

Government Relations Update – December 9, 2014

Pennsylvania Issues

Advocacy

- **Healthy PA:** As reported previously, the Patient Protection and Affordable Care Act (PPACA) expanded state medical assistance programs significantly on January 1, 2014, unless states elected to opt out. On August 28, 2014, the Centers for Medicare & Medicaid Services (CMS) and Governor Tom Corbett (R) finally reached agreement to expand Pennsylvania's medical assistance program pursuant to a modified waiver, entitled Healthy PA. The Healthy PA program proposed to increase Medicaid coverage for about 500,000 low-income Pennsylvanians by using federal funds to cover costs through the private insurance exchange system, rather than simply expanding Medicaid to additional enrollees.

Expanded enrollment began on December 1, 2014, and coverage will commence on January 1, 2014. According to Pennsylvania's Department of Human Services (formerly known as the Department of Public Welfare), the Commonwealth has spent more than \$2 million to promote and implement Healthy PA.

Governor-elect Tom Wolf (D) considers Healthy PA overly bureaucratic and unnecessarily complicated. Accordingly, the Wolf transition team is planning to convert enrollees from Healthy PA to an expanded Medicaid program permitted through PPACA. Estelle Richman, Governor-elect Wolf's Medicaid advisor, has assured participants that coverage will not be interrupted.

New Jersey Issues

Advocacy

- **New Jersey Economic Impact Report:** On November 25, 2014, the New Jersey Hospital Association (NJHA) released the *2014 New Jersey Hospital Impact Report*. According to the report, New Jersey hospitals contributed \$20.9 billion to the state economy in 2013 by employing over 144,000 individuals, paying \$8.3 billion in salaries and causing the payment of nearly \$460 million in state income taxes by hospital employees. The report also contained hospital specific data to illustrate the economic contribution of each hospital to its local community. The NJHA has encouraged its members to share this information with their communities.

Federal Issues

Legislation

- **H.R. 4106:** The Saving Lives, Saving Costs Act. On February 27, 2014, Congressmen Andy Barr (R-6-KY) and Ami Bera (D-7-CA) introduced legislation designed to protect physicians from medical malpractice lawsuits when practicing within known standards of care. The bill would allow medical malpractice cases involving a patient covered by a federal health plan to be moved to federal court. The case would be examined by a panel of medical experts to determine whether the care adhered to recognized clinical guidelines. The panel's decision would not be binding, but its findings would be admissible in court. Moreover, if the panel finds that the defendant was not negligent, the plaintiff still has the right to proceed to trial, but the plaintiff would be required to meet a heightened burden of proof – increased from the preponderance of the evidence to a clear and convincing standard – in order to proceed beyond summary judgment. In addition, if a defendant prevails subsequent to a preliminary finding in his or her favor by the panel, the defendant may recover costs and attorneys' fees from the plaintiff.

Opponents of the bill argue that the legislation would unfairly limit the rights of injured parties and that the appropriateness of patient care cannot always be determined by specific practice guidelines. The American College of Physicians and the American Congress of Obstetricians and Gynecologists support the bill. The bill has been assigned to the House Energy and Commerce Committee, but it has not been scheduled for consideration. Congressman Bera plans to reintroduce the bill in the next legislative session.

- **S. 2962:** The Medical Expense Deduction Act. On November 20, 2014, Senator Patrick Toomey (R-PA) introduced legislation which would allow consumers to deduct unreimbursed medical expenses exceeding 7.5% of their adjusted gross income (AGI) as an itemized deduction. The medical expense deduction had been permitted above 7.5% of AGI, but PPACA raised the floor to 10%. It is unlikely that the bill will be considered during the 113th Congress, but Senator Toomey plans to reintroduce the bill in the next legislative session.

Miscellaneous

- **113th Congress:** The 113th Congress concludes on January 3, 2015. Lawmakers have only produced 165 new laws during the current session, which makes it the least productive in modern history. By comparison, the 112th Congress produced 283 public laws and the 111th Congress passed 383 bills. The 84th Congress, which met from 1955 to 1957 during the Eisenhower Administration, enacted 1,028 pieces of legislation, which made it the most productive.
- **House Republican Reorganization:** On November 18, 2014, the House Republican Caucus announced the appointment of Congressman Charlie Dent (R-15) as Chairman of the House Ethics Committee in the 114th Congress. The House Ethics Committee was created in 1967. It has jurisdiction over all bills, resolutions and other matters relating to the House Code of Official Conduct and is responsible for enforcing the standards of official conduct for members of the House of Representatives. Congressman Dent also serves as a member of the House Committee on Appropriations, which is considered one of the most powerful committees in Congress since it determines annual funding levels for departments and agencies within the federal government.
- **U.S. District Judge for the Eastern District of Pennsylvania:** On December 4, 2014, the United States Senate confirmed Joseph Leeson as a federal judge for the United States District Court of the Eastern District of Pennsylvania. Mr. Leeson, a former Bethlehem city councilman and city solicitor, was nominated in June to replace retiring Senior United States District Judge Eduardo C. Robreno. Senators Toomey and Bob Casey (D-PA) voted in favor of the confirmation. Senators Cory Booker (D-NJ) and Robert Menendez (D-NJ) opposed the confirmation. Mr. Leeson will preside in the federal courthouse in Allentown, together with United States District Judge James Knoll Gardner and United States Magistrate Judge Henry S. Perkin.
- **Healthcare Spending Lowest in 50 Years:** On December 3, 2014, the Office of the Actuary at CMS reported that healthcare spending increase by 3.6% during 2013, the lowest annual rate of increase since 1960. The agency reported that total health expenditures in the United States were \$2.9 trillion last year, or about \$9,200 per person. Spending growth for physician and clinical services was also down, dropping from an increase of 4.5% in 2012 to 3.8% growth in 2013. The report attributes the slowdown in healthcare spending to slower growth in private health insurance and Medicare spending, as well as slower growth in spending for hospital care and less investments in medical structures and equipment. Conversely, Medicaid spending rose 6.1% in 2013, reaching \$449.4 billion, compared with a 4.0% increase in 2012. The bigger increase was partly due to higher payments to Medicaid providers and to the expansion of Medicaid benefits among some states. One other area in which the rate of spending growth notably increased was retail prescription drugs, where spending grew by 2.5% in 2013, to \$271.1 billion. This contrasted with a growth rate of 0.5% for 2012.