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PPACA Agent and Navigator Issues

1. Since the 1800s, California has required insurance agents to be licensed and the law has required insurance products be marketed and sold by licensed agents. This requirement results in the Insurance Commissioner ensuring that agents follow all the consumer protection laws and regulations. It also requires agents to be knowledgeable and ethical, to take continuing educations courses and to meet minimum licensure standards both initially and ongoing. All 50 states have licensing requirements for individuals selling insurance products.

   Licensure also allows for a place and a process for consumer complaints should an individual feel they have been given the wrong information or a statute or regulation has been broken. It allows the Commissioner to ensure that anyone not meeting the requirements be disciplined or have their license revoked.

   California state law does not require an agent license to sell a HMO product. Insurance agent trade associations believe this needs to be corrected by requiring HMO products be marketed and sold by licensed agents, including those products that would be sold in the Exchange that the Legislature is currently developing. This requirement should apply whether the individual selling the product is a navigator under the federal health care reform or an agent contracted with a carrier. The requirement would also provide the same protections to those in the HMO market place as currently provided to consumers purchasing other types of health insurance.

2. The PPACA requires that all navigators be trained and licensed if appropriate to enroll individuals and small groups in the exchange. The Insurance Commissioner currently regulates the specific curriculum for a Health and Accident insurance license as well as the institutions that provide the actual courses. The current requirement is 20 hours of pre-licensing course work and an additional 12 hours of ethics and code. In addition the applicant must complete an exam administered by the Commissioner and pass a background check. This insures that all applicants actually have the requisite knowledge to place an individual or employer in a health insurance product and are in compliance with the consumer protection requirements. Everything is already in place to provide the necessary training and licensing as required by the PPACA.

3. Of the approximately 7 million uninsured in California, approximately 2.5 million will be eligible for the exchange and the vast majority will have never purchased health insurance in the past or, in a significant number of cases, ever been covered by health insurance at all. Many will have come from cultures where few if anybody purchases health insurance. They will lack the critical knowledge and experience to make good purchasing decisions. Worse yet, they will not know how to use or access the benefits of the plan they **must** purchase. They will not know the difference between a PPO and an HMO nor understand formularies or tiered prescription pricing. Provider networks, contracted hospitals and out of network costs will, without the necessary information, cost them more than they would have paid had they stayed in network. In addition they will be mandated to pay as much as 8% of their household income to purchase the new health coverage products.

   Insurance agents are the professionals who should provide individuals with the explanations and education necessary to make informed decisions and to help these individuals to purchase or move to a plan that will meet the new requirements. The agents will be able to explain what the changes are, how the individuals will be affected, what their options are and how to get subsidies if they are eligible. Agents will help individuals to choose the health insurance product that fits their budget and personal needs while taking into account who their physician is, what hospital they want, what medications they use and any other special needs they have.

4. On January 1, 2014 approximately 2.5 million individuals who purchase individual insurance will have to change plans as most of the products sold in that market will not meet the new minimum benefit standards for a qualified plan. Somewhere between 50% and 70% of all small group products will also not meet the new standards and all of the new plans will cost more than the ones in the market today by a significant amount. The exchange will be a new option in the marketplace for all small groups and individuals.

5. Just as payments to physicians, hospitals, carrier employees and other vendors are negotiated with carriers so should the compensation schedule between agents who are not navigators and carriers. As situations change over time, so do payments to agents and those changes reflect the simplicity or complexity of the products and markets.

   It is uncertain at this time what the products or markets will look like in 2014 and what the work load will be like in order to get all of those eligible educated and enrolled. The same uncertainty can be said for the appointees to the Exchange as was demonstrated by California's experiment with purchasing cooperatives in the 90's where they dealt with agent payments in a vacuum and failed to get the needed enrollment. Compensation arraignments for agents done in a vacuum are destined to fail. The carriers will only pay agents what they need to in order to place and service their products and compensation must be negotiated within the medical loss ratio requirements of current law. The appointees to the Exchange, however well intentioned, will not have an intimate understanding of the duties and roles agents play in the delivery process.

6. Lastly, the subject of agent compensation for delivering health insurance products should remain exclusively between agents who are not navigators and carriers. Allowing the Exchange to set compensation or address them in negotiating with carriers will create significant unintended consequences. Carriers will already have to meet minimum loss ratio requirement and have rate review by the regulators and the federal

government. Everyone will know what the distribution costs are as a function of the rate reviews.

7. It is important to note that policies written by agents have significantly less turnover than those policies purchased directly from the carrier. The agent-consumer relationship results in a better understanding of the product and how to access the benefits, thus limiting surprises in the future as to additional costs or covered benefits. The insurance agent distribution system provides flexibility in overhead costs for the carriers and stability in pool composition, which aids in consistent servicing and satisfied customers. It would also undoubtedly result in success for the Exchange.

8. It is the insurance agent workforce that will make the transition to the new health care world a success for employees, employers, individuals mandated to purchase coverage, carriers and the Exchange. Changes this sweeping will create tremendous chaos during implementation. Every individual and small employer will be affected by health care reform and many people will have a lot of questions. Licensed agents are a proven successful distribution channel with the knowledge and capacity to make health care reform implementation a success.