Ohio Speech & Hearing Governmental Affairs Coalition
Legislative Activities Report
June 2020

On the federal level, HHS recently announced a new $15B fund for Medicaid Provider Relief. To facilitate the distribution of these new provider relief funds to Medicaid providers, HHS has launched an enhanced Provider Relief Fund Payment Portal that will allow eligible providers to report their annual patient revenue. This information will be used in determining the amount of each provider’s payment, which HHS states will be equal to at least 2 percent of reported gross revenue from patient care. To be eligible for this funding, a provider must not have previously received funds through HHS’ general Provider Relief ($50B) distribution. Additionally, the provider must have billed its state Medicaid and/or CHIP programs – either directly or through Medicaid managed care plans – for healthcare-related services between January 1, 2018 and May 31, 2020. We are seeking clarification from HHS as to whether Medicare payments will disqualify providers from participating in this new fund.

Also, on the federal level, CMS has indicated that it is looking at a glide path for ending the 1135 waiver brought about by the pandemic. You will recall that the waiver does many important things including easing the privacy restrictions for telehealth, continuing Medicaid eligibility without reauthorization, and eliminating certain prerequisites for DME acquisition. The waiver is set to expire whenever the federal state of emergency expires. However, CMS has indicated that it will not end the waiver provisions immediately, opting for the “glide path” instead. CMS has also indicated that it may make some of the waiver provisions permanent; telehealth was specifically mentioned.

The General Assembly has been meeting often for committee and session in the last few weeks. The House wrapped up its work on June 11th, but the Senate plans on holding committees and session again during the week of June 22nd. Both chambers worked to get their versions of a capital reappropriations budget through the process before the June 30th deadline. The House’s version contained funding for only part of the projects, with about half a billion dollars' less than the Senate version. Rep. Derek Merrin (R-Monclova), sponsored HB 670
saying his proposal continues funding for several agencies – the Ohio Adjutant General, departments of Developmental Disabilities, Mental Health and Addiction Services, Transportation, Public Safety, Rehabilitation and Corrections, Job and Family Services and Youth Services; K-12 school building construction, Public Works Commission, Schools for the Blind and Deaf as well as the Secretary of State. It did not fund university projects or soccer stadiums projects in Columbus and Cincinnati. In all, it proposed an estimated $698 million in reappropriations.

Sponsored by Sen. Matt Dolan, SB 316 includes an estimated $1.28 billion in reappropriations. Three agencies—the Public Works Commission, the Facilities Construction Commission, and the Department of Higher Education—account for $986.6 million or 77 percent of the total. The proposal also includes a small number of items for which the circumstances of the project have changed, and money has been redirected to other projects. It also includes an emergency clause because it needs to be effective by July 1. SB 316 also includes about $325 million for projects at institutions of higher education. On June 4th, the House Finance Committee amended all of SB 316 into SB 310, which is an unrelated COVID-19 response bill. Then, ultimately, all of the provisions of SB 316 and SB 310 were rolled into HB 481 which will now go to the Governor for a signature.

