



Government Relations Update

March 14, 2017



Pennsylvania Issues

Legislation

- **H.B. 347:** Health Care Provider Self-Referral Act. On February 6, 2017, State Representative Anthony DeLuca (D-Allegheny) reintroduced legislation that would prohibit a health care provider from referring a person for certain health services if the provider or an immediate family member of the provider has a financial interest with the person or entity receiving the referral. The bill would cover the following: (1) clinical laboratory services; (2) physical therapy, occupational therapy or speech language pathology services; (3) chiropractic services; (4) radiation oncology services; (5) psychometric services; (6) home health services; and (7) diagnostic imaging. The safe harbors applicable to the Stark Law would apply to services covered by the bill. Violators would be subject to civil penalties. According to Representative DeLuca, the bill would limit the provision of unnecessary services. Opponents argue that safe harbors included under the Stark Law are confusing and burdensome and limit new value based payment models. Representative Daniel McNeill (D-Lehigh, Northampton) serves as a co-sponsor of the bill, which has been assigned to the House Health Committee.
- **S.B. 25:** Modernization of the Professional Nursing Law. The Pennsylvania Professional Nursing Law permits certified registered nurse practitioners to treat patients and prescribe medications only through written collaborations with physicians. On February 15, 2017, Senator Camera Bartolotta (R-Beaver, Greene, Washington) introduced legislation to establish an Advanced Practice Registered Nurse-Certified Nurse Practitioner (APRN-CNP) license, which would allow APRN-CNPs to practice and prescribe medications without a formal collaborative agreement. Twenty other states and the District of Columbia have passed similar legislation.

The Pennsylvania Coalition of Nurse Practitioners (PCNP) supports the bill and asserts that the legislation would allow nurse practitioners to work to their full capabilities, which is essential to provide care in rural and underserved areas. Several physician groups, including Pennsylvania Medical Society and the Academy of Family Physicians, oppose the bill and express concerns regarding patient safety. The Hospital & Healthsystem Association of Pennsylvania (HAP) was originally neutral on the proposed legislation. However, during the prior legislative session, the PCNP and HAP drafted a proposed amendment to the bill to require that nurse practitioners successfully complete course work and practice hours with a physician as a condition to practicing without a collaboration agreement, and HAP now supports the revised legislation. Senators Dave Argall (R-Schuylkill, Berks), Lisa Boscola (D-Northampton) and Mario Scavello (R-Monroe) serve as co-sponsors of the bill, which has been assigned to the Senate Consumer Protection and Professional Licensure Committee. During the previous legislative session, the bill was passed by the Senate, but it was not considered by the House.

New Jersey Issues

Advocacy

- **State Budget:** On February 28, 2017, Governor Chris Christie (R-NJ) delivered his eighth and final budget proposal for the upcoming state fiscal year, which includes a \$35.5 billion spending plan, representing a 2.9% increase over the current budget. The proposal incorporates a \$30 million increase for graduate medical education and a \$2.5 billion contribution to the state's retirement system for public employees. The Governor also proposed a \$50 million reduction to the New Jersey Hospital Care Payment Assistance Program. Governor Christie defended the reduction by asserting that the number of uninsured patients has declined in recent years as a result of the Affordable Care Act (ACA). The budget plan relies on a 3.6% increase in revenues and a transfer from the state lottery program to fund the initiatives. The New Jersey Hospital Association expressed its concern regarding the charity care program decrease, since the program was already

reduced by \$200 million during the prior fiscal year and given the uncertainty of the ACA. The New Jersey state legislature, which is controlled by the Democratic party, must adopt a budget by July 1st.

Federal Issues

Advocacy

- **American Health Care Act of 2017**. As reported previously, the House and Senate passed a Concurrent Resolution on January 3, 2017 directing committees in each chamber to develop legislation repealing major portions of the ACA on matters within their jurisdiction. On March 6, 2017, the House Energy & Commerce Committee and the House Ways & Means Committee released the highly anticipated proposed bill.

As currently drafted, the bill would eliminate the individual mandate penalizing individuals who fail to purchase health insurance. However, in order to encourage people to maintain coverage, the bill proposes a “continuous coverage incentive” charging individuals a 30% subsequent premium penalty for lapses in health insurance coverage. The bill would also repeal the employer mandate which requires larger companies to provide affordable insurance to their employees or face financial penalties.

While the federal government currently provides tax credits under the ACA to middle-income Americans on a sliding scale according to income to help offset the cost of premiums and deductibles, the replacement bill would reduce subsidies and distribute them by age, rather than income. Moreover, while the ACA limits the premiums that health plans can charge for older customers to three times the price charged to younger ones, the replacement bill would allow plans to charge up to five times the price charged to younger customers. The bill would also repeal the 2.3% excise tax on medical device sales. Finally, the bill would provide tax credits for the purchase of state-approved, major medical health insurance and unsubsidized COBRA coverage to individuals who are not offered health coverage from an employer and increase maximum contributions permitted to Health Savings Accounts and Flexible Spending Accounts.

Certain popular components of the ACA would remain, including the requirements for health plans to provide coverage regardless of pre-existing medical conditions, cover essential health benefits and permit dependents to remain on their parents’ insurance policies until age 26. The replacement bill would also maintain the prohibitions on health plans charging additional amounts based on a person’s health history and setting annual and lifetime policy limits.

House Speaker Paul Ryan (R-1-WI) asserts that the bill would save significant federal dollars and allow states the flexibility to redesign their own Medicaid programs. Opponents contend that the replacement bill would severely impact older Americans and significantly increase the uninsured population. The Congressional Budget Office (CBO) has not yet estimated the cost of the proposal or the amount of people expected to maintain or decline coverage. On March 9, 2017, both house committees passed the bill along party lines. The legislation must now be approved by the House Budget Committee before being sent to the House Rules Committee. Speaker Ryan believes that a final bill will be sent to the House floor for a vote by late March. AARP, the American Medical Association (AMA) and the American Hospital Association (AHA) all oppose the bill.

Legislation

- **H.R. 1215**: The Protecting Access to Primary Care Act. On February 24, 2017, Congressman Steve King (R-4-IA) introduced a bill which would place a \$250,000 cap on noneconomic damages awarded in medical liability actions where the plaintiff received healthcare covered through a federal program, subsidy or tax benefit, including care covered by Medicare, Medicaid or private health plans subsidized by the ACA. The CBO estimates that the measure would save \$50 billion over 10 years. On February 28, 2017, the House Judiciary Committee passed the bill, and it has been sent to the House Energy & Commerce Committee for further consideration. The bill is supported by the Health Coalition on Liability and Access, the AMA, the AHA, the American College of Surgeons and the American College of Cardiology. Supporters argue that the bill would deter frivolous malpractice suits, relieve physicians of the pressure to practice defensive medicine, lower malpractice insurance premiums and increase access to healthcare. Opponents argue that the bill would be unfair to injured parties.