

**PROFESSIONAL HEALTH INSURANCE ADVISORS (EX) TASK FORCE  
PUBLIC HEARING – GENERAL COMMENTS FROM AGENTS**

**From:** jemerick@vantageofnevada.com [mailto:jemerick@vantageofnevada.com]

**Sent:** Friday, March 11, 2011 2:27 PM

**To:** cking@doi.state.nv.us

**Cc:** Bradford Backlund

**Subject:** Broker Questions

1. The result will be that brokers will simply go out of business. At that time, employers/individuals will be unable to navigate the insurance landscape on their own. It is complicated now for them. We can only imagine how bad it will be when they are forced to go through the government (who are not experts now and never will be). A poignant letter was written by Representative Mike Rogers from Michigan to Kathleen Sebelius on February 10 of this year (I have attached this letter).

2. Commissions have been reduced. The impact is not only that brokers may be forced to go out of business, but that they will not be able to rectify claims for their clients or do anything but actually write the case. The lack of commissions would make it impossible to give employers/individuals attention. This would, in my opinion, shortchange the insured. Our firm rectifies claims, constantly moves clients if better plans/premiums can be found (even in mid-year), and provide many other services to them, as well. Those services would not be able to be demonstrated. It would not be financially feasible. The health insurance market would have to be abandoned.

3. Carriers would simply cut our commissions more, if they have the chance. Ironically, the MLR should not apply to brokers. It is not an overhead expense. Again, I point to the letter from Rep. Rogers. He states this eloquently.

4. This is a two part solution.

1. Government oversight. Any time the carriers want to raise their rates above a certain percentage, the books must be opened so they can be analyzed to see if that particular increase is warranted.

2. To solve the uninsured issue, each carrier can only profit a certain amount. I am not suggesting a small profit, either. They would be prohibited from cutting any commissions or payments to the providers. However, once that monetary gain is reached, all other profits must go into a fund that will insure (or assist in insuring) those that want insurance, but can not acquire said insurance.

**From:** Valerie Clark  
**Sent:** Friday, March 11, 2011 3:48 PM  
**To:** Valerie Clark  
**Subject:** FW: Commissioner's Call  
**Importance:** High

1. What is or is likely to be the impact of removing commissions from what is defined as premium under the MLR requirements?

Answer: This needs to be done! Including them in the MLR is, in effect, cutting off or interrupting the distribution channel for the consumer. We need medical claims to be separate from admin and distribution costs. If they are lumped in together, patient care will suffer, distribution will be interrupted. The consumer has been hurt! We must have competition in this marketplace...this is critical to maximizing it!

2. Have commissions been reduced since the passage of the federal law? If so, what is the impact of present and potential future commission reductions? Will this cause access issues? Is it likely agents/brokers will abandon health insurance markets? Please cite specific examples.

Answer: yes, commissions have been cut. This affects our ability to provide top quality service to the consumer, because we have to cut positions, salary, and benefits. There is instability in the marketplace as a result of these changes. Again, the consumer suffers the most in these situations!

3. What will be the impact of a legislative change that treats producer commissions in the same manner as Federal and State taxes for purposes of calculating the MLR?

Answer: It depends on how it is structured and put together. I would be most interested in being involved in this conversation. Now, more than ever, our clients, employers and consumers, are telling us they need us to help them understand the marketplace and their responsibilities for compliance. We must be compensated in a way that allows us do the job for them. We want to be part of the solution, not the problem!!

4. What is your opinion on the optimal solution to balance health plan/insurer concerns, consumer interests and the interests of agents/brokers?

Answer: we must vet the issues together. A committee of all represented. We need to make the move to collectively work together in a fair and transparent way. It can be done. I am happy to volunteer my services.

**From:** Jason Sandler [mailto:jason@ohmbenefits.com]

**Sent:** Monday, March 14, 2011 6:23 PM

**To:** Mullen, Timothy B.

**Subject:** MLR Survey

- What is or is likely to be the impact of removing commissions from what is defined as premium under the MLR requirements?
  - Commissions would likely remain at current levels for brokers
  - Access and services by Brokers would remain high
- Have commissions been reduced since the passage of the federal law? If so, what is the impact of present and potential future commission reductions? Will this cause access issues? Is it likely agents/brokers will abandon health insurance markets? Please cite specific examples.
  - I have already seen my commissions reduce as a result of the MLR requirements. As a full-service broker, who often covers the costs of COBRA administration, on-line enrollment services, etc., I fear I may have to reduce the services I provide my clients, as it will no longer be cost-effective to do so. Furthermore, I could very easily see brokers "steering" clients to those carriers that pay a higher commission or have a better bonus program in order to continue to provide high-quality services. This move would impede access to the larger pool of carriers.
- What is your opinion on the optimal solution to balance health plan/insurer concerns, consumer interests and the interests of agents/brokers? Take the commissions out of the MLR formula. This will again allow the broker and client to dictate what is "fair" with regard to compensation.

**From:** Vernon Bonfield [mailto:vernon@wahealthagent.com]  
**Sent:** Monday, March 14, 2011 6:44 PM  
**To:** Mullen, Timothy B.  
**Subject:** Health Insurance Compensation in MLR testimony - Washington Health Insurance Agency

To: Professional Health Insurance Advisors (EX) Task, (NAIC)  
FR: Vernon Bonfield, Independent Health Insurance Agent, WA State License # 167492

**\*\*PLEASE** remove agent/broker compensation from the MLR calculation, so insurance carriers are not forced to make commission cuts that will directly impact our ability to continue to provide this valuable service.

To Whom It May Concern:

As a Health Insurance Agent, my clients rely on my expertise to advise and help them navigate the various and often complex differences between health insurance policies.

Many of the calls we get at our office are from individuals and business owners who have tried to shop for health insurance plans either online, or direct with the various carriers. Most come away more confused and frustrated than when they began the daunting task.

Including producer commissions in the MLR formula has already had an impact on producer commissions in Washington State. Regence BlueShield of WA was the first to reduce their commissions to what calculates to a 25-65% drop in producer compensation, depending on the type and size of the policy.

Our agency is committed to providing an unbiased comparison of all of the insurance options to our clients, regardless of our compensation. However, as other agents choose not to send their customers to Regence BlueShield (and others) due to the lower commissions, the percentage of new business submitted by agents may drop to the point that these carriers choose to no longer offer coverage through agents/brokers, and only sell direct. This would be yet another 'unintended consequence' of including producer compensation in the MLR calculations and would definitely impact my ability to help our clients.

My job involves more than just helping people find the best health insurance policy to buy. We provide a tremendous service to all of our clients by helping them with claims appeals, explaining their benefits, answering questions, making policy changes, and more. These are services that most people prefer to do with a local agent than having to call a 1-800 call center where they speak to a different person each time.

We even notify our clients when a better health plan becomes available, so our clients can be confident that they have the best and most affordable plan. This is a benefit that no insurance company would provide on their own.

**From:** Bill Wenner [mailto:billwenner@cableone.net]  
**Sent:** Monday, March 14, 2011 7:20 PM  
**To:** Mullen, Timothy B.  
**Cc:** WayneMorris@cox.net  
**Subject:** new MLR rules

Agents can not survive with commissions under 20%.

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**From:** InsCenter124@aol.com [mailto:InsCenter124@aol.com]  
**Sent:** Monday, March 14, 2011 10:32 PM  
**To:** Mullen, Timothy B.  
**Subject:** comments on com's

as an insurance agent,i've worked very hard for my client- and i'm entitled to receive the highest commission possible. make believe loss ratios are unfair, and unconstitutional. in fact i am worth far more then our elected reps-including the president. before i get my salary cut by 50% they should take the same cut. "spread the wealth ". i would like to see,a lay person choose a policy intelligently without us. they will probably do it by low cost alone-the hell with anything else. when the public has a problem on a sat/sunday, i would love to see who answers the phone at a gov't exchange. does press 1-sound about right? mkatz tamarac, florida.

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**From:** Cindy J. Holtzman [mailto:mdrefund@bellsouth.net]  
**Sent:** Tuesday, March 15, 2011 9:26 AM  
**To:** Mullen, Timothy B.  
**Subject:** MLR in Maine

How can they be allowed to waive the MLR requirements, when these companies threaten to leave the state (a good idea to me & close up as well), hardly pay any claims anyway. They are the worst companies in the US and get to keep the money from a lower MLR requirement and not pay claims because that is what they do. I'm an agent of 20 years in Georgia and have helped those harmed with horror stories they have been put through by MEGA Life & Mid-West National.

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**From:** Buddy Balado [mailto:baladoinsurance@bellsouth.net]  
**Sent:** Tuesday, March 15, 2011 1:20 PM  
**To:** Mullen, Timothy B.  
**Subject:** MLR--Effects on health agents ( me)

If commissions are included from the calculation of the MLR, it is inevitable that commissions will be reduced significantly...or eliminated. Either way, it will have A DISASTEROUS EFFECT ON THE VIABILITY OF AGENTS WHO WRITE HEALTH INSURANCE CURRENTLY. I BELIEVE THIS is A "BACK-DOOR" EFFORT TO ELIMINATE AGENTS FROM THE HEALTH INSURANCE EQUATION.....WHICH IT WILL. Multi-line agents may survive: life agents may survive, but health agents will not. End of story.

**From:** Wayne Morris [mailto:usainsurancebrokers@gmail.com]  
**Sent:** Tuesday, March 15, 2011 12:01 PM  
**To:** Mullen, Timothy B.  
**Subject:** Medical Loss Ratio Comments

The following provides a response to your request on the impact of the Medical Loss Ratio.

Every Health Insurance Carrier has dramatically reduced commission and advances, due to the Healthcare Reform legislation and Minimum Loss Ratio. We previously earned 20% to 25% of the 1<sup>st</sup> year premium with a 6-9 month advance. New compensation plans pay 5% to 10% commission with a 3-6 month advance. As a result, our income has been reduced by > 50%. Commissions for renewals during 2<sup>nd</sup>-4<sup>th</sup> years have also been reduced from +/- 4% to 1%-2%.

Inclusion of Agent/Broker commissions in the MLR makes absolutely no sense and is virtually impossible, since we receive a higher 1<sup>st</sup> year commission, which is dramatically reduced after 12 months.

Thousands of Agents and Brokers have already exited the Health Insurance market and I believe over 90% of remaining agents are searching for new options, since it is impossible to earn a reasonable income selling Health Insurance. Government employees will never replace the role of the Broker in understanding and protecting the needs of clients.

The Healthcare Reform bill has already caused at least ten (10) Health Insurance Carriers to exit the market, since they believe it is impossible to comply with the new regulations and remain profitable. This exodus has resulted in decreased competition in virtually all states.

The legislation also requires the a) elimination of Annual or Lifetime maximums, b) coverage for all preexisting conditions for children under Age 19 and c) all Preventive Care to be provided at no charge, not even a Co-pay. Insurance Carriers will have to pay the providers for these test, which will also result in higher premiums.