On May 28th, the House passed a bill that offers health care providers and businesses protection from lawsuits related to COVID-19. HB 606 bars civil action related to deaths, injuries or losses tied to transmission of COVID-19 in cases without reckless or intentional conduct. Other provisions in the emergency legislation, which passed 83-9, attempt to shield the state and local governments from coronavirus-related suits, establish a firm end date of the immunity language on December 31, 2020 by placing the language in temporary law, specify that immunity does not apply in certain professional disciplinary actions, and spell out legislative intent. Supporters of the legislation referred to it as a compromise position, comparing it to earlier drafts of the bill that called for a higher standard of legal evidence to determine whether a business was negligent and a broader scope for immunity defenses. Critics of HB 606 said the legislation protects businesses who flout basic public health guidelines to stave off the disease, enticing them away from safe practices. During floor proceedings, the House adopted an amendment from Rep. Brigid Kelly (D-Cincinnati), which gives workers in grocery stores, food packing and processing facilities, peace officers, fire fighters, emergency medical workers and correctional officers access to workers’ compensation if they contract COVID-19 while on the job. GAC was successful in making sure SLPs and audiologists were specifically included in the bill. The bill has now had sponsor testimony in the Senate Judiciary Committee.
On June 3rd, a similar measure in the Senate, SB 308, passed the full Senate on a partisan vote and with an emergency clause. A sub bill was adopted, which removes the evidentiary standard of clear and convincing evidence for lawsuits against health care providers and general businesses. Other changes include removal of a serious physical injury requirement and the addition of immunity for health care services that the government prohibited during the early stage of the public health crisis. Class-action lawsuits would be allowed in relation to services and service providers. SB 308 also moved away from protecting from everything up to intentional conduct and added in the criminal law definition of recklessness. Accordingly, general businesses and healthcare businesses are immune from liability for everything up to reckless behavior. Like, HB 606, SB 308 moved the language to temporary law; however, the Senate version extends immunity to April 1, 2021. Finally, as was true with HB 606, GAC was successful in getting SLPs and audiologists added to SB 308. The legislature will have to determine how to reconcile the remaining differences in these two bills, as well as which bill will be the vehicle for passage. Proponents are hoping one of the liability bills passes soon and goes to the Governor for a signature.

The House recently passed HB 679, which would require commercial insurance plans and Medicaid to cover telehealth services. Initially, the bill required an initial face to face appointment prior to the start of telehealth appointments, which was impractical and could produce a barrier to effective use of telehealth. That provision was removed before passage. The bill also initially required telehealth services to be billed by the minute, which is not consistent with current practices and electronic health records and billing software. That provision was also removed. In new language added in the sub-bill, HB 679 added a directive for Medicaid to continue telehealth. In both the commercial insurance language and the Medicaid language, the bill lists specific provider types for whom coverage must be provided. Under both provisions, SLPs and audiologists are specifically included. We are hopeful that this bill will move quickly in the Senate.

The House recently introduced HB 691, sponsored by Reps. Susan Manchester and Phil Plummer. The bill will apply the current prompt pay standards to managed care plans. Under the language of the proposal, MCOs will have 30 days to pay clean claims. If further documentation is needed, it must be requested by the MCO within 10 days. The MCO then must make its payment decision within 15 days after the submission of additional documentation. Providers can bring a claim that an MCO is not following prompt pay guidelines on an individual or group of claims. The penalty to the MCO for failure to comply is 50% of the billed charges every two weeks past the deadline for individual claims or 100% of billed charges on bundled claims. Health plans are likely to oppose the bill.
Outside of the General Assembly, on June 1st, OBM Director Murnieks announced that her office expects revenue in FY 2021, which starts on July 1, 2020, to be about $2.5 billion less than budgeted when the current two-year spending plan was enacted in July 2019. As a result, Ohio is implementing immediate additional measures to reduce expenditures by state agencies, boards, and commissions. Director Murnieks and Department of Administrative Services Director Matthew Damschroder are asking the General Assembly to institute a pay freeze and a freeze on step advancement for exempt employees for FY 2021. Exempt employees will also have mandatory cost savings days, with reduced wages for each pay period in an amount equivalent to 10 days of unpaid leave, representing a pay cut of about 3.8%. Cabinet director salaries will be cut by 4%. In addition, the administration is also asking state employee unions to come to the bargaining table by June 15 to discuss ways to reduce personnel costs among unionized employees. Finally, the state will continue to operate under a hiring freeze with exceptions for staff providing a direct response to the COVID-19 pandemic. Each state agency is required to submit their proposal for cutting costs by up to 20% to OBM by June 12th.

Also, on the administrative front, ODM re-filed all of its COVID related emergency rules on June 15th. The emergency rules filed on March 20th allowing for increased telehealth could have expired soon. This new filing extends the current telehealth rules and regulations for Medicaid and Medicaid schools through mid-October. During that time period, ODM will be looking at how it wants to move forward on telehealth on a more permanent basis.

