

**America's Health
Insurance Plans**

601 Pennsylvania Avenue, NW
South Building
Suite Five Hundred
Washington, DC 20004

202.778.3200
www.ahip.org



January 26, 2009

Mr. Stephen M. Perry
Associate Commissioner
Chair, NAIC Antifraud Liaison (D) Working Group
C/o NAIC Executive Headquarters
2301 McGee Street
Suite 800
Kansas City, MO 64108-2662

Attn: Keri A. Kish
Antifraud Counsel

Re: Comments on Antifraud Plan Guidelines, Draft 1

Dear Mr. Perry:

We write today on behalf of America's Health Insurance Plans (AHIP). AHIP is the nation's trade association representing nearly 1,300 member companies providing health, long-term care, dental, disability and supplemental coverages to more than 200 million Americans. We appreciate the opportunity to provide some initial comments on the first draft for Antifraud Plan Guidelines released for exposure by the Antifraud Liaison (D) Working Group (the "ALWG").

We and our member plans appreciate your interest in promoting programs and processes that could benefit both insurers and consumers in combating insurance fraud, and would like to be as responsive and helpful as is feasible. We commend the Working Group for undertaking its effort to provide guidance to states as they increase their attention on this critical issue facing the insurance purchasing public. We join the Working Group in its hope this guidance will benefit both regulators and the industry alike through anticipated conformity and resulting efficiencies.

In this spirit, our staff has conferred about your request with insurers that AHIP represents. During these discussions, questions and issues arose on which we and our members would appreciate guidance as early in this process as possible.

A key question bearing on your request concerns how you, the ALWG, and the NAIC intend to use the information provided to you by insurers and other stakeholders regarding fraud programs and reporting. The prospect of the Working Group proposing new guidelines raises questions in part because, as you know, many of our members conduct their business in many states and fraud and activities to combat fraud recognize no state boundary. We would ask that a threshold issue for the ALWG to address would be the issues concerning the application of its work product.

January 26, 2009

Page 2

We understand that the draft is intended to kick-start the work of the Working Group, our comments on the Guidelines are also general in nature addressing its structure and organization. We have not endeavored to provide detailed drafting comments as the Working Group will be issuing several iterative drafts upon which detailed comments will be more appropriate.

With regard to Section 2. Definitions, the Working Group may wish to limit the application of the definitions to use within the Antifraud Plan Guidelines, as these definitions may conflict with language in states that have not adopted the Insurance Fraud Prevention Model Act or at least note the possibility of statutory conflicts.

Section 3 appears to be a very open ended provision for reporting on activities that appear to presume established certain anti-fraud activities are undertaken. The Guidelines then go on to require certain activities in later sections which may or may not be implemented by states and carriers.

An alternative approach would be to require carriers to evaluate and document their business for fraud risks, and to then establish an appropriate program to address the risk. The program could involve in-house or out-sourced resources, formal SIUs or integrated responsibilities, appropriate to the business and to the risk. This alternative would allow for greater flexibility and for the creation of specific programs that could be more effective and efficient than an externally imposed program. A new Section 3 could then include: A. a provision requiring Companies evaluate their business for fraud risks and document; B. a provision requiring Companies create and document their Fraud Plan and anti-fraud capabilities; and, C. a provision requiring Companies provide required detail on the Plans execution, with annual updates on Fraud Plan execution, including periodic updates to the risk evaluation.

In providing any reports to regulators, we would suggest the Working Group address the issue of public access to regulated entity filings. The current proposal does not provide regulators with the ability to hold confidential information filed pursuant to the Guidelines. We would suggest that the Working Group investigate the possible need for regulators and regulated entities to hold certain information confidential. Thus you may determine that any filings made pursuant to the Guidelines, possibly under provision C., above, could be broken into a public portion detailing Fraud Plans, general activities, numbers, etc., and a privileged section which would provide specific protections for data and information required by a regulator that could benefit those perpetrating insurance fraud.

Also you may wish to consider protections for individuals and entities that provide required data and information for lawsuits for slander, defamation, etc. Immunity provisions for referrals and reporting should be included in any Guidelines.

January 26, 2009

Page 3

At this time we are unsure as to the intent and purposes behind Sections 5 and 6, and look forward to the Working Group's call later this week to learn more about them.

Again, we look forward to participating with you and the Working Group on this initiative.

Sincerely,

A handwritten signature in black ink, reading "Mitchell, Jr." in a cursive script.

Martin L. Mitchell, Jr
America's Health Insurance Plans