

LEG REG REVIEW is a periodic newsletter produced by Vince Phillips who retired from active lobbying after 31 years of advocacy in Harrisburg. It contains news on the legislative and regulatory scene in Pennsylvania that may be of interest to the Insurance and Business Communities. Annual subscriptions are \$100 and information may be obtained by contacting PHILLIPS ASSOCIATES at 717/728-1217 or e-mail to xenobun@aol.com.

LEGISLATIVE UPDATE

The PA House returns September 12 followed by the Senate on September 19. That's only 15 session days until adjournment on November 30. Some of these session days will be non-voting while others will be more ceremonial, such as giving retiring legislators a chance to say goodbye. The legislature's first day back should be sluggish but expect the tempo to quicken as legislators realize that there is little time in which to work. That's one reason why some bills introduced back in 2021 to committee are beginning to be noticed again. Examples of this slower start in September:

- As of Friday, close of business (September 2), neither House Insurance Committee nor Senate Bank & Insurance Committees have scheduled meetings. They have company is that an estimated 90%-plus of committees have nothing scheduled so far.
- **On the Senate calendar for third consideration is one insurance bill.** Third consideration means that a final vote could take place in the Senate. **Senate Bill 775** (Bartolotta-R-Greene/Washington) changes the standard by which a first-responder must meet in order to claim a post-traumatic stress injury under Workers Compensation. This includes diagnosis from a licensed psychologist or psychiatrist in accordance with the American Psychiatric Association Diagnostic and Statistical Manual of Mental Health Disorders, 5th edition.
- **On the House calendar there are two insurance bills on third consideration where a final vote could take place.** They are:
 - **House Bill 860** (Polinchock-R-Bucks) requires installation and maintenance of smoke alarms in rented or leased buildings with dwelling units within 2 years after the bill becomes law. The property owner must ensure that the alarm is operating before a new occupant takes residence. The owner must replace the alarm(s) if needed. In addition, a problem reported by the tenant must be resolved in 96 hours, Non-compliance would result in a \$50 fine. Tenant is responsible for maintenance.
 - **House Bill 922 (Davanzo-R-Westmoreland)** amends the Workers Compensation Act to allow an employer to have the right to claim a credit against future medical benefits after a third-party settlement or recovery.

NAHU ISSUES MEDICARE OPERATION SHOUT

The National Association of Health Underwriters (NAHU) issued an Operation Shout September 1st regarding a new marketing rule for Medicare effective October 1. This affects marketing of Medicare Advantage and Part D prescription plans. According to NAHU, the marketing rule:

- Expands the definition of third-party marketing organizations to record enrollment conversations. NAHU says that this includes individual agents and brokers to whom the cost and complexity of setting up a HIPAA-compliant audio recording system with adequate and protected storage capabilities may prevent them from participating in this year's annual enrollment period.
- Puts many beneficiaries in danger of not having access to a licensed and Medicare-certified independent agent or broker in this fall's annual enrollment period.

Since the Center for Medicare & Medicaid Services rule takes effect October 1, 2022, NAHU is asking agents and brokers to contact both Senators and their Member of Congress to urge CMS to delay implementation from six to 12 months to allow for these concerns to be met. Details: <https://nahu.quorum.us/campaign/42351/>.

FEDERAL UPDATES

- The Biden Administration is proposing a new rule which it says will make it easier for millions of people to enroll in and maintain their Medicaid and CHIP coverage. One focus is to ensure that those 65 and over will not have their dual Medicare-Medicaid coverage threatened. An example of CHIP protection is to allow CHIP beneficiaries to remain enrolled or re-enrolled without a lock-out period for failure to pay premiums. A link to the CMS August 31 Fact Sheet on Notice of Proposed Rulemaking follows:

<https://www.cms.gov/newsroom/fact-sheets/streamlining-eligibility-enrollment-notice-proposed-rulemaking-nprm>.

- The No Surprises Act final rule regarding settlement of disputes was released on August 19. Issued jointly by HHS and the Treasury Department, a link to the Fact Sheet follows:

<https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/faqs/requirements-related-to-surprise-billing-final-rules-2022.pdf>.

- President Biden's Inflation Reduction Act just signed into law has some elements affecting health care:
 - Medicare Part D beneficiaries will have pharmacy prescriptions costs capped at \$2,000 per year.
 - CMS will be able to negotiate drug prices and the Biden Administration says that 5-7 million beneficiaries could see their prescription drug costs decrease.
 - Insulin costs will be capped at \$35 for a month's supply.
 - A link to the White House August 15 summary follows:

<https://www.whitehouse.gov/briefing-room/statements-releases/2022/08/15/by-the-numbers-the-inflation-reduction-act/>.

STATE LEGISLATION TO WATCH

As the session approaches its conclusion, it is a little harder to keep a scorecard. Sometimes, a bill that simply is in the right place at the right time in the legislative process gets a major amendment of a different topic. For example, **House Bill 331** (R. Brown-R-Monroe) was an obscure banking bill. It was amended on June 28 to take on the substance of **Senate Bill 1167** (DiSanto-R-Dauphin/Perry) providing access to credit and insurance to legitimate cannabis-related businesses. The amended bill was signed into law as Act 56 on 2022 on July 11. Why? Almost time to recess for the summer. With so few session days left in 2022, expect more of these.

Some bills to watch because they may be in the right place at the right time:

- **Mandated Benefits**

- **Senate Bill 1225** (Mensch-R-Berks/Montgomery/Bucks) enhances coverage for dense breast exams. Note that Senator Mensch is retiring. The question is whether this will be his legacy bill. Status: Senate Banking & Insurance Committee,
- **Senate Bill 225** (Phillips-Hill-R-York) modifies prior authorization procedures for medical services. Status: Passed the Senate 50-0 on June 29 and is now in the House Insurance Committee.
- **Senate Bill 522** (Baker-R-Luzerne/Pike/Susquehanna/Wayne/Wyoming) passed the Senate 49-0 on June 13 and is now in the House Children & Youth Committee. It mandates health insurance coverage for children's' lead testing.

- **Auto Insurance: Senate Bill 676** (Pittman-R-Indiana) has gotten further than any other bill in recent memory that attempts to make major changes to the auto insurance law (Act 6). It seeks to increase auto insurance minimums and address issues associated with Uninsured and Underinsured Insurance coverage (UM/UIM). Status: Passed the Senate 26-24 on July 8 and is now in the House Insurance Committee.

Sleeper LTC Bill: House Bill 2779 (Neilson-D-Phila.) would establish a state-run long-term care insurance plan with mandatory payroll premium deductions. A separate board (**not including brokers or insurers**) would govern it. Status: House Aging & Older Adult Services Committee August 22. Link to text follows:

<https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2021&sessInd=0&billBody=H&billTyp=B&billNbr=2779&pn=3418>.