Separately, ODE filed its new draft operating standards on June 15th. Amendments are proposed for ORC Chapter 3301-51, titled “Education of Students with Special Needs.” The most notable changes include:

- 3301-51-01: Includes new definitions for traumatic brain injury, “coordinate transition services.” “other health impairment- major” and “other health impairment – minor”
- 3301-51-03 – Includes new language on “disproportionate” impact for funding
- 3301-51-04 – Includes changes to disciplinary information
- 3301-51-05 – Removes parental consent for change of placement, provides for new surrogate parent duties, makes changes to provisions allowing changes in IEP required by a mediator, and includes new language regarding appointment of a hearing officer
- 3301-51-06 – Includes new language regarding evaluations for kids who within the state
3301-51-07 – Revises the policies and procedures for an IEP of a child in another district, requires transition progress report

3301-51-08 – Contains new language regarding the proportionate state amount for expenditures by districts, state assessment language removed because of inconsistency with graduation requirements

3301-51-09 – Language changed from “related services specialist” to “related services provider” to be more inclusive, new language added outlining qualifications for special education teachers, clarifies district’s responsibility to ensure compliance with workload rules, adds “no more than” to supervisor caseload provisions, provides a new definition of “transition services.”

Comments on the rules are due by July 31st to rulecomments@education.ohio.gov

House Republicans recently seated a new member to fill the 59th House District left vacant after the death of former Rep. Don Manning in March. Alessandro “Al” Cutrona, an attorney and chief operating officer for a multicounty infectious disease medical practice, was selected unanimously during House session. The majority caucus picked Mr. Cutrona from a field of 14 hopefuls who sought the appointment to represent the northeastern Ohio district.

Ohio's number of new jobless claims was 42,082 for the week ending May 23, the Department of Job and Family Services announced Thursday. The agency said figures for the most recent week brings the total number of initial claims to 1,257,838 over the last ten weeks. That total is more than the number of initial claims filed during the last three years. ODJFS, which has struggled to handle the volume of claims driven by the coronavirus pandemic, said it has distributed more than $3.1 billion in unemployment payments to more than 644,000 individuals.

We are monitoring the following legislation on your behalf in the 133rd General Assembly:

**HB115**  **REGULATOR RESTRICTION REDUCTION** (RIEDEL C, ROEMER B) To require certain agencies to reduce the number of regulator restrictions and to amend the versions of sections 106.021 and 106.03 of the Revised Code that are scheduled to take effect August 18, 2019, to continue the provision of this act on and after that effective date.
**HB129**  
**MOTORCYCLE-HEARING PROTECTION** (MCCLAIN R) To permit a person to wear earphones or earplugs for hearing protection while operating a motorcycle.  
*Current Status: 2/21/2020 - SIGNED BY GOVERNOR*

**HB133**  
**MILITARY-TEMPORARY LICENSURE** (PERALES R, WEINSTEIN C) To require state occupational licensing agencies, under certain circumstances, to issue temporary licenses or certificates to members of the military and spouses who are licensed in another jurisdiction and have moved to Ohio for military duty.  
*Current Status: 10/2/2019 - Senate Transportation, Commerce and Workforce, (First Hearing)*

**HB166**  
**OPERATING BUDGET** (OELSLAGER S) To make operating appropriations for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of state programs.  
*Current Status: 7/18/2019 - SIGNED BY GOVERNOR; Eff. Immediately*

**HB197**  
**OMNIBUS MEASURES ON CORONAVIRUS** (POWELL J, MERRIN D) To continue essential operations of state government and maintain the continuity of the state tax code in response to the declared pandemic and global health emergency related to COVID-19, to make appropriations, and to declare an emergency.  
*Current Status: 3/27/2020 - SIGNED BY GOVERNOR; eff. 3/27/20*

**HB243**  
**HEARING AIDS COVERAGE** (WEINSTEIN C, RUSSO A) To require health plan issuers to cover hearing aids and related services for persons under twenty-two years of age.  
*Current Status: 2/4/2020 - House Health, (Second Hearing)*
HB263  OCCUPATIONAL LICENSING-CRIMINAL CONVICTIONS (KOEHLER K) To revise the initial occupational licensing restrictions applicable to individuals convicted of criminal offenses.

    Current Status:  6/9/2020 - PASSED BY HOUSE; Vote 90-1

HB290  SEXUAL MISCONDUCT-HEALTH CARE PROFESSIONALS (BOGGS K, CRAWLEY E) To prohibit unlawful sexual contact between health care professionals and patients and to revoke professional licenses for criminal misconduct.

