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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research and Drafting

Legislative Budget Office

H.B. 270
(l_134_1078-4)
134th General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 270's Bill Analysis

Version: In House Insurance

Primary Sponsors: Reps. Manchester and Upchurch

Local Impact Statement Procedure Required: No

Ruhaiza Ridzwan, Senior Economist, and other LBO staff

Highlights

- The bill may minimally increase administrative costs for the Department of Insurance to monitor health insurers' compliance with the bill's requirements. Any increase in such costs would be paid from the Department of Insurance Operating Fund (Fund 5540).
- No direct fiscal effect on political subdivisions.

Detailed Analysis

Health insurers

The bill prohibits any reductions or denials of a claim for reimbursement for emergency services based solely on a diagnosis or impression, the current International Classification of Diseases (ICD) code, or select procedure code relating to the enrollee's condition included on a form submitted to health insurers by a provider for reimbursement of a claim. The bill also prohibits any reductions or denials of such a reimbursement claim based on the absence of an emergency medical condition if a prudent layperson with an average knowledge of health and medicine would have reasonably expected the presence of an emergency medical condition.[1] The bill requires each insurer to inform its enrollees that they are not required to self-diagnose. The bill also requires health insurers to perform an emergency services utilization review[2] of a

[1] The bill modifies the definition in current law of emergency medical condition.

[2] "Emergency services utilization review" means a review of a claim related to emergency services for the purpose of determining whether the claim relates to an emergency medical condition, including a determination as to whether a prudent layperson with an average knowledge of health and medicine would have reasonably expected the presence of such a condition.

claim before reducing or denying the claim. The requirement related to the emergency services utilization review does not apply when a reduction in reimbursement is made by a health insurer based on a contractually agreed upon reimbursement rate. The bill specifies items that must be included in an emergency services utilization review, including the patient's diagnostic testing and whether a prudent layperson would reasonably presume the presence of an emergency medical condition. The bill also specifies eligibility requirements for a physician to be allowed to conduct such review.

The bill's requirements apply to health insuring corporations (HICs) and sickness and accident insurers. The bill also specifies that it does not exempt insurers from the prompt payment requirements under existing law.

Fiscal effect

The bill may minimally 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).

The bill has no direct fiscal effect on political subdivisions.

The bill's prohibition against any reductions or denials of a claim for reimbursement for emergency services based solely on a diagnosis or impression, the ICD code, or select procedure codes submitted to insurers would have no fiscal effect to public hospitals' reimbursements related to emergency claims.

The bill's requirements, prohibitions, and modifications of emergency services requirements would likely increase HICs' and sickness and accident insurers' costs. Some portion of such cost increases may be passed through to enrollees and plan sponsors that contract with such insurers (e.g., local government health plans). Generally, LBO staff consider that such cost increases are indirect fiscal effects if they do not affect self-insured government plans or if they create administrative costs but not new claims costs for health insurers, e.g., through mandated coverage of a medical condition. LBO staff could not determine the magnitude of the effects of the bill on plan sponsors due to lack of information related to such insurers' emergency services coverage. But survey responses to the 2015 National Hospital Ambulatory Medical Care Survey indicate that roughly 5.5% of emergency room visits that year were classified as being for nonurgent medical situations. In addition, another study,[3] performed in an area "with a high literacy and educational baseline" that "may not be representative of the American population of self-defined prudent laypeople at large" found that "A minority of symptoms and signs (25/87, 29%) were considered emergency medical conditions by more than half of nonmedical survey respondents who were self-defined as prudent laypersons."

The prohibition of any reductions and denials of claims by insurers related to claims due to emergency room visits by most prudent laypersons with an average knowledge of health and medicine during a presumed emergency would likely increase HICs' and sickness and accident insurers' costs.

[3] Li, James & Galvin, Hannah & Johnson, Sandra (2002) *The prudent layperson definition of an emergency medical condition*, The American Journal of Emergency Medicine. 20. 10-3. 10.1053/ajem.2002.30108.

The bill would also make it more difficult for health insurers to avoid paying for care provided in an emergency room setting that could have been provided in a lower cost setting, suggesting insurers may experience significant costs that are claims related. It is likely that at least a portion of those costs would be passed on to governments that provide health benefits by using HICs or sickness and accident insurance policies.

Synopsis of Fiscal Effect Changes

The substitute bill, (l_134_1078-4) has the same fiscal effects as the As Introduced version, except for the following provisions: (1) the removal of the bill's provision that repeated violations are considered an unfair and deceptive practice in the business of insurance (removal of the provision would disallow the Department of Insurance from collecting penalties related to such violation, thus, the Department would not be able to use such penalties to offset its potential administrative cost increase), and (2) dropping a specification that providing utilization reviews is considered the practice of medicine, which would eliminate costs in the As Introduced bill for the State Medical Board. The substitute bill's adoption of the prudent layperson standard for preventing reductions or denials of claims may alter the potential indirect fiscal effects for local governments that provide health benefits to employees and their dependents using a health insuring corporation contract or sickness and accident insurance policy.

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