House Insurance

Mar 7, 2023

ADVOCACY UPDATE
TAHP

Roll Call

Oliverson, Tom - Chair - Present
Johnson, Ann - Vice-Chair - Present
Cain, Briscoe - Present
Paul, Dennis - Present
Perez, Mary Ann - Present
Cortez, Philip - Present
Harris, Caroline - Present
Hull, Lacey - Present
Johnson, Julie - Present

Resources

Hearing notice
Video of hearing

- Part 1
- Part 2

Recap

Updates on bills

Ellen Watkins, HHSC (part 1, 01:50)
HB 18, 87R - Texas Cares Act Walmart introduced low-cost insulin. Cost Plus, Amazon, and Eli Lilly also introduced a low-cost insulin, but not a complete cure.

98% of the top 200 drugs prescribed are available in low-cost forms.

KY and NC started directing people to other programs.

Patience assistance programs often change and it's hard for doctors to keep up.

Navigators will help direct patients, use of community based programs, and software solutions. Can find navigators through the website.

HHSC will conduct an awareness campaign about the program

Oliverson: The original idea was to create a state formulary but as things have evolved, it's easier to connect uninsured Texans to existing programs. In existing states over two years the savings have been $2 billion. The cost to do the navigator program is less than the formulary.

Joel Schwartz, HHSC Ombudsman (part 1, 07:00)
HB 2595, 87R - enhancement to mental health parity.

I. Asked to establish liaison with TDI. We did that through appointment in 2021. Since that time, the ombudsman retired and a new ombudsman was appointed.
II. Created educational materials with TDI. Finished in July 2022.
III. Annual report to Legislature and the Public, we have included in TAC, published in December 2022.

Priscilla Parrilla, HHSC (part 1, 11:00)
SB 827, 87R - affects CHIP. Two major requirements:

I. Reduced co-pays for those at 150% poverty level from $35 to $25 for insulin Requested approval from CMS, approved Dec. 2022 MCO were notified and are preparing for this change with June 1 go live date.
II. One insulin from each therapeutic class required and this has been achieved.

Oliverson: Asked if this applied to ERISA.
Parrilla: Clarified that this is the Medicaid and CHIP side.

Tim Stephenson, DSHS (part 1, 14:14)
Drug Cost Transparency - HB 2536 and HB 1033.
Program started with HHSC in the 86th Session, and started collecting reports from manufacturers about wholesale prices (WAC).
HB 1033 transferred to DSHS, January 2022 first year reporting through agency.
Now online reporting system.
Established ability to charge a fee ($250) and allowed penalty.
Required to report more than 15% increase in one year or 40% in three years.

January 2023 report on website.
483 manufactures need to report this year on over 25,000 drugs.
Penalty is $1,000.

Oliverson: Goal was to get everyone in the supply chain to have transparency. It felt like DSHS was the natural home. How is compliance?
Parrilla: Fairly good. Most have. Price increase reports 82 last year and 42 so far this year.
Oliverson: We've made sure health plans and PBMs have reported. I want to hold manufacturers to the same accountability.

HB 351

Rep. Bell (part 1, 21:12)
Allows workers comp companies to create a package that allows health care coverage too. Would be purchased by an employee. Allows for greater efficiency. Does not seek to open workers comp statute. Does not allow workers comp to underwrite.

J. Johnson: In terms of comp segregation- does your plan roll into comp segregation, because I worry about that?
Bell: The intent is to bifurcate the gap coverage. The goal is to keep separate but create the efficiencies. If employees who don't know exactly when they got hurt could pursue care without worrying about losing the right to pursue a comp claim.
J. Johnson: Sometimes there is a third party. The comp system now is not good because of network adequacy. If they have health care coverage, they can pursue treatment but does this create a super segregation issue if the employee pursues a claim?
Bell: That is not my intent.
J. Johnson: You are not trying to get them to not be able to make a comp claim?
Bell: What it may address is that if an employee wakes up hurt on Saturday, they can go ahead and go to the doctor's office without forgoing the ability to make a comp claim. They can file it on Monday.
J. Johnson: This seems like a good idea. I just want to make sure that the bill doesn't inadvertently subvert segregation issues.

A. Johnson: Is there a case that inspired this bill?

Bell: As an employer there are times when this comes up. If the question is did someone bring this to me, the answer is no.
A. Johnson: How do we address concerns about conflicts about how to make an employee whole?
Bell: That conflict is there today and there is a process that the bill doesn't change. If a claim is decided to be workers comp, it rolls to that as a claim.
A. Johnson: If the language needs to be tweaked, would you be open to that?
Bell: I'd have to see it, but I don't see how the bill creates greater exposure to either employee or employer, but I'd be happy to talk to you.

Oliverson: This is permissive if the employer wanted to bundle these products. It essentially becomes one product, right? The employer is on the hook either way.
Bell: The bill doesn't contemplate a new singular product but the partnership between two entities to work together. For example, Medicare provides coverage but has gaps. There are products that reach those gaps. What I foresee is a product that comes in to fill the gaps with comp.

LeAnn Alexander, American Properties Casualty Association (part 1, 39:15)
Oppose. Texas already has the most creative workers comp, there is no requirement to subscribe. This product is not necessary, employers can already provide multiple products. We think it would interfere with data integrity. Study in 2004 that pointed out the conflict in concepts and why they can't be messed together. There are issues with ERISA preemption. There is no case law, but there are concerns.

Workers' comp purpose is broader than traditional health. Disconnecting this pulls away from the mission to get the injured workers back to work. We feel there is no way to fix this, unfortunately.

