

# Ohio Association of Health Underwriters Legislative Update

[www.ohioahu.org](http://www.ohioahu.org)

Presented by Barb Gerken, State Legislative Chair

September 2018

## Federal Updates



Federal issues impacting the Ohio health care delivery system and its residents.

## State Issues - SB227

Helping Employers Become Better Informed about Their Healthcare Purchases.

Agents/Brokers Have the Tools Necessary to Guide Employers in Their Decisions.



## State Updates - Pending Issues

Tracking the Issues Important to Our Members



## State Issues - Section 1332 Waiver



Health Innovation Waivers Allow States to Decide the Best Approach to Healthcare Delivery for Their Residents

## ***Federal Issues - NAHU***

- Legislators returned after Labor Day with only 19 legislative session days left this year.
- The House is planning an "Employer Week"
  - 40-hour work week
  - Delay of the Cadillac Tax
  - Employer Reporting Relief
  - Tax Cuts - may include HSA revisions

***Federal Court  
Hearing***

***Facts of the  
case***

***Decisions***

***Pre-Existing  
Ramifications***

## ***Federal Court Hearing State of Texas vs U.S.***

- Texas is joined by 19 other Republican led states asking the courts to strike down the Affordable Care Act.
- Democratic Attorney Generals from 12 states are defending the ACA.

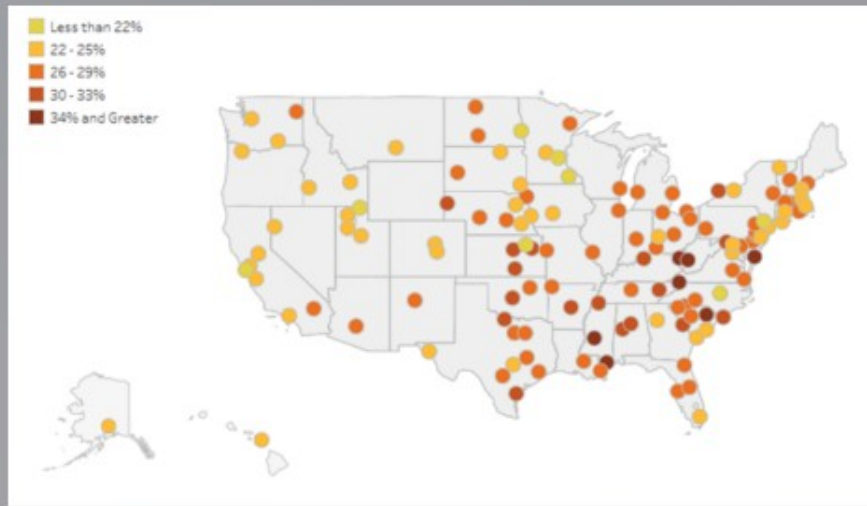
## ***Facts of the case:***

- Request to determine constitutionality of the Affordable Care Act (ACA).
- The case was filed after the 12/2017 law zeroing out the individual mandate penalty.
- 2012 Supreme Court decision to uphold the ACA was based on the fact that it was a tax and not a mandate.

## ***Decisions to be made:***

- Enjoin the entire law? ✓ No – 9/7/2018
- Is the tax delayed or removed?
- Severability?
  - Guarantee Issue
  - Pre-existing Conditions
  - Community Rating

# *Kaiser Family Foundation*



**Mapping Pre-Existing Conditions  
Across the U.S.**

*State  
Statistics*



## ***State Statistics***

- Released August 28, 2018
- Reflecting the percentage of the adult population with a pre-existing condition:
  - Toledo – 26%
  - Columbus – 26%
  - Cleveland – 26%
  - Dayton – 25%
  - Cincinnati – 29%
- <https://www.kff.org/health-reform/issue-brief/mapping-pre-existing-conditions-across-the-u-s/>

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## ***SB227 - Require Health Plan Issuers to Release Certain Claim Information to Group Plan Policyholders.***

- Introduced 11/2/2017, referred to committee - 11/15/2017
- Main sponsor, Senator Matt Huffman (R-Lima)

*Summary of the bill*

*Who will be affected?*

*Status/OAHU Action Items*

## ***Summary of the bill:***

- Would require carriers to provide claims data to employers who do not receive information today.
- Data would include:
  - Net claims by month;
  - Monthly enrollment;
  - Claims reserves amounts;
  - Claims over \$10,000;
  - Listing of potential catastrophic diagnoses prognoses

## ***Who will be affected?***

- Size of employer has been debated since introduction of the bill.
- Updated language added in April, 2018 to address employer size.
- 51 or more full-time equivalent employees (ALE).
- Ohio Association of Health Plans (OAHP) suggested changes – May 10, 2018.
- Senate Insurance & Financial Institutions Committee added an amendment in late May to change to 50 or more full-time (30 hour per week).

## ***Status/OAHU Action Items***

- The bill was unanimously passed out of Committee on 5/23/2018 and also passed the Senate unanimously the same day.
- On 6/27/2018 the bill received sponsor testimony in the House Insurance Committee.
- OAHU building chart to reflect carrier data liability for 100+ today.
  - Ensure that whatever is passed in new legislation does not endanger the data that is available today in large group.

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## ***Section 1332 Waiver***

- Allows Ohio to request a waiver from HHS to replace portions of the Affordable Care Act with suggestions of our own.
- Under the Trump Administration, there is renewed emphasis on returning control of decisions to the state level.

***Guardrails***

***State Approvals***

***Ohio Progress***

## ***Section 1332 Guardrails***

- Waiver must provide coverage to at least as many people as the ACA would provide without the waiver.
- Waiver must provide coverage that is at least as comprehensive as coverage offered through the Exchange.
- The waiver must provide "coverage and cost sharing protections against excessive out-of-pocket" spending that is at least as "affordable" as coverage Exchange.
- The waiver must not increase the federal deficit.

## ***Current Approvals***

- Hawaii - December 30, 2016
- Alaska - July 11, 2017
- Minnesota - September 22, 2017
- Oregon - October 19, 2017
- Wisconsin - July 29, 2018
- Maine - July 30, 2018
- New Jersey - August 16, 2018
- Maryland - August 22, 2018

## ***Ohio Waiver Request***

- Enacted a law; signed 6/30/2015 - requiring the superintendent of insurance to apply for the waiver.
- "Shall include in the application a request for waivers of the employer and individual mandates"
- Waiver documents filed March 30, 2018;
- Requested only to waive the individual mandate;
- Denied by HHS in May 2018 as no replacement plan was offered.

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## ***Pending Issues***

- Short-Term Health Plans
- Association Health Plans
- Transparency Rules
  - H.B. 416
  - Sponsored by Rep. Steve Huffman (R-Miami)
  - Requires specified providers and insurers to provide cost estimates to patients prior to scheduled procedures.

***HB416  
Information***

***HB416  
Language***

***Questions***

## ***H.B. 416***

- Would replace language in current law that has not yet been implemented due to a court injunction.
- Hospitals, nursing homes and residential care facilities have been removed from this language.
- The list of affected providers includes most primary care and specialist physicians as well as dentists, chiropractors, psychologist and physical therapists.

## ***Language in the Bill***

- Estimate can be verbal or written.
- Provider will be responsible for estimate unless the insurer requires prior authorization.
- The patient is still responsible for payment even if they did not receive an estimate.
- The estimate must include a disclaimer regarding facts available at the time of estimate.
- The estimate should include a statement of network participation.



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