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AHCA Medicaid Billing Update and FAC's New Legislative Proposal

HB 5301, passed in the 2012 Session, substantially impacted Florida's counties by requiring a new system for payment of the statutorily mandated cost share in Medicaid patients' nursing home stays, as well as inpatient hospitalization (days 11-45). Broward County's initial open claims totaled \$37 million subsequent to HB 5301's passage. The County Commission joined a legal challenge to the accuracy of the amount billed, as well as the overall Constitutionality of the legislation (under unfunded mandate provision), spearheaded by the Florida Association of Counties (FAC). Shortly thereafter, AHCA traveled to each of the 67 counties to meet with stakeholders and take questions and recommendations for ways to improve the billing system. The billing system was revamped, and counties were granted limited access to the Medicaid services database (FLORIDA).

Broward County continued to challenge the accuracy of both the retrospective and prospective bills and chose to remain in litigation with AHCA, along with three other counties, when FAC chose not to pursue the originally filed lawsuit. Because the County did not accept the terms of the settlement, it was required to pay 100% of the retrospective billing figures determined by AHCA to be due and owing at the time of the settlement (with the participation of the North and South Broward Hospital Districts). After months of review, the County's bill was reduced from the initial \$37M to \$15.6 M of which \$5.5m has been disputed due to claims being time barred, claims with residency and billing errors and children 7 and under. Additionally, the County and hospital districts performed an analysis of claims paid in the retrospective period for children 7 and under that totaled close to \$20m. Clearly, the County's decision not to accept the terms of the settlement appear to have offered a significant fiscal benefit for the taxpayers of this county. Next week, Broward and AHCA's attorneys are meeting to discuss the terms of a settlement proffered by AHCA.

At the same time, next Wednesday, FAC will be asking its Legislative Executive Committee to vote on a 2013 Session "fix" to the ongoing billing issues. In Broward, AHCA billing errors continue to exist at an average rate of 31% for the months from August to October, so the prospect of creating more certainty and limiting county exposure to cost escalations (with the potential expansion of Medicaid) can be appealing. The FAC proposal was reviewed by the Human Services Department staff, which presented written concerns. Beyond the initial questioning of the amounts purportedly owed by each county through the allocation "based on the relative amounts paid for County Medicaid contributions subsequent to May 2012..." the County has concerns about other

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unintended consequences of repealing the existing cost-share statute. Specifically, the inability to review bills (or at least have access to a system that accurately tracks actual utilization and accessing of services) will make it impossible to appropriately allocate fiscal responsibility amongst Broward County, the North and South Broward Hospital Districts. Furthermore, the proposed annual growth rate cap can easily be amended through legislative action, and does not provide sufficient comfort. Finally, the idea that the Revenue Estimating Conference would be the entity tasked, within the proposed legislation, to do a comparative analysis of the growth rate under the new system compared to today's existing system is cause for concern. Any study or analysis of the effectiveness of a newly-enacted system of cost-sharing for counties should be undertaken by an independent, third-party, outside of the State of Florida.

Supervisors of Elections Present Election Reform Proposals to Legislature

During the January 14, 2013 committee week, Supervisors of Elections (SOE) from across Florida testified before the Senate and House Committees on Ethics and Elections. The SOEs were called before each chamber to discuss the voting complications of the 2012 General Election. While each Supervisor expressed some issues specific to their respective counties, there was unanimous support for two legislative proposals. The Supervisor's each agreed that limiting ballot length and increasing flexibility in determining early voting site locations would help each county limit long voting lines. Their proposal would limit the amount of words allowed in a constitutional amendment description and summary. When citizens petition for a constitutional amendment on the ballot those amendments are limited to a 15 word title and 75 word summary. The proposal would limit legislature generated constitutional amendments in a similar fashion. Limiting language in addition to a limit on the number of amendments that appear on a ballot will reduce the amount of time it takes to complete a ballot. SOEs would also like to apply the same standards for selection voting precinct locations during the General Election to the early voting period. In their opinion, the current limitation to supervisor branch offices, libraries and city halls is unnecessarily restrictive and contributes to concentrating early voting crowds to certain sites. These proposals earned a relatively positive reception.

This week Gov. Scott issued a statement that expressed support for the call to limit overall ballot length and increased flexibility for early voting. His statement also indicated support for an early voting period of 14 days including the Sunday before the General Election. Early voting days were reduced to 8 days during the 2011 Legislative Session.

