

# **Ohio Association of Health Underwriters Legislative Update**

**December 15, 2009**

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## **House passes Autism & Diabetes Mandate Bills**

On December 8, 2009 the Ohio House of Representatives passed HB 8 (Autism coverage mandate) and HB 81 (Diabetes coverage mandate). HB 8 passed the House by a vote of 57-39. An amendment by Representative Kevin Bacon (R-Columbus) was included in the bill that does the following;

- (1) \$36,000 annual cap per enrollee.
- (2) Insurer can review plan of treatment every 6 months.
- (3) Reimbursement is limited to someone licensed, certified or regulated by the state or someone working under their guidance.
- (4) Delayed effective date until Jan. 1, 2011.

HB 81 passed the House by a vote of 58-38. An amendment by Representative Randy Gardner (R-Bowling Green) that sets up a small business health care affordability task force was included in the bill. The amendment included provisions of Rep. Gardner's H.B. 256. The task force is to look at tax incentives for businesses and incentives for businesses to offer wellness and disease prevention programs. Both bills will now go to the Senate for further deliberations.

## **Recently Introduced Legislation**

### **H.B. 384 (Bolon)**

On December 1, 2009 Representative Linda Bolon (D-Columbiana) introduced H.B. 384 to use the compendia adopted by the U.S. Department of Health & Human Services under 42 USC 1395x (t)(2), as amended, or in medical literature that meets certain criteria to determine whether an insurer may limit or exclude coverage for off-label drug usage.

### **S.B. 210 (Coughlin & Kearney) and H.B. 373 (Carney & Wachtmann)**

On November 17, 2009 Senators Kevin Coughlin and Eric Kearney introduced S.B. 210 and Representatives John Carney and Lynn Wachtmann introduced H.B. 373 to establish nutritional standards for certain foods and beverages sold in public and chartered nonpublic schools; to require students to have periodic body mass index measurements; to require daily physical activity for students and to make other changes regarding physical education; and to establish the Health Choices for Health Children Council. S.B. 210 has received two hearings in the Senate Health, Human Services & Aging Committee and H.B. 373 has received two hearings in the House Health Committee.

### **S.B. 200 (Morano)**

Senator Sue Moran (D-Lorain) introduced S.B. 200 on November 10, 2009 to authorize certified registered nurse anesthetists to issue prescriptions for the administration of drugs during certain phases of patient care. The bill is scheduled to have sponsor testimony on December 15th in the Senate Health, Human Services & Aging Committee.

### **HCR 32 (Hagan)**

On November 12, 2009 Representative Bob Hagan (D-Youngstown) introduced HCR 32 to request all members of the General Assembly to support the public option as part of national health care reform.

### **H.B. 357 (Carney)**

On November 10, 2009 Representative John Patrick Carney (D-Columbus) introduced H.B. 357 regarding the Intrastate Mutual Aid Compact and the authority of certain EMS personnel to dispense drugs during an emergency that affects the public health; the authority of the governor to declare the existence of a health exigency; and information and guidelines issued by the Department of health concerning health exigencies; and to declare an emergency. The bill is scheduled to receive its fourth hearing in the House Health Committee on December 16<sup>th</sup> and is scheduled for a possible vote.

### **H.B. 332 (D. Stewart) – Contraception Coverage**

On October 27, 2009 Representative Dan Stewart (D-Columbus) introduced H.B. 332 to prohibit health insurers and public employee benefit plans from limiting or excluding coverage for prescription contraceptive drugs and devices and outpatient services related to the provision of such drugs and devices. The bill has been referred to the House Health Care Access & Affordability Committee.

### **H.B. 331 (Hagan) & S.B. 205 (Hughes & Turner) – Medicaid Employer Information**

On October 27, 2009 Representative Bob Hagan (D-Youngstown) introduced H.B. 331 and on November 12, 2009 Senators Jim Hughes (R-Columbus) and Nina Turner (D-Cleveland) introduced S.B. 205 to require applicant's for CHIP, Medicaid, Ohio Work's First and the Supplemental Nutrition Assistance Program to provide information about their employers and to require quarterly reports identifying the employers. H.B. 331 has received three hearings in the House State Government Committee and S.B. 205 has been referred to the Senate Insurance, Commerce & Labor Committee.

### **H.B. 310 (Garland & Driehaus) – Prostheses Coverage**

Representatives Nancy Garland (D-New Albany) and Denise Driehaus (D-Cincinnati) introduced H.B. 310 on October 13, 2009 to require health insurers to provide coverage for prostheses benefits that are at least equal to the benefits provided under the Medicare program. The bill had its fifth hearing in the House Health Committee on December 9<sup>th</sup>.

