

*...to promote the availability of health insurance to small employers and eligible individuals...*



**FLORIDA HEALTH INSURANCE ADVISORY BOARD**

March 4, 2014

RECEIVED  
MAR 10 2014  
COMMISSIONER  
OFFICE OF INSURANCE REGULATION

Kevin McCarty, Commissioner  
Office of Insurance Regulation  
200 East Gaines Street  
Tallahassee, Florida 32399

Dear Commissioner McCarty,

On behalf of the Florida Health Reinsurance Program operating as the Florida Health Insurance Advisory Board, I am pleased to submit the Board's legislative recommendations for improvements in Florida's private health insurance market.

The Board, established under Section 627.6699(11), Florida Statutes, provides a forum for stakeholders in Florida's private health insurance market including insurers, employers, agents, consumers and regulators to discuss and develop strategies related to market stability, access and pricing. To achieve its purpose, the Board held meetings in Tallahassee and via teleconference in 2013 and early 2014. Board members were asked to submit recommendations based on their experiences in the marketplace which the group discussed and debated having reached consensus on the items included with this letter.

The Board does not propose specific legislation, but provides recommendations for consideration in health insurance market legislation. The attached report is being submitted to the Office of Insurance Regulation as provided for in Florida Statutes, with copies to the President of the Senate and the Speaker of the House, as well as being provided to other state agencies and stakeholders for reference.

A listing of current Board members is also attached. Please feel free to contact me if you have any questions or would like to discuss further.

Sincerely,

Michelle L. Newell  
Executive Director

Enclosures

# FLORIDA HEALTH INSURANCE ADVISORY BOARD

## *2014 Legislative Recommendations*

### 1. Employee Only Coverage in Group Plans

**Current Marketplace Issue:** In the small group market, under most employer-sponsored group health plans, employers subsidize the employee's premium but spouse/dependent coverage are offered under the plan completely at the employee's expense, with no employer contribution. In the new environment, it would be advantageous to have the option of not offering spouse/dependent coverage in small group, because the offer of coverage to a spouse and dependents, regardless of the affordability of that coverage, negates the ability of the spouse and dependents to qualify for subsidized coverage in the Marketplace (Exchange)<sup>1</sup>. The Affordable Care Act (ACA) does not require that small groups offer spouse or "dependent" coverage. However, in the small group market, carriers have never given small groups the option of not offering spouse/dependent coverage. The option of offering "employee only" coverage is required for carriers participating in the Small Business Health Options Program (SHOP) Marketplace (Exchange).

**Recommendation:** The Board is recommending that small group employers be specifically allowed the option to offer "employee only" coverage in the open market as is permitted in the Marketplace (Exchange). This will allow consistency between the Marketplace (Exchange) and open markets and allow spouses and dependents to obtain coverage in the Marketplace (Exchange) where they may qualify for a subsidy, since their coverage is not subsidized by employers in most cases.

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<sup>1</sup> *The Patient Protection and Affordable Care Act (PPACA) established "Exchanges"; however, the U.S. Department of Health and Human Services changed them to "Marketplaces" for marketing purposes.*

## **2. Group Participation Requirements –Individual Coverage as a “Valid Waiver”**

**Current Marketplace Issue:** Carriers require that a minimum percentage of eligible employees elect coverage under the employer’s group plan in order to issue or renew the group’s plan. This is called “meeting participation”. The percentage of participation varies by carrier, but on average, 70% of the eligible employees must enroll in the group’s plan or have other valid coverage. Employees opting out of the employer’s coverage do not count against the group’s participation calculation if the employee has other acceptable coverage, recognized by the carriers as a “valid waiver”. Coverages recognized as “valid waivers” are Medicare, Medicaid, TRICARE, and other group coverage, all of which are guaranteed-issue products. Historically, individual policies were not considered “valid waivers” because they were underwritten, had fewer mandated coverages, were relatively less expensive and therefore, theoretically, attracted “better risk”. Healthier individuals sought to purchase individual policies for these reasons if they could pass the underwriting requirements and less healthy individuals who could not pass underwriting had to choose the group’s guaranteed-issue coverage. To recognize individual coverage as a “valid waiver” under those circumstances would have created adverse selection in the group market. These market dynamics have changed. Individual policies are now guaranteed-issue as well, and the reasons an employee would choose an individual policy over their employer’s group plan are strictly economic. Many employees will be drawn to individual coverage through the Marketplace (Exchange) due to subsidized premiums, so failing to recognize individual policies as “valid waivers” will impair a group’s ability to meet participation. Some carriers have announced that they will recognize individual policies as “valid waivers”. Some have said they will only recognize their own individual policies as “valid waivers”, and others have said they are still not going to recognize individual coverage as a “valid waiver”. This will create disruption in the group market and make it difficult for employer groups to meet participation requirements and will restrict the ability of a group to move from one carrier to another. Recognizing individual coverage as a “valid waiver” is particularly important for small groups that wish to stay in-force when more modestly paid employees opt for subsidized coverage in the Marketplace (Exchange). It is in the best interest of the small group market and consumers that a uniform policy of acceptance of individual coverage as a “valid waiver” be established.

**Recommendation:** The Board is recommending that all carriers recognize all qualified individual plans as “valid waivers”, whether issued by that carrier or another authorized carrier. This is imperative for small groups trying to meet participation requirements when modestly paid employees opt for subsidized coverage through the Marketplace (Exchange).

# FLORIDA HEALTH INSURANCE ADVISORY BOARD

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