LEGISLATIVE UPDATE

Prepared for OAFP

March 31, 2019

HB 2014 – Removes Cap on Non-economic Damages

The House floor debate about lifting the $500,000 cap on non-economic damage awards split along predictable party lines.

Rep. Carla Piluso (D-Gresham) said they needed to “remove the one-size-fits-all cap… particularly when there was a crime that led to a lifetime of trauma.”

House Republicans offered to lift the cap on cases where there was a criminal conviction. Rep. Mike McLane (R-Powell Butte) said, “If there were intentional torts, they should not have caps.” But majority Democrats rejected that proposal.

Rep. Piluso said lifting the cap entirely preserves victims’, “Right to a jury verdict; their right to be made whole.”

The bill passed 36-22 and now goes to the Senate where the vote, if there is one, is expected to be much closer.

SB 734 – Naturopath Pay Parity

The Senate Health Committee passed the bill that requires payers to reimburse naturopathic physicians at the same rate they would reimburse a physician.

The bill now goes to Ways and Means because of the $8 million cost to the state for public employee plans.

SB 889 – Total Cost of Care Benchmark

In 2017, the legislature charged a group of lawmakers and hospital executives with looking at the Maryland model of hospital rate setting as a way to control the increasing costs of hospital care. While the group ultimately decided that the Maryland model was not advisable for Oregon, they did recommend a “health care growth benchmark” that seeks to cap inflation in all corners of the health care system.

DCBS Director Cameron Smith, who chaired the Task Force, told the Senate Health Committee, “the Maryland model of hospital rate setting was too narrow in scope, complex and difficult to administer, and such a program is dependent on a federal waiver. While these barriers prevented the Task Force from endorsing hospital rate setting, they unanimously recommended imitating the Massachusetts’ model of [benchmarking.]”

When Massachusetts instituted this in 2013, they had the fastest rate of growth in the country. In the first four years of implementation, Mass has been consistently lower than national rates.

The bill would:

- Creates framework and key functions of the benchmark program
- Establishes implementation Committee under the Health Policy Board to develop program details
- Report to the legislature in November of 2020

State programs (OHP, PEBB, OEBB) are already subject to a 3.4% per capita growth target. “This is below the 4.7% national forecast, and if Oregon can hold to this, it will save the State almost $700 million,” says Jeremy Vandehey, Oregon Health Authority.

HB 3031 - Paid Family Leave

Lawmakers are considering a bill that would create a statewide family and medical leave insurance fund. This fund would allow employees in Oregon up to 12 weeks of paid leave to care for themselves or a family member, and an additional six weeks of paid family leave related to pregnancy or the adoption of a child.

The bill would create a half a percent payroll tax on employers and employees to pay for the fund, and would cover about 90% of employee wages. It would also prohibit employers from retaliating against employees who take paid leave.

“We should not be putting people in the position of having to choose between important family time and their career,” says Rep. Courtney Neron (D- Tigard), echoing the sentiments of the numerous advocates who testified about having to choose between their jobs and taking care of sick loved ones or a newborn.

Small business owners were sensitive to the difficulties in caring for a new child or a sick family member, but they also believe this bill goes too far.

Todd Yorke, an insurance broker, told committee members, “I really support the idea of providing this type of paid leave. I have a small agency that consists of myself and one other employee. If that employee took 18 weeks of paid leave, I’m not sure how much of my business would be left. There’s a reason the paid family leave act only goes down to 25 employees.”

HB 3262 & HB 2269 – Employer Responsibility Payments

The House Health Committee is considering two variations of a plan to tax large businesses to help pay for Medicaid and subsidize health insurance.

HB 2269, the Governor’s proposal, would require businesses with 50 or more employees (not FTE) to pay at least 50-cents per hour for health care for each employee who works at least 8 hours a week.

HB 3262 would bill large employers (100+) for the full cost of any employee who receives public assistance, including Medicaid, food stamps, supplemental income (OSIP) and general assistance payments.

Rep. Sheri Schouten (D-Beaverton) said, “Those employers who pay below subsistence wages are fleecing both their workers and the state of Oregon.”

