not public reporting purposes.

Other key takeaways from the first meeting included:

- Gathering current compliance reporting requirements plans, including Medicaid health plans are required to perform (examples cited included the parity compliance narratives plans are required to submit with annual policy filings, as well as recent and ongoing DOI targeted mental health parity market conduct exams, and HFS Medicaid health plan parity analysis reports compiled in late 2017).
- Identify definitions and terms for uniformity in reporting (such as NQTL examples, and benefit classification definitions like in-network/out-of-network inpatient/outpatient care, emergency care, and pharmacy).
- Stakeholder agreement to amend [SB 3425 \(Bush\)](#) to push back the insurer compliance reporting date from July 1, 2020 to January 1, 2021.\*

\*The Senate Public Health Committee did pass the bill out this week, but the sponsor has agreed to hold the bill on second for the amendment. The legislation currently moves the working group report date back from December 31, 2019 to May 31, 2020; however, the working group determined that more time may be needed to complete their work and would reassess that date at the next meeting later this month.

The Council will work with the IL Chamber to schedule a call with health insurer members to collect feedback and information related to the request made of KFI (i.e. the response to the NY and PA reporting templates).

#### **Medical Necessity Criteria Working Group (P.A. 101-0461)**

The DOI Working Group regarding the Development of Medical Necessity Criteria is not meeting this week, but will hold an additional meeting next Friday to conclude its work on the medical necessity criteria. The minutes from the last meeting are posted [HERE](#).

#### **ILHIC LEGISLATIVE MEETING AND INSURANCE INDUSTRY LEGISLATIVE DAY – MARCH 18**

There is still time to RSVP for the upcoming Legislative Committee Meeting and Insurance Industry Legislative Day in Springfield on March 18. ILHIC will hold a committee meeting at the Abraham Lincoln Presidential Library in the morning from 10 – 12 (lunch is provided) and the Industry Legislative Day will get underway at 2 pm at the Wyndham.

Please RSVP to Susan at [ilicbarry@gmail.com](mailto:ilicbarry@gmail.com) if you plan to attend the Legislative Committee meeting.

There is a separate registration process for the Industry Legislative Day through the dedicated website for this event: <https://www.insurancelegislativeday.org/>. If you need assistance or if you need the Council to register you for this portion of the day, please let Susan know.

#### **UPCOMING MEETINGS/IMPORTANT DATES:**

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