

## **Commissioner's Monthly Column**

### **Update on the Affordable Care Act**

**July 2014**

The health insurance market has undergone more changes since I last addressed it in a column last fall. America's health insurance market is in the midst of major changes following the passage of the Affordable Care Act (ACA) in March 2010 and, according to the U.S. Department of Health and Human Services (HHS), more than eight million people (including over 100,000 in Louisiana) selected coverage on health insurance exchanges during the open enrollment period. Approximately 88 percent of those qualified for a subsidy or tax credit based on their income. In this column I'll address some of the recent developments in health insurance at both the federal and state levels that could affect agents.

One big question has been how the ACA will affect health insurance premiums. What we have seen so far is that the cost of health insurance is rising for most of those and declining for a few due to the new single risk pool requirement and the new rating factors based only on location, age, family size, and tobacco use. For example, though the cost of all health insurance policies have increased, due to ACA rating rules, older and sicker enrollees will not bear the whole cost of their coverage. The primary reason for that and for general upward pressure on rates is the ACA's compressed rate structure with a 3:1 cap of premium difference—a 63 year old's premiums can never be more than 3 times that of a 21 year old.

The ACA also includes the first ever federal tax on insurance. Health insurers are now being assessed a new tax in the form of an annual fee based on the amount of premium they write. The new tax is not limited to commercial insurance; it applies to Medicaid managed care plans, Medicare Advantage plans, and Medicare Part D beneficiaries. This year the fees will total about \$8 billion dollars – and they will continue to grow over the next several years. This tax will be passed along to consumers by health insurers and individuals who receive health benefits from employers can expect to pay about \$50 per month for this tax.

On June 27 of this year, most health insurers in the state writing major medical coverage filed their policy forms and proposed rates for 2015. A preliminary review of the rate proposals by the LDI's consulting actuary show that market-wide, individual market policies will see an average rate increase of between 12 to 13 percent per year. For more than 60,000 covered lives, the cost of coverage will increase 10 percent or more. Rates in the small group market tend to be more stable for a variety of reasons. Rate hikes above 10 percent in the small group market will affect policies covering an estimated 14,000 lives.

Another provision of the ACA that could result in increased costs for insurers is the Employee Choice Model on the online health insurance marketplace for small businesses called the SHOP Marketplace. The ACA calls for business owners to offer

employees a single plan or provide employees a choice between several plans. This “employee choice” was set to begin for 2015 plans but states were given a one-year reprieve if requested by their state insurance commissioner. In May I requested that HHS give Louisiana a one-year transitional period and that was granted.

The Employee Choice Model will lead to adverse selection with sicker folks choosing more robust plans and healthier folks choosing slimmed down plans, thereby driving up rates significantly. I also requested delayed implementation of the Employee Choice Model due to increased administrative costs resulting from the complications of administering multiple complex plans for a single small group.

A third reason for my request for the delayed implementation is that Louisiana faces the possibility that insurers may even withdraw from the SHOP Exchange when the Employee Choice Model is implemented. Therefore, I feel that postponing the Employee Choice Model will be in the best interests of small group market consumers. A total of 18 out of 32 states with the federally-facilitated SHOP Marketplace chose to delay the Employee Choice Model.

#### Navigator Regulations and New Marketplace Training for Agents

I also want to take this opportunity to touch on the new requirements for both navigators and health insurance agents. As I mentioned in last month’s column, navigators were created by the federal government to provide consumers with impartial information about health insurance. In May, the Centers for Medicare & Medicaid Services (CMS) finalized regulations that updated requirements applicable to navigators. I proposed and the Legislature passed Act 635 which, with the Governor’s signature, now requires navigators to be licensed by the LDI whereas previously navigators were only required to be registered with the LDI. It also authorizes background checks and continuing education similar to that for agents.

In June, CMS announced a second round of funding for navigators. Grants are being offered to individuals, as well as private and public entities, to serve as navigators in states with a federally-facilitated or state partnership marketplace. Total funding is \$60 million with Louisiana’s share amounting to about \$1.5 million. Last year approximately \$1.8 million was allocated to a total of four agencies to serve as navigators in Louisiana.

If you are a producer working in the health sector and have not yet become certified to sell insurance on the Federally-facilitated Marketplace, I encourage you to obtain Marketplace certification for the 2015 Plan Year. You must complete initial registration with CMS and then complete the training and testing. You can choose to sell on the individual Marketplace, the SHOP Marketplace, or both. If you were certified for 2014, you must re-certify for the 2015 Plan Year. The online certification portal for agents and brokers was updated in July by CMS.

If you are currently certified, CMS suggests completing the 2015 plan year curriculum by September 30, 2014, when current agent/broker agreements with CMS expire, to

prevent a lapse in your certification. **Open enrollment begins November 15.** To find more on registration requirements, as well as training and exams, you can go to “Information on the Health Insurance Marketplace for Producers/Agents” found on the Louisiana Department of Insurance website at [www.lidi.la.gov](http://www.lidi.la.gov) or call our Office of Licensing at 225-219-5941.

Once you have completed your training, remember to update your credentials as “HHS Certified” on the LDI website. You must self-register as “HHS Certified” on the [Industry Access Portal](#). Once updated, you will appear in the search results when a consumer chooses to search for an HHS Certified producer.

By the end of 2015 I expect that we will have a clearer picture of the impact of various provisions of the Affordable Care Act after companies have started offering health insurance required by the employer mandate. By that time individual fines will have likely been imposed on those who failed to secure health insurance in 2014, which may become more of an incentive for those who chose non-compliance as an option the first year. While health insurance may not be your particular area of expertise, I do believe that as a producer it is of value to you to keep abreast of the changes taking place in the health care arena. I will continue to keep you updated on significant developments.