



To: Members of the Health Insurance Advisory

From: Herbert W. Olson, Legal Counsel

Date: April 26, 2011

Re: Legislative Summary

This memo will summarize some of the legislation OHIC is following during the current session of the General Assembly.

1. An Act Relating to Enhancing the Effectiveness of Health Insurance Rate Review (H 5733, S 771)

This OHIC legislation is needed to strengthen the health insurance rate review process, making several technical improvements to the process, and clarifying current law.

- Review of health insurance rates will be given heightened scrutiny if a carrier proposes an extraordinary rate increase. Under current law only “Direct Pay” rates are automatically subject to a formal, public administrative hearing. This legislation will also require all “extraordinary rate increase filings”, defined as filings requesting an overall increase of 10% or greater, to be subject to an administrative hearing.
- OHIC’s expert actuarial staff analysis will be included in the record of any health insurance rate review, in a manner consistent with customary administrative procedures.
- OHIC will be authorized to conduct public meetings in those cases which do not proceed automatically to administrative hearing.
- Currently, procedures are contained in numerous different statutes, and OHIC’s regulatory standards for assessing the affordability of health insurance have been subject to dispute. The consolidated rate review statute will contain the consistent procedures and standards of review, and in connection with any rate decision the Commissioner will be authorized to attach cost containment and health system improvement conditions.
- OHIC is meeting with the AG’s Office, and we are hopeful that clarifying language can be developed to assure the AG’s Office that their important public advocacy role in the rate review process will continue.

2. An Act Relating to the Enforcement of Health Insurance Laws (H 5858, S 496)

This OHIC legislation is needed to fix a gap in state health insurance consumer protection arising out of the enactment of federal health insurance laws – laws which Rhode Island state agencies currently are not expressly authorized to administer and enforce. The proposed legislation will ensure that health insurance consumer protections will be enforced at the state level, not by the federal government.

- The legislation expressly authorizes the Office of the Health Insurance Commissioner to enforce the consumer protections set forth in federal health insurance laws and regulations.
- OHIC will be proposing an amendment to the legislation to clarify that the legislation is limited to enforcement of health insurance laws, not other laws relating to health care, and that the legislation will not affect the jurisdiction of other state agencies charged with enforcing certain health insurance consumer protections.
- The legislation also directs the Department of Health to amend its regulations relating to health insurance carrier internal appeals and external reviews so as to be consistent with the Patient Protection and Affordable Care Act.

3. An Act Relating to Making Small Employer Retiree Health Insurance Affordable (H 5557, S 461)

The federal Patient Protection and Affordable Care Act makes funds available to employers to help reduce the cost of coverage for retirees of the employer. The current definition of “employee” in the Rhode Island small employer health insurance law does not allow a retired employee to be considered an employee for purposes of health insurance coverage.

This OHIC legislation will change the definition of “employee” in the small employer health insurance law, and thereby allow small employers to access federal subsidy funds.

4. An Act Relating to State Affairs and Government – Health Insurance Oversight (S 870)

This legislation (not introduced by OHIC) follows up on the work of the Senate Hospital Commission report issued in March, 2011 by authorizing the Commissioner of OHIC to adopt rules, or issue rate review supplemental orders to:

- Facilitate the transition away from the “fee-for-service” payment system towards “alternative payment systems.”
- Establish reimbursement standards for hospital services designed to create reasonable constraints on health insurance trends.
- Establish reimbursement standards that are compatible with Medicare, allowing for RI variations where appropriate.

5. An Act Relating to State Affairs and Government – Patient Centered Medical Home Act (H 5276, S 770)

This legislation (not introduced by OHIC) would provide legislative support for the Chronic Care Sustainability Initiative endorsed by this Council and implemented through OHIC over the past three years.

6. Benefit Mandate Legislation

Several pieces of legislation seek to expand coverage for specific services, or shift the cost of services currently provided by state agencies to health insurance ratepayers. OHIC's position on these types of bills has been to suggest that before expanding mandated coverage in RI, a cost-benefit analysis should be conducted, and the federal process for establishing Essential Benefits under the Affordable Care Act should be completed.

- Hearing impairment services (H 5798, S 460, H 5851, S 476, H 5859, S 477)
- Services for children with disabilities and chronic illnesses (H 5976, S 464)
- Autism spectrum disorders (H 5275, S 107)