    Current Status:  6/25/2019 - Referred to Committee House Criminal Justice

HB292  UNIVERSAL HEALTH CARE COVERAGE (SKINDELL M, KENT B) To establish and operate the Ohio Health Care Plan to provide universal health care coverage to all Ohio residents.

    Current Status:  9/10/2019 - House Health, (First Hearing)

HB305  SCHOOL FINANCING (CUPP B, PATTERSON J) To create a new school financing system, and to make an appropriation.

    Current Status:  11/20/2019 - House Finance, (Sixth Hearing)

HB432  OCCUPATIONAL LICENSE RECIPROCITY (POWELL J, LANG G) To require an occupational licensing authority to issue a license or government certification to an applicant who holds a license, government certification, or private certification or has satisfactory work experience in another state under certain circumstances.

    Current Status:  1/29/2020 - House State and Local Government, (Second Hearing)

HB436  DYSLEXIA SCREENINGS FOR CHILDREN (BALDRIDGE B) With regard to screening and intervention for children with dyslexia.

    Current Status:  6/10/2020 - PASSED BY HOUSE; Vote 89-6
HB452  OCCUPATIONAL REGULATIONS (WILKIN S, STEPHENS J) To revise and streamline the state's occupational regulations.

   Current Status: 1/28/2020 - Referred to Committee House State and Local Government

HB573  COVID-19 - OCCUPATIONAL DISEASE (SOBECKI L, BOGGS K) To make COVID-19 an occupational disease under the Workers' Compensation Law under certain circumstances and to declare an emergency.

   Current Status: 5/12/2020 - House Insurance, (First Hearing)

HB574  TRANSFER FUNDS - UNEMPLOYMENT COMPENSATION FUND (MILLER J) To transfer moneys to the Unemployment Compensation Special Administration Fund, to make an appropriation, and to declare an emergency.

   Current Status: 5/19/2020 - House Insurance, (First Hearing)

HB580  REQUIRE INSURERS COVER TELEMEDICINE (LISTON B, PATTON T) To require health plan issuers to cover telemedicine services during a state of emergency, and to declare an emergency.

   Current Status: 5/5/2020 - Referred to Committee House Insurance

HB581  ADDRESS COVID-19 CONCERNS (CALLENDER J) To address immediate concerns related to COVID-19.

   Current Status: 5/5/2020 - Referred to Committee House Health

HB606  CIVIL IMMUNITY - COVID-19 TRANSMISSION (GRENDELL D) To grant civil immunity to a person who provides services for essential businesses and operations for injury, death, or loss that was caused by the transmission of COVID-19 during the period of emergency declared by Executive Order 2020-01D, issued on March 9, 2020, and to declare an emergency.

   Current Status: 6/10/2020 - Senate Judiciary, (First Hearing)
HB617  LEGISLATIVE APPROVAL PROCEDURES - SHUTDOWN ORDERS  
(JORDAN K) To establish certain time frames and legislative approval procedures as conditions governing the authority of the Department of Health to issue statewide shelter-in-place or stay-at-home orders for preventing the spread of contagious or infectious diseases, to invalidate existing statewide shelter-in-place or stay-at-home orders issued by the Department, and to declare an emergency.

Current Status:  5/12/2020 - Referred to Committee House State and Local Government

HB618  NOW ACT (BECKER J) To limit the authority of the Governor and the Department of Health to issue orders regarding contagious or infectious diseases, to prohibit any order from affecting the conduct of an election, to designate its provisions as the "Need Ohio Working (NOW) Act," and to declare an emergency.

Current Status:  6/9/2020 - House State and Local Government, (First Hearing)

HB619  ODH PUBLISH INFECTIOUS DISEASE INFORMATION (JORDAN K, HILLYER B) To require the Department of Health to compile and publish certain information on its web site during a state of emergency relating to infectious disease.

