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March 28th, 2008

Florida Academy of Family Physicians Capitol Update Week Four March 28, 2008

Week 4 of the Legislative Session is complete and we are quickly approaching the half-way mark. Initial budgets are starting to take shape, committee agendas are completely filled with bills, and amendments are being filed at a furious pace. The realities of decreasing time and decreasing budgets are starting to set in as legislators scramble to push their priorities.

Education reorganization, guns at work, academic freedom/evolution, springs protection, anti-terrorism and energy legislation are among the many issues the Legislature addressed this week.

On the FAFP front, following is a summary of our key issues.

Managed Care Contracting- (SB 1012/HB 405)

Some movement this week

Senator Don Gaetz (R- Fort Walton Beach) and Representative Bill Galvano (R- Bradenton) filed legislation that require managed care companies to accept a valid assignment of benefits, place a fair time limit on the "look-back" provision in the prompt payment law and prohibit silent PPOs. These bills are supported by organized medicine and strongly opposed by the insurance industry.

SB 1012 was approved by the Health Regulation Committee this week with one amendment. The amendment requires non-preferred providers to provide the insured patient with an estimated cost of the service and a statement explaining that the actual cost may exceed the estimated cost. The insurer is also required to inform the non-preferred provider and the insured patient that the final cost for service may exceed the allowable payment amount.

SB 1012 will receive a hearing in the Health Policy Committee on Tuesday. If SB 1012 is approved on Tuesday, the bill will have one more committee hearing, General Government Appropriations. HB 405 has two more hearings, the Healthcare Council and the Policy and Budget Council. HB 405 was not heard in committee this week.

2008-2009 Budget & Medicaid

The House and Senate health care budget committees released their initial proposals to reduce spending for the next fiscal year. The House overall health care spending is approximately \$497 million less than the current year's budget, while the Senate is \$722 million less. Both budgets do provide an overall increase for the service workload for Medicaid.

Following is a summary of the major reductions:

- The Senate proposes to reduce more than \$350 million from the Medically Needy program. This is done by restricting the coverage to only pregnant women and children, which will result in a drop in coverage from about 19,900 Floridians to only 3,900.
- The House proposes to cut \$170 million from the Medically Needy program by eliminating inpatient hospital care. The House seeks to reduce \$56 million from county health departments by lowering their reimbursement rate for Medicaid programs by 39%.
- The House proposes to eliminate optional coverage for adults needing hearing aids, glasses and dentures resulting in a savings of \$32 million, while the Senate would eliminate coverage for only hearing aids and dentures.
- A reduction in the nursing home Medicaid reimbursements rates that would produce more than \$278 million in savings (10%) as proposed by the House, while the Senate would reduce those rates but cut \$164 million.
- A major reduction for hospital Medicaid rates for inpatient and outpatient care by 10% (House) would produce \$329 million in savings while the Senate cut the same rates by \$208 million. The House proposes a temporary two-year freeze on automatic rate increases for all rates related to nursing homes, hospitals and managed care organizations.
- The Senate's largest reductions come from the elimination of the MEDS-AD program, which provides Medicaid coverage for seniors and the disabled living below 88 percent of the federal poverty level. This program elimination saves the state more than \$356 million. The House did not adopt this measure.
- The House and Senate adopted a provision from the Medicaid Impact Conference report that reduces the per member per month fee for physicians who treat MediPass patients. The Senate reduces the fee from \$3 dollars to \$2 dollars, while the House reduces it \$1.50.

As part of its implementation of the 2008-2009 budget, the House introduced legislation to further expand Medicaid Reform from the current pilot project areas. The reform project would move into Miami-Dade and Monroe Counties by July 1, 2009. The counties of Pasco, Pinellas, Hardee, Highlands, Hillsborough, Manatee and Polk would be the following year. The House bill also seeks to make programmatic changes to the reform project by requiring the Agency for Health Care Administration (AHCA) to monitor the plan's adequacy more regularly to ensure recipients have access to all types of providers.

There was no formal vote in the House Healthcare Council this week on its recommended budget. The proposal will be presented in front of the House Policy & Budget Council next week for a vote. The Senate Health & Human Services Appropriations Committee did vote to approve Chair Peaden's proposal.

