

# ILHIC Legislative Committee Update

May 15, 2020

Legislators will be returning to Springfield next Wednesday, May 20 – Friday, May 22 for legislative session, but their return will look very different than the last time they were in Springfield on March 5.

A [two-page memo](#) issued to House members on Wednesday outlined legislative session procedures for convening at the Springfield convention center. The Senate will meet in their chambers at the State Capitol building. All House members have been asked to [sign a pledge](#) in which they agree, among others things, to get tested for COVID-19 prior to traveling to Springfield, have their temperature checked every time they enter the building, and refrain from engaging in direct contact with lobbyists.

## Legislative Session – Special Session Update

The House and Senate issued a [joint proclamation](#) on Wednesday calling for the return of legislators next week into a special session to take up legislation related to the following issues:

1. COVID-19 pandemic and other disasters;
2. State budget and implementation (including addressing revenue shortfalls impacting the current FY 2020 budget, as well as the new FY 2021 budget that takes effect on July 1);
3. Economic recovery and infrastructure projects, and the funding for those initiatives/projects;
4. Issues, arguments for/against, and forms related to Constitutional Amendments;
5. Laws or authority scheduled to be repealed prior to June 1, 2021;
6. The 2020 General Election (which could mean expansion of mail-in ballot and virtual voting); and
7. Reform and reauthorize the state's \$3.5 billion hospital assessment program (for Medicaid) that is scheduled to be repealed on June 30.

Below is a summary of some of the key issues for possible consideration next week:

***Telehealth and other insurance-related measures:*** The House health care working group has indicated that they are working through a list of legislative considerations that may include coverage for telehealth, including codifying the Governor's [EO 2020-09](#) and related insurance guidance (DOI [Bulletin 2020-04](#)) and the HFS [telehealth emergency rule](#). Several provider groups, including the IL Health and Hospital Association, and behavioral health providers and advocates have been pushing for expanded telehealth coverage to extend through the public health emergency and beyond.

ILHIC has provided amendatory language the Council previously worked on with the IL Psychiatric Society to [SB 2561 \(Fine\)](#) that would replace reimbursement parity and facility fee reimbursement requirements with provisions that would make it clear that insurers cannot exclude from coverage a medically necessary health care service or procedure delivered by a contracted health care provider solely because the service or procedure was provided through telehealth and further clarify that reimbursement arrangements, including facility fees, are subject to negotiation with the contracted provider.

The working group is also exploring other issues related to prescription drug price transparency, nurse and other healthcare professional licensure changes, Medicaid coverage and dependent coverage issues, and possible business interruption insurance provisions, including requiring prospective coverage to offer a pandemic coverage option, as well as a cap on premiums for period of time.

ILHIC has encouraged the House and Senate Insurance Committee to explore creation of a special COVID-19 working group to focus on insurance issues related to COVID-19 rather than codifying provisions that will make it more difficult for insurance carriers to respond to evolving market needs while in the public health emergency and even beyond the duration of the emergency.

The Senate health and human services working group has not put forward any specific policy recommendations at this time.

ILHIC has also reminded legislators and staff of previous requests regarding considerations for legislative priorities, including moving back the July 1<sup>st</sup> mental health parity compliance reporting date ([P.A. 100-1024](#)), as well as applying a legislative fix to [P.A. 101-0452](#) to exempt HSA-eligible high-deductible health plans from the copay accumulator requirements. ILHIC, along with the IL Chamber of Commerce, also recirculated a joint letter to legislative leaders discouraging consideration of any legislative efforts that might seek to codify coverage changes implemented that are specific to the public health emergency.

**Workers' Compensation/Employer PPE Requirements:** Lawmakers may address workers' compensation issues related to [emergency rules](#) filed by the IL Workers' Compensation Commission last month that would have extended workers' compensation coverage to all "essential" workers who contracted COVID-19 with no proof that the illness was contracted at the workplace. The rules were eventually withdrawn after business groups filed a [lawsuit](#) maintaining the IL WCC exceeded their statutory authority. The Governor and the IL WCC intimated at the time the rules were withdrawn the issue would likely be taken up in the General Assembly.

Lawmakers may also seek other statutory protections for essential workers that may include a new cause of action for essential employers to provide personal protective equipment to their employees and any independent contractors located within Illinois. [HB 5769 \(Thapedi\)](#) was introduced last week to impose these new requirements and remedies. While the bill itself could not meet the procedural timelines required for passage next week, the provisions could be swept into a larger omnibus package of bills.

