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SMC Business Councils
Health & Energy/Environment/Regulations Call
1/18/2019
Brief Notes embedded in blue.
Eileen Anderson, Director, Government Relations

Attending: Bob Henry, Judy Wojanis, Jezree Friend, Joe Weinkle, Eileen Anderson.

Note: This was the first-ever Friday afternoon conference call. Five additional people registered but did not participate.

For reference: SMC's 2018 State Position Papers

<https://smc.org/wp-content/uploads/2018/04/2018-STATE-POSITION-PAPERS.pdf>

ENERGY & ENVIRONMENT

HOUSE – Removes the cap on utility energy efficiency investment so PA utilities can eliminate more energy waste.

- In the first 7 years of PA's energy efficiency law, Act 129, energy efficiency programs have delivered \$6.4 B in economic benefits at a benefit-to-cost ratio of nearly 2-to-1.
- The programs have helped PA businesses remain competitive, meet corporate sustainability goals, and create good-paying jobs. A 2017 US Department of Energy report found that energy efficiency accounts for over 62,000 PA jobs.
- PA's savings lags peer states because the cap on investment remains at 2% of 2006 utility revenues and restricts the level of utilities' investment to eliminate energy waste.

RECOMMENDED STATUS: Support passively.

Henry: Noted that the committee drafted a long-term energy policy. "SMC Business Councils supports balanced policies that allow producers and suppliers from all energy sectors located in our Commonwealth to compete and that enables business to secure a reliable supply of energy produced and delivered on a competitively priced basis" ... "Ensuring that energy policies and actual practices are competitive with other states and no more restrictive than federal law." See SMC's 2018 State Position Papers

HOUSE – Growing Greener III Program – Will provide \$315 million in annual investments for environmental conservation, recreation, and preservation projects across PA.

- Since 1999, PA's Growing Greener program has funded hundreds of local parks and trail projects; conserved more than 50,000 acres of threatened open space; protected more than 33,500 acres of family farmland; repaired more than 1,600 acres of abandoned mine land; and restored hundreds of miles of streams and waterways.
- Funding has decreased from an estimated average of \$200 M to \$57 M.
- The first step in the process is establishing the need and commitment to support these critical environmental projects. What's needed is to establish a framework that the Governor and Legislature can embrace to ensure the program's long-term vitality.

RECOMMENDED STATUS: Support passively.

Henry: *Fits with current energy policy: we need to balance affordability and environmental stewardship. The proposal, while altruistic, has good, tangible goals.*

Wojanis: *Remarked that she is in favor of the environmental aspects of Growing Greener. She is living in the “down” part of the energy industry. “Yes, the energy industry provides good jobs and a good living, but the environmental aspect can be devastating.” She lives near a well. The drilling is completed but a pipeline is coming through. There are regs on drillers but inadequate regs on pipelines which can be environmentally destructive.*

Anderson: *There is a long list of supporters.*

HOUSE – Property Assessed Clean Energy Program (PACE) – Establishes the PACE program for PA. Thirty-three states authorize PACE financing for clean energy and energy efficiency projects on commercial and industrial buildings. This legislation is similar to SB 234 which established the program for local governments. **See 2018 SMC Business Council State Position Papers**

RECOMMENDED STATUS: Support passively.

Anderson: *This is a “short putt.” We supported Senate Bill 234 in 2018 which had bipartisan support and was signed into law by Governor Wolf. This proposal establishes PACE for the state.*

HOUSE – Community Solar – Allows neighbors, businesses, farms, and other community members to participate in and receive the benefits from a solar project connected to their local electric distribution company's grid.

There is no mandate for participation or request for state funding.

Now some consumers and businesses who are renters, have a shaded roof, live in an apartment building, etc. are unable to participate in PA's solar economy.

- Community Solar offers many benefits including:
 - Economic development through private investment
 - Creates local jobs through the entire solar supply chain.
 - Saves consumers and businesses money on their electricity bills,
 - Benefits all ratepayers by supplying extra energy to the grid during peak demand times when prices are highest.
 - Uses private capital to connect community solar projects to the grid and upgrades the electricity network for the benefit of all consumers
 - Increases the amount of clean, pollution-free energy coming onto the grid.

RECOMMENDED STATUS: Support passively.

Henry: *Cited our policy – “Supporting programs that encourage research into new technology for energy development of power generation and fuels.”*

Weinkle: *It benefits everyone...it is good.*

Anderson: *There is a companion bill in the Senate.*

SENATE – Community Solar

RECOMMENDED STATUS: Support passively.

SENATE – Renewable Energy Provides for PA's transition to 100% renewable energy by 2050.

RECOMMENDED STATUS: Do not support or oppose

Henry: *This proposal is in the “pie-in-the-sky” category. He noted that since some of the objectives could not be achieved at the federal level, and the U.S. dropped out of the Paris Climate Accord some states are now trying to recreate them at the state level. Currently PA gets*

60% of it's energy from fossil fuels. Our policy states that we support and "all-of-the-above strategy for energy. "Allowing the marketplace to select the most appropriate energy sources and avoiding governmental actions that select or force the choices of particular energy sources." A significant breakthrough in technology is needed to move to 100% renewables by 2050; it is not economically feasible.

