FPMA Report
Tallahassee Update

We have reached Week 4 in the Florida Legislature, this week's main attraction; building the budget. By weeks' end, the House crafted an $89.9 billion-dollar budget, with the Senate passing a $90.3 budget. This leaves them close to $440 million dollars apart, which is typical each year, and the process of give and take will soon begin. For FPMA, the budget provides no harm, our programs remain intact. We are not yet out of the woods, but off to a positive start. The Health Care portion of the budget is a moving target each year, and we will continue to closely monitor.

Our other area of interest – the bills; many are moving, a lot died this week. Set forth below are a few select bills of interest.

HB 23 by Yarborough TELEHEALTH

Telehealth: Establishes standard of care for telehealth providers; authorizes telehealth providers to use telehealth to perform patient evaluations; authorizes certain telehealth providers to use telehealth to prescribe specified controlled substances; provides that nonphysician telehealth provider using telehealth & acting within scope of practice is not deemed to be practicing medicine without license; provides that health insurer or HMO is allowed tax credit against specified tax imposed if it covers services provided by telehealth providers. Effective Date: July 1, 2019

FPMA – The bill passed the Health & Human Services Committee 14-3 and moves to the floor. The House version includes Podiatry. The Senate bill 1526 by Gayle Harrell does not, telehealth services would only apply to f.s. 458 & 459. We are working the issue.

CS/HB 559 by Massullo FAIL FIRST/STEP THERAPY

House Bill 559 by Representative Ralph Massullo, M.D., was approved by the House Health Market Reform Subcommittee. An amendment was adopted by the Subcommittee that narrowed the provisions of the bill, and the following is a summary:

- The bill prohibits current and future health plans from requiring an insured to repeat a step therapy protocol for a particular drug, provided that the insured has previously been approved to use the drug via a step therapy protocol and is currently using the drug.
- In the event that an individual changes health insurance plans, the bill specifies that the new insurer or HMOs is not precluded from imposing a prior authorization requirement for the continued coverage of a drug that was associated with step therapy in the former health plan.
- The bill also stipulates that a health insurer or an HMO is not required to add a drug to its drug formulary or cover a drug for a purpose not currently covered in order to comply with the step therapy restriction.
- The bill applies to policies entered into or renewed on or after January 1, 2020, and does not apply to the Medicaid managed care plans.

FPMA – we are supporting this pro-patient bill.

CS/SB 1180 by Mayfield NON MEDICAL SWITCHING

Senate Bill 1180 by Senator Debbie Mayfield was approved Senate Banking and Insurance Committee. An amendment was adopted and the bill provides additional consumer protections by prohibiting health insurance policies and health maintenance organization contracts, which provide major medical coverage, from removing a covered prescription drug from its formulary while an insured is taking the a medically necessary prescription drug prescribed by a treating physician, except during the renewal period. The bill also prohibits an insurer or HMO from reclassifying a drug to a more restrictive tier, increasing the cost sharing of an insured, or reclassifying a drug to higher-cost sharing tier during the policy year. Under current law, only HMOs offering group contracts are prohibited from increasing the copayment for any benefit or removing, amending or limiting any of the contract benefits except at renewal time with some exceptions. The Senate bill has 2 more committee stops and the House companion bill, House Bill 1363 by Representative Patricia Williamson, was placed on the House Health Market Reform Subcommittee on Tuesday, March 26.

FPMA – another pro-patient bill we support.

SB 1636 by Perry WORKERS' COMPENSATION

Revising a prohibition against persons receiving certain fees, consideration, or gratuities under the Workers' Compensation Law; increasing the maximum number of weeks of benefits payable for temporary total disability, temporary partial disability, and temporary total disability; requiring injured employees and other claimants to sign and attest to a specified statement relating to the payment of attorney fees before engaging an attorney or other representative for certain purposes, etc. Effective Date: 7/1/2019

Summary:

SB 1636 amends several provisions in ch. 440, F.S., Florida's workers' compensation law. The bill:

- Codifies Westphal v. City of St. Petersburg,1 by increasing temporary total disability benefits and temporary partial disability benefits from 104 weeks to 260 weeks to address a potential benefit gap, if the injured worker has not reached maximum medical improvement.
- Removes the criminal penalty for claimant attorneys receiving fees that the Judges of Compensation Claims (JCCs) has not approved, thereby allowing a claimant to enter into retainer agreements with an attorney and directly pay the attorney, which codifies Miles v. City of Edgewater Police Department.2
- Eliminates the unrelated works exception to employer immunity provided by the workers' compensation law.
- Requires the filing of attorney retainer agreements and associated attorney fees with the Office of Judges of Compensation Claims.
- Retains the statutory fee schedule for attorney fee awards paid by an employer or carrier to a claimant's attorney.

- Revises current law to allow an alternative minimum attorney fee cap on medical-only claims of $150 per hour, not to exceed $1,500, in all medical only claims rather than only once per accident.
- Limits appellate fees at $150 per hour if certain conditions are met.
- Extends the attachment of attorney fees following the filing of the petition of benefits from 30 days to 45 business days.
- Requires evidence of a good faith effort by the claimant and the claimant's attorney to resolve disputes prior to filing a petition for benefits.

FPMA – This bill is up in the Senate Banking & Insurance Committee on Monday at 4:00 pm. The current language treats all practitioners the same; the House gives MDs and DOs an edge. If this changes, we will activate our grassroots network to communicate our message.