Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Summary of Legislation 2022

Health Care and Health Insurance

The General Assembly adopted several measures during the 2022 legislative session related to health care and health insurance.

Health Insurance

The legislature passed bills to reduce and monitor insurance premiums, review Medicaid provider rates, and address surprise billing laws.

House Bill 22-1008 clarifies that in accordance with House Bill 20-1158 all individual, small group, and large group health benefit plans must provide coverage for the diagnosis of and treatment for infertility and standard fertility preservation services. For individual and small group plans the federal Department of Health and Human Services (HHS) must determine that these benefits would not require the state to pay the cost for premium increases attributable to the mandate. Coverage is required for large employer health benefit plans issued or renewed on or after January 1, 2023 and individual and small group health benefit plans must implement the coverage within 12 months of HHS making a determination.

House Bill 22-1269 requires the Commissioner of Insurance (commissioner) in the Division of Insurance (DOI) to oversee individuals offering health care sharing plans or arrangements that serve Colorado residents. Health care sharing plans are faith-based programs which facilitate voluntary sharing among members for eligible medical expenses. Specifically, members send in monthly 'shares' which are distributed to or on behalf of other members with medical expenses. Under the bill, persons offering the health care sharing plan are required to submit certified information to the commissioner about the plan or arrangement, including:

- the number of current and estimated participants;
- the total amount of funds collected;
- the dollar amount of requests submitted for reimbursement;
- specific counties and other states where the plan or arrangement is offered;
- copies of any marketing materials; and
- contact information for the individual acting as the contact for the plan or arrangement.

The DOI's website must include information about how to file a complaint about a health care sharing plan or arrangement.

House Bill 22-1284 protects people covered under group and individual health plans from receiving surprise medical bills when they receive most emergency and non-emergency services from out-of-network providers at in-network facilities by aligning state surprise billing laws with the federal No Surprises Act. The bill specifically:

- prohibits providers and facilities from billing patients an amount above what

Primary Author: Jerard Brown ✧ 303-866-xxxx ✧ jereard.brown@state.co.us
Legislative Council Staff ✧ Room 029 State Capitol ✧ Denver, CO 80203 ✧ 303-866-3521 ✧ leg.colorado.gov/lcs

they would typically pay for their in-network cost-sharing;
- requires a carrier to disclose to an individual the possible impacts of receiving services from an out-of-network provider or at an out-of-network facility;
- requires the commissioner to convene a working group; and
- establishes that the failure to disclose to consumers the potential effects of receiving emergency or nonemergency services from an out-of-network provider is a deceptive trade practice.

Senate Bill 22-040 creates a process for DOI to conduct up to six actuarial reviews each year of bills that create a health benefit coverage mandate or reduce or eliminate a coverage mandate. Members of the General Assembly may request a review of a bill draft prior to the start of each legislative session. Two members of the majority party and one member of the minority party in both houses are permitted to request a review. Legislative Council Staff fiscal notes must indicate when a review has been prepared for a bill.

Previous law required the Department of Health Care Policy and Financing (HCPF) to establish a schedule for reviewing Medicaid provider rates so that each provider rate is reviewed at least every five years. HCPF was required to provide the schedule to the Joint Budget Committee (JBC). *Senate Bill 22-236* requires HCPF to develop a three-year review schedule and provide the schedule to both the Medicaid Provider Rate Review Advisory Committee (MMPRAC) and the JBC. The JBC and the MMPRAC may also request out-of-cycle reviews. If a request for an out-of-cycle review cannot be fulfilled, HCPF must inform the MMPRAC or JBC within 30 days after the request is submitted. In addition the MMPRAC is reduced from 24 members to 7 members on August 1, 2023.

Health Care

Legislators clarified the rules around hospital pricing transparency and an individual's right to reproductive autonomy.

House Bill 22-1279 creates the Reproductive Health Equity Act which establishes an individual's fundamental right to reproductive autonomy, including the right to use or refuse contraception and the right to continue or terminate a pregnancy. The bill prohibits state and local public entities from denying, restricting, interfering with an individual's right to access contraceptives, refuse to continue a pregnancy, or receive family planning information. The bill also establishes that a fertilized egg, embryo, or fetus does not have rights under state law.

Under federal law, hospitals are required to post standard charges on a publically available website. On or after February 15, 2023, *House Bill 22-1285* prohibits a critical access hospital from pursuing debt collection against a patient if the hospital was not in compliance with hospital price transparency laws when the services were provided. Patients may file suit against the hospital to determine if the hospital was in compliance.

Prescription Drugs

During the 2022 session the legislature considered three bills related to improving access to prescription drugs.

The United States Drug Enforcement Agency currently classifies 3,4-methylenedioxymethamphetmine (MDMA) as a schedule I controlled substance, meaning it has a high potential for abuse, currently has no accepted medical treatment use in the U.S., and is not accepted as safe for use under medical supervision. Recent studies have suggested

that MDMA could be used to treat post-traumatic stress disorder and could lead to the development of new prescription drugs in the future. *House Bill 22-1344* allows prescription drugs containing MDMA to be prescribed, dispensed, transported, possessed, and used in Colorado if approved by the federal Food and Drug Administration, and placed on a schedule other than schedule 1.

Beginning January 1, 2023, *House Bill 22-1370* requires health insurance carriers to offer at least 25 percent of their plans on the Colorado health benefit exchange, Connect for Health Colorado, and to use a set dollar amount for co-pays instead of percentage-based coinsurance for all prescription drug cost tiers. Also beginning in 2023, the bill requires HCPF to conduct an annual analysis of the prescription drug rebates received by carriers in the previous calendar year, by carrier and prescription drug tier, and make the analysis available to the public. In 2024 the bill bans health insurance companies from raising the out-of-pocket costs of prescription medications in the middle of a coverage period and prohibits companies from dropping coverage of a medication a patient needs midway through the patients' coverage. Finally, starting in 2024, 100 percent of the estimated rebates and discounts received by carriers are used to reduce policyholder costs.

In 2005, House Bill 05-1130 established Colorado's Prescription Drug Monitoring Program (PDMP) to track all controlled substances prescribed in Colorado to help reduce prescription drug misuse, abuse, and diversion. *Senate Bill 22-027* modifies the PDMP to require each licensed prescriber and pharmacist in Colorado to maintain a PDMP user account and for each prescriber to search the PDMP prior to prescribing any opioid or benzodiazepine. Additionally, the Prescription Drug Monitoring Task Force must evaluate and make recommendations to the Executive Director of the Department of Regulatory Agencies regarding balancing enforcement of the PDMP with its use as a healthcare tool.