



NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

July 2, 2007

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Ms. Leslie Norwalk
Acting Administrator
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore MD 21244-1850

Dear Acting Administrator Norwalk:

The Centers for Medicare and Medicaid Services (CMS) recently announced that between December 2006 and April 2007 they received 2,700 agent complaints concerning agent activity in the sale of Private-Fee-For-Service (PFFS) plans. In addition, CMS announced that seven national insurance companies have agreed to voluntarily suspend the marketing of PFFS plans until they have achieved CMS certification indicating compliance with requirements provided in CMS' 2008 Call Letter and May 25, 2007, guidance.

These announcements raise a number of questions and I respectfully ask the following questions to clarify your recent announcement:

- Have you shared the agent complaints with state regulators?

CMS' press announcement included a statement by you that CMS had received 2,700 agent complaints between December 2006 and April 2007. As you know, states have the primary role in regulating the actions of agents and brokers in the sale of Medicare Advantage products. Prior to April of 2007, nearly half of the State Departments of Insurance signed a Memorandum of Understanding (MOU) negotiated by the National Association of Insurance Commissioners (NAIC) and CMS that sets forth a process for CMS and states to share compliance related information. In particular, the MOU allows states to receive agent and broker complaints from CMS. We need this information to carry out our regulatory responsibilities and I would hope CMS recognizes the importance of sharing this information with States.

- How many MA-PFFS plans are involved in the moratorium, since the carriers can offer more than one MA-PFFS plan?
- How will CMS enforce the voluntary moratorium, and how can CMS be assured that individual agents and brokers, who are often independent entities, comply with the agreement and cease any marketing and sales activities? In addition, how will you ensure compliance by companies? We have heard of instances where affiliated companies of the involved insurance groups were not aware of the moratorium announced in Washington, D.C.
- How will this moratorium be handled with the remaining MA-PFFS companies who are not part of the moratorium? What's to stop unscrupulous independent agents from placing the beneficiaries inappropriately into those plans who are not part of the moratorium? Have you considered what action you will take to stop such inappropriate action?
- Will CMS be modifying its own materials (i.e., website tools) to cease promotion of the affected plans during the moratorium?

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- In addition to the requirements that CMS has already announced in the 2008 Call Letter and May 25, 2007, guidance, will CMS be strengthening the Medicare Marketing Guidelines to address issues that state insurance regulators have found to be problematic? This includes the pre-emption of state agent appointment laws and the allowing cold calls and cross-selling.

The NAIC Senior Issues (B) Task Force would like to continue discussion with you on the conditions under which the moratorium would be lifted for any individual company.

Thank you for your timely response to these questions. I look forward to continuing to work with you on this very important issue.

cc: Abby Block

Sincerely,



Sean Dilweg, Chair
Senior Issues (B) Task Force
Commissioner of Insurance
State of Wisconsin