

NCOIL Seeks Protections for Unclaimed Life Insurance Benefits

Legislators concerned with enhanced transparency and accountability in life insurer handling of death benefits voted on July 15 to pursue a targeted legislative response to insurers' unclaimed property practices. The Life Insurance Committee will consider amendments to a 2010 NCOIL *Beneficiaries' Bill of Rights*—which deals with the related issue of

paying death benefits through retained asset accounts—on calls over the next few months.

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Cheryl Fish-Parcham, Families USA
Dr. Robert Graboyes, NFIB

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NCOIL ANNUAL MEETING
Santa Fe, NM
November 17 — 20



SLIMPACT COMMISSION GAINS MOMENTUM, MEETS FACE-TO-FACE

With critical speed, the *Surplus Lines Insurance Multi-State Compliance Compact* (SLIMPACT) Commission pressed ahead on July 15—at its first in-person session—to get the groundbreaking compact up and running, and now is gathering via a second series of calls to move officially on the bylaws and rule-making rules, to hone in on a tax allocation formula, and to discuss interim leadership.

Special Counsel for Interstate Compacts at The Council of State Governments (CSG) Rick Masters said that the Newport Commission meeting—held during the

NCOIL summer conference—signaled “official activation of this multi-state governing structure.” He added, “SLIMPACT provides a ‘shared power’ approach that preserves state sovereignty by allowing joint regulation by the states rather than the federal government.”

The Newport discussion was “very productive,” said NCOIL President Rep. George Keiser (ND)—who served as a Commission facilitator pending organization of formal leadership. “Regulators and state legislators from around the country rolled up their sleeves and really got to work on building a strong SLIMPACT foundation,” he said. (cont. on p. 4)

NCOIL PURSUES CERTIFICATES OF INSURANCE MODEL

After hearing a range of diverse—and often opposing—views on a draft *Certificates of Insurance Model Act*, the NCOIL Property-Casualty Insurance Committee on July 17 voted to explore legislative language for review at the 2011 NCOIL Annual Meeting. Debate on the bill—which looks to clarify limits on the certificates that third parties use to verify insurance coverage—hinged on whether a certificate is purely for “information only”—or whether it is the more substantial proof of insurance that commercial lenders

expect. The discussion took place at the NCOIL Summer Meeting in Newport.

Rep. Chuck Kleckley (LA), chair of the Committee, said, “As in Louisiana last year, when we considered certificate of insurance legislation, the NCOIL meeting proved there’s no easy way to address the concerns of p-c agents and insurers, as well as those of lenders.”

“I have real concerns,” commented Rep. George Keiser (ND), NCOIL President and sponsor of the model, “about efforts to undermine state policy decisions on this issue, and I think NCOIL (cont. on p. 2)

NCOIL Urges Congress: Exempt Agent/Broker Fees from New MLR Rules

In a move to promote access to and competition in health insurance markets, state legislators on July 17 supported federal legislation to amend new medical loss ratio (MLR) rules established by the **2010 Affordable Care Act (ACA)**. During the NCOIL Summer Meeting in Newport, the NCOIL Executive Committee—in an effort to secure consumer benefits of agents and brokers—unanimously adopted a *Resolution in Support of H.R. 1206, The Access to Professional Health Insurance Advisors Act*, which would exempt agent/broker fees.

The resolution's sponsor, NCOIL President Rep. George Keiser (ND), said "Health insurance **agents and brokers are a vital resource** for both consumers and small employers. They not only help consumers navigate through the complex process of benefit shopping, they also help them deal with claims and other reimburse-ment issues...Their **services are especially needed now**, as we all work to understand the complexities of federal reform."

Current MLR rules treat agent/broker fees as *(cont. on p. 4)*



POINT-COUNTERPOINT: Healthcare Exchanges and New "Essential Benefits"

Under the Patient Protection & Affordable Care Act (PPACA), the Department of Health & Human Services (HHS) Secretary must decide what benefits are "must-haves" in plans sold on exchanges. "Essential benefits" must cover a number of general categories—including emergency services, hospital and maternity care, prescription drugs, lab work, and others—but details are yet-to-be-determined. As HHS prepares to release its rules—possibly this fall—interested groups are urging either a limited design or something more far-reaching.

In this NCOILetter—Part Two of a two-part special on health exchanges—commentators answer the following: Should new "essential benefits" packages be broad-based or narrow in scope?

The Essential Benefits Package Should Be Robust

By Cheryl Fish-Parcham

The essential health benefits package will set the standard for all individual and small group health plans' coverage for the years to come. It must



be robust in order to help Americans stay healthy and to cover treatment if they become sick. Decisions about essential benefits will determine whether millions of Americans

NCOIL Pursues

will play a vital role in cutting through the mystery of insurance certificates. The draft bill is a critical starting point..."

The model—a work in progress—requires, as well as "info only" notice, regulator approval of certificate forms

can obtain and afford needed health care.

Currently, there are shocking gaps in individual health coverage. For example, in nearly half of states, individuals cannot buy health insurance that covers maternity care, and many plans offer no coverage for prescription drugs. The essential benefits package requires maternity coverage and drug coverage in 2014—a vast improvement—but policy makers must still decide what is included in this coverage. Will women get all the care they need to deliver healthy babies? And will drug coverage be adequate to treat people's conditions?