### **H.B. 300 (Dyer & Hottinger) – Insurance Agent Licensure**

On October 6, 2009 Representatives Steve Dyer (D-Uniontown) and Jay Hottinger (R-Newark) introduced H.B. 300 to bring Ohio law into compliance with national standards established by the National Association of Insurance Commissioners (NAIC) to provide uniformity in agent licensure and oversight. 46 other states have already adopted these standards. The bill was proposed after input from the Insurance Agent Education Advisory Council. The bill passed out of the House on December 1<sup>st</sup> and has been referred to the Senate Insurance, Commerce & Labor Committee.

## **Active Pending Legislation**

### **H.B. 185 (DeGeeter & Book) – Material Amendments to Contracts**

On May 19, 2009 Representatives Tim DeGeeter (D-Parma) and Todd Book (D-Portsmouth) introduced H.B. 185 to specify that a material amendment to a health care contract does not become part of the contract unless agreed upon by both parties. The bill passed out of the House on October 21<sup>st</sup> and is scheduled to have sponsor testimony in the Senate Insurance, Commerce & Labor Committee on December 15<sup>th</sup>.

### **H.B. 216 (Carney)**

On June 6, 2009 Representative John Carney introduced H.B. 216 relating to the regulation of professional employer organizations (PEOs). There was language in the introduced version of the bill that would have authorized PEOs to treat “shared employees” from multiple employers as one employer for purposes of offering health insurance. The bill, which is pending in the House Commerce & Labor Committee, has been amended to remove this language.

### **S.B. 89 (Morano) – Advanced Practice Nurses Prescriptive Authority**

On April 1, 2009 Senator Sue Morano (D-Lorain) introduced S.B. 89 to authorize out-of-state advanced practice nurses with prescriptive authority to obtain prescriptive authority in Ohio without completing an externship if they meet certain criteria. The bill passed the Senate on July 13, 2009 and passed out of the House Health Committee on November 24th.

### **H.B. 198 (Lehner & Ujvagi) – Medical Home Demonstration Project**

On June 2, 2009 Representatives Peggy Lehner (R-Kettering) and Peter Ujvagi (D-Toledo) introduced H.B. 198 to establish the Medical Home Model Demonstration Project and to provide for Choose Ohio First Scholarships to be awarded to medical students who agree to practice primary care in Ohio. The legislation contemplates the demonstration project being conducted in Montgomery and Lucas Counties. The bill has received three hearings in the House Healthcare Access & Affordability Committee.

### **H.B. 122 & S.B. 98 (Boyd & T. Patton) – Physician Designations Protections**

On April 4 and April 8, 2009, Representative Barbara Boyd (D-Cleveland Heights) and Senator Tom Patton (R-Strongsville), introduced H.B. 122 and S.B. 98, respectively, to place various requirements on health insurers that operate a system for physician designations including what must be considered in the evaluations, disclosure requirements, appeal rights and legal remedies against an insurer if a provider is adversely affected by a violation of the requirements. H.B. 122 passed the out of the House Health Committee on October 14th. S.B. 98 received sponsor testimony on October 27<sup>th</sup> in the Senate Insurance, Commerce & Labor Committee.

## **Cancer Related Legislation**

### **S.B. 138 (R. Miller) – Cancer Medications**

On June 16, 2009 Senator Ray Miller introduced S.B. 138 to require health insurers that provide coverage for cancer chemotherapy treatment to provide coverage for certain prescribed, orally administered anti-cancer medications on a basis no less favorable than intravenously administered or injected cancer medications that are covered under the health insurance policy. The bill has been referred to the Senate Insurance, Commerce & Labor Committee.

### **S.B. 133 (Gillmor) H.B. 237 (Newcomb) – (Cancer Medications)**

On June 10, 2009 and June 23, 2009 Senator Karen Gillmor (R-Tiffin) and Representative Deborah Newcomb (D-Conneaut) introduced S.B. 133 and H.B. 237, respectively, which would do the following:

- (1) Prohibit health insurance contracts that provide coverage for cancer chemotherapy treatment from providing coverage for a prescribed, orally administered cancer medication on a less favorable basis than coverage for intravenously administered or injected cancer medications.