Weinkle: Any move to renewables must be done gradually...move from 60% fossil fuels down to 40%.

SENATE – Establishes Pennsylvania Affordable Energy Development Zones to help create jobs and lift the economy in rural Pennsylvania by capitalizing on the unconventional natural gas boon.

RECOMMENDED STATUS: Do not support or oppose.

Henry: This bill does not specifically support any of our main points of our energy policy, but it does not contradict any of our main points.

Anderson: Add in a statement about Gov Wolf's greenhouse gas proposal?

REGULATIONS

- **HB 1237 (SB 561) – 2018 Economically Significant Regulations – see 2018 SMC Business Council State Position Papers**
- **RECOMMENDED STATUS: Actively support.**
- **Process of the Office of Independent Repealer – see 2018 SMC Business Council State Position Papers**
- **RECOMMENDED STATUS: Support passively.**

HEALTH CARE SERVICES and INSURANCE

HOUSE – From 2017-18 session – no co-sponsorship memo YTD. Establishes the Consumer Prescription Drug Pricing Disclosure Act to expand the ability of pharmacists to provide cost-related prescription drug information to patients.

RECOMMENDED STATUS: Removed – A 2019 co-sponsorship memo will accomplish a similar objective.

HOUSE – Surprise Balance Billing Protection – See 2018 SMC Business Council State Position Papers

RECOMMENDED STATUS: Support passively.

HOUSE – Establish a telemedicine (TMED) law for PA to define what it is and offer guidelines outlining who can provide TMED services, professional liability coverage, requirements for evaluation and treatment, and medical record standards.

- Will provide clarity that TMED services will be reimbursed by insurance.

- TMED can benefit many of those with unmet clinical needs in urban and especially those in medically underserved rural. Beneficiaries include patients, physicians, hospitals, nursing homes, schools, employer clinics, behavioral health organizations, and prisons.
- Allows for two-way real time interactive communication between a patient and the physician or practitioner at a distant site.
- TMED is a significant and rapidly growing component of health care.
- By this new technology-enabled service TMED specialists and other health care providers can expand their reach, helping patients stay in their communities for specialized care.
- TMED is
- Savings realized from this should be enjoyed by both providers and payers

RECOMMENDED STATUS: Support actively.

*TMED encouraged very active discussion between Wojanis, Weinkle and Anderson. **Anderson** said that she and several family members used this service several times for minor conditions with good results. The patient can use a phone app, computer to access a physician 24/7 and in some cases have prescriptions phoned in to the pharmacy. It is convenient, a time-saver and money-saver. **Weinkle** stated that the proposal should establish guidelines for the providers to assure that they have professional liability coverage and are not fraudulent actors. The insurance carriers are aware of this. Most carriers either have a TeleMed benefit or are moving toward adding one. **Anderson** noted that this is an area where SMC can educate employers to educate their employees about TMED. It is very important for those in outlying, rural areas where there can be very limited access to providers, especially specialists. **Wojanis** questioned if the service was also available by phone. Anderson will check.*

HOUSE – Health Care Transparency in Pricing

- Requires health care providers to publish the cost of health care procedures, a first step in bringing market forces to the health care.
- The consumers should be aware of and consent to the cost of a health care procedure at the time a patient schedules an appointment with a health care provider.

RECOMMENDED STATUS: Do not support or oppose

***Weinkle:** This is another “pie-in-the-sky” proposal. The ACA requires that hospitals post sticker prices, which are chargemaster prices. Those prices are almost totally useless to consumers and in no way reflect the final price to the consumer since they ultimately pay a rate negotiated between the insurer and provider. **Anderson** noted that in the past SMC advocated for a posted list of the top 20 outpatient procedures which are more useful and shoppable. St. Clair Hospital provides a consumer-friendly cost estimator for services which is laudable. However, costs can only be obtained from the patient’s own insurer. The patient cannot shop across carriers, i.e. they cannot compare the cost of a bone-density test between UPMC Passavant and St. Clair Hospital.*

***Anderson: Other commentary post-conference call** - The contracts between provider and insurer are confidential and proprietary information protected by law. There is no correlation between price and quality which makes shopping difficult. Insurers have websites and tools, but they are very cumbersome to use.*

The three pieces of proposed legislation listed below are the result of a federal judge in Texas who ruled that the ACA was unconstitutional/invalid because Congress eliminated the

individual mandate tax penalty of the ACA as part of the Tax Cut and Jobs Act legislation in December 2017. This was not the final word and the ACA is still the law of the land.

1. HOUSE – Puts the federal essential health benefits (EHBs) into PA law.

- People will not be able to access the health care services that were once covered - finding themselves paying out of pocket, going into debt, or not getting the care they should.
- Could lead to inadequate health policies appearing on the market that provide very little coverage when someone needs it the most.
- The ten EHBs include ambulatory patient services, emergency services, hospitalization, maternity and newborn care, mental health and substance abuse disorder services, including behavioral health treatment, prescription drugs, rehabilitation and rehabilitation services and devices and chronic disease management, pediatric services, including oral and vision care.