We expect both chambers to adopt their budgets within two weeks and begin conference negotiations by the weekend of April 12. With the wide disparity of budget reductions in the health care budget alone, this process could take some time.

Tobacco Education Dollars Diverted

This is the first year of implementation for the Comprehensive Statewide Tobacco Education and Prevention Program, mandated following the passage of Amendment 4. The program receives \$57 million annually. The Legislature also created a Tobacco Education Advisory Committee to work with the DOH to implement the program.

Despite a fairly successful implementation, Legislators appear to view the Amendment 4 Tobacco Education and Prevention Program as a means to accomplish other health care objectives, moving the program further away from its constitutional mandate for a comprehensive program that relies on the Centers for Disease Control (CDC) recommendations. Late this week the House Healthcare Council proposed legislation to expand the purpose of the program to include interventions to "detect, prevent and treat tobacco-related chronic disease."

The expanded intent allows for the siphoning of \$5 million each for chronic disease prevention, detection and treatment programs at the Moffitt Cancer Center and Shands Cancer Center. The proposal also mandates that DOH implement a statewide program that utilizes physicians and dentists to deliver brief advice to quit the use of tobacco. Obviously tobacco research and physician-based programs are incredibly important. The policy question, and perhaps the legal question, is whether this spending is consistent with the constitutional confines of Amendment 4.

The Senate does not have a similar proposal, although it proposed to lift a two-year "sunset" of smoking cessation initiatives being performed by Area Health and Education Centers (AHECs).

We anticipate that these bills will receive a hearing in the respective appropriations committees sometime next week.

Cigarette Taxes (SB 2790/HB 299)

No movement this week

On Monday, advocates for a cigarette tax increase held a press conference at the Capitol where they released impressive statistics regarding voter approval of a cigarette tax increase. According to a poll by Public Opinion Strategies, 79% of the voters polled would support a cigarette tax increase, and 71% believe the current tax is too low. Some Republican legislators are beginning to admit that an increase may be considered this year.

The legislative proposals raise the cigarette tax by \$1.00 per pack and distribute tax revenues to numerous health-related programs such as the Medically Needy Program, Medicaid Physician Reimbursement, Children's Health Insurance and others.

SB 2790 was referred to the Committees on Health Policy, Higher Education, Finance and Tax, General Government Appropriations and Education Facilities Appropriations. HB 299 was referred to the House Jobs & Entrepreneurship Council and the Policy & Budget Council.

School Breakfast Programs (SB 1184/HB 509)

Movement this week

Elementary schools are required by law to participate in school breakfast programs. Although not required by law, a majority of middle and high schools participate in school breakfast programs. Legislation filed by Senator Stephen Wise (R-Jacksonville) and Representative Will Kendrick (R-Carrabelle) would expand school district breakfast programs to middle and high schools by the beginning of the 2010-2011 school year. Under the legislation, schools, in which 80% or more of the students are eligible for free or reduced-price meals, must offer universal free school breakfasts.

The bills require that the Department of Education develop an incentive program to encourage student participation and requires that information regarding the breakfast program be communicated to students and parents.

SB 1458 will receive a hearing in the Education Pre-K 12 Committee this Tuesday. After Tuesday, the bill will have three more committee hearings in Children, Families, and Elder Affairs, Health Policy and Education Pre-K - 12 Appropriations.

HB 623 was approved by the K-12 Committee, the Schools and Learning Council and the Policy and Budget Council. The bill is waiting to be placed on the special order calendar to receive a vote by the full House.

Emergency Medicine Certification (SB 1184/HB 509)

No movement this week

Senator Burt Saunders (R-Naples) and Representative Paige Kreegel (R-Punta Gorda) filed legislation that would prohibit physicians and osteopathic physicians who complete their certification after January 1, 2009 from becoming board-certified emergency physicians unless certain requirements are satisfied. Last year, FAFP worked with the emergency physicians and the FMA to clarify certain provisions in the bill, thus avoiding unintended consequences of limiting the ability of physicians to practice in various settings. The bill is opposed by the American Association of Physician Specialists (AAPS), a competing organization to the American Board of Medical Specialties (ABMS).

SB 1184 was temporarily postponed by Senator Saunders two weeks ago due to questions and concerns. Health Regulation is the only committee that must hear SB 1184. As committees begin in wind down, this bill may not be brought up again.

