

State & Federal Legislation Update

Brook Seaford & Wes Grigston

Budget deliberations are now the key activity in the North Carolina General Assembly. Late last week the House passed its version of the budget, and it includes tax increases that the Senate version did not include. Conferees of both bodies have begun the task of reconciling their budgetary differences, with the fiscal year ending June 30.

Several bills of interest were ratified on June 16:

HB 1161 – Revise Insurance Financial Conditions: This legislation addresses the regulation by the Department of Insurance of insurance company finances.

HB 1164 – Modernize HMO Oversight Requirements: This legislation, sponsored by the DOI, repeals obsolete statutes addressing HMOs.

HB 1165 – Update Standard Fire Insurance Policy: This bill, also sponsored by the DOI, removes certain obsolete terminology from the standard fire insurance policy, but otherwise makes no changes to it.

Last week, the Senate also passed pending House legislation, but in forms that differ from the House versions:

HB 1183 – Health and Other Insurance Law Changes passed the Senate last week, and will be sent back to the House for concurrence in the Senate amendments. The primary purpose of this legislation is to update North Carolina law to comply with portability requirements of federal law.

HB 1314 –Annual Financial Reporting will also be sent back to the House for its concurrence in Senate amendments. This legislation, a DOI initiative, improves the Commissioner’s ability to monitor the financial condition of companies by requiring annual reports, which will now contain more detailed information.

Last week, House Health met and considered **SB 877 – Health Plan Provider Contracts/Transparency**. The Health Committee gave this legislation a favorable report and has re-referred it to House Insurance. This legislation requires that contracts between health plans and their providers be written in understandable English and that certain threshold contractual provisions be identified transparently.

This week House J-III gave a favorable report to **SB 780 – Structured Settlement Annuities/Insurance Guaranty Association**. This bill is on tonight’s House calendar for concurrence in Senate amendments. It would authorize the Insurance Guaranty Association to provide protection for annuities purchased in connection with structured settlements.

SB 468 – Authorize Insurance for Former Employees is on the House calendar for this evening. This legislation, which originated in the Senate, would authorize counties to provide health insurance benefits to former employees who are not receiving retirement benefits.

HB 535 – Insurance Coverage/Lymphodema passed the Senate this week and has thus been ratified. This legislation is a mandate which requires health benefit plans to cover the care and treatment of Lymphodema.

Yesterday House Insurance met and considered **SB 877 – Health Plans Provider Contracts/Transparency**. This legislation is sponsored by Sen. Dan Clodfelter (D-Charlotte), and seeks to give providers equal bargaining power with respect to health benefit plans in the setting of fee schedules. Blue Cross vigorously opposed this legislation before the House Insurance Committee. However, it received the unanimous support of the Committee and will advance to the floor of the House for additional consideration.

House Insurance also gave a favorable report to **SB 1029 – PEO Amendments** yesterday. This legislation amends the statutes addressing professional employer organizations. It permits licensed PEOs to sponsor and maintain employee benefit plans that are underwritten by HMOs and licensed insurers. Additionally, client companies may sponsor and maintain employee benefit plans for the benefit of assigned employees. From and after October 1, 2009, self-funded health plans offered by PEOs will be intensely regulated. PEOs would have to use licensed TPAs, health plan assets would have to be held in separate trust accounts, and there would have to be sound reserves. Specific and aggregate stop/loss coverage would need to be maintained, and certificates would have to include a notice that the plan is self-funded rather than fully insured. If the licensee could not obtain stop/loss insurance, the licensee would have to maintain at least a 30 percent “lag reserve” above expected losses as determined by a certified actuary. There would have to be a written plan of operation, which would have to be filed with the Commissioner, and a summary plan description would have to be provided to plan participants. The Commissioner would be able to examine the licensee’s self-funded employee benefit plan. All of this is in response to financial irregularities and insolvencies that have plagued several PEOs in recent years.

House J-III met this week and considered **HB 1166 – Insurance Law Changes**. This legislation would permit the DOI and licensees to communicate electronically. It contains a number of other clarifying amendments relating to fingerprinting, criminal background checks and related issues. Note that provisions were just added to this bill at the request of the funeral home industry which would permit them to obtain life insurance information about the deceased individuals for whom they would be providing funeral and burial services. A subcommittee chaired by Rep. Bill Faison has been appointed to consider these issues, and while this subcommittee met once this week, no final action has been taken on the life insurance provisions as they relate to funeral homes. We will stay in touch as discussions in this area continue, and we will keep you advised as language is debated and finalized.

On July 14, in Senate Commerce, **HB 1485 – Insurance/Health Care Provider Relationship** was scheduled for consideration. This legislation has appeared on the Senate Commerce calendar several times, but the bill has not yet been reached. This legislation would reform the process for recovery of overpayments to providers by insurers.