



## **Ohio Association of Health Underwriters Legislative & Regulatory Update**

**December 22, 2015**

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### **A Year in Review**

#### **Governor Kasich signs Biennial Budget into law**

Much of the first half of this year's legislative session focused on passage of Ohio biennial budget that funds state government from July 1, 2015 - June 30, 2017. On June 30, 2015, Governor John Kasich signed the \$71.2 billion biennial budget (H.B. 64) into law. The budget increases funding for K-12 education, which will now be funded at approximately \$10 billion per year and cuts taxes by approximately \$2 billion. The Kasich Administration announced that the state now has \$2 billion in its "rainy day fund" (reserve fund). When Kasich took office in January 2011, the rainy day fund had 89 cents.

#### **Budget Tax provisions**

The House and Senate both rejected Governor Kasich's proposed expansion of the state sales tax to numerous additional business-to-business related services which could have impacted OAHU members. They also rejected Kasich's proposed .50% increase in the state sales tax and an increase in the Commercial Activity Tax. An increase in cigarette taxes was retained at a lower level than Kasich had originally proposed. However, there was agreement between the Legislature and Kasich to further reduce the personal income tax and small business taxes as follows:

**Personal Income Tax Cut** – All income tax brackets are reduced by 6.3% for tax years beginning in 2015.

**Small Business Tax Cut** – The first 75% of business income up to \$250,000 (up to \$125,000 for taxpayers filing separately) is not taxable for 2015, and for 2016 and thereafter, 100% of the first \$250,000 (\$125,000 for spouses filing separately) is not taxable. There is a flat tax of 3% on all business income in excess of these amounts. **Please note: The business income tax cut does not apply to small businesses organized as C-corporations.**

Kasich did veto 44 items before signing the budget bill. One veto was of particular interest to the insurance industry. The veto related to changes to Ohio's subrogation law which were inserted into the Senate version of the budget. Numerous groups expressed their concerns with the budget language including the Ohio Alliance for Civil Justice and 29 insurance industry executives. The concerns could be summed up by this statement from one of the insurance trade associations: "The new subrogation language ... would make significant changes to Ohio's tort law and would restrict the subrogation rights of defendants and their insurers who have a duty to their policyholders... The end result will be higher costs which ultimately will be more expense to Ohio's insurance consumers."

Kasich's veto was a partial veto of the subrogation language, so this issue will likely be debated further in the future. In fact, an amendment was added to **SB 223** at the request of the Ohio Association of Health Plans (the health insurer's trade association) that suspends until January 1, 2017, the subrogation provisions applicable to health insurers that were included in the state budget bill (HB 64).

The main purpose of **SB 223** (which has been sent to Governor Kasich for his signature) is to make changes to the health coverage benefit limits and coverage exclusions for the Life and Health Insurance Guaranty Association. SB 223 will provide consumers with additional protections and make Ohio law consistent with national standards. Current Ohio law provides for a maximum payment of \$100,000 for any type of health insurance, whether it be major medical insurance, disability insurance, long-term care insurance or some type of specialty health insurance coverage.

Every other state in the country over the course of the last several years has set the maximum payment to at least \$300,000. Some states have higher limits and one state has no limits. SB 223 creates a three-tiered approach for maximum payment amounts as follows: \$500,000 for major medical insurance, \$300,000 for

disability insurance and long-term care insurance and \$100,000 for other types of health insurance.

### **Congress Passes PACE Act**

The U.S. House of Representatives unanimously passed H.R. 1624 - Protecting Affordable Coverage for Employees (PACE) Act on September 28, 2015 and the U.S. Senate unanimously passed the companion bill S. 1099 on October 1, 2015. President Obama then signed the legislation into law on October 7th. The PACE Act repeals the mandated small-group expansion from the current definition of 1-50 employees to 1-100 employees which was scheduled to go in to effect on January 1, 2016. The Act allows each state to determine the size of their small group market rather than imposing a national standard.

Enactment of the PACE Act offers the flexibility to employers with 51-99 employees the ability to remain out of the small group community rating structure and to keep a more generous offering of coverage options. Upon passage, OAHU immediately communicated with the Ohio Department of Insurance to let the department know that OAHU strongly supports keeping Ohio's small group market at 1-50 employees. In response, Lt. Governor/ODI Director publically stated that she strongly supports the legislation and wants to keep Ohio's small group market at its current 1-50 employees.

#### **OAHU-supported Law relating to Small Group Size and Age for Dependent Coverage**

OAHU, with the strong leadership of OAHU member, Representative Barbara Sears, was successful last year in enacting into Ohio law three provisions that improved Ohio's fully insured market. While the legislation became effective on March 23, 2015, of the three provisions OAHU was working on, **only the "short term" health insurance policy provision became effective on that date.** Below is a summary of when the 3 provisions take effect.

Ø Reduces the dependent age under a parent's health insurance plan from age 28 to age 26. **(Applies to plans offered on or after 1/1/2016)** Please note that this provision applies to **all** of Ohio's fully insured market.