As a result, all Individual Health Insurance Carriers have made underwriting approval much more difficult and stopped accepting applications for Children under Age 19, unless a parent is also covered. They are only accepting the healthiest applicants.

No company can accept unlimited risk and a 15%-20% maximum profit to cover operating expenses, administration, advertising, commissions, etc.

Health Insurance premiums have been rising due to increased costs for Hospitalization, Surgery, Prescription Drugs and all other types of medical care. Unfortunately, the legislation does not have any provisions for controlling costs and the administration cut a deal with the Pharmaceutical companies to avoid price controls.

The Healthcare Reform bill is a horrible 2000+ page piece of legislation that should be repealed. Instead of increasing choice and competition, it has done exactly the opposite.

I have also drafted a list of the Top 10 solutions to the U.S. Healthcare problem, if you are interested in proposing a plan that will work.

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**From:** Charlie Dielmann [mailto:CDielmann@horstgroup.com]  
**Sent:** Tuesday, March 15, 2011 1:24 PM  
**To:** Mullen, Timothy B.  
**Subject:** MLR

Good afternoon,

I am the manager of a benefits insurance department in Lancaster PA. I had a staff of 7 employees in 2008 and we are now down to 4.8 fulltime equivalents. Our company has had a wage freeze for the past 2 years.

The MLR rule has caused the carriers that we work with to cut the commissions they pay to brokers. Health care and health insurance is a high utilized and a high cost benefit. Health insurance carriers are lucky to have an MLR in the low 90's so when the government announce there MLR requirements insurance carriers immediately started to review their commission structures and then lower our commissions. We are now a smaller employer as we cannot afford fill the positions of the two employees that left.

As brokers we provide a very valuable service to employers and employees. Our job is help employers purchase the best possible coverage at the most affordable cost. We then communicate the programs to the employees and help employees when they have problem claims, denials, or any other issue to make sure they receive the benefit they are paying for.

Health insurance is very confusing to the average person and it is vital that there are folks like us that help both employers and employees through the maze.

This new health law is only adding to the confusion and if health care carriers eliminate commissions we will also be eliminated.

It is vital that commissions are removed from the MLR so that employers and employees have the help they desperately need. The exchanges coming down the road will not make things easier but add confusion to this complicated process.

We are not millionaires and do not expect to become them working in the health insurance industry. However we do need to make a living and if things keep moving in the direction we are heading we will have 4.8 more folks on the unemployment line.

By keeping the broker commissions in the MLR the carriers will be forced to end commissions.

**From:** Michael Kruger [mailto:michael\_k@flagplan.com]  
**Sent:** Tuesday, March 15, 2011 1:30 PM  
**To:** Mullen, Timothy B.; Brian. Urban (burban@crgne.com)  
**Subject:** MLR

The impact -- Fewer agents are willing to sell individual health insurance.

Carriers are going to web-based submission only so agent have to spend money to get technically proficient

Carriers are going to direct-to-consumer marketing heavier than ever Some with a different plan design, rates, and underwriting than agent sold business

Fewer agents will actively market <50 lives group health, especially the under 15lives cases because there is little income and no reduction in service work and greater underwriting requirements.

Companies will go to "bonus-based" compensation with bonuses outside the MLR structure. So only major producers will stay in these markets, the small

town producers in P&C shops servicing 2-5 cases will either become 1-carrier producers or exit the market

Alternative -- I don't have a problem with MLR including commissions with a major BUT: I feel the NAIC should consider allowing carriers to pass through a minimum / maximum service fee that is paid to the producers and negotiated by the producers with their clients. This is not part of the basic premium, it is a fee. An agent can work for a larger fee or a smaller fee.

To prevent abuse by agents with Agent of Record Letters taking over cases for a lower fee then providing little or no service, I would suggest that takeovers can only be done at renewal and employers will not see a reduction in fees until the next renewal. Keeps things as they are now.

Some states currently requires agents to have a consultants license to be paid a fee. This could be waived if the fee scale is based on the NAIC model.

Let the employers and the consumers decide how much an agent is worth...not the insurance company and not the Federal Government.

**From:** KVPELL@aol.com [mailto:KVPELL@aol.com]  
**Sent:** Tuesday, March 15, 2011 1:42 PM  
**To:** Mullen, Timothy B.  
**Subject:** Broker comments on MLR

My responses to the questions below that the NAIC is posing are in bold type:

- What is or is likely to be the impact of removing commissions from what is defined as premium under the MLR requirements? **If it can be removed, it will prevent insurance carriers from further reducing the commission income I earn by serving my clients. It will allow me to continue to serve my clients and be fairly compensated.**
- Have commissions been reduced since the passage of the federal law? If so, what is the impact of present and potential future commission reductions? Will this cause access issues? Is it likely agents/brokers will abandon health insurance markets? **Two of the four main medical insurance carriers in New Mexico have already reduced commissions on individual and small group products. Blue Cross Blue Shield of NM completely eliminated the broker on child-only policies. Applicants must go direct, so brokers cannot assist them. I believe that the combination of reduced (or no) commissions and the amount of time that goes into assisting an individual applicant will cause many brokers to abandon individual coverage completely. I already plan to only work in this market when an existing clients need my help. I will NOT seek new individual clients! This one of very many "unintended consequences" of PPACA. I also believe that, over time, more insurance carriers will exit the medical insurance market due to the burden of meeting MLR. Principal did so shortly after PPACA became law, and I believe others will follow if the law is not revised.**
- What will be the impact of a legislative change that treats producer commissions in the same manner as federal and state taxes for purposes of calculating the MLR? **I must admit I do not understand the question. If you mean that commissions will not be included in the MLR of 85% or 80%, it will preserve the broker's ability to service clients and be fairly compensated.**
- What is your opinion on the optimal solution to balance health plan/insurer concerns, consumer interests and the interests of agents/brokers? **The current proposal to let commissions be a pass through and not be included in the MLR calculations is optimal.**

**I am an independent group insurance broker doing business in NM. I've been a broker since 1988, and previously worked for two of the top five worldwide broker/consulting firms. Independent since 2000.**

**From:** Keith McCartin [mailto:Keith.McCartin@corpsyn.com]  
**Sent:** Tuesday, March 15, 2011 1:46 PM  
**To:** Mullen, Timothy B.  
**Subject:** MLR

The inclusion of Broker/Consultant compensation in the MLR is not a proper formula for risk management. The compensation is outside of the plan performance or risk assumptions. By including the compensation the window of plan of actual risk and loss is closed even further. This will have a deleterious effect on a carrier's ability to meet the requirement of the government without driving costs up.

If compensation is so limited by the plan that it does not cover the cost of managing a client (so that the carrier can meet the MLR) then brokers/consultants will have to bill ad-hoc fees for service just to cover the cost of their important business practices.

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**From:** WA-MedicalInsurance Pro [mailto:medicalinsurancepro@msn.com]  
**Sent:** Tuesday, March 15, 2011 2:03 PM  
**To:** Mullen, Timothy B.  
**Subject:** Agent WA State

I serve/have served on the consumer advocacy board of the 2 largest health insurance carriers in Washington State for many years. That service takes me about 8 times per year on 300 mile round trip journeys for which I don't even get expenses covered. But I do it with the voice of the consumer in mind, and I have always thought of the NAIC and WA OIC as a "consumer protection service".

Property casualty producers average 12% commissions, life agents average 50% or more. Here we get no more than 5% on our most lucrative product. And here in Washington when we service micro groups the commission is now \$0, not a penny to pay postage.

Agent commission need to be part of the MLR and here is why:

Carriers and commissioners then have control. If carriers drop commissions out of their systems then I am going to have to build a system to bill clients for my services. That's an added expense I will simply pass on, including a billing fee. Then how are you going to monitor/oversee what I bill the consumer? Since I am now a producer the way I see it I can charge anything I want. So how much is too much? Well, that's going to be on a case by case basis. Clients I like I will bill one amount, clients I don't I will bill higher amounts. And are you going to be able to enforce/control all of that in every single case I write?

And what happens then when the exchange comes in to play, the way I see it I can then be an unlicensed "facilitator" and will hire the proverbial used car salesman to sell sell sell. Where is the regulatory authority going to be over that?

We need to come together to keep health insurance rates as low as possible and part of that also involves good professional agents/producers who do the right thing. Having compensation outside the MLR is just going to add expenses for everyone. So I ask that a little common sense prevail and that the NAIC take a strong stance in favor of a simple, efficient system where commissions are passed thru the carriers. If the MLR does not include commissions we will simply add more confusion, costs, and loss of control, none of which benefits the consumer.

**From:** Norman R Hines [mailto:nrhines@msn.com]  
**Sent:** Tuesday, March 15, 2011 1:41 PM  
**To:** Mullen, Timothy B.  
**Subject:** MLR effect on agent compensation

I believe agent compensation should be removed from the MLR's. As a 45 year agent , my practice is primarily life insurance for individuals and company's. My health business is done as a consideration to my existing clients or referrals. When I started out the comp was a percentage of the premium. Then about 15 years ago some carriers changed to a flat fee/employee/insured, regardless of the number of family members or the amount of premium the carrier charged. So I get the same comp. for a single as a family. However the family with more participants creates more service work for me with no corresponding increase in comp.

For new clients I charge an upfront fee, because they want me to do the work of preparing alternatives for them, and they might not be insurable or want to pay the cost of the plans so if they don't buy I still have significant time invested, and as more carriers go to a fee per head, it does not give me enough comp to try and help everyone.

I am giving strong consideration this year to dropping individual and group health insurance from my services.

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**From:** brent@sequoiawest.com [mailto:brent@sequoiawest.com]  
**Sent:** Tuesday, March 15, 2011 2:29 PM  
**To:** Mullen, Timothy B.  
**Subject:** NAIC's Executive Committee Task Force on Professional Health Insurance Advisors

The NAIC's Executive Committee Task Force on Professional Health Insurance Advisors, which was established in November, is asking for comments addressing these questions:

- What is or is likely to be the impact of removing commissions from what is defined as premium under the MLR requirements? **Individual and small group health commissions account for 40% of our agency income. Loss of this income will result in layoffs and the abandonment of the Individual health market and current individual health only clients.**
- Have commissions been reduced since the passage of the federal law? **Yes.** If so, what is the impact of present and potential future commission reductions? **As stated above.** Will this cause access issues? **Yes. Primarily for individuals searching for option in the health market.** Is it likely agents/brokers will abandon health insurance markets? **Absolutely.**
- What will be the impact of a legislative change that treats producer commissions in the same manner as federal and state taxes for purposes of calculating the MLR? **If this question refers to percentage tearing or grading based on volume, many health plans and insurers currently use such a system. Agents/brokers can live with such a system as long as it's clearly defined and not subject to erratic change.**
- What is your opinion on the optimal solution to balance health plan/insurer concerns, consumer interests and the interests of agents/brokers? **Predictability creates a stable environment for all three interests. The establishment of commissions as a pass through will stabilize the concerns of the health plan/insurer, retain professional guidance for the consumer and satisfy the needs of the agent/broker.**

**From:** Anne Kelly [mailto:anne@kellyandkellyinsurance.com]

**Sent:** Tuesday, March 15, 2011 2:36 PM

**To:** Mullen, Timothy B.

**Subject:** NAIC task force seeks comments on MLR rules- Kelly & Kelly Insurance Services Inc

- What is or is likely to be the impact of removing commissions from what is defined as premium under the MLR requirements?
- Have commissions been reduced since the passage of the federal law? If so, what is the impact of present and potential future commission reductions? Will this cause access issues? Is it likely agents/brokers will abandon health insurance markets?
- What will be the impact of a legislative change that treats producer commissions in the same manner as federal and state taxes for purposes of calculating the MLR?
- What is your opinion on the optimal solution to balance health plan/insurer concerns, consumer interests and the interests of agents/brokers?

