

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2016

Bill Number: H. 812 Name of Bill: An act relating to consumer protections for ACOs

Agency/ Dept: AoA Author of Bill Review: Devon Green

Date of Bill Review: 4/1/16 Related Bills and Key Players all health care stakeholders

Status of Bill: (check one): ☐ Upon Introduction ☒ As passed by 1st body ☐ As passed by both

Recommended Position:

☒ Support ☐ Oppose ☐ Remain Neutral ☐ Support with modifications identified in #8 below

Analysis of Bill

1. Summary of bill and issue it addresses. *Describe what the bill is intended to accomplish and why.*

Establishes principles and guidelines for consumer protections regarding ACOs and the All Payer Model. Specifically:

1. The APM agreement with Medicare:

Must be consistent with health care reform principles, preserves consumer protections and will not reduce Medicare covered services or increase Medicare cost sharing, has provider choice, includes outcome measures in population health, and has medicare payments directly from federal government to ACO or providers—NOT through SoV.

2. All-Payer Model

Must be consistent with health care reform principles, has medicare payments directly from federal government to ACO or providers—NOT through SoV, maximizes alignment between payers, adheres to mental health parity, includes integration of community-based providers, integrated approach to data collection, evaluates access to care, quality of care, patient outcomes and social determinants of health, requires shared decision-making, supports coordination of care, works with HCA to ensure robust grievance and appeals process,

3. Definition of ACO

4. GMCB must adopt by rule standards for ACOs

5. Oversight of ACO—in order to receive Medicaid payments or commercial insurance payments, ACOs with 10,000 patients or more must be certified by GMCB and board must ensure following criteria met:

- ACO governing body: governance, leadership, and management is transparent and represents ACO participants and providers. *Medicaid SSP requires 2 consumers, one of whom is Medicaid beneficiary.*
- Care coordination, including Blueprint
- Mechanisms for receiving and distributing payments to providers
- No discrimination against providers
- Evidenced based health care, coordination of care, electronic health records, and other technologies
- Meaningful participation in health information exchanges

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- Performance standards
- No restrictions on information in provider-patient relationship
- Shared decision-making
- Explanation of how ACOs work—outreach and hotline for complaints and grievances
- Collaborates with community providers
- Public session of ACO meetings
- No decrease in access to health care
- Financial guarantee to cover losses

GMCB will oversee ACO budgets and HCA will have the right to intervene. Section also includes antitrust provision. GMCB will review and consider

- Information re: utilization of health care
- Goals of health resource allocation plan
- Expenditure analysis of previous year
- Soundness of the ACO and its principals
- Reports from professional review orgs
- Efforts to prevent duplication of services
- Incentives for health care investments to strengthen primary care
- Incentives for system health care investments in social determinants of health
- Public comment on all aspects of ACO cost and use on ACO proposed budget
- Information from meetings with ACO
- Information re: ACO admin costs
- Effect of Medicaid reimbursement rates
- Extent to which costs are transparent

6. GMCB rules do not need to be in effect until 2018—GMCB will provide update on rulemaking process 1/15/17.
7. DFR and DVHA shall have rules in place to protect against wrongful denial of services
8. Transition during 2017, implement 2018

2. Is there a need for this bill? *Please explain why or why not.*

Not necessarily. This bill is principles and guidelines. Consumer protections could be put in place through non-legislative means.

3. What are likely to be the fiscal and programmatic implications of this bill for this Department?

AoA will likely have to participate in stakeholder process.

4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?

DVHA: Worried GMCB will impinge on AHS's authority as federally required single state agency

DFR: May not have capacity to do rules on denial of services

GMCB: Will need resources to carry out statute

5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it? (for example, public, municipalities, organizations, business, regulated entities, etc)

ACOs: provides less flexibility

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Community providers, incl. home health, DAs, AAAs, etc.: will support requirement re: collaboration

Health Care Advocate/Public: public will likely support more consumer protection

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why?

6.2 Who else is likely to oppose the proposal and why?

7. Rationale for recommendation: *Justify recommendation stated above.*

This bill balances flexibility with consumer protections.

8. Specific modifications that would be needed to recommend support of this bill: *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

No modifications.

9. Will this bill create a new board or commission AND/OR add or remove appointees to an existing one? If so, which one and how many?

Not governmental, but requires ACO to have consumer representation as part of governing body.

Secretary/Commissioner has reviewed this document: _____ **Date:** _____