

June 2, 2021

IHA Recap: General Assembly Takes Final Action on Key Hospital Issues

Early Tuesday morning, the General Assembly completed most of its work in the spring legislative session with a flurry of activity. We are pleased to report that IHA and the hospital community successfully achieved our top legislative priorities – and prevented harmful legislation from advancing. Here is a brief recap of the key issues for the hospital community from this session.

Redistricting

Legislative Democrats approved a new legislative map and also drew new lines for the Cook County Board of Review and the State Supreme Court.

The political decision to remap the Supreme Court was in response to the strong likelihood that Republicans would win the 3rd District next year and take control of the state's highest court from Democrats. Their belief was that such an outcome would reverse key legislative wins Democrats have secured over the last two decades for allies such as unions, trial lawyers and pro-choice groups.

A new Congressional map did not surface in the final days of session. The U.S. Constitution requires that the reapportionment of Congress be based on the actual census count. Since that data will not be available to the state legislature until August, the new congressional map is likely to require a special legislative session in September. This also means that in 2022, Illinois' traditional March primary will now take place in late June. The primary date change was included in a massive election bill making permanent many of the special COVID-19 voting rules used in 2020.

Repeal of SMART Act Cut to Hospitals and Telehealth Parity

While the Governor signed the Prejudgment Interest (PJI) bill (Senate Bill 72) on Friday, we were able to achieve significant legislative gains in the final days of session including two key initiatives: repeal of the SMART Act Medicaid cut to hospitals and passage of a groundbreaking telehealth parity bill.

The state's new budget repeals the 3.5% hospital cut from the 2012 SMART Act, and requires the Department of Healthcare and Family Services (HFS) to restore this hospital funding for dates of service on or after July 1, 2021. We estimate the repeal of the SMART Act cut to have an annual value of approximately \$175 million for the hospitals that were subject to the rate cut.

Our telehealth bill (House Bill 3308) passed unanimously in both the Senate and House, and will be sent to the Governor, who we expect will sign the legislation into law. This bill will result in Illinois becoming one of only a handful of states to enact a telehealth law requiring both coverage and reimbursement levels commensurate with in-person care.

Efforts to improve Illinois' onerous telehealth restrictions have failed for years, but the Coalition To Protect Telehealth, led by the IHA, seized upon our members' pandemic telehealth experiences to demonstrate to legislators that now is the time to enact a meaningful telehealth parity bill.

This legislation now means that health plans sold in Illinois and regulated by the Department of Insurance will require coverage and payment parity for services delivered via telehealth at the same or equivalent reimbursement rate that the health plan pays that provider when the same service is delivered in-person.

For Medicaid, there is a permanent telehealth rule in place that provides for coverage and payment parity. HFS Director Theresa Eagleson made it clear this rule will remain in place for the foreseeable future. But for now, we have agreed that the existing permanent rule requires both coverage and payment parity. The Director has also agreed to meet over the summer to discuss the issue of codifying all or parts of the existing permanent HFS rule.

State Budget

The state budget (Senate Bill 2800) and budget implementation bill (Senate Bill 2017) passed on party line votes. Democratic budget negotiators closed the estimated \$1.3 billion FY2022 budget deficit as a result of strong income and sales tax growth during the pandemic, a direct result from the stimulus funds pumped into the Illinois economy over the last year. There are no rate reductions in the Medicaid program, and the budget allows eligibility to be expanded to undocumented residents between the ages of 55-64, building on last year's efforts to cover undocumented seniors.

The legislature also approved spending \$2.5 billion of the \$8.1 billion in American Recovery Plan Act (ARPA) funds allocated to the state, including \$1.5 billion on various economic recovery and public health responses with some of this funding going to hospitals.

This budget will also prepay one month of Medicaid liabilities in order to draw down the higher FMAP rate stemming from the pandemic prior to its expected expiration in December.