- (2) Prohibit health insurance contracts that provide coverage for non-self-injectable medications, medications that must be compounded immediately prior to administration, or both, from doing either of the following:
  - a. Requiring an enrollee to take possession of such a medication from a pharmacy that is a retail seller, or
  - b. Giving an enrollee the option of having such a medication delivered directly to the enrollee by mail or any means of commercial shipment.

S.B. 133 has been referred to the Senate Insurance, Commerce & Labor Committee and H.B. 237 has been referred to the House Healthcare Access & Affordability Committee.

### **H.B. 134, H.B. 135, & H.B. 136 (DeBose) – Mandatory Offering – Cancer Screenings**

On April 16, 2009 Representative Michael DeBose (D-Cleveland) introduced three bills relating to various cancer screenings. All three bills would require that insurers offer to provide, as a supplemental health care service, benefits for the expenses of examinations and laboratory test for certain cancers. The offering must be to “any nonsymptomatic individual” and the examinations and tests offered must be in accordance with the most recently published American Cancer Society Guidelines. H.B. 134 relates to prostate, colorectal, ovarian and cervical cancer screenings; H.B. 135 relates to prostate cancer screenings; and H.B. 136, which also has Representative Lorraine Fende (D-Willowick) as a principal sponsor, relates to ovarian cancers screenings. All three bills have received sponsor testimony in the House Healthcare Access & Affordability Committee.

### **H.B. 51 (Miller) – Breast Cancer**

Representative Eugene Miller (D-Cleveland) introduced H.B. 51 on February 26, 2009 to create the Triple Negative Breast Cancer Commission. The commission would promote the study of this cancer which is defined as “the subtype of breast cancer characterized by cells that lack receptors for the hormones estrogen and progesterone and the protein receptor known as the human epidermal growth factor receptor2, or HER2, and therefore cannot be treated with breast cancer drugs that target these receptors, including such drugs as tamoxifen and trastuzumab”. The bill has been referred to the House Health Committee.

### **H.B. 56 (Miller) – Colorectal Cancer Screenings**

On March 3, 2009 Representative Eugene Miller (D-Cleveland) introduced H.B. 56 to require health insurers to provide benefits for colorectal exams and laboratory tests for cancer in accordance with the most recent published guidelines of the American Cancer Society. The bill received its second hearing in the House Insurance Committee on May 20<sup>th</sup>.

### **S.B. 64 – (Coughlin) - Colorectal Cancer Screenings**

Senator Kevin Coughlin (R-Cuyahoga Falls) introduced S. B. 64 on March 4, 2009 to require health insurers to cover colorectal cancer screenings. The bill, which is the same as S.B. 278 which passed the Senate last session, specifies the specific colorectal cancer screenings which insurers must cover. The bill has been referred to the Senate Insurance, Commerce & Labor Committee.

## **Other Pending Legislation**

### **H.J.R. 3 (Maag & Sears) – Health Care Constitutional Amendment**

On August 26, 2009 Representatives Ron Maag (R-Lebanon) and Barbara Sears (R-Sylvania) introduced House Joint Resolution 3 to amend Ohio’s Constitution to prohibit a law or rule from compelling a person, employer, or health care provider to participate in a health care system. The bill has received sponsor testimony in the House Insurance Committee.

**H.B. 146 (Hagan) – Authorize Counties to Participate in State Employee Plan**

On April 22, 2009 Representative Bob Hagan (D-Youngstown) introduced H.B. 149 to authorize county officers and employees to participate in the state employee health insurance plan sponsored by the Ohio Department of Administrative Services. The bill is scheduled to have its first hearing in the House Insurance Committee on December 16, 2009.

**S.B. 159 (R. Miller) – Health Insurer Prohibition**

Senator Ray Miller (D-Columbus) introduced S.B. 159 on August 6, 2009 to prohibit health insurers from denying payment for a service during or after the performance of the service if the insurer provided prior authorization for the service. The bill has been referred to the Senate Insurance, Commerce, & Labor Committee.

**H.B. 256 (Gardner) – Small Business Health Care**

On July 23, 2009 Representative Randy Gardner (R-Bowling Green) introduced H.B. 256 to create the Small Business Health Care Affordability Task Force to look at tax incentives for businesses, incentives for businesses to offer health wellness and disease prevention programs, what other states are doing in this area, and consider federal legislation regarding the provision of health insurance by small businesses and then report its findings and any recommendations to the Speaker and Minority Leader of the House, the president and Minority leader of the Senate and governor not later than six months following its initial organizational meeting. The Task Force is comprised of three House and three Senate members and up to five additional members who represent small business employers or employees or who are otherwise relevant to the duties of the Task Force. The bill, which is pending in the House Insurance Committee, was amended into H.B. 8 (autism coverage) on the House floor.

