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S.B. 236
133rd General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the House

Primary Sponsor: Sen. S. Huffman

Local Impact Statement Procedure Required: No

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Highlights

- Ohio Department of Health may experience a minimal increase in administrative costs related to rule promulgation if it chooses to make any changes as a result of the bill.
- Government-owned hospitals may experience an increase in costs to develop and approve any treatment guidelines regarding the practice of radiography and nuclear medicine technology if none currently exist.
- The State Medical Board could realize some administrative costs related to the anesthesiologist assistant practice changes, including updating any associated rules, addressing questions, etc.
- Political subdivisions that operate licensed preschool programs or child daycare centers may experience an increase in costs to pay for tuberculosis tests.
- The bill's prohibition against health insurers imposing cost-sharing requirements related to specified types of communication, and its adding new health care providers to the list of those whose telehealth services must be reimbursed by health insurers, have the potential to increase costs for the state and local governments to provide health benefits to employees and their dependents.
- Any increase in costs to the state health benefit plan would be paid from the Health Benefit Fund (Fund 8080). Fund 8080 receives funding through state employee payroll deductions and state agency contributions toward their employees' health benefits, which come out of the GRF and various other state funds.
- The prohibition is also likely to increase costs to local governments' health benefit plans, though LBO staff are uncertain about the extent of such increase.

- The bill may increase the Department of Insurance’s administrative cost to adopt any necessary rules to carry out the bill’s provisions. Any increase in such cost would be paid from the Department of Insurance Operating Fund (Fund 5540).¹
- The bill permits specified health care professionals to provide telehealth services according to specified conditions and standards. Relevant licensing boards could realize an increase in costs to adopt rules, educate licensees, and ensure compliance.
- The bill codifies the types of medical practitioners which are eligible for Medicaid coverage via telehealth. As these providers are eligible for telehealth under current emergency policies that are in place to respond to COVID-19, these provisions should initially not have a fiscal impact. However, the fiscal impact is unclear when the emergency rules are no longer effective.
- The bill requires long-term care facilities to provide video-conference visitation for their residents when in-person visitation is prohibited for public health reasons. This may potentially result in an increase in costs if any associated costs are passed to the Medicaid Program.

Detailed Analysis

Radiation Control Program rules

The bill specifies that the Director of Health, when adopting rules for the Radiation Control Program, use the Conference of Radiation Control Program Director’s “Suggested State Regulations for Control of Radiation.” However, the bill authorizes the Director to deviate from this regulation if the Director determines that doing so is warranted and does not pose a health, environmental, or safety risk. The Ohio Department of Health (ODH) may experience a minimal increase in costs if it chooses to make any rule changes as a result of this change.

Treatment guidelines

The bill also requires that a radiographer and a nuclear medicine technologist practice in a manner that is consistent with a definitive set of treatment guidelines approved by the clinical leadership of the institution where the radiographer or technologist practices. Government-owned hospitals may experience an increase in costs to develop and approve any treatment guidelines if none are currently in place.

Documentation of orders in patient medical records

In addition, the bill specifies that one of the activities radiographers and nuclear medicine technologists are licensed to perform is to document orders for contrast and radio-pharmaceuticals, respectively, in patient medical records. If this results in any work efficiencies, it is possible that government-owned hospitals may realize some minimal decreases in costs.

¹ Revenue to Fund 5540 comes from various fees imposed on insurance companies, primarily insurance agent license fees and agent appointment fees.

Anesthesiologist assistants

The bill makes several changes to the law governing the practice of anesthesiologist assistants, including the following: (1) grants an anesthesiologist assistant the authority to select, order, and administer drugs, treatments, and intravenous fluids for conditions related to the administration of anesthesia, (2) permits an anesthesiologist assistant to direct nurses and respiratory therapists to perform specified tasks, including drug administration, and (3) authorizes an anesthesiologist assistant to perform additional activities or services, including ordering and evaluating diagnostic tests for conditions related to the administration of anesthesia. Since the bill authorizes an anesthesiologist assistant to engage in these additional activities, some of which may be performed without the immediate presence of an anesthesiologist, it is possible that more of these services could be provided in places where these individuals are employed, such as government-owned hospitals. It is possible that the State Medical Board may realize an increase in administrative costs to make any necessary changes to rules, etc., as a result of the provisions. It is also possible that the Board may have to address questions and any complaints associated with these provisions. At the end of FY 2019, the State Medical Board regulated 278 active anesthesiologist assistant licensees.