Ø Increases from 25-30 hours the threshold to be considered a full-time employee to be eligible for employer health insurance **in Ohio's small group market. (Applies to plans offered on or after 1/1/2016)**

Ø Extends the maximum length of a short-term health insurance policy from “no longer than 6 months” to “less than 12 months” **(Effective 3/23/2015)**

## **ODI Issues Composite Rating Bulletin**

The Ohio Department of Insurance issued a Composite Rating Bulletin that became effective on October 1, 2015. The Bulletin is effective for plan years beginning on or after January 1, 2016. Ohio’s 4-tiered composite methodology may be used to set employer premium rates in the off-exchange market. To read the ODI Bulletin click on the following link:

<http://insurance.ohio.gov/Legal/Bulletins/Documents/2015-3.pdf>

## **Pending Legislation**

### **Drug Manufacturers, Providers, Health Insurers and Employers debate how “Basic Benefit Package” is delivered to Ohio’s Health Insurance Market**

Since the passage of PPACA, the debate at the state level is much less about what is included in the basic benefit package; however, there is a vigorous debate over how health insurance benefits are implemented in the state of Ohio. On one side you have drug manufacturers, medical providers and some consumer groups who allege that health insurers provide unreasonable impediments to access to certain drugs and establish unreasonable protocols. On the other side are health insurers and some employer groups that believe certain techniques and protocols insure better quality care at a reasonable cost. Below are examples of pending legislation where these debates are occurring:

**HB 95 DENTAL SERVICES** (DeVitis) (Introduced 3/3/2015) To prohibit a dental insurer from establishing a fee schedule for dental providers that are not covered by any contract or participating provider agreement between the dental insurer and the dental provider. The bill passed the House on June 10, 2015 and received its second hearing in the Senate Insurance Committee on November 18, 2015. The Ohio Dental Association is the lead proponent and the opponents are Delta Dental, the Ohio Association of Health Plans, the Ohio Chamber of Commerce, the National Federation of Independent Business and some unions.

**HB 275 VISION CARE** (Schuring) (Introduced 6/24/2015) Regarding limitations imposed by health insurers on vision care services. The bill’s language relating to non-covered services is similar to the language in HB 95. HB 275 received its second hearing in the House Insurance Committee on October 20, 2015.

**SB 129 PRIOR AUTHORIZATIONS** (Gardner & Cafaro) (Introduced 3/16/2015) To amend the law related to the prior authorization requirements of insurers. The bill seeks to limit the prior authorization requirements health insurers impose on their enrollees. The bill received three hearings in the Senate Insurance Committee and passed out of the Committee on December 9, 2015. Later in the day the bill then also passed out of the Senate. Proponents of the legislation are the Ohio State Medical Association, the Ohio Hospital Association and numerous other provider group. Opponents are the Ohio Association of Health Plans and its national Association (AHIP) and the Ohio Chamber of Commerce.

**SB 135 PRESCRIPTION DRUGS** (Cafaro & Jones) (Introduced 3/25/2015) To limit the out-of-pocket costs to an individual covered by a health plan for drugs used to treat rare diseases. The bill limits an enrollee's cost sharing for specialty drugs to no more than \$150 for a one-month supply. Also, health insurers are required to establish a process by which an enrollee may request that a specialty drug that is not listed on the insurer's preferred drug formulary be covered. The bill received its second hearing in the Senate Insurance Committee on October 20, 2015.

**HB 350 AUTISM TREATMENT** (Grossman & Terhar) (Introduced 10/1/2015) To mandate coverage of autism treatment. The bill would expand coverage for Applied Behavior Analysis and other medically necessary treatments for autism to populations that were not covered under Governor Kasich's 2012 Executive Order. The Executive Order applies to the state employee health benefit plans and non-grandfathered plans in the individual and small group markets, and Ohio's Medicaid "Healthchek" program for Medicaid recipients under 21.

Representative Grossman testified that the Ohio Department of Administrative Services reports that the cost of this coverage for fiscal year 2014 was \$269,173 or \$0.20 per member per month. The bill received its first hearing in the House Government Accountability & Oversight Committee on December 8, 2015.

**HB 248 MEDICAID DRUG COVERAGE** (Sprague & Antonio) (Introduced 6/8/2015) To prohibit certain health care plans and the Medicaid program from denying coverage for opioid analgesic drugs with abuse deterrent technology based solely on cost. The bill has received four hearings in the House Health & Aging Committee.

Proponents of HB 248 include Pfizer (manufacturer of opioid abuse deterrent drugs), the Ohio Society of Anesthesiologists, the Ohio Association of Behavioral Health Authorities and several law enforcement agencies. Opponents are the

Ohio Association of Health Plans, CVS Health and the Ohio Chamber of Commerce.

**SB 243 STEP THERAPY** (Lehner & Tavares) (Introduced 11/17/2015) To adopt requirements related to step therapy protocols implemented by health plan issuers and the Department of Medicaid. Step Therapy is defined as the practice of beginning drug therapy for a medical condition with the most cost-effective and safest drug and progressing to other more costly or risky therapy, only if necessary (i.e., you must try drug "A" before you can get drug "B"). The goal is to control costs and minimize risks. The bill has been referred to the Senate Medicaid Committee.

### **OAHU PAC Update**

I would like to thank you for helping OAHU PAC have another successful year in 2015. During this year we raised \$16,655 from OAHU members. In addition, several OAHU members participated in a fundraiser OAHU PAC jointly sponsored with NEOAHU where OAHU members made an additional \$2,100 in contributions to the campaign committee of the new Speaker of the Ohio House of Representatives, Cliff Rosenberger. This was a great opportunity for our members to meet Speaker Rosenberger and to have an informal discussion with him. During 2015, OAHU PAC made contributions to Ohio House and Senate members totaling \$14,406.

**Merry Christmas and Happy New Year!**

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