

WVHA

LEGISLATIVE UPDATE

September 13, 2023

Legislative Wrap-Up of September Interim Meetings

Another round of interim meetings was held at the State Capitol this week and below is a summary of the key action:

PEIA Committee hears update re: SB 268 implementation

The [Joint Standing Committee on Insurance and PEIA](#) heard from [new PEIA Director Brian Cunningham](#) regarding on-going implementation of [SB 268](#). The bill was a WVHA legislative priority, and it provides a series of comprehensive changes to the Public Employees Insurance Agency (PEIA). Among the key provisions: requiring PEIA to pay hospitals and other health care providers at least 110% of Medicare beginning July 1, 2023. Cunningham reported the rate increases are now in effect, with no problems being reported by providers.

The bill also sets numerous requirements for members of the PEIA Finance Board, requires a five-year analysis of potential future costs to the program and an actuarial study of the plans offered by PEIA. Cunningham said the required actuarial study is on schedule and that some areas of study include premium rates that could vary depending on the number of children in the family and an examination of collapsing salary tiers – pertaining to the spousal benefit outlined in the bill.

Cunningham reported the new surcharge for spouses who opt into PEIA hasn't had the same participation as anticipated. PEIA anticipated 13,700 spouses with alternate coverage available. The actual number turned out to be 11,700 spouses with access to another source of insurance. PEIA also started with an estimate of 8,900 spouses opting for the surcharge. The actual number wound up being 8,600. The agency estimated 4,800 spouses would leave the plan instead of the actual 3,100 spouses. Affidavits from policyholders about the availability of insurance for spouses continue to flow in so there may be fluctuations in the numbers. Cunningham noted that private plans tend to have open enrollment at the start of a new calendar year, whereas PEIA operates on the fiscal year. So open enrollment periods for private employers could still affect PEIA's numbers. He said PEIA would analyze what has happened so far and determine if the surcharge is the right amount.

Cunningham fielded legislator questions re: future premium increases for state employees. The question came from Delegate Amy Summers, R-Taylor: "Do you anticipate that members' rates are going to go up next year?" Cunningham said it's possible and that according to the agency's strategic plan, there are premium increases forecast for FY 2025. He said, "we're going to do everything we can to prevent those premium increases." He reported that for the current fiscal year, PEIA's finances are on track.

Status of DHHR Reorganization efforts

The [Legislative Oversight Commission on Health and Human Resources Accountability](#) (LOCHHRA) heard presentations from the [three new incoming Secretaries of DHHR](#) who each highlighted the reorganization efforts currently underway. Although DHHR does not officially split into three departments until January 1, 2024, the new secretaries have been working to identify areas of large vacancies in each department and decide how to recruit or cut positions. They presented drafts of their organizational charts. Each secretary has met with the new departments to understand the critical needs moving forward. The departments are also working with higher education institutions to fill vacancies and some bureaus have seen decreases in vacancies since January, however, health facilities have seen an increase. Some key observations:

The three departments outlined below will share services under the *Office of Shared Administration*. There will be a Chief of Staff (new position) who will work for all three secretaries and will be filled by a current employee. The secretaries also have considered several positions/departments within Shared Administration, including the administration of grants.

- The *Department of Health* will have a secretary who will oversee a deputy secretary, counsel, media relations, and MIS. The Office Directors for Emergency Medical Services, Chief Medical Examiners, Threat Preparedness, and Health Care Authority will report to the Secretary along with the Commissioner of the Bureau of Public Health and Inspector General. Under the Inspector General will be OFLAC, the Board of Review, the Office of Foster Care Ombudsman, the Office of Investigations & Fraud Management, the Olmstead Office, the Office of Quality Control, the Office of Mental Health Ombudsman, WV CARES, and the Human Rights Commission.
- The *Department of Human Services* will have a secretary and two deputy secretaries, who will report to the secretary. The Deputy Secretary of Mental Health and Substance Use Disorder will oversee the Bureau for Behavioral Health and the Office of Drug Control Policy. The Deputy Secretary for Child and Adult Services will oversee the Bureau of Social Services, the Bureau for Child Support Enforcement, and the Office of Continuous Quality Improvement. Also reporting to the Human Services Secretary will be the Bureau for Family Assistance, Bureau for Medical Services (Medicaid), MIS, Media Relations, and Counsel.
- The *Department of Health Facilities* will have a secretary who oversees the Director of Strategy, COO Facilities, Hospital CEOs, and Long-Term Care CEOs. COO Facilities will work with the Director of Strategy.

