The Tennessee Advisory Commission on Intergovernmental Relations

226 Anne Dallas Dudley Blvd., Suite 508
Nashville, Tennessee 37243-0760
Phone: (615) 741-3012
Fax: (615) 532-2443
www.tn.gov/tacir

MEMORANDUM

TO: Commission Members

FROM: Cliff Lippard
Executive Director

DATE: 29 September 2020

SUBJECT: Public Chapter 407, Acts of 2019 (Right to Shop)—Update

Public Chapter 407, Acts of 2019, directs the Commission to study any cost savings realized by enrollees with health insurance plans, including private health plans and state-funded health plans, in states that have adopted legislation or policies that require insurance carriers offering health plans in those states to offer incentive programs to enrollees for shopping for and using healthcare services at lower costs. These are commonly referred to as "right to shop" programs. The study shall include, at a minimum, an examination of savings realized by such programs in Arizona, Florida, Kentucky, Maine, and New Hampshire. The legislation requires the Commission to report its findings to the General Assembly by December 2020; the draft report will be presented at the summer Commission meeting.

Right to shop programs are meant to address rising health care costs by encouraging insurance enrollees to switch to lower cost service providers and facilities. Insurance carriers provide price information on medical services so enrollees can shop around for the best price. If an enrollee chooses to receive services from a provider at a price that is less than the average price paid by their carrier for a service, then that person could receive a reward, often ranging from $25 to $500.

In Tennessee, Public Chapter 407 makes adoption of right to shop programs by carriers optional while requiring carriers to provide health price information with a "shopping and decision support program." The law says that the incentives "may be calculated as a percentage of the difference between the amount actually paid by the carrier for a given comparable healthcare service and the average allowed amount for that service.

Incentives may be provided as a cash payment to the enrollee, a credit toward the enrollee's annual in-network deductible and out-of-pocket limit, or a credit or reduction of a premium, a copayment, cost sharing, or a deductible." The total value of incentives offered to an enrollee cannot exceed $599 in any year. The legislation requires carriers to implement a shopping and decision support program to help enrollees shop for lower-priced health services beginning in 2021.

The Act also directed Tennessee's State Insurance Committee to publish a report on right to shop programs and implement such a program if it was found to be cost effective. In December 2019, the Committee published its *Report on Shared Savings Incentive Programs*, prepared by the Division of Benefits Administration in the Tennessee Department of Finance and Administration on behalf of the Committee. They found that price transparency alone does not increase enrollee shopping and that pairing incentive programs with transparency works better. These programs were found to have achieved modest savings that were immediate and measurable in the short term. The Division is still exploring the possibility of adding a right to shop program to Tennessee's state employee health insurance plan.

From a review of the literature and interviews with representatives of both state health plans and insurance departments in other states, Commission staff has gathered similar findings. The staff's research shows that transparency and incentive programs can be beneficial and can help reduce healthcare costs. However, because low participation rates are an obstacle, communication with consumers and education about the programs are critical to their success. Academic research is mixed on the effectiveness of price transparency tools alone in reducing costs. One study showed that following the introduction of a price transparency tool, claims payments decreased between 1% and 13.9% depending on the service. However, another study showed out-of-pocket spending increased 2.9% after the introduction of a price transparency tool. Yet another study found that when a right to shop program was introduced along with a price transparency tool, prices paid in the first 12 months of the program decreased 2.1%.

Incentive programs in other states are relatively new, and their data is limited at this point. Overall, representatives in other states say that although implementing and establishing programs can be challenging, and it might take a few years to see significant savings, they are a good idea and can be effective. For example, since 2013 when Kentucky started its program, state health plan enrollees have received $2.3 million in incentives, and the state has saved $12.6 million on claims. TACIR staff continues to work on collecting data from the states listed in the legislation—Arizona, Florida, Kentucky, Maine, and New Hampshire, in addition to several other states.