September 25, 2024

WAEMA September 2024 Public Policy Report
Prepared by Leslie Emerick, WAEMA Public Policy Director

Legislative/Political Landscape


Senator Annette Cleveland at the Emerick farm in north Clark County!

As we are all aware, the general election season is in full swing nationally and locally! Candidate debates are happening with both sides trying to sway voters towards their policy agenda.

I was able to deliver a few key campaign donations to legislators in person this year. Senator Annette Cleveland, Chair of the Senate Health Care Committee came out to visit with me at my mom's house and my niece Chelsey showed her the horses. We had a great discussion about the upcoming session and issues of interest and concern for health care. I was also able to deliver a check in person to Speaker Lauri Jinkins in Tacoma area. Building relationships is what it's all about to be an effective lobbyist!

Many long-time legislators are not running this year which opens up positions for new candidates or movement from the House to the Senate. We do not know who will be on the health care committees or the Chair of the House Health Care Committee yet, that will be determined in mid-December after the election results and the caucuses have a chance to pick their new leadership!

Voters' Pamphlets mailed: October 7, 2024
Military ballots mailed: September 20, 2024
Ballots mailed: October 10, 2024
November 5, 2024 - General Election

State Budget Update

I spoke with Speaker Lauri Jinkins recently and discussed the state budget. At this time the outlook is not great. If the Initiatives pass this fall, it will end a number of funding sources for education, health care, climate initiatives and more. These would be big holes for the legislature to fill or cut programs to adjust accordingly.

Initiative 2109 to repeal the state's capital gains tax – a 7% levy on the sale or exchange of long-term capital assets such as stocks, bonds and business interests by individuals who have annual capital gains of over $250,000. Mainly funds schools in WA State.

Initiative 2117 concerns carbon tax credit trading-this measure would prohibit state agencies from imposing any type of carbon tax credit trading, and repeal legislation establishing a cap and invest program to reduce greenhouse gas emissions. It would repeal sections of the Climate Change Act in WA State and limit current programs focused on reducing gas emissions in state agencies.

Initiative 2124 concerns state long term care insurance. This measure would provide that employees and self-employed people must elect to keep coverage under RCW 50B.04 and could opt-out any time. It would also repeal a law governing an exemption for employees. The results would be to destabilize the LTC insurance program which would no longer have the funds to pay for itself.

House Health Care & Wellness Committee Interim Meeting - 9/23/2024 10:00 AM Agenda

1. Primary Care Access.
2. Universal Health Care Commission Report and Public Comment.

I attended the meeting virtually. Good discussion on how and why access to primary care is difficult to find in WA State. The goal is to increase primary care spending to 12% of total spending. Also, an update on telehealth services and new federal regulation, and network adequacy. Here is a link to the committee documents/presentations if you are interested: https://app.leg.wa.gov/committeeschedules/Home/Documents/32218?/House/31644/09-23-2024/09-29-2024/Schedule///Bill/

Contracting Fairness Coalition: I attended a meeting on September 18, 2024, with the coalition leaders to discuss the path forward in the next legislative session. We have been working to negotiate with insurers on reimbursement rates that meet market costs for services. There is a meeting coming up on October 2 that Senator Cleveland has organized with insurers and I am invited to it. The coalition has asked that interested parties submit a survey to their members and summarize results.

Summary from the Coalition: This summer, a great deal of work has been underway on our bill (HB 1655) to address our provider concerns, including some discussions with House and Senate staff.

1. It was suggested to us that we shift our focus from compensation to a broader issue of contracting fairness. This means that we have changed our coalition to the Contracting Fairness coalition, instead of COLA. Our proposed bill will still address the COLA issue but may be expanded to include other provider contracting issues that we need to address. We will discuss as a group in September.

2. Jennifer Ziegler, with AWHP, has gathered her carriers to have a meeting with Melissa Johnson, Melanie Smith, Sara Stewart, and myself on September 30. We would like to collect from you 3-5 questions and concerns that you would like shared during the meeting as we were limited to attendees.

3. If you have not yet done a survey of your providers, please prepare the attached questions in some survey tool so we can compare apples to apples, as best we can. Ideally, your survey results and tabulations would be helpful by September 29, 2024.

Health Care Authority

Rulemaking for Acupuncture Benefit for Medicaid: WAC 182-556-0250, **Acupuncture.** The agency is revising these rules to provide an adult chiropractic benefit, in alignment with Engrossed Substitute Senate Bill 5693, Section 211(95) and ESSB 5187, Sec. 211(43). In addition, the agency is adding rules to provide adult acupuncture benefits, in alignment with ESSB 5693, Sec. 211(94) and ESSB 5187, Sec. 211(42). The agency is revising WAC 182-501-0070 to remove acupuncturist, naturopathy, and chiropractic for adults from the noncovered services list. Also revising WAC 182-502-0002 to add acupuncturist to the eligible provider types and remove acupuncturist from 182-502-0003 noneligible provider types. Removing acupuncturist from the noncovered physician-related services WAC 182-531-0150.

