National Association of Benefits and Insurance Professionals
NABIP
Shaping the *future* of healthcare

117th Congress Legislative and Regulatory Successes

Legislative

- NABIP supported key provisions in the **American Rescue Plan Act** that:
    - extended the employer retention credit previously established by the CARES Act, allowing employers to keep employees on their payrolls and enrolled in employer-sponsored coverage
    - extended ACA subsidies to higher-income individuals and increased the amount of available subsidies to lower-income individuals, allowing an increase in access to coverage
    - temporarily eliminated the ACA "subsidy cliff" and extended tax credits to those with incomes above 400 percent of the Federal Poverty Level (FPL) for 2021 and 2022
    - eliminated the Medicaid drug rebate cap which could have had unintended consequences of increasing drug costs

- Following NABIP's advocacy during our 2022 Capitol Conference, Congress extended the special provision put in place during the pandemic to allow the use of **HSA funds for telehealth services** from March 2022 to January 1, 2023.
    - Congress later acted with our support in the 2022 end-of-year omnibus bill to extend this provision through January 1, 2025. This will extend access to care, specifically mental health care.

- NABIP advocated for the 2020 passage of the **988 system**, which went live in 2022. Congress designated the hotline which will build on the National Suicide Prevention Lifeline, an existing network of over 200 crisis centers nationwide staffed by counselors who answer millions of calls each year.

- NABIP actively negotiated aspects of the **Inflation Reduction Act** to *include:*
    - extension of ACA subsidies previously approved by ARPA
    - capping Part D out-of-pocket expenses at $2,000
    - allowing HHS secretary to negotiate drug costs for Medicare
    - capping Medicare insulin costs at $35

- NABIP actively negotiated aspects of the **Inflation Reduction Act** to *exclude:*
    - lowering the Medicare eligibility age to 60, effectively creating a public option
    - lowering the employer affordability calculation to 8.5%, which would have increased the cost of employer-sponsored coverage
    - civil monetary penalties on employers for noncompliance with network adequacy for mental health parity

- NABIP worked hand in hand with Senator Mike Rounds (R-SD) to introduce legislation that would explicitly exclude independent agents and brokers from the current **Medicare recording requirement**. The bill is expected to be introduced in the 118th Congress.

- NABIP supported provisions in the end of **2022 Omnibus Bill:**
    - allowing individuals to be able to pay-up-to $2,500 each year for long-term care insurance with their 401(k)s, 403(b)s and IRAs without a 10-percent early-withdrawal penalty tax
    - extending HSA telehealth flexibilities through January 1, 2025

- NABIP fought tirelessly to exclude from any large legislative packages provisions that would limit the use of Medicare as a secondary payer for end stage renal disease and shift the cost to employers.

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Regulatory

- Following the 116th Congress' passage of the **No Surprises Act**, NABIP successfully impacted regulations for the implementation of the Act to use the qualified payment amount (QPA) during the independent dispute resolution process, which NABIP believes will drive down the costs negotiated for these surprise bills.

- The **No Surprises Act** also included transparency provisions requiring agents and brokers earning over $1,000 in commissions in the individual and employer markets to disclose their earnings to clients prior to enrollment. The language of the Act left many unanswered questions about implementation, and upon request from NABIP, the DOL released a set of FAQs and a good-faith standard of enforcement for the employer market.

- Days after being sworn in, President Biden released an executive order allowing for a s**pecial enrollment period** during the national health emergency for the federal marketplace. NABIP had been advocating for this under the previous administration since the COVID-19 pandemic began in 2020.

- After opposing the previous administration's **drug rebating rule** because of unintended consequences that could lead to higher costs in the prescription drug market, the Biden Administration rescinded the final rule.

- Delay in the Consolidated Appropriations Act (CAA) **Transparency in Coverage** (TiC) requirements that machine-readable files be released by plan sponsors to indicate in-and out-of-network costs of care. NABIP advocated for a delay because plan sponsors would not have been able to comply with the law without further guidance beyond what was included in the CAA.
  - NABIP subsequently requested and received TiC guidance on allowing carriers to post machine readable files for plan sponsors with specific rules for fully funded v. self-funded plans. This lifted a huge burden from some plan sponsors that were struggling with compliance without the assistance of a carrier.

- NABIP was successful in receiving a delay in the CAA's **prescription drug reporting** requirements accompanied by specific reporting standards and definitions, including identifying prescription drugs regardless of the dosage strength, package size or mode of delivery. Additionally, the guidance clarified the role of the PBM, requiring the PBMs to provide any information they have on the top 25 drugs generating the highest rebate amounts.

- NABIP won a long-fought victory when CMS released a new FAQ document that clarified that a health insurance issuer cannot treat **commissions** on individual enrollments during a special enrollment period (SEP) differently than commissions on enrollments during the open enrollment period (OEP).

- Since the inception of the ACA, NABIP has advocated for a fix of the **"family glitch."** The Biden administration released a final rule to do just that, but also added a section that directly addressed NABIP's concerns about a potential conflict between the affordability rules and the cafeteria plan rules by issuing guidance in IRS Notice 2022-41, which permits employers to amend their Section 125 plans to allow eligible dependents to drop their group coverage mid-year in favor of subsidized individual exchange coverage.

- NABIP continues to advocate for changes to the CMS **Medicare Marketing Rule.** While doing so, NABIP was successful in requesting CMS to release guidance on, and providing official written clarification on several questions that NABIP and our members have posed to the agency since the rule became final.

- With NABIP's support, CMS altered the timeline for **Medicare coverage eligibility**. Under the final rule, Medicare coverage would become effective the month after enrollment for individuals enrolling in the last three months of their initial enrollment period, thereby reducing any potential gaps in coverage.