



*Written Testimony before the Public Health Committee
Submitted by the Department of Social Services
March 6, 2023*

HB 6740 AN ACT CONCERNING HOSPITAL FINANCIAL POLICIES.

The Department of Social Services (DSS) broadly supports the goals of this bill, which appear to be aimed at reducing financial and procedural barriers to receiving affordable medical care in a hospital setting. DSS is also generally supportive of efforts to ensure that low-income individuals are not burdened with outsized medical debt, which appears to be another goal of this bill.

Although DSS supports efforts to address the crushing impact of medical debt, the Department wishes to better understand the goals of section 3 and explore a manner in which to achieve those goals while also maximizing the opportunity to connect individuals with Medicaid coverage as appropriate. Specifically, in subsection (b) of section 3, the bill calls for hospitals to provide “hospital financial assistance” to patients enrolled in the Supplemental Nutrition Assistance Program (SNAP), or the Special Supplemental Food Program for Women, Infants and Children (WIC) without requiring the patient to apply for government-supported health insurance “unless the hospital has a reasonable basis to believe that the patient will qualify for one or more of such programs.”

A person who is enrolled in SNAP is very likely to be eligible for Medicaid coverage, thus a hospital’s knowledge of a patient’s SNAP enrollment should be considered a categorically “reasonable basis” on which to seek out Medicaid coverage. Similarly, a person enrolled in WIC is also very likely to meet Medicaid income eligibility (though citizenship/immigration status eligibility between the programs varies).

Additionally, DSS observes that individuals who could qualify for Medicaid based on income but who might not qualify based on citizenship or immigration status could potentially receive coverage or financial support through emergency Medicaid. To the extent that this bill, as written, appears to limit a hospital’s ability to assist patients in obtaining valuable Medicaid coverage and get compensated for services, this could be a lost opportunity for both the patient and the hospital.

Given these concerns, the Department cannot support the bill in its current form, but we look forward to discussions with the Committee to resolve these concerns should the bill proceed.

SB 1077 AN ACT CONCERNING THE ACCEPTANCE BY PHYSICIANS OF PATIENTS WHO ARE MEDICAID RECIPIENTS.

Section 1 of the bill establishes a working group to review barriers to physicians accepting a patient that is a Medicaid member and provide recommendation to address such barriers. Section 2 of the bill provides for specified immunity from civil and criminal liability and professional licensure enforcement actions for a licensed physician who provides health care services to a patient who is a Medicaid member.

The Department is interested in working on evaluating and addressing barriers to physicians serving Medicaid members as part of the above-mentioned working group in section 1 of the bill.

However, DSS opposes section 2 of the bill, which would establish immunity from both civil and criminal liability, as well as immunity from serious professional licensure enforcement, for physicians treating Medicaid members. If enacted, this immunity would establish a discriminatory lower standard for healthcare quality and safety for Medicaid members compared to any of the physician's other patients. This language also undermines the state's critical authority as steward of state and federal taxpayer funds to enforce state and federal requirements, including, when necessary, the ability to audit and recoup overpayments and fraudulent billing under Medicaid.

This language would preclude the Department and other responsible state agencies (including the Office of the Attorney General and the Medicaid Fraud Control Unit of the Office of the Chief State's Attorney) from following various obligations under federal law related to quality and program integrity. In particular, under section 1902(a)(30)(A) of the Social Security Act, as the state Medicaid agency, the Department is required to ensure quality, efficiency, and prevent unnecessary program utilization. This language would also impair the ability of the state to comply with various federal program integrity requirements, including, but not limited to, sections 1902(a)(61) and 1903(q) of the Social Security Act regarding the Medicaid Fraud Control Unit, section 1902(a)(42) regarding recovery audit contractors, section 1909 regarding the adequacy of the state's false claims laws (the practical effect of which would be undermined by this bill), and 42 C.F.R. Part 455, Subpart A, which requires state Medicaid agencies to identify, refer, and take specified enforcement action to prevent and address fraud.

The Department understands the importance of ensuring sufficient access to physician services for Medicaid. However, the Department respectfully suggests that undermining healthcare quality and program integrity by placing a discriminatory immunity standard only for the physician's Medicaid patients is not an appropriate method for doing so and would result in a multitude of unintended, adverse consequences.

For the foregoing reasons, the Department welcomes the opportunity to participate in the workgroup that would be established by section 1 of this bill but opposes section 2, which should be removed.