The Commissions we receive from Individual Market Business has been vastly reduced since the passing of Healthcare reform. Many Carriers reducing commissions from 20% to 4%. This is extremely low as the amount of time involved in writing Individual business is high. Plus Individual Business Underwriting is more severe, making it difficult to write.

Our Agency focuses on Small Group (2-50) life business. We Incorporated February 1998. We have begun to see the Health Carriers start reducing commissions in that Arena. All of our clients will be forced into the EXCHANGE 2014, leaving us with nothing. Essentially, the Healthcare Reform Laws allows the Government to legally pilferage our block of business with NO COMPENSATION to us. It is customary in our business that if someone takes over your block they pay 2 times annual Revenue.

Our Revenue is down 40% due to the recession. Healthcare Reform will take it to ZERO.

Insurance Agents understand this. We will be out of work 2014. There will be NO INCOME to pay our mortgages on our homes or our offices.

Our Agency accrued \$120,000 in debt during the recession. Mainly trying to keep our staff employed. In addition, we own our business Condo, which we bought in 2005 \$300,000, and in the current market it will sell for \$150,000 or rent for \$1700 a month. The mortgage is \$2,800 a month.

In addition July 2009 in anticipation of Healthcare Reform crushing the Insurance Agency, we cashed in our 401K ( \$120,000) and took a Credit line against our home (\$200,000) and invested this in developing a Discount Card for Cosmetic Services. That company is in its infancy and may never make it.

So, We have accrued huge debt trying to survive this, with no help only hindrance from the Government.

The sad thing is, there was nothing wrong with our Healthcare system 10 years ago. Not until the Government realized how quickly Medicare was going into insolvency and that the system was unsustainable. Healthcare Reform is more a Government Bail Out than it is an overhaul of a

defunct system. It would be political suicide for anyone in government to pull Medicare, or severely cut Medicare fees. Imagine the political backlash if they had to answer to the public as to where that 6.2% Tax on Gross Payroll from Employees and matching 6.2% from employers has been appropriated. 12.5% total !! Medicare Bankruptcy is the 200 lb Gorilla behind the Government Agenda driving Healthcare Reform. They are on the hook for 60% of Healthcare Bill, and they do not have the money to pay for it.

Sadly, We will probably lose our home, our office and everything we built. I can't see how we can come out of this and survive.

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**From:** Jeff Seiler [mailto:jseiler@ssbenefits.net]  
**Sent:** Tuesday, March 15, 2011 2:50 PM  
**To:** Mullen, Timothy B.  
**Subject:** task force-commissions

The NAIC's Executive Committee Task Force on Professional Health Insurance Advisors, which was established in November, is asking for comments addressing these questions:

- What is or is likely to be the impact of removing commissions from what is defined as premium under the MLR requirements? **If commissions are removed from premium example: Premium=\$100-\$5 commission=\$95 left x .85 must be paid in claims=\$80.75 left for claims**
- **Vs. \$100 x .85= \$85 left for claims**
- Have commissions been reduced since the passage of the federal law? **Yes** If so, what is the impact of present and potential future commission reductions? **-If commissions go any lower if won't be worth the effort to work on smaller group cases or individual business. Will this cause access issues? -Yes, I would think so- the average person needs help understanding the policies- as does the average group policyholder. Is it likely agents/brokers will abandon health insurance markets? -Yes, primarily the smaller companies in the group market would be vulnerable since there would be little to no assistance**
- What will be the impact of a legislative change that treats producer commissions in the same manner as federal and state taxes for purposes of calculating the MLR? **It really should be the same, just a pass through**
- What is your opinion on the optimal solution to balance health plan/insurer concerns, consumer interests and the interests of agents/brokers? **-Keep commissions the pass through item they are now.**

**From:** Dave Stewart [mailto:dstewart@webbandgreer.com]

**Sent:** Tuesday, March 15, 2011 2:59 PM

**To:** Mullen, Timothy B.

**Subject:** Comments on MLR Rules

- What is or is likely to be the impact of removing commissions from what is defined as premium under the MLR requirements? **We have already seen agents exiting the business or going back to school to learn the P&C business because they know that there will not be enough commissions paid to allow them to service their accounts as they have done in the past. Some are reporting that, if they stay in the business, in order to continue to provide the level of services they have in the past, especially to small businesses where they often function almost like a HR manager, they will have to charge a per member per month fee to offset the lost commissions.**
- Have commissions been reduced since the passage of the federal law? **Yes**
- If so, what is the impact of present and potential future commission reductions? **We have about 7 group carriers to which we can shop benefits for our clients. All but one have reduced commissions. On one carrier alone, we will lose about \$20,000 in annual commissions.**
- Will this cause access issues? **No sure it will cause access issues.**
- Is it likely agents/brokers will abandon health insurance markets? **See first answer above.**
- What will be the impact of a legislative change that treats producer commissions in the same manner as federal and state taxes for purposes of calculating the MLR? **I believe it will allow agents to continue to offer HR like services to their accounts. Please bear in mind that most of the group business is produced for small to midsized businesses.**
- What is your opinion on the optimal solution to balance health plan/insurer concerns, consumer interests and the interests of agents/brokers? **Completely do away with the MLR. What other business is regulated as to the profit margins they can make??? What business is next, the auto? Airlines, who next?**

**From:** Bradford Backlund [mailto:bradford-backlund@leavitt.com]  
**Sent:** Tuesday, March 15, 2011 3:44 PM  
**To:** Mullen, Timothy B.  
**Subject:** RE: Commissioner's Call

1. What is or is likely to be the impact of removing commissions from what is defined as premium under the MLR requirements?

**Answer:** There is no doubt that the agent's remuneration needs to be omitted from the MLR formula. If this passes as is, I can guarantee that brokers will go out of business. When that happens, individuals and employer groups will not be able to navigate the complexities of the health care insurance world. We as agents and brokers provide a major value add to our clients. We as independent brokers and agents represent our clients NOT the carrier. With this perspective in mind we can ultimately do what is best for the client. We are true licensed professionals and deserve to be compensated as such. You don't see attorney's, CPA's, or doctors working for free; all of which are licensed professionals that provide an expertise in their perspective fields.

2. Have commissions been reduced since the passage of the federal law? If so, what is the impact of present and potential future commission reductions? Will this cause access issues? Is it likely agents/brokers will abandon health insurance markets? Please cite specific examples.

**Answer:** Yes, commissions have already been cut by as much as 30-50%. The impact of further cuts to compensation can only attribute to greater unemployment stats. With the cuts that have already been implemented with agent compensation, agencies are having to cut positions, lower salaries, cut benefits, etc. People are already struggling to keep the lights on in this economy, because employers are reducing benefits and or cutting them all together, which have an adverse reflection on compensation. We as agents are having to perform all the same services that our clients have come to expect for potentially half of the price. We keep on trying to fulfill those services because we all know if we don't who will. The government can't begin to understand the intimacies of my client and what their true needs are when determining what health plan is best for them. They are being asked to potentially talk with a "navigator" that is supposedly going to help them by a medical policy in 2-3 easy steps. As we all know this isn't like buying an airline ticket. With all the complexities of PPACA, it is vital that we as licensed agents/brokers continue to play a role in the delivery of health care and should continue to be compensated for our services.

3. What will be the impact of a legislative change that treats producer commissions in the same manner as Federal and State taxes for purposes of calculating the MLR?

**Answer:** Again, agent/broker remuneration has no business being calculated as an overhead expense. Carriers will continue to cut commissions and force the broker/agent out of the picture. This would result in carriers selling directly to public with no help from an outside, unbiased resource. We all know who cares about the carriers; the carriers themselves. Again, we as agents/brokers represent the clients interest, not the carriers.

4. What is your opinion on the optimal solution to balance health plan/insurer concerns, consumer interests and the interests of agents/brokers?

**Answer: Keep the agent/broker community involved in whatever it may be. I believe we all agree that reform needs to happen, but let's focus on what we can do to control costs. Costs are what are driving premiums not the 5-7% commissions (group) and 15-20% (individual). We at NAHU are here to provide suggestions and opinions and would always appreciate a seat at the table when negotiating ideas. We are the frontline and can provide very valuable feedback to any committee tasked with this issue.**

**From:** Robert Smith [mailto:r.smith@smithandco.com]  
**Sent:** Tuesday, March 15, 2011 3:49 PM  
**To:** Mullen, Timothy B.  
**Subject:** Impact of PPACA's medical loss ratio rules

To the NAIC Committee seeking comment on the Medical Loss Ratio rules:

▪ **What is or is likely to be the impact of removing commissions from what is defined as premium under the MLR requirements?**

- Removing commission from the MLR will have a significant impact on my commissions, and ability to retain my workforce. 95% of my business is offering group health insurance. As you are aware in this instance, the Insurance companies must spend 80% of earned premiums on claims. Let me show you the before and after issues that this has created with one specific company, but is inherent with all in the group insurance market:

	Before	After
Percentage of Claims Paid	78%	80%
Commission/fees for agent	6%	5%
Insurance Company's Administrative Expenses	14%	14%
Profit	2%	1%
	100%	100%

- In this instance the carrier splits the 2% charge with the agent, thus reducing the profit margin to 1%. This is a huge potential risk to the insurance company if they miss their cost estimates. As an agent we see an immediate 16% impact to our revenues.
  - Removing this requirement would help the carriers be more financially stable, and we as an agency wouldn't have to eliminate positions that we desperately need.
- **Have commissions been reduced since the passage of the federal law? If so, what is the impact of present and potential future commission reductions? Will this cause access issues? Is it likely agents/brokers will abandon health insurance markets?**
- I believe that my answer above addresses a good portion of this already. We have already seen the impacts, and commission are being lowered. This has and will have a significant impact on the individual market because the renewal commission are 50% of the first year commissions. In the end commission reductions reflect in either movement away from supporting this business, or eliminating positions (more unemployment). We are already addressing other markets, such as property and casualty, and individual life and disability products. The support time required for servicing the health business is significant as compared to other markets. Really, it's simple business economics. We are looking for the greatest reward for the least expense.
- **What will be the impact of a legislative change that treats producer commissions in the same manner as federal and state taxes for purposes of calculating the MLR?**

- I have not reviewed the impact of this type of change and as such cannot comment.
- **What is your opinion on the optimal solution to balance health plan/insurer concerns, consumer interests and the interests of agents/brokers?**
  - Frankly speaking? Stay the hell out of the process. Since 1988 I have seen 89 insurance carriers leave, or quit doing business in Colorado, as a result of legislators trying to make things better for everyone. I have also seen the cost of insurance increase by 600% for similar coverage during this time. Not everyone needs maternity coverage, Not everyone needs special interest coverage's for certain dietary needs. Not everyone wants insurance. If they did my life would be a hell of a lot easier! Why should the rates for men and women be the same? Men and women are different – it's all in the plumbing! There are age anomalies, and geographic differences, too.
  - Look at what happened to Henry Ford's invention. Why do you think that we no longer drive Model T's, and why do some people want to drive a Lexus as opposed to a Cadillac? Because we are different, and have different needs and interests. Why should insurance be any different?
  - Get rid of Obama, Pelosi, and the rest of the career politicians that are screwing up this country because they think that their ideals should be impressed upon everyone else!