The Governor originally proposed the employer responsibility plan as a way to fill $120 million of the budget shortfall for Medicaid. But by imposing this new tax on employers for both part-time as well as full-time employees, it would raise $500 million. Oregon Health Authority director Pat Allen says the additional $370 million will be used as subsidies to reduce the cost of individual plans on the Marketplace.

The committee ran out of time, so no opponents or businesses testified. The hearing is expected to continue next week.

HB 3076 – Non-profit hospitals’ Charity Care & Community Benefits

House Health Committee chair, Rep. Andrea Salinas (D-Lake Oswego) and SEIU (Service Employees International Union) want to require non-profit hospitals to provide charity care to patients with incomes up to 600% of the federal poverty level (about $150,000 for a family of four).

Hollie Murphy, SEIU, testified saying, "Everyone who needs charity care should get it; it's not right that we have to pay $145 per pay check for our health care premiums and we can't even afford to get care when we need it."

Hospital-owned clinics would also have the same charity requirements.

Rep. Salinas said, "If we can prevent at least one person from going through the stress of medical debt, this will have been worth it."

The bill also seeks to regulate hospitals community benefit spending.

Dan Field is the community benefit manager at Kaiser Permanente. "Our community benefit is tied to revenue, so it continues to grow even in years like last year when we lost a little bit of money. This bill would jeopardize that by linking it to margin," he said.

Rep. Rachel Prusak (D-West Linn) said, "Despite all the work you do and your charity care policies, the number one cause of bankruptcy is still medical debt."

The hospital association and SEIU have been talking about these issues for years without a lot of agreement. Sean Kolmer, Oregon Association of Hospitals and Health Systems said, "We don't have a bill right now, that's for sure."

SB 250 – ACA Alignment

DCBS wants to add key provisions of the Affordable Care Act (ACA) to Oregon law to protect consumers in case the federal ACA, or its provisions, go away.

Among other provisions, it would:

- Maintain protections for people with pre-existing conditions
- Clarify that mental health parity requirements apply to individual and group plans.
- Aligns Oregon's small-employer plan requirements with proposed changes to HRAs (health reimbursement arrangements).

Mark Griffith, OSPIRG, said, "Preserving the guaranteed issue market and protecting individuals with preexisting health conditions is an important step" in protecting Oregon consumers.

SB 887 – Alternative Health Care Mandate

Insurers including OEBB and PEBB would be required to cover chiropractic, acupuncture and massage therapy without prior authorization under SB 887. The mandate includes coverage for an initial evaluation and six follow up visits.

Mary Jean Brinkman, acupuncturist, told the Senate Health Committee, "Utilization management creates a barrier to care and a delay in treatment." She said, "It is common with most pain-related complaints to take 8 to 25 visits with acupuncture to help address an issue."

Those multiple visits lead to high costs. So if this bill moves, it's expected to go to Ways and Means because of the increased cost to OEBB & PEBB.

Health insurers, Providence and Cambia, recommended that the legislature address prior authorization through SB 139, sponsored by OMA and subject of an extended work group, instead of through piecemeal bills like this one.

SB 137 – CCOs & Behavioral Health

NAMI (National Alliance on Mental Illness) wants to prohibit CCOs from contracting out all of their behavioral health services including utilization management, care coordination, denials and appeals.

Tabitha Jensen, New Avenues for Youth, said they are just trying to improve access to care and network adequacy for foster kids and others who need behavioral health services. “The wait lists for substance use disorder treatment, psychological evaluation, medication management, and counseling services are often in excess of 12 weeks,” she said, “and available beds in treatment levels of residential care (Psychiatric Residential Treatment Services) are nearly non-existent. “

Senate Health Committee chair Sen. Laurie Monnes Anderson (D-Gresham) said this really should be done through contracts with the CCOs.

SB 721 – CCO payments to School-based Health Centers

Sen. Lew Frederick says he introduced this bill because he heard about the desperate need for mental health counseling in schools when he took part in the Student Success tour last year. “It’s an attempt to find the resources to fund mental health professionals in the schools,” he said.