Medicaid Unwinding

Cindy Bean, Commissioner of the state Bureau for Medical Services (Medicaid) provided an update to [LOCHHRA](#) regarding the state's Medicaid "unwinding" process. In West Virginia, Medicaid and CHIP eligibility unwinding began in April, with the first benefit closures effective May 1. Beane reassured lawmakers and said, "we want everyone who is eligible for Medicaid to remain on Medicaid" and she indicated the Bureau is working with several stakeholders including WVHA to ensure access to care.

She noted that many enrollees have been ruled ineligible not because they don't qualify for Medicaid, but instead because they haven't completed their paperwork. She noted that during the most recent reporting period, more than 18,000 people who previously qualified for government health insurance were removed from the rolls for procedural reasons. That included 7,624 children. The number of children among the unenrolled has been of particular concern, and Beane said West Virginia is taking a special look at those circumstances. In many cases, those children are eligible to be covered under other forms of insurance, she said. Federal officials last month raised concern that in West Virginia 24% of the 47,329 people up for renewal of CHIP or Medicaid were removed for a procedural reason.

State's plan re: residential treatment facilities for children

The [Joint Health Committee](#) received an update on residential treatment facilities for children. The DHHR is working to build and strengthen community services and the Deputy Secretary of Children and Adult Services Cammie Chapman updated legislators on the effort to reduce the state's reliance on residential treatment facilities for children with serious emotional disorders. She outlined efforts to reduce the number of children in out-of-state facilities while diverting them from residential care in general, whenever possible, in favor of community-based alternatives.

There are 23 residential service providers in West Virginia and 46 facilities that house 502 youths, with an additional 275 children housed in out-of-state facilities. The state is on a deadline to decrease the number of children in residential care after a 2014 U.S. Department of Justice inquiry identified an overreliance on those facilities, particularly concerning children with disabilities. As part of the investigation's findings, West Virginia was mandated to enhance the availability of community- and school-based support services.

To follow this mandate, the Children's Crisis and Referral line, available around the clock by calling 844-435-7498 (*844-help4wv*), was created to connect children and families with services. The line can connect callers with Children's Mobile Crisis Response and Stabilization teams, which can provide an immediate in-person response. The line is available to all children and families, whether they are involved in the child welfare, juvenile justice, or foster care systems. The line also can connect children and families to West Virginia Wraparound, a program that, among other things, provides a facilitator whose job is to ensure that services are made available.

In other interim activity...

- The [Joint Committee on EMS](#) heard a recap of [SB 1021](#) from last month's special session. This is the \$12 million funding bill for volunteer fire departments, which will also benefit EMS. The bill sends \$6 million to the Fire Protection Fund to be distributed by county commissions based on population, \$3 million to the County Fire Protection Fund, and \$3 million to the Growth Fire Protection Fund to be distributed at the state level. Discussion focused on the intent of the bill, and it was confirmed this is funding that will need to be included in the Governor's FY 2025 budget and reauthorized by the Legislature during the 2024 Regular Session.
- A [performance audit](#) was released to lawmakers regarding the Medicaid Fraud Control Unit (MFCU) which was previously under the DHHR and now under the Attorney General's Office (AGO). The audit found that the MFCU to the AGO has proven to be a move that enhanced the operations of the unit. The AGO's implementation of various operational changes has resulted in significant improvements across measurable outcomes when compared to the MFCU's performance under DHHR oversight. Through the establishment of outreach programs, collaboration with federal authorities, and a comprehensive approach to investigations, the AGO has bolstered the MFCU's impact and streamlined recovery efforts. There's been an increase of 1,252 case referrals, 201 cases opened from referrals, 113 criminal and civil cases closed, and approximately \$74.4 million in total civil recovery orders.

If you have any questions regarding this month's legislative interim meetings, please contact me at tgregory@wvha.org or 304-545-0128.