RECOMMENDED STATUS: Oppose actively.

Anderson: *The only way to get the cost of health insurance down for small businesses is to have policies available without all of the ten EHBs.*

Weinkle: *Agreed. Making adjustments will help carriers.*

2. HOUSE – Prohibits health insurers from using an individual's pre-existing medical condition to deny or exclude coverage under a health insurance policy.

RECOMMENDED STATUS: Support passively.

3. HOUSE – Adopts the prohibition on annual and lifetime health insurance coverage limits into PA law.

Prior to the ACA many plans had pre-set limits on the amount of money they would pay out. A serious accident or diagnosis could result in spending rapidly through the limits, leaving patients with serious conditions no recourse. Patients with severe, chronic and rare diseases could find their lifetime spending limit of \$1 M consumed within just a few years.

RECOMMENDED STATUS: Support passively.

Anderson: *No one wants to go back to the days of having pre-existing conditions not covered by insurance and limits on annual and lifetime health insurance coverage.*

Weinkle: *Agreed. These provisions have all been locked-in by the carriers at this point.*

HOUSE – Addresses pharmacy gag clauses.

HOUSE – Spread Pricing Legislation Requires Pharmacy Benefit Managers (PBM's) to disclose how much they reimburse a pharmacy for a drug, and how much they charge an insurer or health plan for it.

HOUSE – Pharmaceutical Cost Transparency – Will provide consumers with information currently not available in terms of why prescription drugs cost so much.

RECOMMENDED STATUS: See comprehensive Senate co-sponsorship memo with all three pieces.

SENATE – Regulates Pharmacy Benefit Managers (PBMs) in PA for increased transparency and fairness.

- As third-party administrators of drug benefit programs for health plans, PBMs work to help contain costs. At a hearing last fall those testifying pointed to a 30% savings on

pharmacy benefits for managed plans as opposed to unmanaged plans. The terms of these agreements are often unknown to consumers, and some practices have been questioned for their effectiveness.

- For example, "spread pricing," allows PBMs to charge a plan more for a drug than it actually pays the pharmacy and pocket the difference.
- Many states are taking steps to implement tighter controls. While PBMs play an important role in our health care system, concerns over transparency and fairness must be addressed.
- Two of the elements of the proposed legislation of the most value to SMC and members:
 - Banning the use of "gag clauses" in PBM contracts with pharmacies.
 - Eliminate the practice of "spread pricing."

RECOM MENDED STATUS: Support passively; request a change.

Senko: *A conversation ensued between Senko and Weinkle. Senko noted that in some state's pharmacists can bill the plan for complementary services, but not in PA. Before dispensing a drug, pharmacists will review all the medicines a patient is taking, identify any potential negative interactions between, and advise and discuss medication directions with the patient, all steps which protect the patient. This service is called MTM, medication therapy management. PBMs proactively perform MTM on beneficiaries looking for unnecessary and dangerous drug therapies. Drug pricing by the PBMs is described as murky because it is proprietary information. Advances in Pennsylvania pharmacists being given provider status could enable billing for services such as MTM which in a competitive environment would produce downward pressure on the prices PBMs charge for medications. This would be a more effective way to control drug costs than the NADAC pricing model recommended by the Auditor General.*

Weinkle: *1) We should get rid of the "gag clauses." Pharmacies should be able to advise customers, so they can lower their out-of-pocket costs. 2) Allow pharmacies to charge for MTM services.*

HOUSE – HB 1613 2017-18 Session Pennsylvania Health Care Cost Containment Council (PHC4) Reauthorization and Modernization.

- In 1986, PHC4 was created to be an independent state agency which collected data on health care costs in order to stem the rapidly growing cost of health care procedures.
- PHC4 studies and reports on various measures of health care such as hospital-acquired infections, mortality rates per procedure, etc.
- This information is provided through PHC4's website to individual consumers and group purchasers of health service, however, the information is often exceptionally delayed and presented in a format that is not easily usable by the average consumer.
- It contains a provision where PHC4 can study the market impact from proposed mandated health insurance benefits.

STATUS: Support passively.

Anderson: *SMC has supported Reauthorization and the Modernization of PHC4 in the past. PHC4 is "hand-cuffed" by financing and has cut employees. She will discuss the 2019-20 co-sponsorship memo with the sponsor once it is published.*

Choosing Wisely – see 2018 SMC Business Council State Position Papers

The third party payment system provides no incentives for consumers to take an active role in their own health care decisions SMC supports the education of employers and employees to become better consumers of health care services.

STATUS: Support actively.

Anderson: *SMC distributes the Choosing Wisely wallet cards to members. The card poses five questions that the patient can ask the provider, the goal is to actively engage them in their own health care. It is a long-term cultural change.*