**From:** Douglas Campbell [mailto:flex@sebohio.com]  
**Sent:** Tuesday, March 15, 2011 4:04 PM  
**To:** Mullen, Timothy B.  
**Subject:** NAIC task force seeks comments on MLR rules

The NAIC's Executive Committee Task Force on Professional Health Insurance Advisors, which was established in November, is asking for comments addressing these questions:

- What is or is likely to be the impact of removing commissions from what is defined as premium under the MLR requirements?

**This will allow brokers like our organization to stay in business to service their clients. The following is some of our client services that will be reduced or eliminated:**

**One Point of Contact Service Program**  
**Professional and Courteous Service Representatives**  
**Dedicated Service Coordinator**  
**Annual Market and Benefits Analysis of All Insurance Coverages**  
**Annual Enrollment Meetings for All Insurance Coverages**  
**Free Full COBRA Compliance**  
**Free Section 125 (Premium Only Plan)**  
**Free Flexible Savings Account (with take care Visa debit card)**  
**Implementation of a Wellness Program**

- Have commissions been reduced since the passage of the federal law? If so, what is the impact of present and potential future commission reductions? Will this cause access issues? Is it likely agents/brokers will abandon health insurance markets?

**Our compensation in 2011 has been reduced by 33% in most cases. The insurance carriers have told us it's directly related to the MLR rules. The bottom line - health insurance brokers are small-business people whose livelihoods are threatened by this new provision of the Patient Protection and Affordable Care Act.**

- What will be the impact of a legislative change that treats producer commissions in the same manner as federal and state taxes for purposes of calculating the MLR?

**Higher cost.**

- What is your opinion on the optimal solution to balance health plan/insurer concerns, consumer interests and the interests of agents/brokers?

**Malpractice reform and a quality stringent Wellness Programs.**

**From:** Ted Aldershof [mailto:Ted@spectrumbenefits.com]  
**Sent:** Tuesday, March 15, 2011 4:08 PM  
**To:** Mullen, Timothy B.  
**Subject:** MLR Meeting

I have been a Health Insurance agent for over 30 years, my primary focus has been in the Group Insurance market . Today we have a large book of employer based business that is in turmoil. Rumors and conflicting information are rampant and employers are feeling the pressure of a uncertain future as far as insuring their employees. My concern is working with them today and providing the with the most accurate information possible and trying to prepare them for the future. I do not have a good feeling about the commission fiasco that has been created, my instinct tells me a squeeze is under way to lower our commissions indicating that we are a part of the escalating cost of health care and by reducing or doing away with our cost , health care will cost less. We both know that we do not drive costs up but instead we try to maintain a good book of business that we can live off of, pay our employees and at the same time service both of our clients, the Insurance companies ask us to sell more new business, renew the old business , sell the rate increase explain the coverage changes and solve my clients problems with billing or claims and at the same time the client says service me, make my life easier, help with our HR questions, what is Cobra, How does it work , Why did the Insurance company only pay this amount or why is this not covered , how do I make my employees happy, they are all complaining about the cost of our Insurance. In looking at the proposed changes who is going to deal with the day to day operations of a employer group. Employer groups today cannot afford a full time person to deal with their Insurance so they look to us for more but yet we are being told we will be paid less

Reducing commissions or not paying any at all will be a mess, rates will still go up, people will still have questions, service will become a larger issue in the future since there are now many more choices in coverage's, fines, requirements for cost sharing and who knows what else is tucked inside the new law. Getting help from any Government entity is almost impossible so where will a employer turn for help?, to his agent who now has to say I NEED TO BILL YOU FOR MY SERVICES OR I CANNOT HELP. Bad PR Bad Press,The Property and Casualty business got themselves in a lot of hot water over excessive fees and now it will start all over again. The NAIC needs to support the agents on the street today with a reasonable compensation package , Take us out of the MLR equation just like they did with IT costs. Less commissions will mean fewer qualified agents or none at all.

**From:** Morgan Pile [mailto:mpile@mypartnersinsurance.com]  
**Sent:** Tuesday, March 15, 2011 4:08 PM  
**To:** Mullen, Timothy B.  
**Subject:** MLR/NAIC task Force

Dear Committee:

As an employee benefits consultant I believe the MLR is not fair for the insurers and ultimately bad for consumers. If the group has a 130% loss ratio the insurer isn't allowed to ask for more money but if they have a good year and only have a 60% loss ratio they have to give money back. This concept has already been marketed to employers given them the chance to be in a reimbursement agreement if their claims year was good. Even then employers didn't like it so much but now they have no choice. So what happens...the carriers will ALL increase their rates to protect themselves. How else will they survive? I also believe you cannot allow agent/broker commissions to be factored into the MLR. It's not a claim or loss, but a service and for most employers a very good one. We on the benefits side make way less commissions than the P&C. I wish the task force well with this effort.

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**From:** Jim Blakey [mailto:jblakey@catto.com]  
**Sent:** Tuesday, March 15, 2011 4:47 PM  
**To:** Mullen, Timothy B.  
**Cc:** Mike Mack Group  
**Subject:** MLR and commissions

We have not yet seen a reduction in commissions, but do expect them to come if not excludable from the MLR calculation. I have two ideas to address the issue.

The first is to exclude them altogether as suggested, just like taxes, since the carrier does not retain them.

The second is to exclude some portion of the commission, but not in it's entirety. The logic for the second approach is that the broker serves two roles. One is to educate, and assist consumers. For this we should receive a commission that is excludable. We also work as the marketing arm for the carrier. It could be argued that this portion should not be excluded. So, for example, if the policy carries a 5% commission, it could be split, with 2.5% excluded as educational expense for the benefit of the consumer, and 2.5% included as marketing expense for the carrier.

**From:** Rick Lagattuta [mailto:rick@ldinssvs.com]  
**Sent:** Tuesday, March 15, 2011 5:02 PM  
**To:** Mullen, Timothy B.  
**Subject:** Broker/Agent commissions and MLR

Dear Mr. Mullen,

The confusion and disagreements regarding the inclusion of agent and broker commissions in the MLR is a direct result of the terms Insurance agent and insurance broker having become synonymous. It is unfortunate that we as a community do not recognize they are not synonymous and they do not share anything in common.

An agent, by insurance definition is a representative of an insurance carrier and as such represents the best interest of the carrier. A broker, by insurance definition is (suppose to be) an independent objective evaluator of insurance plans, carrier programs, carrier rates, carrier service capabilities and the compatibility of all these (and other) factors for a specific client, either employer group or individual/family client.

The confusion is exasperated because an insurance licensed individual may be an agent for one or more carriers and yet broker business with carriers with whom there is agent appointment. The confusion is further exasperated because independent brokers are usually appointed as agents of the carrier on a specific piece of business after the carrier's plan (program) is sold to the client and approval is granted by the carrier following the application process.

Unfortunately, carriers offer many financial inducements to brokers to place business with them which results in the broker's loss of objectivity for the client they are "suppose" to represent.

Because agents represent the carrier, their carrier compensation (salary/ commissions/finder fees/etc.) should be included in the carrier's MLR. The carrier automatically includes agent compensation in the premium rates they charge. The buyer (employer group or individual/family) does not have an option to negotiate how much compensating should be included in the premium. The amount is at the sole discretion of the carrier.

Brokers on the other hand (are suppose to) represent the best interest of the client and supposedly sell their expertise and services to the client for a specific financial amount. Under the current system, it is the carrier who determines the amount which results in a loss of objectivity on the part of the broker. Brokers should be compensated under a financial agreement with their client and the dollar value of that agreement should be paid to the broker directly by the client. If the broker and the client agree to add the dollar cost of the agreement as an add on to the premiums charged by the carrier as a billing feature, than that dollar amount should be a pass through amount and not included in the carrier's MLR.

The end result is carrier premiums with agent compensation built in is carrier cost of doing business and carrier premiums sans broker compensation should result in lower carrier premiums to the client. Let the client decide how much they should or want to pay for broker services.

The same logic should apply to the Exchanges once they are established, up and running.

**From:** O'Neal, John [mailto:JONeal@BBandT.com]  
**Sent:** Tuesday, March 15, 2011 5:06 PM  
**To:** Mullen, Timothy B.  
**Subject:** MLR and Broker Commissions

Speaking as an individual broker it seems apparent that insurance carriers are being forced to reduce compensation to brokers and/or to stratify the brokers based on level of production. The impact on the market is simple and highly predictable----brokers will spend less time with their clients and/or they will abandon the small group market. To provide quality levels of service today requires significant staffing and technology resources that can't be justified for very small employer groups (under 50) with reduced compensation levels.

At our agency we go to significant lengths to provide ongoing customer service support, enrollment meetings, and various education efforts (including long term focused Wellness education) aimed at both the employer and employee. Despite years of efforts, the public at large still doesn't "get" health insurance and needs a lot of hand holding. With reduced compensation that hand holding, out of financial necessity, will decrease.

So what's the answer to balance the various interests of carriers, employers, employees and brokers? It seems that the equitable way would be through the use of a per covered employee fee schedule. This would be set to adequately compensate the broker for his work without increasing commission expenses every time there's a rate increase. There are a number of ways to tackle this, but essentially the marginal fee for the next employee goes down as the head count increases. So, the monthly fee might be \$40 for the first 25 employees, \$30 for the next 25, \$20 for the next 50 and \$10 for greater than 100 employees. From time to time these could be increased but, in concept, only to keep up with the increased costs of doing business.