Current Status:  5/12/2020 - Referred to Committee House Health

HB620  HEALTH IMPACT STATEMENTS, INTERAGENCY TEAM (CRAWLEY E) To require the Legislative Service Commission to create health impact statements for introduced bills and to create the Health and Equity Interagency Team.

Current Status:  5/12/2020 - Referred to Committee House Health

HB624  COVID-19 TESTING INFORMATION RELEASE (GRENDELL D) To require the reporting and release of certain COVID-19 testing and related information and to declare an emergency

Current Status:  6/10/2020 - PASSED BY HOUSE; Vote 61-34
HB633  COVID-19 - OCCUPATIONAL DISEASE (BOGGS K) To make COVID-19 contracted by specified types of employees an occupational disease under the Workers’ Compensation Law under certain circumstances and to declare an emergency.

Current Status: 5/19/2020 - Referred to Committee House Insurance

HB649  ODH - TESTING (STOLTZFUS R, HOOD R) Regarding the authority of the Department of Health and local boards of health to make certain orders and regarding the testing of individuals for certain communicable diseases.

Current Status: 6/9/2020 - House State and Local Government, (First Hearing)

HB656  HEARING AID COVERAGE (GALONSKI T) To require health plan issuers to cover hearing aids and related services for persons under twenty-two years of age and to require the Medicaid program to cover hearing aids.

Current Status: 5/19/2020 - Introduced

HB671  PUBLIC HEALTH ORDER LIMITS (ABRAMS C, STEPHENS J) To establish limits on certain public health orders issued by boards of health and the Department of Health, to prohibit a licensing authority from taking disciplinary action against a licensee for engaging in permitted activities during a pandemic, and to declare an emergency.


HB672  WORKER PROTECTION ACT (LELAND D, SOBECKI L) To enact the "Worker Protection Act" to require the Director of Job and Family Services to consider certain factors related to COVID-19 when determining, for purposes of unemployment benefit eligibility, whether an individual had just cause to quit work or refuse employment and to declare an emergency.

Current Status: 5/27/2020 - Referred to Committee House Insurance
HB673  BUSINESS OPERATION, EDUCATION COMPLETION  (ROEMER B) Regarding the operation of businesses, practice of certain professions, and completion of education as it relates to COVID-19 and to declare an emergency.

  Current Status:  6/10/2020 - PASSED BY HOUSE; Amended on Floor, Bill Vote 94-0

HB676  GOVERNMENT ACCOUNTABILITY APPEAL BOARDS  (JORDAN K) To create twelve regional State and Local Government Accountability Appeal Boards and to declare an emergency.


HB679  TELEHEALTH SERVICE REQUIREMENTS  (FRAIZER M, HOLMES A) To establish and modify requirements regarding the provision of telehealth services and to declare an emergency.

  Current Status:  6/10/2020 - PASSED BY HOUSE; Amended on Floor, Bill Vote 91-3

HB691  MEDICAID MANAGED CARE - PROMPT PAY  (MANCHESTER S, PLUMMER P) To amend the prompt pay requirements for providers and third-party payers and to include Medicaid managed care organizations.

  Current Status:  6/9/2020 - Referred to Committee House Insurance

SB1  REDUCE REGULATORY RESTRICTIONS  (MCCOLLEY R, ROEGNER K) To require certain agencies to reduce the number of regulatory restrictions and to continue the provision of this act on and after August 18, 2019.


SB7  TEMP STATE OCCUPATIONAL LICENSES-MILITARY  (LEHNER P, HACKETT R) Regarding temporary state occupational licenses for members of the military and their spouses.
**Current Status:** 1/27/2020 - SIGNED BY GOVERNOR; eff. 90 days

**SB14**  
**DRUG PRICE INFORMATION DISCLOSURE (MAHARATH T)** Regarding pharmacy benefit managers, pharmacists, and the disclosure to patients of drug price information.  
**Current Status:** 4/3/2019 - Senate Insurance and Financial Institutions, (First Hearing)

**SB25**  
**MEDICAID WORK, EDUCATION REQUIREMENTS (HUFFMAN M)** Regarding work and education requirements for the Medicaid program.  
**Current Status:** 3/20/2019 - Senate Health, Human Services and Medicaid, (Second Hearing)

