Ohio Legislative Service Commission

Bill Analysis

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S.B. 32

131st General Assembly
(As Introduced)

Sens. Tavares, Seitz, Skindell

BILL SUMMARY

- Prohibits health insurers from excluding coverage for a telemedicine service solely because the service is not provided through a face-to-face consultation.
- Requires the Department of Job and Family Services to establish and ensure certain practices with respect to the provision of telemedicine services to Medicaid recipients.

CONTENT AND OPERATION

Health insurance coverage for telemedicine services

The bill prohibits health insurers from excluding coverage for a telemedicine service solely because the service is not provided through a face-to-face consultation. "Telemedicine service" is defined by the bill as a medical service delivered by a physician through the use of any communication, including oral, written, or electronic communication. "Physician" is defined as a person authorized under Ohio law to practice medicine and surgery or osteopathic medicine and surgery, including a person licensed as a physician in another state and certified under Ohio law to provide telemedicine services.

The types of health insurers that are prohibited by the bill from excluding coverage for a telemedicine service include multiple employer welfare arrangements operating a group self-insurance program, health insuring corporations, and sickness and accident insurers. Under the bill, these insurers can require a deductible, copayment, or coinsurance for the telemedicine service but that charge cannot exceed

the amount of the deductible, copayment, or coinsurance required for a comparable medical service provided through a face-to-face consultation.[1]

The bill does not apply to health insurance that is part of the employee benefits offered by private employers that self-insure their benefit programs. These benefit programs are generally precluded from state regulation by the federal Employee Retirement Income Security Act (ERISA) (see "**ERISA**," below).

Telemedicine services offered under the Medicaid program

Under current law, the Ohio Department of Medicaid (ODM) is required to establish standards for Medicaid payments for health care services delivered to a patient through the use of interactive audio, video, or other telecommunications or electronic technology from a site other than the site where the patient is located.[2] These services are referred to as "telehealth services." In addition to the telehealth payment standards ODM must establish, the bill requires the Director of Job and Family Services (see **COMMENT**, below) to do all of the following with respect to the provision of telemedicine services:

(1) Ensure that the Medicaid program does not exclude coverage for a telemedicine service solely because the service is not provided through a face-to-face consultation;

(2) Ensure that the Medicaid program does not require a medical service to be provided to a Medicaid recipient through a telemedicine service when the service can reasonably be provided through a face-to-face consultation;

(3) Establish a system to monitor the provision of telemedicine services to Medicaid recipients for purposes of ensuring quality care and preventing fraud and abuse.

The Director can require a face-to-face consultation between a Medicaid recipient and a physician after an initial telemedicine service, but only if the physician who provided the service had never before seen the recipient as a patient. The Director can specify a period of time within which the consultation must occur.[3]

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[1] R.C. 1739.23, 1751.69, and 3923.235.

[2] R.C. 5164.95, not in the bill.

[3] R.C. 5111.026.

Application of mandated health benefits legislation

The bill exempts its requirements regarding health insurer coverage for telemedicine services from an existing law that could prevent the requirements from being applied until a review by the Superintendent of Insurance has been conducted with respect to mandated health benefits.[4] Under current law, legislation that requires coverage of specified services, treatment, or diseases cannot be applied to any health insurer after the legislation is enacted unless the Superintendent determines, pursuant to a hearing conducted in accordance with the Administrative Procedure Act (R.C. Chapter 119.), that the legislation's requirements can be applied fully and equally in all respects to (1) employee benefit plans subject to regulation by ERISA and (2) employee benefit plans established or modified by the state or any of its political subdivisions.[5] Under the bill, the hearing and determination by the Superintendent are not required even if the bill's provisions are considered mandated health benefits.[6]

ERISA

ERISA is a comprehensive federal statute governing the administration of employee benefit plans. ERISA generally precludes state regulation of benefits offered by private employers that self-insure their benefit programs. Larger employers frequently choose to establish their own health insurance plans for their employees in lieu of purchasing coverage from sickness and accident insurer or health insuring corporation.

COMMENT

The bill makes reference to the Ohio Department of Job and Family Services (ODJFS) being the coordinating entity for Medicaid in Ohio. Am. Sub. H.B. 59 of the 130th General Assembly created the Ohio Department of Medicaid (ODM) and transferred from ODJFS to ODM responsibility for the state-level administration of the Medicaid program. The bill will need to be amended to reflect this administrative structure.

HISTORY

ACTION	DATE
Introduced	02-09-15

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[4] R.C. 1739.23, 1751.69, and 3923.235.

[5] R.C. 3901.71.

[6] R.C. 1739.23, 1751.69, and 3923.235.