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2015 Health & Workers' Compensation Update

Presented by;

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Health Insurance Policy

- Rate Approvals
- 2015 legislative changes
- Regulatory changes and decisions
- Federal issues and Supreme Court Decisions



Small Group Rates

- DFS approved an average 9.8 percent rate increase for 2016. This represents a 32 percent cut from the 14.4 percent requested.



Individual Rates

- On average, insurers requested a 10.4 percent rate increase in the individual market. DFS reduced the average increase more than 30 percent, to 7.1 percent.



Stop Loss Insurance

Insurance Law §§ 3231(h) and 4317(e) prohibit the sale of stop-loss insurance to “small groups” (groups including those with 51-100 employees beginning on issuance or renewal on or after January 1, 2016.)

S.6004/A.8300 - Allows stop loss insurance coverage to remain in effect for small groups (50 – 100 employees) for two years on policies issued on or before 1/1/15.



Other Enacted Legislation

S.5972/A.6780-B - Makes pregnancy a qualifying event, allowing enrollment in the health insurance exchange at any time.

A.1327-A/S.2922-A - Creates expedited utilization review and appeals for court-ordered mental health and substance use disorder services for private insurance.

A.676-C/S.3346-B - Creates appeals process for pharmacies with pharmacy benefit managers regarding the maximum allowable cost for a pharmaceutical.

A.7725-C/S.5925-A - Clarifies that student dental, vision, and intercollegiate sports injury coverages are permitted by the ACA, and thus authorized under New York law as “excepted benefits” to institutions of higher education.



Not Enacted

- S.3525 (Perkins) / A.5062 (Gottfried) – Universal Payer Health Insurance – Passed Assembly
- ✓ New York State Nurses (NYSNA)
- ✓ New York City stagehands' union, IATSE Local 1
- ✓ Service Employees (SEIU) 1199
- ✓ New York State United Teachers (NYSUT/AFT)

Why? The 2018 implementation of the ACA's 40% "Cadillac tax." on all health insurance plans over \$10,200 per year for individual coverage and \$27,500 for family coverage.

Nearly all union-negotiated plans will eventually face the choice between radical cuts to coverage or paying the tax.



Not Enacted

S.4540 (Seward) / A.7439 (Cahill) - Health insurance premium rate setting transparency.

S.782(Hannon) / A.1548 (Gottfried) - Mandates all acute care facilities and nursing homes to meet nursing staffing ratios.

S.5064 (Hannon) - Requiring health insurers to accept third party payments for coverage.



Not Enacted

S.1157 (Hannon) / A.336 (Gottfried) - Permitting health care providers, including physicians, to collectively bargain with health plans.

S.1846 (Hannon) / A.3734 (Rosenthal) - Mandating every insurer to offer, both inside and outside of the exchange, out-of-network coverage in at least one policy option and as an optional rider.

S.4789 (Hannon) - Mandating insurance providers and doctors sign explicit contracts for plans sold on the state health exchange.



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King v. Burwell





Small Group Expansion

Under New York law and the Patient Protection and Affordable Care Act (ACA), the definition of "small group" will be 1-100 employees as of January 1, 2016.

All non-grandfathered groups with 1-100 employees renewing on or after January 1, 2016 must be issued small group coverage.



Determining Group Size

DFS has determined that the "full-time equivalent" (FTE) employee counting method must be utilized to determine group size.

This is the same calculation used to determine the employer mandate under the ACA.



Federal "transitional policy"

Permits groups with 51-100 employees to retain their existing large group coverage for an additional plan year after January 1, 2016.

DFS opted against adoption fearing that such a policy could allow for adverse selection.



State Innovation Model (SIM)

- \$100 million federal grant to help shift to advanced primary care and value-based payments.
- CDPHP - Enhanced Primary Care
 - saved \$20.7 million last year
 - Providers received \$12.8 million more in reimbursements & bonuses under program



TBC Health Initiatives





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Workers' Compensation

- Regulatory update
- 2015 legislative changes
- 2016 preview



WCB Medical Fee Schedule/ BPR

- Assembly Hearings
- Medical Provider Opposition



Enacted Legislation

S.5979 / A.8259-A

Clarifies that the Workers' Compensation Board has 120 days to issue an initial interim assessment on members of defaulted group trusts but have additional time to determine the true indemnity and medical benefit-related liabilities of the trust.



Not Enacted Legislation

S.5505 (Amedore) / A.6991(McDonald) - Mandates the use of panel providers for the first ninety days of workers' comp treatment.

S.5526 (Amedore) / A.6992(McDonald) - Allows apportionment of death benefits in cases where a non-compensable disability/injury is the basis of apportionment.

S.1845 (Gallivan) / A.7383 (Woerner) – modifies the applicable average weekly wage



Not Enacted Legislation

S.4332 (Savino) / A.5530 (Bronson) - Requires the medical advisory committee to establish the use of comprehensive nationally recognized treatment guidelines for all body parts or conditions.

A.2462 (Bronson) - Licensed acupuncturists under the workers' compensation program.

A.7885 (Cahill) - Relates to payment of bills for pharmaceutical services.

S.2768 (Savino) / A.5561 (Titus) – creates a presumption against any voluntary withdrawal defense for return to work guidelines.



Job Killer

S.5901 (Martins) / A.8124 (Titus) –

Would among other things, allow the continuation of indemnity benefits upon incarceration of claimant, provide compensation for the first seven days of disability if the disability last longer than seven days rather than fourteen days, create new regulations on independent medical examinations, create new indemnity considerations based on earning capacity assumptions, presume disability based on the qualification for social security disability benefits, increase SLU awards and remove their indemnity offset, change review for determination of withdrawal from the labor, permit judges to order forfeiture of business assets upon convictions of fraud.



Scheduled Loss of Use Awards

Multiple Approaches:

- Update the Workers' Compensation Board's scheduled loss of use awards impairment guidelines.
- Legislation amending WCL to award scheduled awards at 50 percent of the MWB.
- Legislation to halve the number of weeks of compensation used as the SLU multiplier.



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