**SB29**  
**MEDICAID COPAYMENTS (DOLAN M)** Regarding Medicaid copayment requirements.  
**Current Status:** 2/19/2019 - Senate Health, Human Services and Medicaid, (Second Hearing)

**SB60**  
**ESTABLISH WAIVER-MEDICAID EXPANSION (BURKE D)** To establish a waiver component for the Medicaid expansion eligibility group and to abolish the Healthy Ohio Program.  
**Current Status:** 3/6/2019 - Referred to Committee Senate Finance

**SB166**  
**UNLAWFUL SEXUAL CONTACT-HEALTH PROFESSIONALS (KUNZE S, CRAIG H)** To prohibit unlawful sexual contact between health care professionals and patients and to revoke professional licenses for criminal misconduct.  
**Current Status:** 10/2/2019 - Senate Judiciary, (First Hearing)

**SB171**  
**17-DAY INTERIM BUDGET (DOLAN M, O'BRIEN S)** To enact a 17-day interim budget.
Current Status: 6/30/2019 - SIGNED BY GOVERNOR; Effective Immediately

SB172 30 DAY BWC BUDGET (DOLAN M, O'BRIEN S) To make operating appropriations for the Bureau of Workers' Compensation for the period beginning July 1, 2019 and ending July 31, 2019.

Current Status: 6/30/2019 - SIGNED BY GOVERNOR; Effective Immediately

SB238 LICENSE ART THERAPISTS (YUKO K, BRENNER A) To license and regulate art therapists and music therapists.

Current Status: 1/29/2020 - Senate Transportation, Commerce and Workforce, (First Hearing)

SB246 OCCUPATIONAL LICENSING (ROEGNER K, MCCOLLEY R) To require an occupational licensing authority to issue a license or government certification to an applicant who holds a license, government certification, or private certification or has satisfactory work experience in another state under certain circumstances.

Current Status: 2/19/2020 - Senate General Government and Agency Review, (Fifth Hearing)

SB294 ABSENTEE VOTING (HUFFMAN M) To extend absent voting by mail for the March 17, 2020, primary election to April 28, 2020, to make an appropriation, and to declare an emergency.

Current Status: 5/6/2020 - Referred to Committee Senate Government Oversight and Reform

SB305 TELEMEDICINE DURING EMERGENCY (CRAIG H) To require health plan issuers to cover telemedicine services during a state of emergency and to declare an emergency.

Current Status: 5/27/2020 - Senate Insurance and Financial Institutions, (First Hearing)
SB308  **CIVIL LIABILITY-EMERGENCY SERVICES** (HUFFMAN M) To revise the law governing immunity from civil liability and professional discipline for health care providers during disasters or emergencies, to provide qualified civil immunity to service providers providing services during and after a government-declared disaster, and to declare an emergency.

  **Current Status:** 6/10/2020 - Referred to Committee House Civil Justice

SB311  **RESCIND DIRECTOR OF HEALTH ORDERS** (MCCOLLEY R, ROEGNER K) To rescind certain orders of the Director of Health regarding COVID-19, to require the approval of the Joint Committee on Agency Rule Review for Department of Health orders to be effective for more than fourteen days, to require statewide Department of Health orders to include the Governor's signature, to modify the Department's rulemaking authority, to allow in-person high school graduation ceremonies, and to declare an emergency.

  **Current Status:** 6/9/2020 - Senate Health, Human Services and Medicaid, (Third Hearing)

SB314  **BUSINESS RELOCATIONS** (BRENNER A) To prohibit state agencies from charging a fee to professional license holders in relation to a business relocation during the COVID-19 declared state of emergency and to declare an emergency.

  **Current Status:** 5/20/2020 - Referred to Committee Senate General Government and Agency Review

SCR13  **PROHIBIT GOVERNMENT-EXCEED AUTHORITY** (JOHNSON T) To resolve that no branch of government, be it executive, legislative, or judicial, nor any subordinate department, agency, or entity thereof, may take or otherwise promulgate actions that exceed its authority to do so as expressly granted under the Ohio Constitution or United States Constitution.

  **Current Status:** 6/10/2020 - Referred to Committee House State and Local Government