HB 509 was referred to the Committee on Health Innovation and the Healthcare Council. HB 509 has not received a committee hearing.

Marketplace for Affordable Health Insurance

No movement this week

Florida has the 3rd highest uninsured rate in the nation. In an effort to address this serious problem, legislation was filed to increase affordable coverage to the uninsured in Florida by revising eligibility for certain private and public health care coverage.

The House and Senate proposals create a new health insurance marketplace in Florida where employees can choose their coverage, make it attractive for employers to provide it and allow the plan to be portable with the employee.

SB 2534 is sponsored by Senator Durell Peaden, MD, (R-Crestview). The plan provides non-catastrophic coverage and may provide catastrophic coverage, supplemental insurance, and discount medical plan product options to enrollees. SB 2534 has one more committee hearing, the Health and Human Services Appropriations Committee.

The House Healthcare Council held a workshop on this issue and should be releasing a proposal soon.

Biomedical Research

Senate companion bill filed

Last week the Healthcare Council and Chair Bean submitted a council bill that would consolidate processes for awarding funds appropriated by the Florida Legislature for biomedical research. The proposal provides that the James and Esther King Biomedical Research Program will serve as the exclusive source of state funding for biomedical research. The funds would be merged and housed within the DOH. Grant requests will be reviewed by the Biomedical Research Commission's 15 appointed members. The proposal also reduces the annual allocation to the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute by \$8.5 million each year.

This week Senator Durell Peaden, MD, (R-Crestview), chair of Health and Human Services Appropriations Committee, filed the companion bill in the Senate. SB 2752 also consolidates the research programs under the James and Esther King Biomedical Research Program. One significant difference between the two proposals is that the Senate proposal consolidates the Bankhead-Coley Cancer Program under the James and Esther King Biomedical Research Program. The House leaves the Bankhead-Coley Cancer Program free-standing. This program is set to expire in June of 2011.

Senator Peaden also filed legislation that would repeal the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute. An amendment was adopted which specifies that, instead of repealing the Center, it would be housed within the University of South Florida. The Center would be required to work directly with other state university programs to research treatments and preventative measures for Alzheimer's disease. SB 1080 has one more committee hearing, the Health and Human Services Appropriations. There is no house companion bill filed.

Electronic Health Records (SB 1998/HB 637)

SB 1998 on the agenda next week

Senator Jeremy Ring (D-Margate) and Representative Denise Grimsley (R-Sebring) filed legislation creating a Florida eHealth Initiative Act. The bills amend AHCA's authority to provide grants to Regional Health Information Organizations, by requiring a dollar for dollar match of state funds with local or private funds and issuance of grants in three categories: development, operation and collaboration. AHCA is required to provide one-time, no-interest loans to physicians or business entities whose shareholders are physicians for the initial costs of implementing an electronic medical records system. AHCA must develop and implement a plan to promote participation in health information exchanges and the adoption of electronic medical record systems by

physicians in consultation with the council and professional associations.

SB 1998 will receive a committee hearing in Health Regulation next Tuesday. After the hearing on Tuesday, the bill will have three more committee hearings, Banking and Insurance, Governmental Operations and Health and Human Services Appropriations.

HB 637 was approved by the Health Innovation Committee this week. The bill has two more committee hearings, the Healthcare Council and the Policy and Budget Council.

ARNP Prescribing Expansion (SB 972/HB 515)

No movement this week

At the urging of the advanced registered nurse practitioners (ARNPs), Senator Burt Saunders (R-Naples) and Representative Juan Zapata (R-Miami), Vice Chair of the House Healthcare Council, filed bills authorizing ARNPs whose practice is located in medically underserved areas or who provide care to medically underserved populations (as designated by the United States Department of Health and Human Services) to prescribe Schedule II, III, IV, and V substances. The legislation would only authorize ARNPs to prescribe these substances to the extent authorized by a protocol with a physician licensed under chapter 458 or chapter 459. Most of organized medicine opposes this legislation.

SB 972 was referred to the Senate Committees on Health Regulation and Judiciary and HB 515 was referred to the Committee on Health Innovation and the Healthcare Council. Neither bill has received a committee hearing to date.

We hope this brief legislative update is helpful. We will keep you posted on these and other developments as the Session progresses