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Memorandum

To: All House Members
From: Representative Randy Vulakovich
Date: December 6, 2011
Subject: Proposing legislation to address disputes between hospitals and insurers

I will soon be introducing legislation to address disputes between insurers and hospitals including the University of Pittsburgh Medical Center (UPMC) and Highmark dispute that is occurring in western Pennsylvania.

My legislation will do the following:

- (1) Be applicable to expiration of contracts as well as terminations.
- (2) Be applicable to contracts for hospital owned physician practices as well as contracts for hospitalization.
- (3) Require notice to the other parties to a contract and to the Insurance Department when a party seeks to terminate the contract or refuses to renew the contract.
- (4) Impose a penalty for failure to provide notice to the other parties to the contract and to the Insurance Department when the party seeks to terminate the contract or refuses to renew the contract.
- (5) For contracts involving hospitals having more than 5 percent of the beds in an area serviced by an insurer requires the insurance department and in conjunction with the Department of Health to hold a public hearing as to the purposes for the termination are refusal to renew a contract and the effects on public health. Based on the hearing, the Department shall approve the termination, permit the expiration or recommend the contract be continued.
- (6) If after the investigative hearing the Insurance Department recommends the contract be continued, requires the parties to negotiate for 30 days.

- (7) If no agreement is reached after the negotiations, requires the Insurance Commissioner to order the parties to participate in mediation sponsored by the Insurance Department.**
- (8) If an agreement is not reached after the mediation, requires the parties to notify the Secretary of Health and the Insurance Department.**
- (9) If the Secretary of Health determines that termination of the contract or permitting the contract to expire would substantially disrupt the delivery of health care service in the area served by the insurer and the continuation of the contract is in the public interest, requires the Secretary of Health to request the Insurance Commissioner to implement binding arbitration.**
- (10) Requires the Insurance Commissioner to order the parties to submit to binding arbitration sponsored by the Insurance Department if the Secretary of Health requested binding arbitration. Requires the Commissioner to appoint the mediator as the finder of fact and who shall preside at a hearing and issue a report to the Insurance Commissioner.**
- (11) Upon receiving the report of the finder of fact, requires the Insurance Commissioner to issue an order imposing contract terms on the parties for a period not to exceed 18 months.**

This legislation is necessary to a mechanism governing health care disputes. These changes will also empower the Insurance Department with an effective means of assisting in the resolution of the UPMC and Highmark dispute.

UPMC is western Pennsylvania's largest hospital and physician network. Highmark controls 65 percent of the region's health insurance market. Under the current contract, Highmark members are able to see UPMC doctors and use UPMC facilities at "in-network" rates. The contract between UPMC and Highmark is set to expire on June 30, 2012. As a result of the contractual dispute between the two entities, 2,700 UPMC doctors and affiliated hospitals will become out-of-network providers to approximately 3 million Highmark subscribers. Out-of-network fees are generally much higher than in-network, resulting in higher out-of-pocket expenses for consumers.

If you would like to co-sponsor this legislation, please contact Patricia Geiger at 717-260-6407 or by e-mail at pgeiger@pahousegop.com.

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