Notable items for hospitals in the state budget legislation include:

- \$150 million for second year funding of hospital transformation.
- \$200 million in hospital transformation capital (reappropriated).
- \$50 million perinatal pool for Safety Net hospitals and \$630 per diem floor for Safety Net hospital psych rates (included in the Black Caucus healthcare pillar bill).
- \$180 million in ARPA funds appropriated to HFS to support Illinois hospitals (\$150 million for non-Safety Net hospitals and \$30 million for Safety Net hospitals).

- \$69 million for certain designated Safety Net hospitals through both ARPA and state GRF funds via the Department of Public Health.
- \$10 million for Critical Access hospitals to expand access to specialty care and telehealth services.

The Governor's budget goals were to balance the budget by closely mirroring the overall discretionary spending levels from last year, retire \$3 billion in COVID related borrowing, and keep the bill backlog to a several year low. He believed if he checked those fiscal boxes the capital markets may respond with an upgrade in the state's bond rating, now the lowest in the country. But with long-term unfunded obligations still hanging over the state's fiscal situation, the jury is still out on whether this budget does enough for a debt upgrade.

Nurse Staffing

Our nurse staffing by patient acuity legislation (Senate Bill 2153) passed overwhelmingly and with bi-partisan support. This effort to strengthen the Nurse Staffing by Patient Acuity Act has been two years in the making and includes key improvements in communication and shared governance principles.

Prior Authorization Reforms

The Senate and House unanimously voted to approve House Bill 711, the Prior Authorization Reform Act, which establishes much needed statutory guardrails to ensure that patient care is not disrupted or delayed by inappropriate, excessive, or confusing prior authorization policies. This legislation is aimed at holding health plans accountable and improving their performance. Prior authorization decisions consistently rank as the number one reason for claim denials on our Medicaid Managed Care Organization (MCO) claims survey. The new law will apply to both commercial health plans and Medicaid MCOs.

Medicaid Omnibus

The General Assembly also passed a Medicaid Omnibus (Senate Bill 2294) with several positive provisions affecting hospitals, including allowing patients to be admitted to inpatient detox services more than once in 60 days, as well as requiring inpatient coverage for opioid withdrawal treatment, if medically necessary.

The bill also permits HFS to seek federal approval to administratively move pediatric patients from Title 21 to Title 19 of the Social Security Act. This change would facilitate administrative streamlining for HFS and allow hospitals to count CHIP and All Kids inpatient days as Medicaid days for purposes of calculating MIUR and DSH.

There are other notable provisions in the Medicaid Omnibus legislation, including a provision to require reimbursement for vaccinations at 70% of the median regional maximum rate; inpatient reimbursement for long acting injectable medication for mental health and substance use disorders; a pilot program to prevent "lock-out" kids who are staying beyond medical necessity; and reimbursement for immunosuppressive drugs for kidney transplants covered for non-citizens who meet residency and income criteria.

Sexual Assault Treatment Mandate Deadline Extended

The General Assembly approved House Bill 1739, which, if signed into law, will push back to January 1, 2023 the current January 1, 2022 mandate that all treatment hospitals and treatment hospitals with pediatric transfer must have a Qualified Medical Provider available to provide a medical forensic exam within 90 minutes of patient arrival. The legislation also deletes a January 1, 2022 sunset of a provision that allows an adult survivor to be transferred to the closest treatment hospital, regardless of whether that hospital also treats pediatric patients. One additional provision requires, beginning January 1, 2022, that sexual assault survivors be notified in writing about the Illinois State Police sexual assault evidence tracking system; the Office of Attorney General indicated that they would assist with development of this written notification.

This has been an historic legislative session that began with the removal of the longest serving Speaker in the state's history and ended with Democrats attempting to lock in control of the state legislature for the next decade. We worked closely with the new Speaker and the Senate President, as well as the Republican leaders and the Governor's administration, to secure important achievements for the hospital community and the patients you serve.

We especially want to thank members for your outstanding support and engagement on the hospital community's critical issues. Together, we were able to achieve our state advocacy priorities.

Later this month, IHA will be sending you a more detailed overview of the Spring 2021 legislative session on the many bills that IHA closely tracked and worked on to best represent hospitals and health systems and the patients and communities they serve.