



# **Legislative Update: State Bills & Federal Trends**

## **WCIF Benefits Summit**

### **April 18, 2019**

# What we will cover today

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**There has been much activity at the state level and interesting trends nationally:**

- Update you on a number of bills in Olympia as to their intent and current status;
- On the federal side, there are some interesting proposals that might be indicators of future trend in the area of healthcare policy.

# Overview of State Legislation

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**There are a number of bills being proposed which could potentially impact WCIF and its members:**

- Public Option creation
- Billing by non-network providers (i.e. ER providers)
- Long-Term Care services
- Drug pricing transparency
- Reimbursement for Telemedicine services

# SSB 5526

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## The Governor's Public Option Bill

**Summary:** Creates standardized plans on WAHBE and would increase eligibility for subsidy to 500% of the Federal Poverty Level. Requires the HCA to work with insurers to develop these standardized plans. **Initial bill paid benefits at Medicare rates.**

**Status:** 5526 passed Senate 3/13; passed House 4/10; Likely will conference rate differences and PASS.

# 2SSB 5822

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## Universal Health Care

**Summary.** Directs the HCA to study the establishment of a work group for universal healthcare in Washington by 11/15/2020. Work group needs to be reflective of a broad range of stakeholders.

**Status: 2SSB passed Senate. Currently in House Rules. Overall prospects are not positive. 5526 will likely carry the healthcare mantle for the Governor's run.**

# 2SHB 1065

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## Surprise Medical Billing

**Summary:** Removes patients from non-network provider billing in certain instances (i.e. emergency services and some surgical procedures). It would not preclude balance billing when patient knowingly seeks care from non-network provider.

**Status:** Passed House 3/4; Passed Senate 4/10; Back to House for concurrence (4/11); Will pass.

# 2SHB 1087

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## Long-Term Services & Support Program

**Summary:** Establishes Trust program for Long-Term Care and initiates a .058% payroll tax and establishes eligibility rules.

**Status:** Passed House 2/21; Currently in Senate Rules; Could go either way at this point (4/11)

# E2SHB 1224

## Prescription Drug Cost Transparency

**Summary:** Requires PBMs, carriers, and drug manufacturers to report annually to the HCA on drug pricing data on the 25 most prescribed medications & specialty medications and to provide cost justifications. It requires HCA to analyze and report data annually to the Legislature.

**Status:** Passed House 3/8; Referred to Senate Rules on 4/9; Likely to pass.

# ESSB 5741

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## All Payors Claims Database (APCD)

**Summary:** Transfers responsibility for APCD to the HCA from OFM. Collects claims data from public & private payors for the purpose of providing consumers access to cost and quality data. Adds self funded data requirements. “The Washington Health Alliance” bill. Lead agency procurement rule amended.

**Status:** Passed Senate 3/13; Referred to House Rules on 4/9; Likely to pass.

# SSB 5385

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## Telemedicine Payment Parity

**Summary:** Requires health plans to pay the same rate for health care services through telemedicine as in person services. Permits hospital systems to negotiate telemedicine rates that differ from in-person rates.

**Status:** Passed by the Senate 3/13. Did not get out of House Appropriations; Likely dead.

# Where we are today with ACA

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- The impact ACA has had on healthcare spend is very much debated by D.C.
- The rate of increase in healthcare spend has been less since the ACA passed.
- The number of Americans with health care coverage has increased by 20 million with an additional 24 million people with subsidized healthcare through incentivized insurance premiums or access to Medicaid.

# Trends at the Federal Level

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## ACA Debate Continues

- Repeal only
- Repeal & Replace

## Reform of Medicare Part D

- HHS proposed major reform to the structure of rebates under Part D.
- Adding transparency for consumers & reduce cost at point of sale
- Implications for the broader market place

# Repeal of ACA

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**The Idea**: Different versions & ideas have been suggested but the theme is typically to roll back the healthcare world to pre-ACA rules.

**Impact**: The consensus on both sides of the aisle is this would increase the federal deficit by over \$30B annually because of increased healthcare costs for Medicaid and loss of ACA tax revenue. 20M Americans would lose insurance coverage.

