



National Association of Health Underwriters
*Leading the Way in Implementing Strategies
For Improved Oversight and Accountability in
Medicare Private Insurance Product Sales and Marketing*

As America's pre-eminent trade association representing professional health insurance agents and brokers, the National Association of Health Underwriters (NAHU) has thousands of members across the country who specialize in the sale of "senior products." We are extremely concerned about ethical sales practices concerning all Medicare-related insurance products, including Medicare Advantage plans. NAHU is well aware of recent publicity depicting "bad apples" in our industry who have been behaving in an unethical manner. However, it is important to note that the vast majority of health insurance producers work very hard every day to find quality and appropriate health coverage at the best possible price for millions of employers, individuals and families. Furthermore, most agents and brokers who sell private Medicare products focus their practices on serving seniors and meeting their unique needs. Selling any Medicare-related product, if done correctly, is a very labor-intensive process that requires great patience, compassion and specialized knowledge on the many facets of the Medicare program. Professional senior-product agents and brokers spend countless hours advising their clients, answering questions and helping to select the best possible health plan options based on their clients' personal financial situation and personal preferences.

Since the passage of the Medicare Modernization Act of 2003, NAHU has been at the forefront in working with Congress, the Centers for Medicare and Medicaid Services (CMS) and state policymakers regarding producer education and the development of marketing guidelines. When the egregious behavior of some unscrupulous producers in the Medicare and related private insurance products area was first reported last year, NAHU immediately reached out to policymakers in a proactive manner to re-emphasize our commitment to member education and ethics, and to offer ourselves as a resource to help educate both member and non-member agents and brokers. NAHU places the highest priority on protecting consumers and sustaining the integrity of the Medicare program.

To provide improved oversight and accountability in the area of Medicare insurance product marketing and sales, NAHU supports federal action in the following areas:

- **Requiring health insurance carriers that sell Medicare-related insurance plans to formally appoint with their state departments of insurance all licensed agents and brokers that market and sell their Medicare insurance products.** While CMS has regulatory authority over the marketing of private Medicare plans, health insurance producers are licensed by the state departments of insurance, and 41 states and the District of Columbia

require the appointment of producers for other state-regulated insurance products. The appointment process gives the states clear tracking mechanisms to know which agents and brokers are selling which insurance products within the state. Also, the appointment process utilizes the services of the National Insurance Producers Registry (NIPR). The appointment information becomes a part of each producer's record in the NIPR's producer database, which is accessible to insurance regulators in every state. Requiring appointments for private Medicare products would give the state insurance commissioners more information to address effectively any complaints that may be directed to them, as well as provide an additional verification of the validity of a Medicare producers' sales license. In the few states where formal appointments of producers are not required, participating carriers could provide the state department of insurance with a list of all agents and brokers with which the carriers contract to sell its private Medicare offerings.

- **Requiring that commissions paid to those who sell private Medicare products mirror the level commissions required in the sale of private Medicare supplemental policies (Medigap) and typically paid in the sale of traditional private health insurance products in the under-65 market.** Level commissions could be a fixed percentage of the plan premium or a dollar amount to be determined by the health insurance carrier, and then paid to the producer on a monthly basis for the duration of the life of the policy. Currently, many Medicare Advantage plans pay a one-time fee as compensation to agents upon the sale of a policy. A level commission requirement among all Medicare product lines would remove incentives for making a quick sale and/or making recommendations to change policies on an annual basis without regard to the consumer's health care needs. A stable commission structure would allow agents and brokers to focus on their true professional calling: "servicing" health insurance clients *after* the sale.
- **Requiring consistent and standardized training, education and certification for agents and brokers who engage in private Medicare product sales.** NAHU has developed, in a partnership with America's Health Insurance Plans (AHIP) and in consultation with CMS, a five-part Medicare product certification program that teaches the marketing rules and responsibilities under Medicare and prioritizes professional and ethical conduct. Part of the program includes a required exam to document competency. The NAHU/AHIP certification program exceeds CMS requirements, and NAHU hopes that it will be the standard used by all private Medicare product carriers, to be supplemented by information and training on their specific product offerings and policies. This would build a consistent education and training platform for agents, so that policymakers and regulators can better ensure that agents are being trained and certified on both the inner workings of Medicare and private insurance products, as well as the rules of ethical, proper and allowable sales and marketing techniques.

- **Extending the annual open enrollment period for beneficiaries considering all private Medicare products (both Medicare Advantage and Part D) from Nov. 15 – Dec. 31 each year to Oct. 1 – Dec. 31.** Each year, millions of Medicare beneficiaries are asked to review their health insurance benefit options during a very brief window of time, which can invite pressured sales tactics. Compounding this problem is the fact that the current open enrollment period coincides with the holiday season, as well as the fact that many Medicare beneficiaries maintain second residences and spend the colder months of November and December in warmer climates (so-called “snowbirds”), making them less able to see an agent or plan representative at this time of year. Establishing a longer open enrollment period that begins earlier in the year would make the open enrollment process easier on both beneficiaries and those providing enrollment support. CMS allows plan marketing materials to be made available to beneficiaries as early as Oct. 1, and encourages Medicare beneficiaries and their insurance producers to complete the process as early as possible. We see no legal or practical reason why CMS could not extend the open enrollment window through the regulatory process. Such a change would allow beneficiaries more time to make informed decisions and, in general, would provide them with a less pressured environment.

NAHU is also committed to working with CMS and individual states on producer education, as we feel there are a large number of producers out there who may not specialize in Medicare or seniors products, and who are not NAHU members. In seeking to reach out to these producers, NAHU has published a vast amount of Medicare-related product sales information, available to the public on its website: <http://www.nahu.org>. NAHU would also be agreeable to posting any additional information on its website that might be developed by CMS or state departments of insurance, and collaborating with them in order to reach out to non-member producers for education purposes.

There is one additional and very important caveat that NAHU hastens to underscore in this discussion. NAHU fervently believes that in crafting improvements to the area of private insurance marketing and sales in Medicare, it is critical for policymakers to consider the broad range of dynamics that constitute this industry. It is critical to recognize that the majority of health insurance agents and brokers in this field are independent, and not under the management of any one health insurance carrier. What may seem like a sound and common sense proposal for governing the actions and business practices of health plan employees may not be practical or desirable to apply to professional agents and brokers who are independent and who sell and service products from a variety of health insurance carriers.

NAHU commends policymakers at both the federal and state levels of government for taking up this important issue, and hopes to be a continued resource to help

educate ethical and knowledgeable senior-product producers, and to help eliminate unscrupulous actors from preying upon consumers. NAHU believes that for all Americans, and especially Medicare beneficiaries, having choice in health plans and access to the quality advice and services that professional health insurance producers offer are essential components for consumers to determine the best health insurance products to fit their particular needs.

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