**Executive Authority:** A Democrat-controlled General Assembly may explore legislation that clarifies the Governor's executive authority to issue multiple 30-day emergency declarations to give him further cover against a growing contingency of lawsuits filed by individuals, church groups, businesses, and two Republican lawmakers. The IL Supreme Court rejected to the Governor's request to seeking supervisory relief earlier this week.

Republican leaders are also pushing the Legislature to discuss possible legislative revisions to the Governor's plan to re-open the state. The plan, known as [Restore Illinois](#), was introduced last week to provide a phased-in, regional approach to allowing certain businesses and activities to resume. Since that time, several counties and public officials have balked at their inclusion in certain regions that may not be able to move into a new phase of re-opening as quickly as others while some counties have already moved forward with their own plans to re-open that run counter to the Administration's plan.

**FY 2020 Budget Shortfalls and FY 2021 Spending Plan:** The state's financial situation is expected to loom large next week as lawmakers address a projected revenue shortfall of nearly \$3 billion in this current fiscal year. The Governor previously announced efforts to address the shortfall that include across-the-board administrative cuts and spending efficiencies at state agencies, transferring nearly \$700 million in other state funds to fill in spending gaps, and securing \$1.2 billion in short-term borrowing.

The Governor reaffirmed in his daily press conference yesterday that he does not anticipate revenue shortfalls projected for FY 2021 to be different than those his Administration [outlined](#) in mid-April that account for approximately \$4.6 billion less than anticipated for the next fiscal year. However, this figure also does not

account for other unanticipated spending pressures, including the possibility that voters do not approve a constitutional amendment in the fall that would change the state's flat income tax to a graduated income tax structure.

Lawmakers are not eager to make difficult and unpopular financial decisions ahead of a General Election and are expected to pass a budget that gives the Governor greater authority to move funds around to address current and upcoming spending pressures. The budget may include more authority for borrowing, as well as give flexibility to distribute current and forthcoming federal funds that may come through under new pending federal funding relief packages.

The Administration is also pushing for reduction in the prompt pay interest owed to state vendors, including insurers and health care providers, with some suggesting the interest penalty could be reduced to as low as 1.4%. Penalties owed pursuant to the State's Prompt Payment Act kick in after 90 days and are calculated at 12% per year after that 90 days. Timely Pay under the Insurance Code requires interest penalties to be paid when there is a delay of more than 30 days and those interest payments are calculated at 9% per year.

### **IL DOI – Regulatory Update**

#### **Proposed Rule – Life & Health Policy Filing Requirements**

ILHIC and ACLI have scheduled a call with the Department on Monday to discuss preliminary questions and concerns regarding the Department's proposed rule dictating new health, life, and accident policy filing requirements and restrictions. ILHIC will also file written comments with the Department by the June 8 deadline, so members are encouraged to submit their comments and feedback to the Council by **May 22**.

As a reminder, the [Notice of Proposed Rule](#) was published in the April 24 Register and begins on pg. 6211 with the text of the proposed rule beginning on pg. 6213.

#### **QHP Filing Bulletin**

The Department issued [Bulletin 2020-13](#) last Friday outlining the filing deadlines and requirements for individual and small group health plans on- and off-exchange. As a point of note, the Bulletin includes language relating back to the proposed rule that requires all form filings to be "submitted in the format of a complete insurance policy. The Department will not accept matrix insert page filings, riders, amendments, variable language or brackets."

#### **Uniform Prior Authorization Form for Prescription Drugs – Working Group Meeting (5/15)**

The [P.A. 101-0463](#) working group will hold its second meeting (via phone call) tomorrow at 10 am. This working group was established to provide feedback to the Department in their development of a uniform form for the prior authorization of prescription drugs that providers and insurers will be required to use beginning July 1, 2021. The Department and members of the working group will discuss recommendations submitted by the various provider groups, including ILHIC and the insurance industry last week.

ILHIC did inquire of the Department as to whether they intend to issue their proposed draft form as a proposed rule or by issuing a draft for public comment. They have not yet determined how they will proceed on that phase, but once they have had a chance to discuss internally, they have agreed to follow back up with ILHIC to discuss other implementation and compliance questions members have raised.

**UPCOMING MEETINGS/IMPORTANT DATES:**

May 18 – Virtual Fundraiser for Representative DeLuca (e-mail Susan at [slist@ilhic.com](mailto:slist@ilhic.com) to RSVP)

May 20-22 – Special Legislative Session

May 28 – Virtual Fundraiser for House Insurance Chairman Jones (e-mail [jonescalumetcity@aol.com](mailto:jonescalumetcity@aol.com) to RSVP)

May 31 – Scheduled Adjournment Date

***June 8-10 – ILHIC Annual Meeting – Lake Geneva - POSTPONED***

November 3, 2020 – General Election Day