# Repeal & Replace Proposals

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Proposals for change have come from both sides of the aisle:

- **American Health Security Act** (*“Medicare for All”*) *single payor platform* from Bernie Sanders.
- **Health Insurance Solution** (concept only) but also a version of single payor
- **Patient CARE Act** tax credit /marketplace approach
- **American Health Care Act** (AHCA) which is similar to the Patient CARE Act

# Medicare for All - (M4A)

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**The Idea:** M4A would cover all 311M legal residents with comprehensive benefits with virtually no premium required and no out of pocket expense. Would replace all existing delivery platforms

**Impact:** RAND Study suggests this would increase federal spending by about \$1T annually although the authors of the bill that believe there would be savings in administration and claims cost that would actually save over \$500M annually.

# Health Insurance Solutions

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**The Idea**: While still covering all 311M legal residents, it provides catastrophic coverage through a single payor plan (203M) while leaving Medicare & Medicaid in place for the balance of residents.

**Impact**: Because of the lower benefits provided, this concept should produce a savings to federal healthcare spend of \$40B per year.

# Patient CARE Act (*PCA*)

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**The Idea:** Eliminates most of the ACA provisions for mandated coverage and insurance reform & replaces with a tax credit approach based on family size & income level. Does not adjust for regional variations in healthcare costs or cost of living.

**Impact:** Would decrease the number of insureds by 9M and increase the national deficit by \$17B primarily due to the loss of ACA tax revenue. Older Americans and those living in higher cost areas would be adversely impacted.

# American Health Care Act

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**The Idea:** Similar to the PCA but attempts to clean it up by adding a continuous coverage requirement (premium penalty for a break in coverage), adjusting for regional variation in costs & allowing for a change to the rate slopes used in the Individual Marketplace from 3:1 to at least 5:1.

**Impact:** Likely represents an improvement to the Patient CARE Act by accounting for cost variations in the US. It would still result in a loss of 14M insured Americans and higher costs for those remaining insured. It would initially increase the deficit but by 2026 would begin to modestly reduce the deficit.

# Where does this leave us?

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- No Shortage of ideas around how to improve healthcare.
- Most of these ideas miss the principal issues that lie at the core of the national debate:
  - Reducing the per unit cost of care delivery
  - A focus on quality, outcomes & community health
- Current environment does not really seem open to transformational change at this time!

# Drug Rebate Reform for Medicare

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HHS has proposed a rule change for Medicare and Medicaid Prescription drugs that eliminates rebates from the equation.

- Eliminates Anti-Kickback Statute Safe Harbor that allows manufacturers to incent PBMs to promote higher cost medications;
- Creates drug discounts at point of sale for patients

# Why does this matter?

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Current rules distort consumer and insurer behavior:

- Rebates given to insurers eventually show up as lower premiums for all, creating a lower “net price” but results in higher out of pocket for individuals at the pharmacy, impacting medication compliance;
- The use of rebates at the Plan level focuses behavior on promoting higher cost drugs which carry higher rebates to the Plan.

# What is the impact?

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If implemented (1/2020), this should:

- Move the value of rebates currently being paid to PBMs and health plans and transfer them to the consumer at the pharmacy,
- Encourage the use of lower cost drug alternatives.

This would currently impact only federal programs but most see this as the door opener to pursue similar legislation at the state level for private plans.

# Questions?

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**Thank you!**

# Additional Reading

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- *“The Future of U.S. Health Care: Replace or Revise the Affordable Health Care Act”* (2019) compiled by Christine Eibner of the Rand Corporation ([www.randhealth.org/healthcare](http://www.randhealth.org/healthcare))
- *“The Costs of a National Single Payor Healthcare System”* (2018) by Charles Blahous, Mercatus Center at George Mason University
- *“Changing the Rebate Game; A primer on the HHS proposed rule to shift drug rebates to POS”* (2/2019) by Maggie Alston, Carol Bazell & David Mike, A Milliman Company