

## **2012 Legislative Session**

### **LEGISLATIVE OUTLOOK**

The Florida Legislature is set to convene their yearly 60-day regular legislative session on Tuesday, January 10, 2012. This year, as a result of redistricting, the session is beginning two months earlier than the normal start date in March.

With a two billion dollar deficit forecasted and a “no new taxes policy” advocated in the House, Senate, and Governor’s office, Legislators will once again be looking to make more cuts to an already underfunded Health Care system and other social programs. House speaker Dean Cannon, (R-Winter Park, Fla.), has stated, “Every major policy area is likely to see reductions.” Governor Scott’s proposed budget slashes hospital reimbursement rates or equalizes the rates across the different types of hospitals to free-up more money for education - a legislative priority of his office this session.

Senator J.D. Alexander (R-Lake Wales, FL), the Chairman of the Senate Budget Committee apparently has found merit in the basic concept of Governor Scott’s proposal as well as Senator Haridopolous, Senate President (R-Melbourne, FL). This policy shift will be especially hard on public hospitals and many lawmakers are deeply concerned they cannot not withstand another round of cuts.

Hospital Medicaid reimbursement rates were cut by 12.5% or 500 million dollars in fiscal year 2011, far more than any other provider.

The political dynamics here will pit the educational interests who want the increased funding against health care interests and other social programs fighting to keep the status quo.

A key player in this battle will be Senator Joe Negron, (R- Stuart) Chairman of the Senate Health and Human Services Committee. Senator Negron has said he supports the idea of moving money from health care programs to education. He has supported such ideas as trimming money from substance abuse programs, mental health services and the medically needy program that provides care to people with debilitating illnesses who do not qualify for Medicaid or are uninsured.

The Florida Renal Administrators Association along with a number of other groups to include the Florida Hospital Association, Florida Nurses Association, and the Florida Medical Association are all posturing to stave off cuts to their programs and professional interests.

### **PROJECTED OUTCOME**

Expect Medicaid to take the brunt of cuts along with nursing homes and hospitals again. In an effort to offer remedies to these cuts and hold harmless their interests, a number of professions and associations are proposing certain cost saving measures.

The Florida Nurses Association is advocating the State give them more responsibility in allowing their registered nurses to prescribe controlled substances. If enacted, it has been estimated that this move would save \$339 million dollars across all health care systems, including Medicaid according to Florida

Tax Watch. This will be a battle with the Florida Medical Association opposing this expansion in the nurse's scope of practice act.

Other professions attempting to expand their scope of practice include optometrists, podiatrists, pharmacists or naturopaths.

### **MEDICAID REFORM UPDATE**

After more than a year of talks and at least eight deadline extensions of the Medicaid Pilot Program, federal officials have finally approved Florida's proposal to continue the controversial managed care pilot program into 2014. The snag in negotiations had been the Low income pool (LIP program) issue that finally was resolved. The agreement will allow the continuation of hospitals and other providers the ability to tap into a \$1 billion dollar a year program designed for low income and the uninsured in the state.

In the long-term, the above approval sets the stage for Florida to pursue the goal of creating a statewide managed care system. The success of the pilot program has been hotly debated since its inception in 2006.

In granting the pilot extension, the Centers for Medicare and Medicaid Services required the state to make several changes. The most notable of which would require that managed-care plans spend at least 80% of premiums on patient care, a concept known as "medical loss ratio (MLR)." This concept was also part of the Affordable Health Act currently being challenged in court. The Office of Insurance regulation has already attempted to delay the implementation of this mandate as well as insurance industry officials and Republican legislative Leaders. Last month, the Office of Insurance Regulation had argued unsuccessfully to the federal government that the immediate implementation of this 80% rule would destabilize the insurance market.

The feds have already rejected this assertion in a letter to state regulators on December 19<sup>th</sup>, 2011, stating, "we have carefully examined all these materials and considered the criteria set forth in the statute and implementing legislation," based on this, "we have determined that the evidence presented does not establish a reasonable likelihood that the application of the %80 (MLR) standard will not destabilize the Florida insurance market."

Many patient advocacy groups have applauded this decision. All of the foregoing comes on the heels of Florida challenging the entire health care law. Oral arguments to the Affordable Health Care Act will be heard beginning March 26, 2012, before the United States Supreme Court.

An additional caveat to granting the pilot extension was a stipulation that 50 million dollars would be set aside from the 1 billion dollar LIP program for new or enhanced programs to improve the quality of care for poor people. This was met with opposition from the hospitals.

The pilot program was approved as a "waiver" to the Federal Medicaid Law. The state of Florida will now be working towards securing an additional waiver to implement the statewide system.

## LEGISLATION OF INTEREST

HB-1091- Medicaid Provider Accountability- Requires background screening of persons who provide care or services for reimbursement under consumer directed care program. Extends time for retention of records. Requires AHCA to perform certain inspections prior to entering provider agreement...

HB 943- Background Screening - Provides mental health personnel working in a facility licensed under Chapter 395,F.S. who work on intermittent basis for less than 15 hours per week of direct face-to-face contact with patients, are exempt from fingerprinting requirements.

HB 383- Sovereign Immunity - Extends immunity to emergency room physicians. Also see SB1506 filed by Senator John Thrasher.

HB 795- Health Care - Creates Florida Hospital Patient Protection Act - provides for minimum staffing requirements for ratio of direct care registered nurses to patients in health care facility; requires each facility to create staffing plan, prohibits use of unlicensed individuals....

HB 983 and SB 1378- Direct Payment of Services by Insurers - Adds licensed Psychologists to list of providers who are eligible for direct payment for medical services by insurer.

HB 1233- Makes far reaching changes to medical Malpractice system. Completely revamps current system.

The above legislation and other bills can be viewed by going to <http://www.myfloridahouse.gov> for House bills and <http://www.flsenate.gov> for Senate legislation. You may also query the system by submitting text or subject areas you wish to view.

Other important links:

<http://www.fdhc.state.fl.us/> Agency for Health Care Administration

<http://www.doh.state.fl.us> Department of Health

## FRAA INITIATIVES

\*\*\*Preserve current Medicaid reimbursement rate.

\*\*\* Work to implement peritoneal dialysis program.

\*\*\*Expand direct reimbursement for pharmaceuticals to include select vaccines.

\*\*\* amend insurance statutes to allow for third party payments of insurance premiums.

\*\*\* stop any attempts to redefine "clinic" to include free standing dialysis centers and AHCA licensure.