Tuberculosis testing

The bill requires licensed preschool programs and child daycare centers to screen certain prospective employees for tuberculosis before employing the individuals. The screening is required if the individual arrived in the U.S. in the preceding five years before the date of application for employment or lived in a country that the World Health Organization identifies as having a high burden for tuberculosis. If an individual tests positive for active tuberculosis, the bill prohibits the employer from employing the person or, if already employed, from allowing the individual to be physically present at the program or center's location unless the person receives treatment and submits evidence of compliance with the treatment regimen. If an individual tests positive for latent tuberculosis, the bill allows the employer to employ the person as long as the person receives treatment and submits periodic evidence of compliance with the treatment regimen.

Tuberculosis tests vary in cost, but the two-step skin test generally costs less than \$75.² Any licensed preschools or child care centers operated by political subdivisions, such as public school districts, may experience additional costs if the entities paid for the initial tests. As a result, the bill may pose a minimal increase in costs. The cost may increase if the program or center is required to pay for additional testing in the event of a positive screening test. However, it is possible the prospective employee or employee would be required to pay for the test if it is required. In that case, the bill will not increase costs to any publically operated

² Walgreens and CVS clinics offer wellness tests, which include tuberculin skin tests. Walgreens charges \$53 and CVS pharmacy charges \$74. These costs include charges related to the test and test reading. The price varies from other organizations that offer tests but is generally under \$75. In addition, some local health departments may provide tuberculosis screenings at a reduced rate or possibly free of charge to residents. If someone has the blood assay test done, costs could increase. <https://www.walgreens.com/topic/healthcare-clinic/price-menu.jsp> and <https://www.cvs.com/minute-clinic/services/price-lists>.

programs or centers. Additionally, some preschool programs that operated within school districts may already have policies related to tuberculosis testing; for those districts, the bill may pose no additional cost. Finally, for individuals that are subject to screenings and employed by the public entity, it is likely that insurance would cover the costs if coverage is provided to the employee.

Release of information

The bill requires, to the extent permitted by federal law, the Ohio Department of Job and Family Services (ODJFS) to provide information about a public assistance recipient in an emergency to ODH or a local board of health when authorization for the release cannot be obtained in a timely manner. The bill outlines the conditions that would warrant the release and requires ODJFS to immediately notify the recipient of the release. This provision will pose an administrative cost to ODJFS.

Mobile dental facilities

H.B. 203 of the 133rd General Assembly³ requires a mobile dental facility operator to provide specified information to patients, the State Dental Board, and treatment venues. The bill specifies that these requirements do not apply to a mobile dental facility that is under the control or management of any of the following, when the only services provided by the facility are the placement of pit and fissure sealants and the application of fluoride varnish: (1) a program operated through a school district board of education or the governing board of an educational service center, (2) a local board of health, or (3) any other public or private entity that is under contract with ODH and recognized by the State Dental Board. As a result, any anticipated notification costs for associated entities will not be realized.

Health insurers

Current law requires a health benefit plan to provide coverage for telehealth services on the same basis and to the same extent that the plan provides coverage for in-person health care services.⁴ It allows a plan to impose cost-sharing requirements with regard to such telehealth services, as long as the requirements do not exceed those for equivalent in-person medical care. The bill prohibits a health benefit plan from imposing cost-sharing⁵ requirements in regard to telehealth services delivered via a communication when (1) the communication was initiated by the health care professional, (2) the patient consented to receive a telehealth service from that provider on any prior occasion, and (3) the communication is conducted for the purposes of preventive medicine only. The bill specifies that if such communication is coded based on time, only the time the health care professional spends engaged in the communication is billable. The bill also adds new types of health care professionals to the list of

³ H.B. 203 of the 133rd General Assembly has an effective date of December 16, 2020.

⁴ Enacted in H.B. 166 of the 133rd General Assembly, the requirement applies to health benefit plans issued, offered, or renewed on or after January 1, 2021. The bill removes this effective date.

⁵ “Cost-sharing” means the cost to a covered individual under a health benefit plan according to any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirements imposed by the plan.

those whose telehealth services must be reimbursed by health benefit plans. Under current law, only the services of licensed physicians, physician assistants, and advanced practice registered nurses must be reimbursed. The bill adds licensed psychologists, school psychologists, audiologists, speech-language pathologists, occupational and physical therapists, professional clinical counselors, independent social workers, independent marriage and family therapists, independent chemical dependency counselors, and dietitians to the list of health care professionals.

The bill allows the Superintendent of Insurance to adopt any necessary rules to carry out its provisions. The bill applies to “health benefit plans” as defined under existing law in section 3922.01 of the Revised Code, which includes public employees’ health benefit plans.

