

January 18, 2023

Health Policy Insights

When health policy issues arise – and affect self-funded employers – we will share insights into each issue to better educate employers. These emails will be sent occasionally throughout the year, but primarily during peak “legislative season.”



At the State Level

2023-24 Session Kick-off

On January 3, a number of newly elected state lawmakers were sworn into office. It was a gubernatorial election year with 116 state legislative seats theoretically up for grabs and a historically high number of incumbents not running for reelection in 2022. The outcome was a divided government much like Wisconsin has experienced over the past four years.

Democrats saw big wins at the top of the ticket. Incumbent Democratic Governor Tony Evers survived a challenge by Republican Tim Michels, and Josh Kaul was re-elected as Attorney General. In the legislature, Republicans picked up four additional seats resulting in a stronger majority control over both the Senate (21 out of 33 seats) and the Assembly (64 out of 99 seats). One Senate seat is still up for grabs after the retirement of Senator Alberta Darling from the River Hills area.

Given the election results and the remarkable differences of opinion on healthcare reform between parties, we don't expect wholesale changes in healthcare policy at the state level. Even so, one of the state's strongest voices on healthcare policy, Senator Mary Felzkowski, said she is interested in pursuing additional reforms related to PBMs, healthcare price transparency, and direct primary care this session, which means The Alliance will be busy talking with lawmakers about how these changes will impact employers and employees.

Leadership of the legislature stays largely the same on the Republican side, with Senator Devin LeMahieu (R-Oostburg) continuing as Senate Majority Leader and Senator Chris Kapenga (R-Delafield) continuing as Senate President. Robin Vos (R-Burlington) will continue as Speaker of the House in the Assembly, while Rep. Tyler August (R-Lake Geneva) will serve in a leadership role as Majority Leader. Democrats selected new leaders, with Senator Melissa Agard (D-Madison) as Senate Minority Leader, and Representative Greta Neubauer (D-Racine) as Assembly Minority Leader.

The 2023-24 legislative session is just getting started. Keep an eye on forthcoming newsletters to learn more about proposals that could impact employers that are introduced as the session goes on.

At the Federal Level

The “Omni” and 118th Congress Kick-off

As has become typical in recent years, Congress ended their 117th Session by passing a significant, \$1.7 trillion omnibus spending bill called the Consolidated Appropriations Act of 2023. The bill includes funding to run the federal government for the 2023 fiscal year and makes significant funding investments in mental healthcare and programs to address substance use, including \$4.9 billion to address the opioid epidemic.

One of the primary provisions of interest to employers that was included in the year-end spending bill was the SECURE 2.0 Act relating to retirement policy. While this is not The Alliance’s area of expertise, we can link you to the official section-by-section summary from the Senate Finance Committee [here](#).

Importantly for many of our members, the new law also includes a two-year extension of flexibilities in place during the COVID health emergency that allows first-dollar coverage of virtual care under health savings account (HSA)-eligible high-deductible health plans (HDHPs), giving HSA enrollees access to telehealth services without needing to first meet a deductible. The flexibilities, which were originally put in place in 2020, now extend to plan years beginning before January 1, 2025. The Alliance and other business organizations will be advocating in the coming months for Congress to make these flexibilities permanent.

Shortly after the 117th Congress adjourned, the 118th session kicked off with a new Republican majority in the US House. The US Senate remains controlled by Democrats. A divided government at the federal level is likely to mean two things: First, there is expected to be a lot of oversight hearings by both parties, each trying to deter the other. Second, only issues that have strong bipartisan agreement are likely to move forward next session.

Among the bipartisan health policy issues that could impact employers are proposals to strengthen healthcare price transparency, expand the No Surprises Act, increase competition in

healthcare markets, address drug patent and pricing reforms and address mental health and substance use disorders. Many predict some action on mental health parity this session, with potentially stronger enforcement measures and network requirements for health plans. We will keep you posted on these initiatives as we move forward.

Health Policy Issues We Are Following

Bill or Issue	The Alliance Position	Summary and Implications for Employers	Status
The state legislature has newly convened for the 2023-24 session and Congress has convened for the 118th Congress. All previous bills we were tracking that did not get signed into law are "dead" unless and until they are reintroduced this session.			
No Surprises Act Lawsuits	N/A	There are multiple lawsuits filed challenging the No Surprises Act Final Rules by providers who say the "Qualified Payment Amount" (QPA or median in network amount) should NOT be the dominant factor when settling payment disputes. They want higher payments from health plans for services.	One case has been decided; a lower court ruling found the original rule's emphasis on the QPA is unlawful. HHS/Labor has reissued rules directing arbiters (otherwise known as IDREs) to weigh all factors in disputes.

** The information provided in this newsletter is for general informational purposes only and does not, and is not intended to, constitute legal advice.*

How Are We Doing?

Answer one question to let us know! How likely is it that you would recommend The Alliance to a friend or colleague?

Highly Unlikely

Highly Likely

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