LOBBY OREGON

LEGISLATIVE UPDATE

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Telehealth Coverage and Reimbursement

DCBS Director Andrew Stolfi updated the House Health Committee on discussions surrounding reimbursement for telehealth services. Pre-COVID, Oregon law only required commercial health insurance cover telehealth services delivered via two-way video conference, but is silent on the reimbursement rate. On March 24, DCBS and OHA released joint guidance on telehealth for insurers and CCOs. All Oregon health insurers expanded telehealth coverage and voluntarily instituted pay parity. Governor Brown's voluntary agreement with insurers to continue expanded coverage and reimbursement has been extended through June 30, 2021.

The agency conducted three listening sessions with providers, insurers and consumers in November and December 2020. Providers were generally supportive of making expanded telehealth coverage and pay parity permanent, but disagreed about best practices for telehealth provided by phone or other non-visual media. Insurers supported continued telehealth expansion during at least the acute phase of the COVID-19 outbreak, but expressed concerns about permanent policy changes, especially pay parity.

The National Association of Insurance Commissioners is pushing the federal government to make telehealth flexibilities permanent. Medicare has made some of its telehealth expansion permanent, but larger changes may require action by Congress.

Implementation of Ballot Measure 110

Ballot Measure 110 went into effect on December 3, 2020, and tasks OHA with administering and supporting all aspects of its implementation. OHA's new website informs Oregonians about the act. The agency is currently recruiting and filling positions to support the measure.

By February 1, 2021, OHA is required to set-up a temporary 24/7 Telephone Addiction Recovery Center (ARC) and form an Oversight and Accountability Council. It is contracting with Lines for Life to provide 24-hour triage, health assessment, comprehensive substance abuse disorder screening, development of individual intervention plans and intensive care management. Membership of the council will be announced soon. By October 1, 2021, 24/7 Addiction Recovery Centers must be established throughout the state.

Steve Allen, OHA's Behavioral Health Director, identified several challenges to implementation, including its aggressive timeline, a gap in analysis/inventory of current services, system integration, council establishment and stakeholder engagement. OHA is considering phased implementation and may propose a new timeline to the Legislature as early as next week.

Reginald Richardson, Executive Director of the Alcohol and Drug Policy Commission, outlined where the commission's strategic plan and measure 110 align. He told House Health that prevention services is the biggest area of non-alignment. The strategic plan

aims to reduce substance abuse disorders, which the ballot measure does not. “We cannot treat ourselves out of this situation,” Richardson told the committee. “We must also have prevention services.” Richardson said he looks forward to working with the Oversight and Accountability Council to address these issues.

HB 2313 – Inventory of Recovery Services

Similar to HB 4149 (2020), this bill requires the OHA Director to work with the Alcohol and Drug Policy Commission to take a statewide inventory of services available to prevent and treat substance use disorders, and support individuals in recovery. It requires the Commission to report its findings to the Legislature’s interim mental and behavioral health committees by November 1, 2021, and sunsets in January 2023. HB 2313 also expands the list of state agencies required to work with the commission, and requires they meet quarterly to review and report on each agency’s progress, as well as what has been achieved in the commission’s strategic plan.

Reginald Richardson told House Health that he is often asked how much it would cost to implement the strategic plan. He cannot answer because we do not know what services are being provided in Oregon. Bill sponsor Rep. Janeen Sollman (D-Hillsboro) said this knowledge is “absolutely crucial” as we start to implement measure 110.

Affordability in Health Care

From 2013 to 2017, total health spending in Oregon grew at 6.5% on average per year, compared to 4.5% at the national level. The average health insurance payment equals 29% of a person’s salary. The Oregon Health Authority’s Jeremy Vandehey says that their concern is that people will at some point no longer see the value in spending so much on health insurance.

The state’s answer for this was to set a cost growth benchmark for the health care system. The Implementation Committee, appointed by the Governor has been working for the past two years to make decisions on how that program should work. That Committee set an inflation target at 3.4% growth annually until 2026, when that number will drop to just 3%. “That’s $16 billion in savings over the next four years that we can spend on other priorities such as wages, education, or housing” says Vandehey.

Inflation will be measured at four levels—statewide, at the market level (i.e. Medicare, Medicaid and Commercial), the individual insurer level (public and private payers) and at the provider level. The target will only apply to providers who serve a minimum patient population.