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**From:** Garth Hassel [mailto:garth@eastidahoinsurance.com]  
**Sent:** Tuesday, March 15, 2011 4:08 PM  
**To:** Mullen, Timothy B.  
**Subject:** MLR comments

Hello,

- What is or is likely to be the impact of removing commissions from what is defined as premium under the MLR requirements? IT WOULD HELP GREATLY, BUT MUCH DAMAGE IS DONE. SEE BELOW. THE WHOLE DEBATE AND ASSOCIATED PROBLEMS HAS MADE THE SUBJECT OF HEALTH INSURANCE EVEN MORE DISTASTEFUL TO CONSUMERS.
- Have commissions been reduced since the passage of the federal law? If so, what is the impact of present and potential future commission reductions? Will this cause access issues? Is it likely agents/brokers will abandon health insurance markets? YES. BETWEEN JAN 1 AND APRIL 1, THE CARRIERS IN MY STATE HAVE DECREASED INDIVIDUAL COMMISSIONS (THE BULK OF MY HEALTH BUSINESS) BY AN AVERAGE OF 55%. SO, NOT JUST GOING FORWARD, BUT FOR ALL EXISTING BUSINESS, I'VE LOST AT LEAST HALF OF WHAT I'VE WORKED HARD TO EARN. HEALTH INSURANCE IS MARKETING ONLY NOW - IT IS NOT A PROFITABLE USE OF TIME. PREMIUMS WENT UP, COMMISSIONS WENT DOWN. I OFTEN NEED TO REFER PEOPLE TO PCIP, WHICH OF COURSE PAYS ME NOTHING.
- What will be the impact of a legislative change that treats producer commissions in the same manner as federal and state taxes for purposes of calculating the MLR? I DO NOT KNOW, AS I AM NOT LOOKING INTO IT ANYMORE. I DECIDED A YEAR AGO THAT I WOULD NEED TO CHANGE MARKETS AND ALL DEVELOPMENTS HAVE REINFORCED THAT DECISION. I AM NOW FOCUSING ON FINANCIAL PLANNING. HEALTH IS ANCILLARY. SIMPLY CAN'T WAIT FOR LEGISLATIVE CHANGES THAT MIGHT NOT EVEN COME OR STAY, IN ORDER TO FEED MY FAMILY.
- What is your opinion on the optimal solution to balance health plan/insurer concerns, consumer interests and the interests of agents/brokers? LEGAL REFORM AND IMMIGRATION REFORM. THAT MAY SOUND POLITICALLY INCORRECT, BUT WE BETTER FACE IT BECAUSE IT IS BANKRUPTING US. ALSO EDUCATION. PUBLIC EDUCATORS LIVE IN AN ENTITLEMENT SYSTEM AND HAVE LITTLE APPRECIATION FOR WHAT DRIVES COSTS. HENCE, GRADUATES FROM THE SYSTEM ARE LARGELY JUST AS IGNORANT. HEALTH INSURANCE IS SUFFERING IN MUCH THE SAME WAY AS PENSION PLANS. THERE IS A COMMON THREAD. BURGEONING DEMAND FOR MEDICARE, MEDICAID, AND SSI IN CONJUNCTION WITH MASS IGNORANCE AND ENTITLEMENT MINDSET IS DRIVING US TOWARD UNIFORM HEALTH "INSURANCE." I WOULD LOVE TO BE WRONG.

From: Scott Zager [<mailto:scottzager@usa.net>]  
Sent: Tuesday, March 15, 2011 11:03 PM  
To: Mullen, Timothy B.  
Subject: public comments on Draft Bill to Remove Agent Commissions from MLR

Mr. Mullen,

I am sending these comments personally, but based on 10 years of regulatory experience:

One benefit of the MLR cap was to limit out-of-control spiral of compensation, and more importantly, the unbalanced nature of compensation that would favor steering clients based on compensation levels rather than appropriateness of product. Excluding producer compensation from the equation without any containment provision is analogous to removing this benefit of the MLR cap entirely.

Removing producer compensation from the MLR cap opens the floodgates for shifting and masking various "costs" under the guise of compensation. Such activity could be achieved simply by delegating or purporting to contract additional expensed responsibilities to its producers. Producer compensation channels can be complex, and are loosely monitored. Incentivizing the migration of expenses into compensation channels will necessitate significant expansion of regulatory oversight and costs. This proposal offers no measures to adequately confine or ensure transparency of compensation.

Retaining compensation within the MLR %, and/or adjusting the percentage rate favors competitive compensation and efficiencies by encouraging carriers to find cost savings which, in turn, can be used to widen the thresholds available for compensating producers and promoting sales. Without the MLR confinement, the company has no incentive to negotiate competitive compensation on behalf of consumers. It will simply pass along those expenses as a hidden cost. The company, itself would also have less incentive to suppress runaway or inflated producer compensation, merely having to stay within tolerable margins of even the most inflated markets.

It appears any proposals to increase or equalize producer compensation should be made via attempts to negotiate the MLR percentage, rather than circumvent it.

Please let me know if you have questions or concerns. Also, please redact address and phone information from any public disclosures of these comments.

**From:** Rusty Rice [mailto:rrice@avesis.com]  
**Sent:** Wednesday, March 16, 2011 12:11 AM  
**To:** Mullen, Timothy B.  
**Subject:** MLR Rules Comment

I am not an insurance agent however the decisions regarding the MLR calculation with respect to insurance agent commissions could have a huge economic impact on my company, and many more like mine.

I am the Regional Vice President for a national vision product and while on the onset it would appear that the product I sell would not be affected by the makeup of the MLR rules, the decisions of the NAIC could have a tremendous impact on our product as well as all Vision, Dental, Life, Disability other voluntary and medical employer group products.

Plans like ours rely heavily on the insurance agent to market our products to employer groups. I currently have a 3 state territory which is covered by myself, one additional sales representative and one account manager. Without the insurance agent there would be no possible way for us to reach our sales goals, nor could we deliver the amount of business required to maintain our office.

Insurance agent commission should be excluded from the MLR requirement for several reasons.

- The agent is not an employee of the insurance company but is hired by the employer group to assist them with their medical and other lines of coverage the employer offers.
- Small employer groups do not have the funds available to employ a HR trained employee. These duties will typically fall on the owner, or an appointed employee in addition to other job responsibilities. These individuals are not aware of the options available, nor the requirements placed on them when offering benefits, (i.e. COBRA, HIPAA etc.) The insurance agent assists these small employers on a daily basis to ensure they are in compliance with health insurance rules.
- Insurance agents also assist employer groups with claim issues. When an employee has a problem with a claim it is often the insurance agent, one who knows the ropes, who facilitates timely and accurate outcomes for the employer.
- The job of the insurance agent cannot be classified as a medical service, nor are they an employee of the health plan covered under administrative costs.
- The typical small employer cannot afford to hire and pay a consultant fee to the insurance agent. Allowing the cost of the agent to be covered by insurance premium is a way to allow the small employer to benefit from the service.

Of all the unintended consequences of Healthcare Reform, the most dramatic to how our industry works would be in reference to how insurance agents are compensated and where their compensation would fall in the MLR calculation. Requiring health plans to include broker commissions in their administrative costs would cause them to have to cut broker commissions by a percentage that would not allow the agent to continue to offer their services. Without the insurance agent small employers would have no one

available to educate them on new product offerings or market trends. They also would not have access to many additional services the insurance agent provides.

Companies like ours would not be able to reach enough employer groups to stay in business. In addition to vision plans the same would be for dental, life, disability and many medical plans. Health plans also have a minimal number of representatives selling their products. The insurance agent provides them with the ability to be presented to 15-20 times more employer groups each month than they would on their own. For myself, I would be able to contact 20-30 groups a month working the phones. With insurance agents I am able to reach 150-200 groups per month, allowing us to sell enough product to keep our office profitable.

It is because of these reasons I am asking you consider excluding broker commissions from the MLR calculation. If you would like to discuss this further please feel free to contact me. I am including my information below.

Thank you for allowing us the opportunity to provide our feedback.

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**From:** Victoria Hawks [mailto:vicki@oldpueblobenefitadvisors.com]  
**Sent:** Wednesday, March 16, 2011 10:25 AM  
**To:** Mullen, Timothy B.  
**Subject:** Commissions

Insurance carriers have long tried to cut broker commissions in the past (Aetna & United) even trying to sell direct. These approaches did not work in that product was not getting distributed in an efficient fashion and that carrier lost hundreds of thousands of clients. United got back lash for changing their commission structure but I have found it is still fair. All other insurance companies could not wait for this to happen. If it were up to them we would not get paid at all. Our commissions have been put on the chopping block for every health insurer out there not for necessity but out of sheer opportunity. Their profits are the number one concern not the American Public and their cost of insurance.

**From:** Bud.Martin@wellsfargo.com [mailto: Bud.Martin@wellsfargo.com]  
**Sent:** Wednesday, March 16, 2011 3:17 PM  
**To:** Mullen, Timothy B.  
**Subject:** MLRs impact on insurance brokers

NAIC's Executive Committee Task Force,

**The following is my response to your question to insurance brokers regarding MLR:**

**1. What is or is likely to be the impact of removing insurance brokerage commissions from what is defined as premium under the MLR requirements?**

**Individual Health Insurance:**

Unless insurance broker commissions are removed from the MLR definition, it is likely that many brokers will abandon the individual health insurance market between now and 2014; many have already done so, and including internet based brokerage offices. The reason for this is reduction in commissions from all carriers, ranging from 40% to 75% lower commissions in 2011. Brokerage offices can probably learn to live with lower commissions in 2014 when medical underwriting goes away; however, prior to that time, the cost of writing and servicing new business will cause brokers to exit the market unless commissions are exempt from the MLR definition. The result is that the 80% of consumers who would have otherwise used a broker will lose access to that service.

One could of course ask the question, "do we care?" The answer is that almost all insurance carriers choose to use the broker distribution model because it is the most efficient method, and when given the choice, most consumers (80%) buy individual health coverage through brokers. Therefore, if brokers walk away from this market as distributors, the efficiency of the system is not improved, nor is the consumer served better.

Our office will continue to sell the insurance in 2011, but only as a service to our existing clients. We will not spend time and money to promote individual medical insurance until 2014 when the medical underwriting process is eliminated. Wells Fargo Insurance Services hopes at that time to reenter the individual medical insurance as a national distributor.

**Small Group Health Insurance:**

There will be fewer insurance brokers willing to work with small employers for group insurance, primarily in the area of employers with 2-10 employees. This sector of the market place is heavy on service to the business and their employees. Our office relies on commissions close to

the current levels in order to provide the level of service demanded by clients. Our office will likely move away from this small size employer, but will remain open to businesses with 10 or more employees, as long as the carriers are able to keep commissions close to current levels.