Mary Williams, representing the CCOs in the Coalition for a Healthy Oregon, said their CCOs work closely with the school-based health centers and treat them the same as any other clinic.

HB 3165 – Planning grants for school-based health centers

School-based health centers are asking for $690,000 to cover planning grants and pilot projects to start new school health services and models. Deborah Riddick, ONA, said, “Schools are the perfect infrastructural conduit to care, providing immediate intervention to students in crisis.”

The House Health Committee sent the bill to Ways and Means.

SB 900 – Dialysis Payment

SEIU says it wants to stop the two large for-profit dialysis providers from paying the commercial health insurance premiums for dialysis patients so they can collect the high fees, which can run $12,000 to $15,000 per month. “We have to end this scheme,” Felisa Hagins, SEIU, told the Senate Health Committee.

The bill would prohibit the American Kidney Foundation from canceling dialysis patient’s insurance plans mid-year if they get a kidney transplant and prevent them from steering patients to their affiliated clinics.

Jonathan Eames said his client, Fresenius, operates 48 dialysis clinics in Oregon. He said of their 375 patients receiving premium assistance, 247 are using the assistance for Medicare or Medigap coverage which pays the clinic at below cost.
“If it was really a scheme, all of the $ we gave to the American Kidney Foundation would be used for commercial insurance,” he said.

Insurance carriers including Providence, Cambia and AHIP said they support the bill to stop “the abuse of third party payments by those who stand to benefit from higher payments.”

HB 3075 – Double Coverage for PEBB & OEBB

OEBB director Ali Hassoun tried to help the House Health Committee figure out how much would really be saved if the ban on OEBB double coverage and opt-out payments took effect October 1, 2019 and the PEBB ban started January I, 2020.

Hassoun said about 7,000 PEBB & OEBB employees are double covered. He said the ban would save OEBB employers, primarily school districts, $6.8 million per year. Because of the shift in coverage, he said PEBB expects an increased cost of $0.5 per year. So combined, it would be a $6.3 million savings per year.

The double coverage prohibition was part of a budget savings package at the end of the 2017 legislative session. The package also reduced hospital payments by $150 million. The double coverage prohibition was the only part that asked workers to contribute to the savings and it now looks like that may be repealed.

SB 130 – SBHC Telehealth

The Senate Health Committee passed the bill that creates grants for school-based health centers (SBHCs) pilot projects that seek to increase access to behavioral and physical health using telehealth. The bill includes $950,000 to implement the grant program.

The bill now goes to Ways and Means.

HB 3074 – Rate Review Update

Insurance Commissioner Andrew Stolfi says that the intent of this bill is simply to streamline the rate review process. “We have no intent to make the process any less transparent than it is. Our rate review process is looked to as an example across the country.”

HB 3074 makes three changes:

- Reduce administrative burden in carrying out rate review, while still allowing for public input
- Removes the process for modified rates
- Technical clean up

The Insurance Division and OSPIRG are awaiting an amendment that will clarify the intent of the bill.

HB 2267 – CCO 2.0 Policy Changes

The Oregon Health Authority and Oregon Health Policy Board worked over the last 2 years to assess and address the Oregon Health Plan and how it should be altered in the next round of contracts. Known as CCO 2.0, the policy shift includes various changes that required a statutory change; HB 2267 reflects those changes. The bill:

- Adds a second member from Community Advisory Board to CCO governing boards
- Creates a formal process for engaging tribes
- Creates more alignment between CCOs, local public health and hospitals to address social determinants of health
- Provides OHA the authority to create a reinsurance program to combat the rise of very expensive specialty pharmaceuticals
- Allows for adjustment of rates after initial six months of coverage
- Clarifies that CCOs are large businesses

HB 2138 – Volunteer Rural EMS Tax Credit

The House Veterans Committee unanimously voted to extend the sunset on the ems tax credit this week. The bill now goes to the Joint Committee on Tax Expenditures to be considered along with newly proposed credits, and other credits scheduled to sunset.

###