Just a reminder that starting in January 1, 2025 Acupuncture and Chiropractic will be covered by Medicaid. More information will be coming out from the Health Care Authority as we get closer to the implementation date such as rates and how to get signed up to be a provider with Medicaid. This is the CR-102 and the last stage of the rulemaking to make a comment before it goes into effect:

CR-102-24-19-096 eligible providers.pdf

To attend the virtual public hearing on October 22 at 10:00 am, you must register in advance: https://us02web.zoom.us/webinar/register/WN_icWpKqAQTxyCXgTcltuVgA

Since the funding proposal is quite complex, we asked John Frostad, AEMP to review for us and here is his analysis: (Thank you John!!)

The proposal is to make the state Medicaid program establish fees the same way the national Medicare system does. That isn't to say they will pay Medicare rates by any means.

The RBRVS system establishes the Relative Value Units (RVUs) for all CPT codes for all services across the whole of medicine. Chiropractic and Acupuncture codes have RVUs established. These RVUs makes a hierarchical value system for services which is based on costs, training, labor, malpractice and such.

GPCI is a geographical price adjustment which accounts for regional costs of doing business. Washington has two zones Seattle/King County and The Rest of Washington. They will only be using the state-wide adjustment.

The third figure is the Conversion Factor (CF) which is an arbitrary dollar amount by which the system prices out every service. RVU x GPCI x CF = Fee schedule
The RVU and GPCI are generally fixed and reviewed on intervals and based on statistical reviews
The CF is completely manipulatable and the Medicare CF changes every single year, up or down (usually down).

Private insurers typically use this same system, using the established RVUs, and multiplying it by a subjective CF they arbitrarily choose. They seldom change their own CF upwards, so fee schedules lag against inflation. (The private insurers generally do not use the GPCI figures because they are generally made moot because insurers often only operate contracts state by state)

Medicare establishes a new Conversion Factor every year. Medicare has a fixed budget, but unfixed costs. Medicare cannot go "overbudget", so in order to hit their budget allowance and not exceed it, they take the projected services to be performed in the next year and then they manipulate the CF in order to hit their budget target.

This means that the CF (and the price for every service accordingly) may have to go up or down from year to year. This last year I think Medicare had to drop pay for services by 6% YOY in order to come on budget this year. Rarely does the CF ever go up without an act of congress to increase the Medicare budget.

What is being proposed here is using the same system for the state Medicaid program, where every single year the pay for services will be repriced in order to hit the state Medicaid budget. Given that service utilization can be projected to rise and funding can be expected to stagnate, we can expect that our pay will likely decrease every year. And I think it very, very unlikely we will start pricing higher than Medicare. So we can expect to receive pay sub-Medicare rates to start with.

I hope I explained how the system they proposed will be pricing services. You could ask what the anticipated starting CF is going to be and that will tell you the expected starting price for services. You can also make comparison of this CF with those of private insurers and Medicare which will tell you the relative pricing levels among them.

On the surface, this seems like a logical system for the state to use to control Medicaid costs in the manner that Medicare does. This is a means to cut pricing instead of cutting services. That is a system that in my estimation will mean low and lowering pay.

Department of Health (DOH)

Acupuncture and Eastern Medicine Advisory Committee (AEMAC): WAEMA submitted a Rules Petition to DOH/AEMAC to allow rulemaking on adding Ozone to your substances allowable

in your scope of practice. The petition was denied and Sue Shultz will be following up with a rebuttal to the denial and present her argument for inclusion of Ozone in your scope of practice.

Monday, November 18, 2024 – Hybrid (meeting begins at 10:30 a.m.) Kent Commons Facility, Mill Creek Room 525 4th Ave. North, Kent, WA 98030	Regular meeting

Labor and Industries (L & I)

Chaiya and I met with Jami Lifka, Administrative Regulations Analyst and Tammy Fellin, Governmental Director at L & I to discuss the upcoming rulemaking. We made our frustration with having to limit acupuncture to specific areas of the body when treating a patient wholistically is difficult and not necessarily in the patient's best interest. We also discussed the work that our new internal team is working on for neck pain and tension headaches. More to come on that issue!

The Office of the Medical Director, Department of Labor and Industries (L&I), filed a CR-101 to initiate rulemaking to amend WAC 296-23-238 Acupuncture Rules.


draft WAC
296-23-238 (9.23.2024

Please reach out to Jami.lifka@lni.wa.gov directly if you have any questions about WAC 296-23-238 Acupuncture rules.

Other Policy Related Issues

Acupuncture and Eastern Medicine Practitioner Website at DOH: Acupuncture and Eastern Medicine Practitioner | Washington State Department of Health. To get notifications directly from DOH regarding Acupuncture and Eastern Medicine Advisory Committee, go to: https://public.govdelivery.com/accounts/WADOH/subscriber/new

Also check out HEAL-WA which provides Acupuncture and Eastern Medicine Practitioners with evidence-based data and articles that you pay for through $9.00 of your licensure fees at DOH!