### **Large Group Health Insurance:**

There will be minimal impact to the large group arena where most carriers can meet the MLR requirements with current commission structures. This market already uses a commission structure that is negotiable or on a fee basis. Our office will continue to sell and service new business in this market sector.

### **2. Have commissions been reduced since the passage of the federal law? If so, what is the impact of present and potential future commission reductions? Will this cause access issues? Is it likely agents/brokers will abandon health insurance markets?**

Yes, almost all medical carriers have reduced commissions starting in 2011. So far, the big hits have been in the area of individual health insurance policies.

### **3. What will be the impact of a legislative change that treats producer commissions in the same manner as federal and state taxes for purposes of calculating the MLR?**

Business will carry on without disruption until 2014 when the environment is scheduled to change. However, due to the uncertainties of the role of exchanges starting in 2014, it is difficult for insurance brokers to make decisions on the viability of the individual and small group market place. With uncertainty, comes a disincentive for insurance brokers to invest in the future.

### **4. What is your opinion on the optimal solution to balance health plan/insurer concerns, consumer interests and the interests of agents/brokers?**

We recommend treating insurance broker commissions as a pass through expense in the same way as state and federal taxes. If it is the intent of congress to control insurance agent commissions to reduce costs, they should pass a law specific to insurance brokers and not lump it in with a law whose intent is to control insurance companies profits; they are two separate businesses models.

**From:** Jason Kloc [mailto:jason@benetex.com]  
**Sent:** Wednesday, March 16, 2011 10:39 AM  
**To:** Mullen, Timothy B.  
**Subject:** NAIC Task Force - MLR Rules

I am a broker in Central Texas and our firm serves as the agent for over 300 businesses for group health insurance.

We have experienced reduced commissions since the passage of PPACA. The reductions have not been significant but with the new regulations and requirements imposed on carriers we believe commissions will continue to decrease further. The long term impact of reduced commissions will be reduced services provided by the broker community. Our firm is currently staffed and equipped to provide many services to our clients and these services cost money.

Whether it's having legal counsel available for assistance to our clients, resolving claim issues, providing legislative guidance and updates, assisting with wellness initiatives, educating employees on how to utilize their benefits in the most efficient manner, etc etc. these services come at a cost.

If brokers reduce the services they provide then employers are going to turn to the insurance carriers to resolve these issues. The insurance carriers do not currently provide these services and most likely will not increase their overhead (due to MLR requirements) to add these services so the employers will be on their own. And even if the insurance carriers decided to provide these services these services would not come from an objective source since the insurance carriers have their best interests in the forefront. So the employer will either do without these services or will have to pay for these services to an outside consultant or a new employee(s). Net result is the employer will end up paying the same or more for the same services they are currently receiving. In addition, the employer will experience a disruption in their services and will have to spend time and money to adjust their current model to reflect a different model that will obtain the same results.

I'm in favor of maintaining a system where there are set percentages built into the rates for brokers to service employers/clients. Brokers can then compete with each other to provide the absolute best service with the same small amount of money they are given for each client. If one broker can provide more services for the same amount of money as another broker then that broker will win the business. This current system allows for efficient and strong brokers to thrive and weak brokers to disappear. It also requires employers to perform their due diligence when selecting a broker.

**From:** Tony Drummond [mailto:tony@agdinsurance.com]  
**Sent:** Wednesday, March 16, 2011 5:03 PM  
**To:** Mullen, Timothy B.  
**Subject:** Comments from a broker regarding the MLR

I have been a licensed broker for almost 38 years. Over 90% of my work is in regard to servicing group insurance clients.

Over 90% of my group insurance work is in regard to Medical coverage.

We work 50-60 hours per week primarily servicing our group and individual health insurance clients.

When I train a new employee it takes about 4 years before they really understand most of the major idiosyncrasies of health insurance.

With that stated I will answer the questions in regard to the comments you have requested:

If an adequate amount of compensation is stripped from my agency I will lay off at least one of my key employees because I will not be able to afford her as well as the benefits I provide in my office.

I have already begun to have reduced commissions on some of the health business and I simply cannot justify the additional risk and time I have to take to provide support services to new clients to get them up to speed with all of the compliance support we provide; this includes HIPAA, COBRA and State continuation support, helping with claims issues, running benefit communications and review meetings and other intervention support services we provide. Additionally we shop the coverage when determined to be prudent.

If the commissions do not adequately support the services we provide, yes, I will exit the market. This is not a threat. It is a reflection of the fact I believe that those who feel I am not necessary has no idea what I do.

I am not smart enough to understand all the calculations of the MLR as it relates to treating commissions like Federal and State taxes. Those issues have to be figured out by the insurance companies as well as State and Federal regulations.

What I do know is if they think they can hire "navigators" with no benefits background and adequately train them to get eligible individuals signed up for exchange-based plans...that is when the work and relationship and the needs just begin. Again, it takes many years to train an individual in my business before they are qualified to take care of most problems.

I have maintained a CLU designation since 1981, I received an MBA in 1973 and am a Life and Qualifying member of the Million-Dollar Roundtable for 35 years.

Most recently I have been asked to be the speaker on health care at a business EXPO being provided by a United States Congressman Sam Graves in Kansas City next week. I am doing

things such as this at no cost to anyone because I love my business and a trying to reach out and educate the public when asked

Suffice it to say I have worked very hard as a professional and very much appreciate the relationship I have with my clients, employees, and vendors as well as they have the same thoughts toward me.

If you are seeking solutions I would consult with those exchanges which have worked with successfully agents and find out how they have done it.

I just corresponded, as an example, last week with the State of Utah in regard to their exchange and compensation arrangement.

They paid agents a compensation amount on a PEPM formula, both first –year and renewals and I would be willing to entertain a formula with that type of design. I am not stating that would meet all of my needs but the point is that a formula based on a level-type approach is what would work because the needs of a client with health insurance is ongoing...not just the first year when they are initially signed up.

I hope I have answered the questions satisfactorily in the method suggested on your website.

I applaud and very much appreciate your reaching out to the broker community for their input.

Please let me know if I may be of additional assistance.

**From:** Cathy Bajkowski [mailto:cathy@cbhealthinsurance.com]  
**Sent:** Wednesday, March 16, 2011 6:36 PM  
**To:** Mullen, Timothy B.  
**Subject:** Impact of MLR

I am a licensed Life and Health Agent in IL. I have been in the insurance business since 1989 and have about 60 small group clients (25 employees and less), and hundreds of individual and Med Supp clients. We also sell life insurance, disability and long term care, but health insurance represents a good 80-90% of my income. I have a small staff with a full time office manager, a part-time sales person, and an intern to do data entry. We recently let our sales person go for a number of reasons, mainly she wasn't doing her job. However, I have been reluctant to rehire because of the substantial loss in income. As a result I have been putting in 12 hour days at least 3 days a week, the other days are at least 10 hour days. I worked every sat through Dec and Jan (with the exception of Christmas day; I also worked new years day) partly to do the work of 1 1/2 people - my sales person was terminated mid- Dec.

Our office had revenues around \$265k annually in 2009. Unfortunately one of the largest carriers announced they were leaving the IL marketplace (Unicare - who paid one of the highest commissions in the industry) and Blue Cross was taking over the business 1/1/10; BC just so happens to pay less than Unicare. IL and TX lost a good competitor and agents lost commissions. Thanks! Then Blue Cross of IL announced they were reducing their small group commissions October 1, 2010 - BEFORE The implementation of MRL - in anticipation of it, of course. (By the way, they went to a flat dollar amount per employee, which means we will never share in any rate increases to the client; this system has been utilized by UHC for years and recently by Humana). And on 1/1/11 the individual health carriers cut commissions between 1/2 and 1/3 - in some cases going from 20% to 10% and others going from 15% to 10% first year commission. My income starting in October of 2010 is down \$5000/month! Even though we have been consistently writing and issuing new health business every month, we have only gained maybe \$1000/month of this back - and honestly part of that is due to life insurance and long term care commissions, something that won't continue on a monthly income stream. The sad thing is the newer, lower commissions are being implemented on OLD policies upon their renewal months, so the problem will continue to get worse over time! And my income will continue to sink.

I work very hard and very long hours, talking to clients for hours, helping them pick the BEST plan that suits their needs, and explain all the insurance jargon in layman's terms as well as tell them the impact of the new law, and I get paid on average \$15 - \$100/month first year commission on an individual policy. Not all policies are placed because of declines and riders. I would say an average commission is more like \$30-\$45/month, and this is BEFORE the commissions were reduced. Every once in awhile you would sell a family of 4 or more with a large premium of \$800- \$1000 or more, but most of the time this was not the case. More and more clients are purchasing \$5000 deductible plans and trying to keep the premiums as low as possible. Going forward, the commission on new policies that used to be \$30-40 or 50/month commission is cut in half or by 1/3 depending on the carrier. All these insurance carriers are telling us to upsell additional products and they will offer all these extra bonuses for a couple dollars here and there. I have yet to figure out how to make money on this. When you think about all the hours before the sale and all the hours servicing the policy, we do not get paid nearly enough on the health insurance plans even before they cut our commission. Now I have to take more time and energy to sell them an additional plan to make more money?

Yes, \$265k is a nice income, but I also have \$10k a month in expenses. I pay my office manager a decent wage and we run our office as a small business. I do not work out of my home. Clients come to my office to meet with me. We have done a very good job at marketing our business and our phone rings with referral business. Not a week goes by without several new referrals calling our office looking for insurance. It is a nice place to be - but it didn't happen by accident. I

want to believe that we do such a good job for people that they tell everyone they know. We make it a point to write a hand-written thank you note and send a pen, note pad or some small gift as a thank you to the person who sent us a referral. After a policy is sold, we continue to service that policy and tell the clients to call our office with any questions, problems or concerns. We help them with renewals and choosing plans; we help them with claims; we help them look up doctors in network and anything else you can think of. We help people get on the state health plan (even though we only get paid a onetime \$50 referral fee.) If I had to start over from scratch, how many policies and how long would it take me to pay myself let alone cover office expenses?

\$5000/month loss in income overnight is crippling to a small business such as mine. I had no credit card debt and only one business loan that will be paid off next month. I now have \$5000 on a credit card due to the loss of income. I don't know how I can justify hiring someone at this time; and I am going to kill myself if I continue at this pace. I had gone an entire year without getting sick, but last week I was down for the count and in bed for 3 days straight and I am still sick now as I am writing you. Obviously the long hours are catching up to me. If I was a new person considering this business again, I don't think I would ever come into the health insurance industry; and I know there are lot of agents that are considering leaving this market or retiring or selling something else - investments, P & C, etc.

