

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 7281

BILL NUMBER: HB 1421

NOTE PREPARED: Apr 22, 2021

BILL AMENDED: Apr 20, 2021

SUBJECT: Various Health Care Matters.

FIRST AUTHOR: Rep. Schaibley

FIRST SPONSOR: Sen. Brown L

BILL STATUS: Enrolled

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: *State Employees Health Plans:* The bill provides that the state employee health plan statute does not prohibit the State Personnel Department (SPD) from directly contracting with health care providers for health care services for state employees.

Premature Labor: It provides that if a woman who is in premature labor presents to a hospital, the hospital must inform the woman of the hospital's capabilities of treating the born alive infant and managing a high risk pregnancy. It sets forth requirements that a hospital must meet concerning: (1) a woman who is in premature labor; and (2) a born alive infant.

Ambulatory Outpatient Surgical Centers: The bill changes the date that ambulatory outpatient surgical centers are required to begin posting certain pricing information from March 31, 2021, to December 31, 2021. It also specifies that if an ambulatory outpatient surgical center offers less than 30 additional services, the center is required to post all of the services the center provides.

Standard Charge: It specifies that the pricing information posted is the standard charge rather than the weighted average negotiated charge and sets forth what is included in the standard charge.

Hospital Price Transparency Rule: The bill requires a hospital to post pricing information in compliance with the federal Hospital Price Transparency Rule of the Centers for Medicare and Medicaid Services as in effect on January 1, 2021, if:

- (1) the federal Hospital Price Transparency Rule is repealed; or
- (2) federal enforcement of the federal Hospital Price Transparency Rule is stopped.

Definition: The bill defines "health carrier" for purposes of the law on health provider contracts.

Health Provider Contracts: The bill prohibits the inclusion in a health provider contract of any provision that would:

- (1) prohibit the disclosure of health care service claims data, including for use in the all payer claims data base;
- (2) limit the ability of a health carrier or health provider facility to disclose the allowed amount and fees of services to any insured or enrollee, or to the treating health provider facility or physician of the insured or enrollee; or
- (3) limit the ability of a health carrier or health provider facility to disclose out-of-pocket costs to an insured or an enrollee.

Department of Insurance (DOI): It requires the Department of Insurance (DOI) to issue a report to: (1) the Legislative Council; and (2) the Interim Study Committees on Financial Institutions and Insurance and Public Health, Behavioral Health, and Human Services; setting forth its suggestions for revising the DOI's administrative rules to reduce the regulatory costs incurred by employers seeking to provide health coverage for their employees through multiple employer welfare arrangements.

Effective Date: Upon passage; March 1, 2021 (retroactive); July 1, 2021.

Explanation of State Expenditures: *State Employees Health Plans:* Self-insured employers (such as the state of Indiana) have reported cost-savings from contracting directly with health providers for part or all of employee health care coverage. Indiana currently uses a third party administrator to implement the state employees health plan. However, implementing a direct to provider model is complicated by arranging models of care and access for geographically disbursed covered individuals.

Department of Insurance (DOI): The DOI is to produce a report concerning its administrative rules. Also, to the extent that the DOI has oversight of the health provider contracts, workload may minimally increase to evaluate and resolve contract disputes. These increased workloads are within the routine administrative function of the DOI and expected to be accomplished within existing resource and funding levels, assuming near customary agency staffing and resource levels. *[The DOI is funded through a dedicated agency fund.]*

Attorney General: If the Attorney General (AG) conducts additional investigations concerning disallowed contract provisions, the AG's workload may increase. Any increase is expected to be minimal and the requirements are within the agency's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

Indiana State Department of Health (ISDH): The bill amends price transparency requirements under current statute for ambulatory outpatient surgical centers and urgent care centers, and defers to federal price transparency rules for hospitals. To the extent these provisions affect the number of consumer complaints regarding health care facility price transparency, there could be an indeterminable workload impact for the ISDH to investigate and enforce compliance with the bill's requirements. In the event that the current federal rules are repealed, the ISDH could experience additional workload to enforce continued compliance with the rules in effect on January 1, 2021, as required by the bill. Total additional workload for the ISDH as a result of the bill is expected to be minor.

Additionally, the ISDH could experience minimal added workload to enforce the bill's requirements concerning a woman in premature labor and the Professional Licensing Agency (PLA) or Medical Licensing

Board may have minimal workload increase related to providers' standard of care for mothers and premature newborns. Any additional workload is expected to be completed within existing resources.

Additional Information - Pricing Information: Effective on January 1, 2021, 84 FR 65524 requires hospitals to publicly post pricing information for at least 300 “shoppable” services identified by CMS. Current Indiana statute only requires hospitals to post pricing information for 70 of those services in addition to any of the 30 most common services provided by the hospital not included in the other 70. The bill's provisions would allow ambulatory outpatient surgical centers exceptions when fewer services are offered.

Explanation of State Revenues: Penalties: The bill provides that violations of the bill's requirements concerning care for premature labor and newborns are subject to penalties under IC 16-21-3-1 for hospitals and IC 25-1-9-9 for practitioners employed by hospitals. Under these statutes, the ISDH or PLA could potentially take an action that could impact General Fund revenue. If the violator has a license denied or revoked, fee revenue would be foregone from the General Fund. Annual license fees range between \$1,000 and \$5,000 for hospitals. License fees for health care practitioners range between \$40 and \$200 biennially. Additionally, the ISDH may impose a civil penalty of up to \$10,000 on hospitals and the PLA may impose a fine of up to \$1,000 on practitioners. Revenue from fines and civil penalties would be deposited in the General Fund.

Explanation of Local Expenditures: County Hospitals: County-owned hospitals could experience an increase in workload or costs to comply with the bill's requirements for providing care for premature labor and infants.

Explanation of Local Revenues:

State Agencies Affected: AG; DOI; ISDH; Professional Licensing Agency; SPD.

Local Agencies Affected: County-owned hospitals.

Information Sources: Purdue Extension, *Defining Rural Indiana—The First Step*, EC-766-W, January 2013; US Census, *Pct_UrbanRural_County.xls*, accessed on January 6, 2021; <https://www.healthaffairs.org/doi/10.1377/hblog20200413.223050/full/>; <https://www.kff.org/health-costs/issue-brief/what-we-know-about-provider-consolidation/>; <https://revcycleintelligence.com/news/healthcare-merger-and-acquisition-activity-increased-in-q3-2020>; <https://www.govinfo.gov/content/pkg/FR-2019-11-27/pdf/2019-24931.pdf>; Legislative Services Agency, *Indiana Handbook of Taxes, Revenues, and Appropriations, FY 2020*; <https://www.milliman.com/en/insight/is-direct-to-provider-contracting-a-potential-silver-bullet-for-achieving-value-based-care>; IDOA Contract Database.

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