H. 107, An act relating to health insurance, Medicaid, and the Vermont Health Benefit Exchange & H. 116, An act relating to health care administration

Answers to questions from walk-through:

Sec. 2—Health Insurance: Mental Health Care Services Review, 18 V.S.A. § 4089a

Q: Why is the provision on compensation for the independent panel of mental health care providers deleted?

A: There no longer is an independent panel of mental health care providers—that process has been combined with the health care appeals process.

Sec. 3—Health Insurance: First Dollar Coverage of Wellness Drugs, 8 V.S.A. § 4092

Q: Can we allow first dollar coverage for other prescription drugs besides wellness prescription drugs in HDHP?

A: In order for the plan to qualify as an HDHP plan, the prescription drug benefit must not provide benefits until the minimum annual deductible of the HDHP has been met. There is a safe harbor for "preventive care services" under 26 U.S.C. § 223(c)(2)(C). As a result, preventive care prescription drugs can be covered first dollars while other classifications of drugs, such as generic, receive coverage after the deductible has been met. The suggested amendment to state law would provide for first dollar coverage as allowed under federal law to give more flexibility in plan design.

Sec. 15—Catamount Health and VHAP: VHAP for Wrongly Incarcerated Individuals, 13 V.S.A. § 5574

Q: How many people are on this program?

A: It is DVHA's belief that no one is currently on this program. Because the program is funded purely through state dollars, DVHA thinks it would have an aid category set up for this population and it has no such aid category.

Q: Is there a comparable program we can substitute for VHAP for wrongly incarcerated individuals?

A: Yes, we suggest adding the following language to address the issue. Note, that individuals who are otherwise eligible for Medicaid would be covered by Medicaid.

(2) up to 10 years of eligibility for state-funded health coverage equivalent to Medicaid services.

Additional Suggested Changes

H. 107, An act relating to health insurance, Medicaid, and the Vermont Health Benefit Exchange

Sec. 1—Health Insurance: 18 V.S.A. § 4079

(B) In accordance with section 3368 of this title, an employer domiciled in another jurisdiction that has more than 25 certificate holders whose principal worksite and domicile is in Vermont and that is defined as a large group in its own jurisdiction and under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, § 1304, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, may purchase insurance in the large group health insurance market for its Vermont domiciled ~~**employees**~~ **certificate holders.**

Rationale: corrects language to ensure that all family members are included, where applicable, not just employees.

Sec. 12—Catamount Health and VHAP: 8 V.S.A. § 4100e—Required Coverage for Off-Label Use

(2) "Health insurer" is defined by ~~section~~ 18 V.S.A. § 9402 ~~of Title 18~~. As used in this subchapter, the term includes the ~~state~~ State of Vermont and any agent or instrumentality of the ~~state~~ State that offers, administers, or provides financial support to state government, including Medicaid, ~~the Vermont health access plan,~~ **~~the VScript pharmaceutical assistance program,~~** or any other public health care assistance program.

Rationale: includes VScript to reflect repeal of the program, which has 3 enrollees currently.

Sec. 15—Catamount Health and VHAP: VHAP for Wrongly Incarcerated Individuals, 13 V.S.A. § 5574

(2) up to 10 years of eligibility for state-funded health coverage equivalent to Medicaid services.

Rationale: see above answer to question from Committee.

Sec. X (new provision) 18 V.S.A. § 9418 (b) is amended to read:

(b) No later than 30 days following receipt of a claim, a health plan, contracting entity, or payer shall do one of the following:

(1) Pay or reimburse the claim.

(2) Notify the claimant in writing that the claim is contested or denied. The notice shall include specific reasons supporting the contest or denial and a description of any additional information required for the health plan, contracting entity, or payer to determine liability for the claim.

(3) Pend a claim for services rendered to an enrollee during the second and third months of the consecutive three month grace period required for recipients of advance payments of the premium tax credit 26 USC Section 36B. In the event the enrollee pays all outstanding premiums prior to the exhaustion of the grace period, the health plan, contracting entity, or payer shall have 30 days following receipt of all outstanding premiums to proceed as provided in subsection (1) or (2) of this subsection, as applicable.

Rationale: Conforms claims standards to ACA requirements for the Exchange.

Sec. X (new provision) --Expedited or Emergency Rules to Conform to Final Federal Rules

U.S. Health and Human Services has issued draft rules for many of the ACA required insurance provisions and for the Exchange. These rules, however, will not be finalized until during the summer. In the meantime, DVHA and DCF are pursuing state rule changes to bring state rules into compliance with the draft rules. If HHS changes any rules during finalization, it is possible that there will no longer be time to pursue the full rulemaking process. The Administration understands that the Legislative Committee on Rules prefers not to approve expedited rules. This rationale, however, does not constitute an emergency as defined under the state administrative procedures act. If we are unable to pursue a quicker rules process, the state rules will be preempted to the extent they do not comply with federal law. This will create confusion for individuals and entities who rely solely on state rules without also checking the federal rules. Because of this, we would like some faster process solely for the purpose of conforming to any changes to the final federal rules.

H. 116, An act relating to health care administration

Sec. 11—Health Insurance Rate Review Study

Senate Finance is currently reviewing this issue. If Finance acts, we recommend deleting this provision as it will be redundant.