

## Five Reasons Healthcare Will Be the Topic to Watch This Session of the Texas Legislature

*Legislators filed bills before the official start date of the 83<sup>rd</sup> Texas Legislative Session; many of the bills already filed address healthcare issues.*

- 1. The Budget.** Texas legislative leaders recently approved a self-imposed budget cap for the 2014-2015 biennium based on a conservative estimate of growth in the state's economy, holding lawmakers to not more than a 10.71 percent increase over last session's budget, or about \$7 billion. The first order of business will be to fill the \$4.7 billion hole in 2012-2013 Medicaid funding, which if not filled, will run out by March 2013. Lawmakers may choose to apply Rainy Day funds for this purpose, but not without opposition from members who prefer a hands-off approach to the reserve. Many lawmakers intend to continue their no new taxes or tax increases stance this session. And with the Health & Human Services Commission (HHSC) requesting additional appropriations to the tune of \$6.7 billion, the budget fight will be very focused on healthcare.
- 2. Health Insurance Reform.** Now that the Obama administration has been

cleared to move forward with federal healthcare reform rulemaking, a wave of policy change relating to health insurance is advancing. Uninsured individuals will need to obtain basic coverage by January 1, 2014, but according to Governor Perry, it won't be through a state-run health insurance exchange. Perry also says Texas won't be expanding eligibility for Medicaid, pointing to the long-term costs to a state that provides very little optional coverage, yet already spends nearly a third of its budget on the program. The state's Medicaid tab will jump when the coverage mandate kicks in and those eligible for Medicaid, but not currently enrolled, sign up. Hospital districts and counties are mulling schemes to pull down Medicaid matching funds on their own. Add to the impending federal directives continued pressure to make health insurance more affordable and a bull's eye on state employee benefits, and you can expect mighty battles in this area.

- 3. Medicaid.**  
**1115 Waiver** - Texas Medicaid underwent a major managed care-style overhaul last session, and program changes allowed under a federal waiver have been implemented like a marathon at a sprint's pace. Hospitals are clamoring to protect

For additional information, please contact [Elizabeth Rogers](#), [Amy Herzog](#), [Michelle Apodaca](#) or any member of the Waller TLCG Task Force at 800.487.6380. **Access to the Texas Legislative Compliance Group Extranet (TLCG) is permitted only for employees of the entity enrolled in TLCG.** For more information about becoming a member of the TLCG, please review our enrollment [form](#). © 2013 Waller Lansden Dortch & Davis, LLP.

disproportionate share and uncompensated care funding, which have been renamed, revised, and re-organized to reward improved care coordination and innovation. New rules have created reimbursement uncertainty and put public and private hospitals at odds. With a new (physician and former Senator) executive at the helm of HHSC, and legislators once again looking for cost-savings, expect the state Medicaid program to continue to transform.

**Payment Reform.** The Texas Legislature and HHSC will continue their Medicaid cost containment initiatives by focusing on improving the quality and efficiency of healthcare services through implementing pay for performance reimbursement systems. Numerous quality-related task forces and committees were created last session to hammer out ways to pay for quality instead of quantity in the program. Lawmakers will keep the pressure on Medicaid managed care organizations to incentivize providers to comply with quality measures, and implement penalties for preventable events such as readmissions, adverse events, and inappropriate ER utilization.

- 4. Pursuit of Fraud and Abuse.** When finances get tight, legislators start pulling up the couch cushions and looking at everyone side-ways. If the state is paying for you to provide or receive healthcare benefits, you'd better pay attention. Recent new rules

from the HHSC OIG authorize the state to stop payment "upon receipt of reliable evidence that verifies a credible allegation of fraud." More troubling for hospitals and other providers is the HHSC OIG's ability to impose a payment hold for submission of claims for services or items that are not reimbursable by the Medicaid program. Pre-filed legislation would institute drug testing for TANF (Temporary Assistance for Needy Families) and unemployment insurance applicants. Watch for other measures intended to keep state dollars out of the hands of rule-breakers and over-users: in the crosshairs are orthodontic services, nursing facilities, and medical transportation programs.

- 5. Privacy.** Recent rules proposed by HHSC could be interpreted to require Texas covered entities to comply with federal HIPAA regulations -- assigning significant new compliance obligations to almost anyone who comes into contact with protected health information. As providers work to implement privacy legislation passed last session, along with their efforts to participate in the exchange of electronic health information statewide, questions abound. An interim study over the various registries of health information maintained by the state may also yield proposals to alter sharing standards and beef up safeguards for sensitive information.

The Texas Legislative Compliance Group Task Force will be monitoring and providing updates on these and other topics of interest to healthcare providers during the 83<sup>rd</sup> Legislative Session, which convened on January 8, 2013. For more information about becoming a member of the Texas Legislative Compliance Group, please review our enrollment [form](#).