

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
HEALTH, LONG-TERM CARE & HEALTH RETIREMENT ISSUES COMMITTEE
LITTLE ROCK, ARKANSAS
FEBRUARY 26, 2016

The National Conference of Insurance Legislators (NCOIL) Health, Long-Term Care & Health Retirement Issues Committee met at the Little Rock Marriott in Little Rock, Arkansas on Friday, February 26, 2016 at 3:30 p.m.

Assem. Kevin Cahill of New York, Chair of the Committee, presided.

Other members of the Committee present were:

Rep. Deborah Ferguson, AR
Rep. Martin Carbaugh, IN
Rep. Ronald Crimm, KY
Rep. George Keiser, ND
Sen. Jerry Klein, ND

Sen. James Seward, NY
Rep. Kevin Bacon, OH
Rep. Brian Kennedy, RI
Sen. Robert Hayes, SC
Bill Botzow, VT

Other legislators present were:

Michael Henne, OH
Sen. Gary Stanislawski, OK

Also in attendance were:

Tom Considine, NCOIL CEO
Paul Penna, Executive Director, NCOIL Support Services
Christina Zuk, Legislative Director, NCOIL Support Services
Paulina Grabczak, Deputy Legislative Director, NCOIL Support Services

MINUTES

Upon a motion made and seconded, the Committee unanimously approved the minutes of its November 12, 2015 meeting in San Antonio, Texas.

DISCUSSION OF PROPOSED MODEL LAW TO REGULATE PROVIDER DIRECTORIES & PROPOSED OUT-OF-NETWORK/NETWORK ADEQUACY PROVIDER MODEL

Assem. Cahill advised that the Committee would consider the first two agenda items together, and the last two items together. The first two agenda items listed – provider directories and network adequacy/out-of-network – were discussed first.

Representative Deborah Ferguson discussed her model legislation regarding provider directories and the need for insurance companies to keep provider directories up to date. Rep. Ferguson stated that failure to do so causes confusion for patients who are unsure which providers are in and out of network, which can lead to surprise billing.

Senator Seward discussed his out-of-network proposal and provided an overview of the model act. It deals with three different areas 1.) network adequacy; 2.) disclosure and transparency; and 3.) denials and appeals.

Senator Seward noted that there was some discussion on this issue at the previous meeting of the Committee. Unlike the New York law, this proposed model act does not include language for a process to address a dispute with respect to cost. That was done because at the time there was an NCOIL balance billing model act that was being considered. Senator Seward is open to reviewing and potentially including cost dispute language in his out-of-network model act.

Emily Carroll from the American Medical Association (AMA) thanked Rep. Ferguson for bringing the provider directory model before the committee. Ms. Carroll stated that these directories have to be accurate and reliable, but unfortunately consumers regularly find erroneous information when searching for an in-network provider. Ms. Carroll further stated that states should consider stronger regulations of the directories.

With respect to the out-of-network model legislation, Ms. Carroll stated that there are a lot of elements in the bill that the AMA supports, and highlighted some of the key components. For instance, bill's insistence on transparency in out-of-network coverage is critical in making sure patients are not receiving unexpected bills.

Ms. Carroll stated that the AMA supports that the model act seeks to standardize out of network care, particularly when defining with usual, customary, and reasonable charges. Ms. Carroll requested that NCOIL look at stronger network adequacy requirements.

Assem. Cahill asked Ms. Carroll how the AMA would define "usual, customary, and reasonable" charges. Ms. Carroll responded that it should be defined using regional charge-based data from an independent, external source.

Assem. Cahill also inquired what objective measurements of adequacy there should be. Ms. Carroll responded that the more measurements there are, the better. A network should not be considered adequate if you cannot access in-network providers at in-network hospitals. Ms. Carroll stated that there is room for development of those standards, and she would be happy to submit written suggestions on what those standards should be.

Assem. Cahill also inquired as to whether telehealth and telemedicine should be included in determining network adequacy. Ms. Carroll stated that the AMA is supportive of telehealth but that it should not be used in determining network adequacy.

Rhode Island Superintendent Elizabeth Dwyer spoke to the NAIC model. Superintendent Dwyer provided an overview of the NAIC model and stated that it addresses the issue raised in the discussion of provider directories. She further stated that disclosure and transparency requirements are also included in the model, as well as limits on balance billing.

Senator Seward inquired about the NAIC point of view on leaving a great deal of discretion to the states to determine whether a network is adequate. Superintendent Dwyer stated that you have to leave it to the discretion of the states.

Dianne Bricker from America's Health Insurance Plans (AHIP) stated that accurate and timely provider directories are absolutely essential. The NAIC model on provider directors is a good place to start for consideration and possibly even end on a model for NCOIL. The NAIC model reflects the input of multiple stakeholders over the course of many months, and provides a great deal of flexibility for the states. In mid-March, AHIP will be unveiling a state-based pilot on provider directories in three states. Over the course of the next six months, AHIP will look at what works and what does not work.

Ms. Bricker stated that network adequacy and balance billing has been a high priority for AHIP. Ms. Bricker encouraged the committee to take a look at the current NCOIL model and update it with some of the provisions of the NAIC model discussed today.

DISCUSSION OF PROPOSED AMA TELEMEDICINE REIMBURSEMENT ACT AND TELEMEDICINE LICENSURE MODEL ACT

Assem. Cahill called Kristin Schleiter from the American Medical Association (AMA) and David Korsh from the Blue Cross Blue Shield Association to testify.

Rep. Kennedy opened the discussion on the Telemedicine Reimbursement Act, noting the need for a model act to help provide uniformity among states that are looking to authorize and encourage the practice of telemedicine.

Ms. Schleiter provided an overview of the AMA model legislation, noting that there is a state-based approach to licensure. Ms. Schleiter also noted that there is a state-based licensure compact, of which twelve states have become members.

Assem. Cahill questioned the cost apparatus for telemedicine services, and Ms. Schleiter responded that the ceiling for the cost of telemedicine services would be the cost of the in person rate, but that telemedicine services would likely be less expensive.

Mr. Korsh stated that the Blue plans have different approaches toward telehealth but do believe that there is quite a bit of opportunity here. The issue of parity itself is an open question.

On the two models that the AMA presents, Mr. Korsh stated that one of the concerns of the Blue plans is that there should not be a hard and fast requirement for reimbursement parity.

Mr. Korsh advised that the National Conference of State Legislatures (NCSL) put together a white paper on telehealth and offered to provide that information to the Committee.

DISCUSSION OF HEALTH INSURANCE COOPERATIVES

Assem. Cahill brought the issue of health insurance cooperatives before the Committee during the "other business" portion of the agenda.

Assem. Cahill stated that twenty-four states have health insurance co-ops, and that problems continue to emerge. The Assemblyman encouraged the Committee to think about what happens when a health plan fails, and to consider discussing this issue at the next Committee meeting. Assem. Cahill further requested that NCOIL become a repository

for information, and Senator Seward suggested that the Committee discuss the issue at the upcoming summer meeting.

ADJOURNMENT

There being no further business, the Committee adjourned.