



Volume X, Issue 12 • April 18, 2008

Week Seven

Suspension vs. Termination of Medicaid Benefits for Eligible Inmates

After several weeks of effort, HB 525 was heard in the Healthcare Council on Thursday. The bill passed unanimously, although a late-filed amendment introduced by Rep. Garcia will delay implementation of the bill without a specific appropriation. Since the Senate version no longer has a fiscal impact, efforts are being made to have both bills removed from at least one of their appropriation committee references.

Online Travel Companies

This week the House Governmental Efficiency and Accountability Council took up proposed committee bill GEAC 08-20 concerning general tax administration matters. The bill includes provisions in SB 2788 by Sen. Haridopolos concerning the collection and remittance of state sales taxes, tourist development taxes, and convention development taxes by online travel companies (OTCs) such as Expedia, Travelocity, Hotels.com and others. Rep. Julio Robaina from Miami-Dade County sponsored an amendment to remove the OTC provisions from the bill. However, Council Chairman Rep. Atkisson strongly opposed the amendment claiming that it would constitute a tax increase and, worse yet, a new tax on services; so the amendment was withdrawn.

Online travel companies generally negotiate agreements with hotels for blocks of rooms at deeply discounted rates. The OTC marks up the discounted rates and makes the rooms available through their Internet website to the traveling public. These companies transact business directly with the internet customer, collect payment, and have their own cancellation policies.

OTCs must collect and remit local bed taxes on the total consideration a customer pays for the

rented room which includes the markup. However, OTCs have not been doing this and have increasingly been sued by local governments and some states around the country. For example, an online company will charge a consumer a marked up "room rate" and indicate to the consumer the taxes and fees being paid in a combined category. From the customer's perspective, it appears that the taxes and fees collected are based on the room rate the customer pays, which is the only room rate the customer ever sees, and such taxes and fees are government related. However, the online companies remit to the hotel, which in turn remits to the state and counties, an amount for taxes based not on the "real" amount the consumer pays for the room, but rather, on a lesser, confidential and deeply discounted amount the OTC has negotiated with the hotel. The consequences of these arrangements are that counties receive fewer tax dollars per room than they would have received had the taxes been based upon the total room rate charged to the consumer. Moreover, there is a complete lack of transparency as to the taxes being paid and the separate booking fee being charged the customer.

As the scheduled Council hearing time was running out, with several speakers signed up to testify for and against the bill, Rep. Sands called the previous question on the bill. The result was to deny any opportunity for public testimony not only the OTC issue, but on other provisions related to value adjustment boards that will negatively impact local government revenues. Having no benefit of testimony from the audience, Council members approved the bill overwhelmingly. The bill will now be filed, given a number, and possibly referred to the Policy and Budget Council or to the House Calendar for future consideration on the House Floor. The Senate companion, SB 2788, has four committees of reference remaining.

Uniform Port Credential

SB 1470 by Sen. Dean and the companion HB 7119 authorizes the Department of Highway Safety and Motor Vehicles to designate the U. S. Transportation Security Administration's Transportation Worker Identification Credential (TWIC) card as the Uniform Port Access Credential Card in Florida. TWICs are tamper-resistant biometric credentials that will be issued to all merchant mariners and workers who require unescorted access to secure areas of ports, vessels, or outer continental shelf facilities. The bill authorizes the department to set and collect a fee for entering a TWIC cardholder into the Uniform Port Access Credential System.

This legislation represents a significant change in state policy. In 2003, the state passed legislation mandating a statewide credential, including a background check, after receiving assurances from the Department of Homeland Security that the state credential would eventually qualify as a federal credential. Subsequently, the federal government passed the Maritime Transportation Security Act, requiring a nationwide credential, but with less stringent criminal background requirements. Since then, the state and federal governments have been in negotiations over how to accommodate the state's more stringent standards while only requiring one credential.

SB 1470 is scheduled to be heard in the Transportation and Economic Development Committee on Tuesday. HB 7119 is available on second reading.

Mental Health Substance Abuse Parity Bills

HB 19 by Rep. Homan was read a third time and passed the House unanimously on Friday. The legislation requires insurers in Florida to provide coverage for treatment of serious mental illness. While its Senate companion, SB 164 by Sen. Crist awaits a hearing in General Government Appropriations, this remains a small victory in a battle that has been fought for over a decade in the Florida Legislature.

Tower Crane Regulation

CS/HB 609 by Rep. Evers creates a new section of law regulating tower cranes operated in this state. A tower crane is defined as a nonmobile, power-operated hoisting machine that has a power-operated winch, load line, boom moving

laterally and is used for specified construction related activities. The bill further defines a tower crane as a temporary structure not subject to the building codes, ordinances, or other laws applicable to permanent structures.

Tower cranes must be certified under the standards of the American Society of Mechanical Engineers and operators are required to be certified by the National Commission for the Certification of Crane Operators. Contractors employing the use of tower cranes in construction projects must maintain a list of the certified cranes and crane operators.

The bill provides penalties for persons licensed under Chapter 489 who violate the provisions of the bill and sets forth requirements for crane operator trainees. The bill preempts the regulation of tower cranes to the state, and prohibits counties, cities, or other political subdivisions from enacting or enforcing any ordinances regulating tower cranes.

The bill was scheduled to be considered at Tuesday's Policy and Budget Council meeting but the Council ran out of time. It is expected to be on the Council's agenda next week and with an amendment filed by House Rules Chairman, Rep. Rivera, to exempt "high wind velocity areas" which should take out Monroe, Miami-Dade, and Broward Counties from under the preemption in the bill. The Senate companion measure, SB 1316 by Sen. Gaetz, has been stuck in the Community Affairs Committee since March 12th and is not on the committee's agenda for its last meeting this coming Tuesday.

Health Insurance Payments

HB 405 by Rep. Galvano deletes current provisions allowing an insurance contract to prohibit assignment of benefits to hospitals, physicians and dentists, effectively prohibiting contract agreement to assign benefits. Further, it introduces restrictions on the sharing of preferred provider networks through selling, leasing, etc. This practice is sometimes broadly referred to as "silent PPO". While heavily amended and scaled-back from its original scope, HB 405 remains a concern. In its current form, the bill allows insurers to assign plan benefits to health care providers that are not part of the HMO/PPO network. The 11th Circuit Court of Appeal, which is binding in Florida, struck down a silent PPO

arrangement finding that the leasing of plan discounts to third parties through a series of contracts “deprives plan participants of their contractual expectations” when the providers were not aware of and had not agreed to the discounted fees. Court decisions on assignment of benefits laws are mixed; however, the 11th Circuit has not addressed the validity of assignment of benefits statutes. Therefore, the validity of a statute either banning or requiring compliance with assignment of benefits is not a settled point of law.

By reducing the “look-back” period that allows insurers to make claims for overpayment of services to health providers from 30 to 6 months, this bill is likely to increase premiums and, therefore, have a negative fiscal impact to the County. The bill passed unanimously out of the Policy and Budget Committee this week—its last committee of reference and its companion bill in the Senate has been placed on Special Order calendar for April 23rd.

Autism

The House Select Committee on Autism & Developmental Disorders met this week, but cancelled their April 18th scheduled meeting. Final report and recommendations are expected next week. With 80 co-sponsors for HB 1291 by Rep. Porth, advocates remain hopeful that momentum is gathering and that this may be the year for autism parity to pass.