Bell: Comp is required often in state law, this bill does not seek to merge comp and health. I'm unaware of any entity that offers 24/7 coverage. The desire is for greater flexibility but not to open up the workers comp statute.

HB 625

Rep. Cody Harris (part 1, 48:50)

In the 86th Legislature, HB 29 granted access to physical therapists, but co-pays still treat PT's as specialty care. This bill makes the copays for 15 visits the same. This bill passed unanimously last session and on the local calendar.

Mike Geelhoed, Texas Physical Therapy Association (part 1, 50:55)
Support. Two years ago we discussed the bill. PT is one of the optimal solutions in health care. But large copays for specialist care keep patients from pursuing PT. This leads to hospital readmissions, need for opioid prescriptions, and need for surgery. PT leads to better outcomes vs. when they don't attend PT, because of the financial barrier.

Oliverson: The decision to change the cost share is premised on the times that patients can see PT's without referral. Would this change the cost share when referred to by a physician?
Geelhoed: We are not looking for a two-tiered system.
Oliverson: So you would want to be treated like a primary care physician. In some cases you are the first provider and other times you are a specialist based on referral. So that argues for a two-tier system.
Geelhoed: There is no time limit, even if they are referred to by a physician.
Oliverson: So this is a universal reclassification of PT regardless of how the patient is referred. So if someone gets hurt, would they see you instead of a doctor?
Geelhoed: No.

Paul: But that's what you just told him.
Geelhoed: We want to have the copay classification.
Paul: So you think people won't come based on the $20 copay?
Geelhoed: We hear anecdotal evidence that people will choose the $10 copay

Matt Abel, Texas Association of Business (part 1, 58:00)
Oppose. Poll of our members:

- Offering health care benefits are even greater to attract talent than salary.
- 87% members say increasing health care costs are unsustainable.
- Members want us to stand against measures that increase cost.

We are concerned about changing the status of specialist to primary provider because it limits plan design. There are plans that have $0 copays to get people the care that is needed.

When we compared data to other states, we saw plans had higher premiums. In Texas, the lowest cost plan is $0 copay. Our members want flexibility. Mandating reimbursement levels limits the ability to design plans.

Right now, plans who want to prioritize PT have options. We oppose the one-size-fits all options.

Cain: Does the 2019 law make PT doctors primary care doctors?
Abel: For the short duration of 10-15 days.

Steve Allenese, Physical Therapist in San Antonio (part 1, 1:02:45)
Support. In 2019 we were granted direct access. Our number one referral became direct access. Our staff is great at referring people back to where they need to be if PT is not the appropriate first response.

Gave example of volleyball player with $50 copay who had surgery, could not afford the full regiment of care. Had to have subsequent surgery.

Blake Hutson, Texas Association of Health Plans (part 1, 1:08:40)
Oppose. TAHP represents a wide variety of health plans, we are concerned with mandates. After the last session, Texas saw a 13% increase in premiums. Important because nationally they were flat. Reasons we oppose mandates:

1. Raise costs
2. Prohibit competition
3. Stop efforts against waste fraud and abuse
4. Many aren't evidence backed by medical community
5. In this case, it does not apply to personal coverage. Does not apply to ERS.

Texans want to see options. In Harris County, the marketplace has 125 options. Some with high copays and low premiums or vice versa. Health plans don't set lower copays for primary care because the legislature mandates it. We do it because people ask for it.

A mandate like this will erode that. When NH passed this in 2014, after passage cost sharing equalized but was through increased cost sharing on primary care. NY has this mandate for mental health, and you can't buy a $0 copay primary care plan. This is not just urban. Anderson County has a plan with $10 copay for primary care.

VT did it for primary care. They caution against trying similar measures.

Tying one copay to another does not address the rising cost of health care.

The law passed a couple of sessions ago does not make PT a primary care provider. They aren't medical doctors. Primary care doctors are versed in a wide variety of care.

Other states that have this further limit the number of primary care visits and PT visits.

Specialists can agree to become primary care providers but must accept the responsibility of care.

Oliverson: Can you explain the difference between copay and what it actually costs for PT treatment?
Hutson: We saw a variety of costs. Some $400. Average around $140 a visit. There are additional formats of deductibles.
Oliverson: How do plans define specialists? It doesn't seem like you can be primary and then get referrals.
Hutson: In HMOs in 2023, even after 2019 law, still need referral for PT.
Oliverson: So you are saying that it's still required?
Hutson: In HMO, not PPO.
Oliverson: So are we saying that they are primary care for 10 days?
Hutson: You could then argue a cardiologist is primary care.
Oliverson: So in the law we made them act as primary care for 10 days, but how do plans define?

Hutson: That law didn't equate PT to primary care, they aren't the same thing, we've talked to the association of primary care providers on this.
Oliverson: I think that definition is key, we need to get that.

Rep. Harris (part 1, 1:21:05)
It is my intent that this copay apply when it is being treated as primary care, willing to limit to the 15 day period. The health plans get to decide copays, and how much profit they make, health plans continue to raise premiums year after year, it was testified that this is a march toward one-size-fits all coverage which is example of the confusion that is willing to be sewn

HB 290

Rep. Oliverson (part 2, 17:10)
MEWAs allow coverage through several entities that have shared commonality. Removes some restrictions that make MEWAs limited. Removes requirement for employees, that all must be in the same area, must be in business for two years. There will be additional protections such as network adequacy and surprise billing protections. Refile from last session and passed in the House. Ran out of time in the Senate.

Eric Tidkey, trustee for member health plan MEWA (part 2, 20:35)
Support. Allowing other associations to join would give additional options for coverage. Small group market is the only place to get PPO coverage and that market is getting smaller. Would be a huge asset for solo business owners.