**S.B. 154 (Patton) – Pharmacy Benefit Manager Prohibition**

On July 8, 2009 Senator Tom Patton (R-Strongsville) introduced S.B. 154 to prohibit a pharmacy benefit manager that has a relationship (ownership or under their control) with a retail pharmacy from using that relationship to the competitive disadvantage of other retail pharmacies, including allowing coverage of covered drugs dispensed by that retail pharmacy but not by other retail pharmacies. The bill has been referred to the Senate Insurance, Commerce & Labor Committee.

**H.B. 240 (Sears) – Medicaid Program**

On June 23, 2009 Representative Barbara Sears (R-Sylvania) introduced H.B. 240 to require ODJFS to do the following things: (1) Issue a report on its efforts to minimize waste, fraud and abuse, (2) Create an alternative care management program, (3) create a disease management component of Medicaid and (4) impose a surety bond requirement on certain Medicaid providers. In addition, the bill requires local Medicaid agencies to report their costs associated with operating the Medicaid program. The bill has been referred to the House Health Committee.

**S. B. 136 (R. Miler) - Telemedicine**

On June 16, 2009 Senator Ray Miller (D-Columbus) introduced H.B. 136 to require health insurers and the Medicaid program to provide coverage for telemedicine services in the same manner that coverage is provided for face-to-face consultations. The bill has been referred to the Senate Insurance, Commerce & Labor Committee.

**S.B. 137 (R. Miller) – Prompt Pay**

Senator Ray Miller (D-Columbus) introduced S.B. 137 on June 16, 2009 to specify that Ohio’s prompt pay law applies to Medicaid Managed Care Plans. The bill has been referred to the Senate Health, Human Services & Aging Committee.

**H.B. 125 (Williams) – Establish Family Health Plus Component of Medicaid Program**

On April 8, 2009 Representative Sandra Williams (D-Cleveland) introduced H.B. 125 to require the Director of Job and Family Services to seek a federal Medicaid waiver to establish the Family Health Plus component of the Medicaid program, and imposes an assessment on hospitals to help fund the program. The program establishes criteria to allow individuals 18 – 64 whose income or resources exceed the Medicaid program’s eligibility requirements to qualify for health care coverage under the Medicaid Family Plus component. The bill has been referred to the House Healthcare Access & Affordability Committee.

**H.B. 159 (Skindell & Hagan) – Establish Government-run Health Insurance System**

Representatives Michael Skindell (D-Lakewood) Bob Hagan (D-Youngstown) jointly introduced H.B. 159 to establish a single-payer health care system for Ohio. The bill has received sponsor testimony in the House Healthcare Access & Affordability Committee.

**S.B. 15 (D. Miller) – Enhanced Mental Health Parity**

On February 10, 2009 Senator Dale Miller (D-Cleveland) introduced S.B. 15, the “enhanced mental health parity” legislation that mandates coverage for the diagnosis and treatment of all mental illnesses and substance abuse and drug addictions. It has been referred to the Senate Health, Human Services & Aging Committee.

**S.B. 25 (Schaffer) – Deductibility of Medical Expenses**

On February 10, 2009 Senator Tim Schaffer (R-Lancaster) introduced S.B. 25 to authorize the deduction of unreimbursed medical expenses to the extent the expenses exceed 1% of federal adjusted gross income. The current standard is unreimbursed expenses that exceed 7.5%. The bill received sponsor testimony in Senate Ways & Means & Economic Development Committee on February 18<sup>th</sup>.

**S.B. 34 (D. Miller) – Group Health Insurance**

Senator Dale Miller (D-Cleveland) introduced S.B. 34 on February 10, 2009 to require the Ohio Department of Administrative Services to create a health insurance program that allows municipalities, small employers and nonprofit corporations or associations to purchase for their employees the same policies provided to state employees. The bill has been referred to the Senate Insurance, Commerce & Labor Committee.

**S.J.R. 2 (Coughlin) – Health Care Resolution**

On February 24, 2009 Senator Kevin Coughlin (R-Cuyahoga Falls) introduced Senate Joint Resolution 2 to enact Section 43 of Article II of the Ohio Constitution to provide rights to people to enter into private contracts with health care providers for health care services and to purchase private health care coverage. The resolution has been referred to the Senate Insurance, Commerce & Labor Committee.