The Implementation Committee has also started work on a voluntary compact to achieve aggressive value-based payment targets. The Governor’s budget includes a policy option package (POP) for funding to help the Oregon Health Authority play a leadership role in establishing a statewide, value-based payment roadmap. “We expect there will be a tremendous amount of technical assistance needed as we go into [this work]” added Vandehey.

HB 2042 – Balanced Billing

Current state law (ORS 743B.287) protects consumers from balanced billing from out-of-network providers at in-network facilities. A benchmark reimbursement rate pegged to a percentage of Medicare ensures “reasonable” payment, but this part of the law sunsets in 2022. HB 2042 would extend that sunset in its current form.

New federal legislation has DCBS rethinking whether this legislation is necessary. The No Surprises Act, effective in 2022, has similar provisions to Oregon’s law, although it is broader and uses arbitration to determine reimbursement. The federal act

also includes self-insured employer plans, emergency services and air ambulance services, which the state does not have the authority to regulate. The law permits states to establish different reimbursement models, but only for state-regulated plans. DCBS is consulting with stakeholders.

HB 2044 – Drug Price Transparency

HB 2044 provides technical tweaks to the Prescription Drug Price Transparency Program. A lawsuit filed by the pharmaceutical manufacturer trade group Pharma is pending before the Federal District Court in Eugene. It aims to block implementation of HB 4005 (2018), which established the Prescription Drug Price Transparency Program, and HB 2658 (2019), which requires 60-day notice of large drug price increases. DCBS could not comment on the ongoing case.

HB 2046 – Affordable Care Act Alignment

This bill fixes technical alignment issues between Oregon law and the Affordable Care Act, including grace period language passed in HB 4110 (2020). It is also a vehicle DCBS plans on using if anything else comes up during session, such as Biden administration initiatives.

HB 2078 – Repeal of Common Credentialing; Other Statutory Clean Up

This bill amends various statutes to reflect changes in Oregon Health Authority programs, reporting requirements, and to align with federal requirements. The bill:

- Repeals statutes that established a program to create a database for credentialing organizations. In 2018, OHA decided to indefinitely suspend the program; this bill is needed to make that permanent. Another piece would address "report overkill," and remove OHA's requirement to submit a report to the Legislature on the status of its Health IT program, information that is already included in other reports.
- Removes a statutory requirement that the Oregon Pain Management Commission review the pain curricula in all education facilities in Oregon and report its findings to the Legislature. OHA reported that this has been a significant burden on educational institutions and provided limited value. The bill also changes the length and frequency of pain management training. Currently, all licensed providers are required to take one 6-hour training on pain management once in their careers. This changes that to one 1-hour of training every three years, and requires part of the training to focus on experiences of pain by people of color.
- Aligns PEBB eligibility with federal law. The Affordable Care Act makes all employees eligible if they are expected to work more than 30 hours per week. Current state statute excludes temporary workers.

SB 13 and SB 169 – Non-Competes

Senate Labor and Business heard two bills on Tuesday seeking to limit use of non-compete clauses in Oregon. SB 169 (with the -1 amendment) is a redraft of SB 1527 from the 2020 Short Session that passed the Senate unanimously before dying as a casualty of the Republican walk outs. The bill:

- Establishes that noncompetition agreement is void and unenforceable unless agreement meets specified criteria.

- Replaces references to median family income for a four-person family as determined by the U.S. Census Bureau for the most recent year available with current wage of $97,311 and specifies that wage is adjusted annually for inflation.
- Reduces maximum term of noncompetition agreement from 18 to 12 months.
- Defines noncompetition agreement as a written agreement, rather than written, oral, express, or implied. Applies to agreements entered into on or after effective date of measures.

SB 13 is a new concept from Sen. Lee Beyer (D-Springfield). His bill establishes that noncompetition agreement between employer and employee is void and unenforceable unless limited to the protection of trade secrets, the protection of proprietary information, or covenant to not compete for former customers or clients or provide similar processes or services. Beyer told the Committee, “I see it as a fairness issue; people ought to have a right to use their talents.”

Paloma Sparks from Oregon Business and Industry says that they were part of the negotiations in 2020 around SB 1527 and were able to get to a position of neutrality. But they have significant concerns about SB 13.

Both bills were carried over.

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