

## Government Relations Update – October 18, 2022

### Pennsylvania Issues

#### Legislation

- **HB 2401:** Home Health Care Regulatory Relief. As previously reported, on March 16, 2022, Representative Jeff Wheeland (R-Lycoming) introduced legislation to allow certified registered nurse practitioners and physician assistants to order home health services and registered nurses to conduct required bimonthly supervisory visits with home health patients remotely, which has been permissible for the past two years through COVID waivers. The Centers for Medicare and Medicaid Services also recently updated the federal home health regulations to make permanent remote supervision options. The bill passed both chambers and was signed into law by Governor Tom Wolf (D) on June 2, 2022. St. Luke's and the Hospital and Healthsystem Association of Pennsylvania (HAP) supported this legislation.
- **HB 2660:** Venue Rules Change. As previously reported, on December 22, 2018, the Civil Procedural Rules Committee of the Pennsylvania Supreme Court announced that it was considering whether to eliminate a Pennsylvania Rule of Civil Procedure requiring medical malpractice actions against healthcare providers to be filed only in the county where the cause of action occurred. The rule was originally adopted in 2002 in reaction to Pennsylvania's medical liability insurance crisis. St. Luke's worked with HAP and local legislators to voice its concern regarding the potential repeal of the venue rule. St. Luke's also joined the Pennsylvania Coalition for Civil Justice Reform (PCCJR), which led a coalition of healthcare providers, insurers, and other businesses to oppose the change.

Unfortunately, on August 25, 2022, the Pennsylvania Supreme Court rescinded the rule, effective January 1, 2023, thereby permitting legal actions against providers to be brought in any county where a defendant may be served, allowing personal injury attorneys significant flexibility to choose a favorable venue for suit. On September 12, 2022, St. Luke's sent a memorandum to House and Senate leadership outlining the negative impacts of the change and urging them to take immediate action to prohibit venue shopping. HAP and St. Luke's will continue working with the legislature and PCCJR to advocate for a solution.

- **SB 225:** Prior Authorization of Medical Services in Pennsylvania. As previously reported, on March 18, 2021, Senator Kristin Phillips-Hill (R-York) introduced legislation to streamline and standardize the process for prior authorization of medical services in Pennsylvania. The current prior authorization process is too often inefficient and increases costs for providers and patients. Moreover, it causes significant delays in treatment, which can cause patient harm.

The legislation would improve transparency, accessibility, and consistency by standardizing the definition of "medically necessary" services. It would also significantly streamline the process by requiring insurers to allow prior authorization requests to be submitted electronically and to require the authorizations and any adverse determinations to be returned electronically within 72 hours for urgent services and 15 days for non-urgent services. On June 29, 2022, the Senate approved the bill, and it awaits consideration by the House. St. Luke's and HAP support this legislation.

#### Miscellaneous

- **Pennsylvania Fiscal Year 2022-2023 Budget:** On July 11, 2022, Governor Wolf signed into law the Pennsylvania budget for the fiscal year ending June 30, 2023. The \$45.2 billion spending plan includes \$42.6 million in additional county mental health funding, another \$2.5 million to support the Primary Health Care Practitioner Program, full funding for Medicaid supplemental budget lines for burn centers, critical access hospitals, obstetric/neonatal services, and trauma centers, an additional \$20 million in supplementary payments to personal care homes to augment capacity for post-acute care placements, and an additional \$4.2 million for local and county health departments.

The budget also contains \$2.4 billion in American Rescue Plan Act (ARPA) funding, which includes \$100 million for adult behavioral health services, \$100 million for school-based mental health grants, \$35 million for nurse student loan forgiveness, \$150 million for nursing home staffing costs, \$250 million to support long-term living programs, and \$278.8 million for broadband capital projects.

- **Behavioral Health Commission for Adult Mental Health:** On July 11, 2022, Governor Wolf signed Act 54 of 2022 into law, which established the Behavioral Health Commission for Adult Mental Health. The Commission is charged with allocating the \$100 million in ARPA funding for adult behavioral health needs included in the state budget. On October 4, 2022, the Commission issued a report recommending the spending of \$37 million to stabilize, strengthen, and expand the behavioral health workforce, \$23.5 million to improve the criminal justice and public safety systems, \$39 million to expand capacity for behavioral health treatments and services, and \$500,000 for a retroactive study evaluating the impact of projects supported by the funding. St. Luke's representatives held discussions with Representative Mike Schlossberg (D-Lehigh), who serves on the Commission, and recommended spending objectives. St. Luke's will continue to monitor and provide feedback on the Commission's recommendations and the use of the funds.

### **Federal Issues**

#### **Legislation**

- **S.4009:** Rural Hospital Support Act. On April 6, 2022, Senator Bob Casey, Jr. (D-PA) introduced legislation to make permanent the payment adjustments for hospitals enrolled in the Medicare-dependent, Small Rural Hospital (MDH) program. Statutory authority for the MDH program was set to expire on September 30, 2022. St. Luke's Hospital – Miners Campus, St. Luke's Hospital – Upper Bucks Campus, St. Luke's Hospital – Easton Campus, and St. Luke's Hospital – Warren Campus are among the 160 hospitals in 32 states benefiting from the MDH program. On September 30, 2022, legislation to extend the MDH program until December 16, 2022 was signed into law by President Joe Biden (D). St. Luke's is currently working with Pennsylvania and New Jersey federal legislators to extend the MDH Program for an additional five years. The American Hospital Association (AHA) and HAP support this legislation. If the MDH program expires, St. Luke's will forfeit approximately \$8 million in annual reimbursements.
- **H.R.4040:** Advancing Telehealth Beyond COVID-19 Act. On July 29, 2022, Representatives Liz Cheney (R-WY) and Debbie Dingell (D-MI) introduced legislation to extend critical telehealth policies implemented during the pandemic through December 31, 2024 to make it easier for individuals to access and receive insurance coverage for remote care and other emerging health care technologies. The legislation would permit: (1) Medicare beneficiaries to receive telehealth services from any location, including their homes; (2) additional categories of medical professionals and facilities, such as rural health clinics and federally qualified health centers, to provide telehealth services; and (3) Medicare beneficiaries to receive certain benefits, such as evaluation and management services, behavioral health services, and substance use disorder services, via audio-only technology. On July 27, 2022, the bill passed in the House, and it is awaiting consideration in the Senate. St. Luke's, HAP, and AHA support the bill.
- **H.R.8800:** Supporting Medicare Providers Act. As previously reported, on March 4, 2021, Senator Tim Kaine (D-VA) introduced legislation to delay scheduled payment cuts to physicians, therapists, and health care professionals, including the 2% Medicare sequester, the 4% reduction to providers under the Pay-As-You-Go Act of 2010 (PAYGO), and the expiration of the 3.75% payment increase for physicians originally set to take place on January 1, 2022. On December 9, 2021, Congress passed, and the President then signed, a bill that provided a three-month extension of the moratorium on the Medicare sequester payment reductions, delayed the PAYGO reduction until 2023, and reduced the scheduled 3.75% payment cut to physicians to 3% until March 31, 2022. The 2% Medicare sequester payment reductions were also delayed until June 30, 2022. On September 13, 2022, Representatives Ami Bera, MD (D-CA) and Larry Bucshon, MD (R-IN) introduced legislation to increase the physician fee schedule conversion factor to 4.42%, curing the planned Medicare physician fee schedule reduction for another year. The bill is awaiting consideration in the House Energy & Commerce and Ways & Means committees. St. Luke's supports the bill.