

## FLORIDA HEALTH INSURANCE ADVISORY BOARD

December 22, 2015

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 Orlando and via teleconference in 2015. Each board member was provided the opportunity to submit recommendations based on their experiences in the marketplace. The entire Board then discussed each recommendation and 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 made available to other state agencies, stakeholders and the general public.

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

## 2016 Legislative Recommendations

### 1) Certificates of Creditable Coverage (COC)

- Health insurers are no longer allowed to impose pre-existing condition exclusions. This prohibition makes the current rules requiring plans to provide certificates of creditable coverage unnecessary. As of December 31, 2014, federal law no longer requires issuers and group health plans to issue COCs.
- Recommendation: Revise the state laws to align with federal law and eliminate the requirement. This will result in reduced administrative expenses.
- References: Sections 627.6561 and 641.31071, Florida Statutes (F.S.); Rules 69O-154.110 and 69O-191.039, Florida Administrative Code (FAC)

### 2) Guaranteed Renewability

- Federal law requires issuers to provide 90 day discontinuance at the *product* level. The state law requires a 90 day notice whenever a *policy form* or plan is discontinued. This means that when a member's policy form or plan is discontinued, *insurers* must send a 90 day state notice of discontinuance. Since *this does not* qualify as a federal discontinuance, insurers must also provide a Centers for Medicare & Medicaid Services (CMS) renewal notice. The two notices (renewal and discontinuance) create confusion due to the inconsistent messaging and timing of the notices.
- Recommendation: Align state law with the new federal law. This will reduce member confusion with multiple notices in the marketplace. This will also result in reduced administrative expenses.
- References: Sections 627.6425(3), 627.6571(3), and 641.31074(3), F.S.

### 3) Outline of Coverage (OOC)

- State law requires an outline of coverage to be provided to all individual policyholders. The Affordable Care Act (ACA) requires a Summary of Benefit and Coverage (SBC) to also be provided to all members. In addition to the SBC and OOC, members receive a benefit booklet, schedule of benefits, benefit summaries and other materials. The use of multiple documents for individuals creates confusion and is unnecessary.
- Recommendation: Eliminate the OOC requirement under state law. This will reduce member confusion by reducing the number of documents they receive. It will also decrease the number of Office of Insurance Regulation (OIR) form filings from insurers and will result in reduced administrative expenses.
- Reference: Section 627.642, F.S.

### 4) Small Group Hours Eligibility Criteria

- Employers in the small group market are required to offer coverage to employees who work at least 25 hours under Florida law and the ACA requires coverage be offered only to those that work 30 hours or more. As a result, modest income employees may not be able to avail themselves of the benefit of the exchanges and subsidies. It also requires employers to maintain compliance with multiple standards.
- Recommendation: Require small employers to offer coverage to employees working at least 30 hours per week and additionally allow employers to offer coverage to employees working as few as 25 hours per week, at the employer's discretion.

## 5) Employee Only Coverage in Small Group Plans

- 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 ACA 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). The 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: Provide a clear directive whereby small group employers be specifically allowed the option to offer "employee only" coverage in the open market as is permitted in the Marketplace (Exchange).

## 6) Prohibit Balance Billing

- HMO members in Florida are currently protected from balance billing for emergency care. Subscribers to Preferred Provider Organization (PPOs) and Exclusive Provider Organizations (EPOs) should also have this protection. Additionally, for non-emergent care in an in-network hospital, all subscribers should not be subject to balance billing for services provided by contracted hospital-based providers for which the consumer has no choice for alternative in-network providers.
- Recommendation: Amend current law to address consumer issues arising from balance billing in the HMO, PPO and EPO market for transitional, emergency and non-emergent care in an in-network hospital.

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September 8, 2015

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