ANNUAL REPORT

Joint Health Care Reform Oversight Committee

HB 601, Chapter 264, Laws of 2011
RSA 420-N

December 1, 2016

MEMBERS

Rep. John B. Hunt, Chairman
Rep. Frank Kotowski
Rep. Cindy Rosenwald, Clerk

Sen. Jeb Bradley
Sen. Andy Sanborn
Sen. Molly Kelly

BACKGROUND AND CHARGE

The 2010 Health Insurance Reform Oversight Committee was established with the adoption of SB 455 (Chapter 243, Laws of 2010; RSA 420-L). Pursuant to this law, the Insurance Commissioner was required to make periodic reports to the initial Oversight Committee relative to the department's federal insurance reform implementation plans and initiatives. This committee met in September and in October of 2010, but did not issue a report. A sunset clause included in the 2010 law repealed the oversight committee on July 1, 2011.

A new Joint Health Care Reform Oversight Committee ("the Oversight Committee") was established in 2011, effective July 1, 2011, with the adoption of HB 601 (Chapter 264, Laws of 2011; RSA 420-N). Pursuant to RSA 420-N:3, III, the Oversight Committee is responsible for providing legislative oversight, policy direction, and recommendations for legislation with respect to the Patient Protection and Affordable Care Act of 2009 (the ACA), as it determines appropriate. The Oversight Committee is also required to review existing rules, bulletins, or policies adopted pursuant to Chapter 243, Laws of 2010 and may require the repeal of such rules, bulletins, or policies. The Oversight Committee has filed annual reports every year since 2011.

The Oversight Committee has continued to meet with representatives from the state Departments of Insurance and Health and Human Services to receive reports on ongoing developments on both the state and federal levels with regard to the ACA. This report summarizes the discussions and actions taken by the Oversight Committee this year.

The Oversight Committee has met once since filing its 2015 annual report.

MEETING

September 21 – Discussion and approval of Proposed Administrative Rules; Department of Health and Human Services (DHHS)

John Williams, Esquire, Legislative Director
Tashia Blanchard, Administrator, Office of Improvement and Integrity
Deb Fournier, Esquire, Medicaid Director
Jane Hybsch, RN BSN MHA, Administrator, Medicaid Medical Services Unit, Office of Medicaid Business and Policy

1. He-W 520 – state and criminal background checks for high risk providers

Staff from the DHHS explained that section 6401(a) of the Affordable Care Act (ACA) requires the Centers for Medicare and Medicaid Services to establish procedures for screening high risk providers under Medicare and Medicaid. Providers who are considered high risk and entities with a 5% or greater direct or indirect ownership interest in a high risk provider are required to undergo a national and state criminal background check. High risk providers include those who provide home health services or durable medical equipment services and providers who have been deemed high risk by the department. One basis for deeming a provider a high risk is a credible allegation of fraud, waste or abuse.

The proposed rule change adds definitions of 'high risk provider', 'direct ownership interest' and 'indirect ownership interest' to the He-W 500 rules. They also add a new section that details the process for conducting national and state criminal background checks on high risk providers.

2. He-W 531 – coverage for gender reassignment surgery

Staff from the DHHS explained that new federal rules prohibit all health care entities that receive federal funding from any discrimination based on sex or gender identity. This rule applies specifically to all state Medicaid agencies and prohibits a limitation of coverage or denial of claims related to gender transition that result in discrimination.

The proposed rule change removes the provision that declares sex change operations non-covered services and inserts by reference Anthem's clinical guidelines for determining when gender reassignment surgeries are medically necessary. They also contain provisions addressing coverage for telemedicine services and designate when such services are covered and when they are not covered.

Committee members discussed the ramifications of simply repealing the prohibition of coverage for gender reassignment surgery. They determined that if the prohibition is

repealed, Medicare guidelines for determining whether such surgery is medically necessary would govern this process.

Action taken in 2016

1. approved the proposed changes to DHHS rules He-W 520 – state and criminal background checks for high risk providers, *September 21, 2016, unanimous vote*

2. approved amending DHHS rule He-W 531 by repealing the prohibition of coverage for gender reassignment surgery in He-W 531.06 (g) with no further amendments, *September 21, 2016, 3-2 vote*

Respectfully submitted,

Rep. John B. Hunt, Chairman RK