Telehealth services are currently covered in the state’s health benefit plan. However, the bill’s prohibition against cost sharing for telehealth services delivered via specified types of communication and its expansion of the types of health care professionals whose telehealth services must be reimbursed may increase costs to the state and local governments to provide health benefits to employees and their dependents. Any increase in costs to the state health benefit plan would be paid from the Health Benefit Fund (Fund 8080). Fund 8080 receives funding through state employee payroll deductions and state agency contributions toward their employees’ health benefits, which come out of the GRF and various other state funds. LBO staff could not determine the magnitude of the bill’s fiscal impact on counties, municipalities, townships, and school districts statewide due to lack of information on the number of plans that do not currently comply with the bill’s cost-sharing requirements. To the extent that a particular local government’s health benefit plan complies with the bill’s cost-sharing requirements, there would be no impact on its costs of providing health benefits to employees and their dependents.

The bill may increase the Department of Insurance’s administrative costs for regulating health insurers. Any increase in the Department’s administrative costs would be paid from the Department of Insurance Operating Fund (Fund 5540).

Health care professionals and telehealth services

The bill permits specified health care professionals to provide telehealth services and requires those services be provided according to specified conditions and standards. In addition, the bill permits certain health care licensing boards to adopt rules as necessary to carry out the bill’s provisions regarding the provision of telehealth services. As a result, it is possible that certain boards may realize costs to adopt rules and any other necessary administrative measures to comply with the bill, including costs to educate licensees or ensure compliance. The bill outlines some requirements regarding the provision of telehealth services. It is possible that there could be some costs to comply with this for state or local government entities that hire these individuals.

The bill also provides that a health care professional is not liable in damages under a claim that telehealth services provided do not meet the standard of care that would apply if services were provided in person. This might decrease any associated civil court case costs.

Medicaid

Existing law requires the Ohio Department of Medicaid (ODM) to establish, through rulemaking, standards for Medicaid payments for health care services that the Department

determines are appropriate to be covered by the Medicaid Program when those services are provided as telehealth services. The bill requires the Department to adopt rules to authorize the directors of other state agencies that administer portions of the Medicaid Program to adopt rules regarding Medicaid coverage of telehealth services. In addition, the bill specifies the categories of medical practitioners which are eligible to provide telehealth services under Medicaid. During the COVID-19 emergency, ODM has issued emergency rules and policies which permit many telehealth services to be performed by Medicaid providers and be paid for by Medicaid.⁶ These emergency rules are in effect during any time period in which the Governor declares a state of emergency and when authorized by the Medicaid Director. As a result, this provision should initially not result in any fiscal impact to the state. However, at the time of publication, the fiscal impact is unclear when the emergency rules are no longer effective.

Mental health and addiction services telehealth provision

Under existing law, the Ohio Department of Mental Health and Addiction Services (OhioMHAS) certifies community mental health service providers and community addiction service providers. The bill specifies requirements that these providers must meet to provide telehealth. The bill allows OhioMHAS to adopt rules as necessary to carry out the bill's requirements. There could be costs associated with rule adoption and possibly to ensure that these certified providers comply.

Long-term care facility visitation

The bill specifies that during a declared disaster, epidemic, pandemic, etc. every long-term care facility must provide each resident and their family with a video-conference visitation option, if specified individuals or entities determine that allowing in-person visits would create a health risk. Long-term care facilities are defined to include (1) a nursing home, residential care facility, home for the aging, nursing facility, or skilled nursing facility, (2) a residential facility licensed by OhioMHAS, (3) a residential facility licensed by the Ohio Department of Developmental Disabilities (ODODD), and/or (4) a facility operated by a hospice care program used exclusively for care of hospice patients or other facility in which a hospice care program provides care for hospice patients. This requirement could result in cost increases if facilities pass along any potential costs to the state Medicaid Program. The costs will depend on the length of restrictions on in-person visitation, the level of utilization of these services by residents, as well as if any additional information technology equipment is necessary or if staff assist with these conferences.

Assistance for individuals with developmental disabilities

The bill also provides for an individual who has been diagnosed with a permanent disability in need of surgery or any other health care procedure, test, or clinical care visit to have a parent or guardian present with them during a health care appointment or procedure if the presence is necessary to alleviate any negative reactions that may be experienced by the individual. This provision specifically addresses that an individual with a permanent disability is

⁶ ODM Emergency Rule 5160-1-21 Telehealth during a state of emergency and associated appendix.

entitled to have a parent or guardian present during a public health emergency or pandemic, etc. The bill specifies that the Director of Health has the authority to take any actions which are necessary to enforce these provisions.