Decisions like these have been the subject of state benefit mandates in the past. Though state benefit man-

dates have been maligned by opponents, most were enacted in response to real problems. For example, states were the first to require that health plans cover cancer screening, breast reconstruction after mastectomies, and a 48-hour hospital stay after childbirth, all of which later became federal law. States have also set parameters on coverage: for example, plans that cover mental health cannot exclude alcohol treatment; or plans that cover prescription drugs must cover chemotherapy pills. Clearly, policy makers should construct the essential benefits to meet the needs of the affected populations. ■

Ms. Fish-Parcham is Deputy Director, Health Policy at Families USA in Washington, DC.

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and bans altering a certificate or using false or misleading information. The bill—to be debated on interim conference calls—also bans certificates from referencing third-party contracts and stresses that a certificate confers no new rights.

Amendments submitted but not yet debated would carve out commercial lenders, indemnify producers from civil liability and, among other things, require lenders to accept insurance binders as evidence of coverage. ■

NCOIL Seeks...

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NCOIL President Rep. Robert Damron (KY)—sponsor of the Bill of Rights and also the amendments—asserted after the Summer Meeting decision, “We’ve heard companies are using a **Social Security Death Master File** to find any deceased annuity owners and stop payments but not searching to find and pay life insurance beneficiaries. Updating the model will ensure that carriers fulfill their obligations to policyholders and payments to beneficiaries.”

Speaking to legislators’ concerns, NCOIL President Rep. George Keiser (ND) added that “An ongoing nationwide audit of life insurers is showing that potentially billions of dollars could be owed to beneficiaries. Contracts should be honored and, where possible, beneficiaries should be located and notified of benefits that are rightfully theirs.”

Rep. Damron’s amendments would **require insurers to periodically check** a national Social Security database in order to find beneficiaries and promptly pay any unclaimed benefits. Changes would also require insurers to use the same review procedures for both annuities and life insurance and—if a beneficiary isn’t found within 45 days—to **remit unclaimed proceeds to states**.

Legislators aim to have language ready for review at the November Annual Meeting in Santa Fe. ■



A Riddle, Wrapped in a Mystery, Inside an Enigma, Within the Secretary’s Briefcase

By Robert F. Graboyes,
MSHA, PhD

The healthcare law assures that your question can never have a stable, predictable an-



swer. The Essential Health Benefits (EHB) provision permanently shrouds small business in a costly haze of uncertainty for three big reasons:

PPACA sets amorphous standards for the EHB’s contents.

Essential benefits are supposed to include “benefits typically covered”

by “a typical employer plan,” but current and future Secretaries of HHS will define and redefine those terms at will. The Labor Department has warned that “it is not possible to produce reliable data” for many aspects of what plans cover. Thus, Secretaries can slather on the subjectivity.

PPACA empowers one individual to mutate the EHB (and its cost) at will. The Secretary has authority over the EHB, with little accountability. The Labor Department provides data, the Institute of Medicine provides advice, and the public provides comments through some unspecified process. But the Secretary unilaterally defines the EHB, and only an act of Congress can override her fiat.

The EHB only applies to some policyholders. The EHB’s man-

dates only hit the fully-insured market (mostly small businesses and individual purchasers) and not the self-insured market (mostly big businesses, governments, and labor unions). Hence, Secretaries can simultaneously reward disease and provider groups and punish small businesses – the source of close to 2/3 of new jobs in America.

Insurers will charge small businesses for these vagaries, and the EHB may help extend the jobless recovery indefinitely.

(Note: I cover these issues more extensively in “Essential Health Benefits: The Secretary’s Joystick” at www.healthpolicyforum.org.) ■

Dr. Graboyes is Senior Fellow, Health & Economics at the NFIB Research Foundation in Washington, DC.

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SLIMPACT

Regarding controversial tax allocation, NCOIL Past Pres. Rep. Robert Damron (KY) asserted, "To be truly successful, the SLIMPACT Commission will need to approve allocation formulas that are simple, efficient, and based upon readily available data. The formulas should not impose additional burdens on an industry that succeeded in convincing Congress to approve the NRRRA as a means of simplifying and modernizing surplus lines regulation."

Commission members in Newport unofficially approved the bylaws and rulemaking rules, which were developed over three webinars in June and July, and heard more about methodologies to allocate premium tax revenues among states. On July 29—during a web-

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inar hosted, like the others, by NCOIL, CSG, and the National Conference of State Legislatures—the Commission deferred formal acceptance of the bylaws/rules until a call in mid-August, when all participants should be officially designated by their states.

Also as per the July 29 webinar, the Commission in mid-August will zero in on tax allocation—including review of a KY proposal based on existing broker practices and NM and industry market-share options. The Commission plans a first look at an IN broker-reporting option, discussion of leadership pending a tenth SLIMPACT member, and review of agreement language for contracting states. ■

NCOIL Urges Congress

administrative—not medical—expenses, which agents/brokers say is devastating their ability to do business. Per ACA, insurers must spend at least 80 and 85 percent of premiums on medical costs in the small group/individual and large group health markets, respectively.

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The NCOIL Health Insurance Committee adopted the resolution on July 16. Support followed a December 7, 2010, NCOIL letter to the U.S. Dept. of Health and Human Services (HHS) that asked HHS to exclude the fees. ■