AHCA Announces Medicaid Reform Long Term Care Contracts

During the 2011 Legislative Session, statewide Medicaid reform passed and was signed by the Governor. The measure will transition all Medicaid recipients into a managed care system. On January 16, 2013, AHCA announced the selection of five contracts with HMO's that will provide the long-term care portion of Medicaid reform. American Eldercare, Sunshine State Health Plan, United Healthcare of Florida, Coventry Healthcare of Florida, and Amerigroup Florida were selected. Amerigroup was awarded the contract that will provide care for the Broward and Miami-Dade region. Due to the costly and complex nature of caring for the frail and elderly, the state elected to roll out the long-term managed care portion of reform first. AHCA expects the long-term care transition

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to be ready in August 2013, following pending federal waiver approval expected in February 2013

Chair of Senate Committee on PPACA Implementation Sets Agenda

Sen. Joe Negron, Chair of the Senate Committee on the Patient Protection and Affordable Care Act (PPACA), said that the proposed framework on the implementation of PPACA will be heard by the first February committee week, the week of February 4th. The framework will include three major issues: 1) what type of exchange best serves Florida; 2) should Florida accept Medicaid expansion; and 3) how will Florida regulate all insurance companies involved?

The decision to create an insurance exchange will center on whether Florida should defer to the federal government for operation of the exchange or play a more active role. The exchange options range from full state control, hybrid or joint exchanges with other states and full federal control. The committee reiterated that costs will play a large role in the decision to expand Medicaid. Chair Negron asked the committee to think of creative approaches, such as creating a premium support program that would allow Medicaid recipients to enter the healthcare exchange. His third point will have a largely legal and technical consideration. Florida will have to understand how to regulate insurance companies providing coverage across state lines into Florida. Chair Negron made it clear he believed that all companies insuring Floridians need to play by the same rules and regulations. The PPPACA committee will convene again on January 22, 2013.

County Clerks Ask the Legislature for Stable Funding Source for Court Operations

During the January 16, 2013 Senate Appropriations Subcommittee on Criminal and Civil Justice, the Clerks of Court Association plead for a stable and dedicated revenue source. The clerks are asking for a continued annual appropriation from the Clerks of the Court Trust Fund set by the previous year funding level plus any increases from court fees earned that year. The 2012 Legislative Session concluded with a 7 percent budget cut to court operations and the Clerks required a midyear emergency appropriation of \$30 million. The committee made a general commitment to resolve the issues presented by the clerks.

Supreme Court Sides with Legislature in Requiring State Employees to Contribute 3 Percent to Retirement

On January 17, 2103, the Florida Supreme Court upheld a law requiring government employees to contribute 3 percent of their pay toward their retirement plans. This requirement passed the Florida Legislature and was signed into law by the Governor in 2011. The decision allows Florida to continue to require a 3 percent contribution on workers' salaries into the Florida Retirement System. If the law was overturned, the state would have to repay state employees who had the 3 percent withheld; a total expected to be around \$2 billion.

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FDOT Presents Legislative Package to House Committee on Transportation and Highway Safety

This week, the Florida Department of Transportation presented its legislative agenda to the House Transportation and Highway Safety Subcommittee. Here are some of the highlights of the package:

- Allow for a county or contiguous counties to establish regional tolling authorities to pay for road projects.
- Require 50% of revenue from FDOT permitted parking meters on state roads to be paid to FDOT.
- Use the Uniform Mitigation Assessment Method rather than the current acres of impact to determine environmental mitigation.
- Create a Strategic Airport Investment Initiative, much like the existing investment initiative within FDOT's Seaport Program.
- Prohibit FDOT from entering into lease agreements with local expressway authorities and transportation authorities. This serves to prevent authorities from relying on FDOT for future projects.
- Expand the eligibility for bus companies to serve the Intercity Bus Program and thus gain funding from the State.

Claims Bills on Hold White House of Representatives Conducts System Wide Review

The House Select Committee on Claims Bills met this week to hear testimony in regards to the claims process. During the meeting, the Committee was told that Claims Bills will not move forward until the entire system is examined. Any proposed changes would likely revolve around statute of limitations or contingency fees for attorneys and lobbyists. Once the review is complete and the system is possibly revamped or completely replaced, depending upon the recommendations, claims bills will then move forward.

Foreclosure Settlement Funds Dispersed

After a major settlement with five of the nation's largest banks over questionable practices during numerous foreclosure cases, the Joint Legislative Budget Commission divvied up \$60 million for affected homeowners. Florida Housing Finance Corporation will receive \$45 million to help eligible homeowners with down payment assistance and housing counseling. \$5 million will be awarded to both legal aid organizations for foreclosure counseling and the State Court System.