Medical Loss Ratio Requirements

ISSUE SUMMARY:
The medical loss ratio (MLR) requirements contained in the Patient Protection and Affordable Care Act (PPACA) are having a devastating financial impact on the country's approximately half-million licensed professional health insurance agents and brokers, as well as on all of their employees and their millions of employer and individual clients. While we agree with the goal of providing consumers with more value for health care dollars spent, the PPACA MLR requirements significantly and negatively impact access to health insurance agents and brokers, at the very time our economy is the weakest and health insurance purchasers have the most need for help.

ACTION NEEDED:
Bipartisan legislation was introduced in the last Congress to ensure that health insurance consumers, particularly in the individual and small group markets, have continued access to professional benefit specialists by removing agent and broker's compensatory stream of revenue from the MLR calculation. H.R. 2328, sponsored by Representatives Mike Rogers (R-MI) and John Barrow (D-GA), is awaiting action in the House Energy and Commerce Committee. We are continuing to build support for the bill so that we can move the bill forward. S. 650, introduced again by Senators Mary Landrieu (D-LA) and Johnny Isakson (R-GA) has a dozen cosponsors which is more than in the 112th Congress.

BACKROUND:
The MLR requirements were designed to limit the amount that a health insurance company can spend on administrative costs. Unfortunately, the rules crafted to implement this requirement not only include independent agent and broker compensation in an insurer's MLR calculation, but also classifies it as an administrative expense. In reality, health insurance agent and broker commissions are passed-through fees folded into insurance premiums as a consumer convenience and as a means of complying with state tax and consumer protection laws; they never have been any part of the insurer's bottom line.

As a direct result of the MLR requirements, many agents are seeing a net reduction of their business incomes of 30 to 50 percent. This means that fewer agents and brokers will be able to afford to stay in business, and many have begun reducing services to their clients and cutting jobs.

Nearly half a million professional agents and brokers across America help individual and business health care consumers find the right health plan and navigate the health care system. They advocate on consumers' behalf when problems arise, identify cost-saving opportunities and keep consumers informed of new products and changes to the industry that may impact them.

MLR regulation as it currently stands is causing disruption in all insurance markets. Its immediate impact has been diminishing access to health insurance agents, particularly in the individual and small-group markets. But there will also be a long-term impact as, over time, the MLR rules will reduce the number of insurers willing to write health insurance in the individual and small-group markets, or both, which will leave consumers underserved, reduce competition and cause countless insured individuals to lose coverage.

If carriers are forced to pull out of state insurance markets altogether because of the MLR rules, this will hinder competition and raise prices everywhere, including in the newly created state health insurance exchanges. Also due to the MLR requirements, insurers are being forced to eliminate or reduce key business areas, including claims, fraud prevention, and disease-management services, which, although are not directly attributable medical expenses, reduce overall operational costs. Many administrative functions, such as providing customer-service lines and processing claims, are largely fixed costs and a smaller percentage of the premiums of higher cost policies. So the new MLR rules have reduced the ability of insurers to offer low-cost plan alternatives.

Preventing this sort of disruption is of great importance to the National Association of Insurance Commissioners (NAIC) which passed a resolution stating, “Congress should expeditiously consider legislation amending the MLR provisions of the PPACA in order to preserve consumer access to agents and brokers, and the Department of Health and Human Services should take whatever immediate actions are available to the Department to mitigate the adverse effects the MLR rule is having on the ability of insurance producers to serve the demands and needs of consumers and to more appropriately classify producer compensation in the final PPACA MLR rule.”

Unfortunately, HHS did not heed the advice offered by the NAIC and the final MLR rule published on December 1, 2011 includes agent and broker commissions as part of the “non-claims costs” in the MLR calculation and does not allow for any portion of the agent and broker commissions to be considered a pass-through expense.

Congress should take steps to permanently correct the actions of HHS and ensure consumers have access to regulated professional benefit specialists by removing their compensatory stream of revenue from the MLR calculation. This relatively simple change would not cost the government any revenue, but would be a tremendous benefit to American consumers and employers who more than ever need a helping hand and trusted choice in making the most of potential coverage and tax decisions in the PPACA and beyond.

Exempting independent professional benefit specialist compensation from the MLR would also help preserve tens of thousands of good paying, professional industry jobs at a time when our economy continues to recover.

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