Health Insurance is my livelihood; it's what I do and what I am good at. I am very passionate about this industry and truly believe there is a silver lining in all this mess. I think there will be a huge fall out of agents and those that survive will thrive. However, in the meantime, I am working harding and getting paid less and not replacing the staff that I let go at Christmas - not exactly helping stimulate the economy. In addition, my husband is self-employed and his business was slow last year as well. He is a painter and has nothing to do with the health insurance industry. Luckily we don't have children because I don't know how we would make ends meet. You can bet that we are relooking at all our costs and expenses now. My husband and I are both frugal people and live within our means. I don't drive an expensive car; I live in a modest home; I own all permaent whole life insurance; I save for retirement and save for emergencies and vacations. I am not living above my means. I live in a nice neighborhood in the suburbs of Chicago and belong to Kiwanis, the chamber and am active in my community. I give to many organizations including the hospital foundation (I am a former board member), all the relay for life cancer events, and sponsor any family member that asks me to do so for any cause they are passionate about. Since October I have had to say no to a number of organizations, unfortunately.

I do know one thing for sure - if the insurance companies could have figured out a way to replace us - the agents - they would have done it years ago! They can't possibly do what we do at a lower cost than what they pay us! If they hired any amount of full time staff, they would have to pay them 100 times what they pay us and they probabluy wouldn't get the same customer service! I had to laugh (if not cry) when I read an article sent by NAHU newswire today about how a senator or congressman (sorry I don't recall who did this) wrote a letter regarding this issue: removing commissions from the MRL. He said "there are billions of dollars being released to patients to pay claims instead of being retained by insurance companies and agents" and that is why he was against removing our commissions from the measly 15% allocated towards ALL expenses. Really? The last time I looked the insurance companies did not share in any profits with us? It is so insulting that these people have no idea what they are talking about.

I had actually come up with a plan to get new small group business (through AOR's) by touting myself as the "expert" in healthcare reform; there are many agents who dabble in health insurance and quite frankly don't know what they are talking about. (Many financial planners I know do really not know what is happening and call me for advise. It is scary that they are even selling health insurance, but they do have a license to do so!) I'm sure that I could take over business for some agents that are just not doing their job. But when do I have the time? I come in at 7:30 or 8 and stay until 8pm and leave the office with a laundry list of things still left to do?

how can I grow my business (or in this case simple replace the lost commissions) if I am doing the job of 2 people and can't afford to hire staff?

Thank you for asking my opinion; thank you for reading this. I do hope you use this story to 'tell the story of an insurance agent in Chicago' and how this has impacted my life. Feel free to contact me for any additional info.

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**From:** Ryan Kennedy [mailto:rkennedy@libertybenefit.com]  
**Sent:** Wednesday, March 16, 2011 6:46 PM  
**To:** Mullen, Timothy B.  
**Subject:** Executive Committee Task Force on Professional Health Insurance Advisors

As a CEO of a large benefit specialty brokerage and consultancy firm, I wanted to provide a few comments for your consideration in the upcoming MLR discussions.

First, quality brokers and consultants are advocates for corporate policyholders and their employees. We feel that for years we have done a lot of heavy lifting to keep carriers rates in line, claims paid and in some cases facilitating necessary or urgent healthcare services actually be delivered. However, we stand in the unique position of at times being a bur in the carrier communities saddle while simultaneously being paid compensation as a portion of premium. Some carriers would love to get rid of the advocate role altogether and view cutting commissions as a path to those ends. Ultimately this does not serve the consumer, employer, regulators, public interests or ironically the carriers themselves. I often tell our staff the only reason our jobs exist is to get the carriers to ultimately do the right thing, and in many cases what they should have done in the first place.

Second, if the advocates are taken out of the system, it actually increases the costs to States for additional regulatory personnel. Currently, the vast majority of claims issues get resolved by the brokerage community. Generally speaking, only the most challenging or extreme situations get directed to the respective state regulators. At some point of time every dollar of commission that gets cut from the current system increases the pressure on State budgets. Given that the best firms have invested in initiatives like wellness and disease management programs, if those services go away it increases the long term costs to a variety of government programs when less healthy people enroll in them.

Finally, since commissions are not a retained expense of the carrier community, they should be taken out of the equation the same way premium taxes are currently. This is effectively what carriers like Aetna are attempting to do by reclassifying them as service fees and not counting them as earned premium. However, if there is not a mandated standard, carriers will likely just cut commissions in order to boost profits at the expense of policyholders support and services. Ultimately every State has concluded for good reasons that licensed agents should exist and support their clients. Nothing in the health reform bill indicates that the legislature intended to end that system or reduce the role of advocates across this country.

**From:** Danielle Kunkle [mailto:danielle@consumerbg.com]  
**Sent:** Wednesday, March 16, 2011 9:56 PM  
**To:** Mullen, Timothy B.  
**Subject:** comments on MLR

I am an insurance agent in Texas who recently celebrated my sixth year in the industry, and though the first year, I made less than poverty level, my consistent hard work and willingness to seek out the most suitable plans for my clients –putting them first always – had made for an ultimately great career with an adequate living income while still being able to help others in the agent's advisory role. MLR decimated commissions and I have been astounded at how many good friends in this industry that have left to try to find other work because our federal government thinks we are unimportant. Imagine if you made say \$60K per year, and then in January your boss said – Ok – now you make \$30K, and oh by the way, you'll have to work harder, too, because the product will be much harder to sell now that people can't afford the rate increases caused by PPACA.

This is how we feel.

- What is or is likely to be the impact of removing commissions from what is defined as premium under the MLR requirements? - Carriers would be able to pay higher commissions to agent that warrant the amount of work that goes into finding suitable coverage for a client, answering their questions, walking them through all the underwriting and explaining riders and condition-specific deductibles and declines and free look options. What they are paying now makes the job incredibly hard to make a good living at.
- Have commissions been reduced since the passage of the federal law? Yes – in Texas we've seen go down by about half in the individual market. If before you made 20% commission with 10% renewals, now you make 10% and 5%. Also, due to the law about pre-existing health conditions, a child under age 19 can't find an individual standalone policy other than a short term medical plan of 6 months or less that has only catastrophic coverage. How does this help working parents afford to feed their families better when they are forced to carry a dependent on a group health plan at \$400/month, whereas before, I could have helped them find a good policy for \$100/month?
- If so, what is the impact of present and potential future commission reductions? Will this cause access issues? Is it likely agents/brokers will abandon health insurance markets? Please cite specific examples. Yes, I know numerous people who have already left the market. I have one friend who is now selling a cosmetic product. How embarrassing – to go from being a licensed, respected insurance agent who can help people find health insurance coverage and feel good about yourself after a day's work helping another person, to be forced out to go sell something so trivial because now the carriers don't pay squat. The problem will be less with access and more about understanding. People will buy the cheapest coverage on the exchange and they won't understand their benefits until they get sick and realize just how much the cheap plan they bought DOESN'T cover. Who will help them then?
- What will be the impact of a legislative change that treats producer commissions in the same manner as Federal and State taxes for purposes of calculating the MLR? The hopeful impact will be that carriers will recognize, as they always have, that consumers like agents. They want to talk to knowledgeable people when choosing a health plan, and most carriers want to reach the most prospective clients they can, so if they can pass through the agent commission, they will likely raise commissions and compete with each other again to attract good agents.
- What is your opinion on the optimal solution to balance health plan/insurer concerns, consumer interests and the interests of agents/brokers? The guaranteed issue coming in 2014 is the reason why rates have skyrocketed. You can't ask State Farm to allow a person to call on March 16<sup>th</sup> to buy homeowners insurance for the previous day when

their house burned down. The rates skyrocketed when PPACA put the carriers in this position, which has caused more consumers to go without insurance than before. There needs to be a balance between encouraging people to obtain insurance WHILE insurable. You can't force a free market to live with a 15% overall profit that has to cover all administrative costs, employees, customer service reps, plan materials, agent commissions and a thousand other expenses. Agents are not expendable. What would you have us do? Go get a job in education? Nope –laying off people there. How about the auto market? – nope, the auto industry tanked last year. Real estate? Sorry – have 2 other friends who have left THAT industry because of the recession. Where in the world do they expect us to go? What reward is there for having spent time, effort, energy in learning enough to get a license and building a business respectably? We would have more respect if we went out and found ourselves a minimum wage factory job – because then we'd be one of the people that "everybody's fighting for their rights". Oh but then again – those jobs have been outsourced to China now. It's really scary. I realize you are just the NAIC and not Congress so this is not your fault. Please just try to do whatever you can do – try to strike a balance. Don't drive another 600,000 plus people out of a job.

**From:** Tony Lopez [mailto:Lopez@bpsllc.com]  
**Sent:** Thursday, March 17, 2011 10:34 AM  
**To:** Mullen, Timothy B.  
**Subject:** COMMENTS on MLR RULESs

Dear Mr. Mullen,

I am opposed to the impact that such potential legislation will have on Commissions and do see this as having a potentially adverse effect on consumers and businesses, which will inevitably be left with Brokers/Agents providing “Boutique Services” for their guidance and expertise.

Plus, any such attempt will inevitably force Agents to diversify into other services and product offerings, abandoning their primary focus on the health services they provide, which will affect access and consumer interests.

An “Orbitz” like online offering of health insurance products directly to consumers will inevitably result in the wrong choices that consumers will make for themselves and, unlike a temporary inconvenience that would result from an online purchase of hotel accommodations, airfare and/or car rental services, it’s a choice that they will be stuck with for a year.

The solution that would best serve consumers with the necessary knowledge, training and expertise is to maintain licensed Agents as the distribution channel that markets such private market plan offerings, as is currently the case with Senior type products like Medicare Advantage Plans.

Thank you for the opportunity to provide my input.

**From:** Julie Ann Utley [mailto:julieann@jewelsbenefits.com]  
**Sent:** Tuesday, March 15, 2011 9:27 AM  
**To:** Cliff King  
**Subject:** Attached for Professional Health Insurance Advisors (EX) Task Force...

1. What is or is likely to be the impact of removing commissions from what is defined as premium under the MLR requirements?
  - A. As an independent broker with a small office of only two employees and a desire to grow my agency, having our commissions removed from the MLR calculation would mean I could actually plan on growing. Plans I have had to put on hold. I have been in this industry for 22 years – half my life – and I’ve seen a lot of changes. I’ve worked on the employer side, the carrier side and the broker side – so I understand this industry from many aspects. Having agents / brokers considered “administration” costs to insurance carriers is absurd and every client I’ve talked to agrees. All of my clients know what I do for them and how I am compensated. I work mainly in the small group market and the individual market. Most small employers don’t have a dedicated Human Resources person so they rely on me to assist them with marketing, renewals, billing issues, claim issues, employee meetings / enrollments and the day to day administration of adding newly eligible employees / terminating employees – this is a daily process for us. For that they believe we should be compensated. On the individual side, many of my clients are people who have tried to do it on their own. They go to the Internet to shop. They fill out an application online. Then, when they find out they have been approved for coverage but with a rate increase or a rider; or worse, are declined, they search out the agent / broker community for assistance. If we are doing our job correctly, we take the time to do a prescreen and provide options and advice to get them covered. If we can’t get them covered we know to suggest alternate options, even when it means we won’t make any money – it is what we do. And insurance carriers know how important the agent / broker community is to their client retention and growth – they would rather have us, working in the field every day and compensate us fairly for what we do than have to hire people who sit in corporate offices, whose only real access to their clients is via phone. That scenario would actually cost insurance companies more money than fairly compensating agents / brokers.
2. Have commissions been reduced since the passage of the federal law? If so, what is the impact of present and potential future commission reductions? Will this cause access issues? Is it likely agents/brokers will abandon health insurance markets? Please cite specific examples.

