Ohio Association of Health Underwriters
State Budget Update

July 7, 2015
Prepared by John T. McGough

Governor Kasich signs Biennial Budget into law

On June 30, 2015, Governor John Kasich signed the state biennial budget (H.B. 64) into Ohio law. The budget funds state government from July 1, 2015 - June 30, 2017. Kasich did veto 44 items before signing the budget bill. One of the provisions that Kasich vetoed is of great importance to the insurance and business industry and relates to the issue of subrogation. Language was inserted into the budget in the Senate that both health and property & casualty insurers believe 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. Also, the Ohio Alliance for Civil Justice which includes the Ohio Chamber of Commerce, the National Federation of Independent Business-Ohio and the Ohio State Medical Association made the following statement about the Senate-passed subrogation language:

"We believe that the changes proposed in this amendment will have a widespread negative impact on Ohio's civil justice system by undercutting existing contractual relationships, disincentivizing cost control during litigation and potentially increasing health care premium costs to Ohioans."

Kasich's veto was a partial veto of the subrogation language, so this issue will likely be debated further this legislative session. Kasich made the following statement relating to his veto:

"Subrogation is a complex issue that affects multiple stakeholders in numerous ways… While respecting the intent of the General Assembly, the impact of this item should be minimized until that public debate can occur."

Kasich also vetoed a provision relating to the use of telemedicine stating that the requirements "may cause confusion about the appropriate standard of care for those who wish to offer telehealth services, particularly in light of the ongoing rulemaking process concerning the standards of telemedicine… underway before the State Medical Board…"

Tax provisions

The House and Senate both rejected Kasich's proposed expansion of the sales tax to additional services including "management consulting services" which could have affected services performed by insurance agents. They also rejected Kasich's proposed .50% increase in the state sales tax and an increase in the Commercial Activity Tax. 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.

Cigarette tax increase – Increases the cigarette tax from $1.25 per pack to $1.60 per pack.

Health/Health Insurance related provisions

Department of Administrative Services (DAS)
- Permits, rather than requires public entities to offer health care plans that

consider (rather than contain) best practices identified by DAS or established by the former School Employees Health Care Board.
- Eliminates the Public Employees Health Care Fund used by DAS to administer the Public Employees Health Care Program.
- Provides DAS ongoing authority to convene a public Health Care Advisory Committee to assist in studying relevant issues, but removes the 15 member committee appointed by the Governor, President of the Senate and Speaker of the House. In other words, DAS can choose whoever they want to be on the Health Care Advisory Committee.

Please note: DAS has currently contracted with the Kent State University Center for Public Policy and Health to look at the use of health insurance consortia in the state. OAHU has talked with the Director of the KSU Center for Public Policy and is monitoring the outcome of the research.

Department of Insurance – Revision to Ohio's MEWA law

The budget includes revisions to Ohio's Multiple Employer Welfare Arrangement (MEWA) law as follows:
- Expands entities eligible to form a MEWA to include a chamber of commerce, a tax exempt voluntary employee beneficiary association or business league, or any other association specified by rule by the Superintendent of Insurance.
- Extends from 1 to 5 years the timeframe a group must have been organized and maintained before registering as a MEWA.
- Increases the required minimum surplus for a MEWA from $150,000 to $500,000 and subjects MEWA's to the continuing law risk-based capital requirements for life or health insurers.
- Prohibits a MEWA's stop-loss insurance policy from engaging in specified actions with respect to covered individuals.
- Requires MEWAs to annually file with the Superintendent an actuarial certification.
- Specifies that the requirements for MEWAs that have a valid certificate of authority on the effective date of these provisions, must be met within 2 years of the effective date.

Medicaid Healthy Ohio Program (Subject to federal approval of Medicaid Waiver request)

- Requires the Medicaid Director to establish the Healthy Ohio Program under which certain Medicaid recipients are required to enroll in a comprehensive health plan offered by a managed care organization under contract with the Ohio

Department of Medicaid.
- Requires an individual to participate in the program if the individual qualifies for Medicaid under the Covered Families and Children category or the eligibility expansion group authorized under the Affordable Care Act. Medicaid recipients who are minors are excluded from this requirement.
- Requires that an account, to be known as a Buckeye account, be established for each program participant and that the account consist of Medicaid funds and contributions made by the individual and on the individual's behalf.
- Requires a participant to annually contribute to a Buckeye account the lesser of 2% of the participant's annual countable family income or $99.
- Requires each county Department of Job & Family Services to refer to a workforce development agency each Healthy Ohio Program participant who is an adult and either unemployed or underemployed.
- Except for pregnant women, terminates for at least 12 months a participant's participation if a monthly installment payment to a Buckeye account is 60 days late or a participant fails to timely submit documentation needed for a Medicaid eligibility redetermination.
- However, a participant may resume participation once the participant pays the full amount of the monthly installment or submits documentation needed for the redetermination instead of making the individual wait at least 12 months.
- Requires that a participant who exhausts the annual or lifetime payout limits be transferred to the fee-for-service component of Medicaid or the care management system.

Integration of Behavioral Health into the Medicaid Care Management System

- Requires the Ohio Department of Medicaid to include alcohol, drug addiction and mental health services in the Medicaid Care Management System not later than January 1, 2018.
- Requires approval of the Joint Medicaid Oversight Committee before the Ohio Department of Medicaid may implement a proposal to include any of the behavioral health services in the Medicaid Care Management System before January 1, 2018.

Pooling of funds for Health Care expenses of Regional COGs

- Permits a regional council of governments established to provide health care benefits to member governments' employees and the employees' dependents to pool funds received from all members of the council.
- Applies the above language to COG members from other states to the extent

the laws of such other states permit such activity.

Miscellaneous provision

Nonprofit Corporation Contributions to PACs

- Allows a nonprofit corporation that is a tax exempt business organization to transfer contributions received as part of regular dues payment from its unincorporated member businesses to its political action committee.
- Requires the PAC to itemize those contributions and allocate them to individuals in its campaign finance filings.

OAHU Association Office: 4036 Center Road, Suite B, Brunswick, OH 44212

Phone 330-273-5756 · Fax (216) 803-9900 · Sheri@ohioahu.org

Government Affairs Office

John McGough · 137 East State Street · Columbus, OH 43215

Phone: 614-221-5771 · Fax: 614- 221-2865 · jmcgough@mcgough-inc.com