- A. Yes, insurance carriers started notifying the broker community in the summer / fall of 2010 letting us know they would need to adjust what we as brokers / agents get paid in anticipation of the MLR requirements under PPACA. In some cases, the carriers have reduced our commissions by as much as 50%. These reductions are only being applied, in most cases, to new business. Existing business is still being, for the most part, paid at the previous levels. We started seeing the difference beginning January 1, 2011.
  - B. In anticipation of a reduction in how I am compensated for my efforts to help the general community I moved my office from a retail location back to my home, turning two of my three bedrooms into office space and giving up my garage for office storage. I have also put on hold any plans to hire additional staff until I get a better handle on how much this change will affect my overall business budget.
  - C. I don't think access to agents / brokers will be hurt too much but speaking for myself, I am now spending more time on the road because my clients don't have a convenient place to drop off their applications, or come sit with me for help with a billing issue or claim issue – I now have to travel to them more and this means longer hours for me – with less pay. I also would not be too surprised if we see some agents / brokers leave this industry altogether and I know we don't have as many people looking to join this industry because of all the uncertainty.
3. What will be the impact of a legislative change that treats producer commissions in the same manner as Federal and State taxes for purposes of calculating the MLR?
- A. First, because of the MLR insurance carriers were forced to reduce what they pay us; if this component is changed do we really think insurance carriers will go back to paying us what they were paying us before? If agents / brokers are still working as hard as we are (and let's be honest here – we are actually working much harder now because of PPACA), and for less money, why would they voluntarily go back to paying us what they were paying us before. Changing the MLR to fairly compensate agents / broker would have to include language to protect us, otherwise our efforts in this area are pointless. Second, I can only speak for myself and my agency, but if I wasn't so worried about taking such a reduction in pay I would be able to focus on growth – that means spending more money for marketing my agency (that means paying for graphic design help, printing, networking, etc.), hiring staff (that means fewer people on unemployment), increasing office space (that means fewer empty office suites), purchasing office supplies (office furniture and equipment) and providing benefits to my employees (we offer health, dental and vision benefits currently). All of these growth plans have

been put on hold because I am trying to be a responsible small employer which means I am working within a budget – a budget that has been drastically reduced because of the MLR.

4. What is your opinion on the optimal solution to balance health plan / insurer concerns, consumer interests and the interests of agents/brokers?
  - A. As I stated above, I have been in this industry for 22 years and I've seen a lot of changes. I believe that we need health care reform and I'll be the first to admit this to my clients and peers – however, it needs to be done in a way that makes sense. I do not have an answer to this question as I don't think it is an easy question, nor is it / will it be an easy answer. However, I am committed to doing what I can to be a part of the solution – given the opportunity.

**From:** rfs270@aol.com [mailto:rfs270@aol.com]  
**Sent:** Thursday, March 17, 2011 3:19 PM  
**To:** Mullen, Timothy B.  
**Cc:** jwaltman@nahu.org; xenobun@aol.com; scrane@tycorbenefit.com; Shelly.Bloom@emersonreid.com  
**Subject:** Minimum Loss Ratios and Agent Compensation

Dear Tim,

Thank you for providing the opportunity to comment on the MLR regulations.

First it is clear that the government needs our help to get Americans insured and to provide good coverage and excellent service. We certainly don't need the government to help us sell and service our clients.

The exchanges under PPACA are an unnecessary and expensive additional layer of bureaucracy. The MLR provision focuses on the smaller share of the premium rather than the underlining reason for the cost increases. The new law will add more administrative costs through the additional regulatory burden.

Carriers will not cut executive compensation and benefits. They will cut customer service AND they will reduce commissions. Here in PA we are already seeing reductions in commissions. I have stopped marketing in the small group and individual market. Between all the new regulations AND the commission cuts now and in the future it would be insanity to increase my burden. Why spend money from a tight advertising budget to get return of investment less than you spent?

I am focusing on Medicare Supplement and Long Term Care insurance where there has not been a focus on MLR as much other than what NAIC normally does.

If the carriers did not pay us commissions and used their own representatives on salary with benefits the cost to the consumers would be much higher. Many of the Blue Cross Associations learned that partnering with independent agents in the community with the knowledge and experience we have and with us paying our own expenses was a much better arrangement.

From the consumer end besides the 80 hours per week I work, my clients get the best value for their dollars I can find. We keep the carriers honest and I have fired companies that were not performing up to par for my clients.

If MLR restrictions are too great, than the consumer will suffer. Which consumers? Not the wealthy ones and the executives who will be more than glad to pay us consulting fees and handle their health insurance issues. Instead those who will suffer will be low income workers and main street businesses. The businesses will lose their "HR Department" which they only pay through

premiums that generate our commissions and not salaries. They will then have to hire someone to explain and manage what we have been doing for them for years.

I know you have to work within the constraints of PPACA so my recommendation is to treat commissions as a "pass through" and not an administrative cost.

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**From:** Tony Drummond [mailto:tony@agdinsurance.com]  
**Sent:** Thursday, March 17, 2011 3:51 PM  
**To:** Mullen, Timothy B.  
**Subject:** RE: Comments from a broker regarding the MLR

Tim, I really appreciate what you all are doing. I believe the one point about this debate re. MLR and agent compensation which really bothers me is that we have a lot of small businesses which work really hard to maintain their EE benefits and as you know the the Medical is the "bull in the China closet"...yet their EE's also know this and really appreciate the benefit.

A lot of small business does not have HR departments and rely on us to guide them and help them out.

As an example, under ARRA, we had to send out 3 "whitepapers" to group clients, explaining it and walking them through certain requirements, as an example, the new interim COBRA notification, mandated by the DOL, effective 8/1/2008 and ending 12/31/2009...this was an 11 page document which needed to be used.

This document was so long and involved we spoke with every client who had to use this explaining it to them.

We were happy to do it because I considered it my job.

If they slash the commissions for brokers like me, do you think I can maintain this workload and provide an attractive benefits package for my staff?

Who do they think is going to do all of support work which we do for the small employers?

In trying to be fair, I truly believe that a lot of the people at the top Federal level or wherever they are, really have absolutely no idea as to what the small employers go through in maintaining these plans, including among other things, keeping up with all of the compliance requirements at the Federal and State level, making sure their employees are serviced when there are claims mistakes made(often times by the medical vendors...not the insurance companies), or additional help needed in regard to understanding medical insurance coverage...period.

When they simply call me re. PPACA and are looking for some direction...Most of them are totally discouraged right now and at the same time I am trying to keep them positive.

These are the things I and my staff do on a daily basis.

I am following up on your “thank you”, not in whining, but in an attempt to educate.

Tim, but this has become a very highly specialized, technical, and service –oriented business and we like very much serving clients.

My point is that It is small business who will suffer greatly; there is absolutely no question here.

It is my intent to support your efforts try to work with PPACA .

Part of your objective I hope is to bring as many insurance companies and brokers to the exchanges to make this as competitive and user-friendly of a marketplace as possible.

By telling the insurance companies(many which work very closely with brokers) and clients, that I am no longer recognized as being needed, is absolutely the worse decision which can be made at this point if they want the workflow and implementation of the new exchanges and insurance plans to be successful.

I want to be part of this if, in fact, it does succeed.

Finally, In the area of compensation, a small commission reduction is doable. When you hear about a 50% reduction range...now you are going to lose most of your better brokers because they will not be able to cover the overhead required to train and maintain a skilled servicing staff.

**From:** suzy.johnson@nmfn.com [mailto:suzy.johnson@nmfn.com]  
**Sent:** Thursday, March 17, 2011 4:19 PM  
**To:** Mullen, Timothy B.  
**Cc:** ga104sebs@nmfn.com  
**Subject:** Answers to NAIC task force questions below

To NAIC task force:

Please find my input below.

▪ ***What is or is likely to be the impact of removing commissions from what is defined as premium under the MLR requirements?***

The likely impact of removing commissions from premium under the MLR is the creation of a more competitive health insurance marketplace where the many insurance companies who have not been able to meet the stringent requirements for the MLR including broker commissions can continue to participate actively in the marketplace and work towards reducing expenses rather than exit the health insurance industry altogether.

As a result of such a change in the law, brokers will be held to higher standards to provide high value advice and guidance as the broker "fee" will be negotiated disclosed and agreed upon between the client and the advisor. The insurance company will simply act as the conduit for collecting and paying the advisory fees.

It is unfair to include broker commissions in the expenses the insurance companies are allowed to keep to run the plan because the insurance companies need access to the marketplace and prospective customers through advisors who have always dealt directly with businesses.

As well, it is unfair for the advisor to be targeted to take a reduced advisor fee because of short term imposed expense reduction pressure on the insurance companies. I believe the advisory fee should be a negotiated expense between the client and the advisor to be collected by the insurance company as a "service" to both parties.

▪ ***Have commissions been reduced since the passage of the federal law? If so, what is the impact of present and potential future commission reductions? Will this cause access issues? Is it likely agents/brokers will abandon health insurance markets?***

Most of the health insurance companies we deal with have told us that the MLR requirements will require reduced compensation to agents/brokers as we move forward, because there is not enough room in the equation to retain commissions at current levels and meet the MLR requirements.

Some part time agents /brokers who do not function as "advisors" to clients have already abandoned the health insurance market because they cannot compete as highly trained "specialists" in the complicated world of health insurance.

It is not fair to reduce the advisor fees the highly educated, experienced, dedicated and trained health insurance agent receives when the client wants them to be compensated. Most clients believe we provide a high level of value to their companies in the management and administration of their employee benefit plans.

Health insurance is complicated for an untrained human resource professional to figure out and agents who provide a high level of customer and advisory service provide value to the client and the marketplace.

▪ ***What will be the impact of a legislative change that treats producer commissions in the same manner as federal and state taxes for purposes of calculating the MLR?***

The impact will be a marketplace with greater competition and accountability between insurance companies and their end customer and between the advisor and the businesses they are working with.

▪ ***What is your opinion on the optimal solution to balance health plan/insurer concerns, consumer interests and the interests of agents/brokers?***

I believe the ideal system would allow the insurance companies to continue to collect broker commissions (advisory fees) and pay them to the agent/broker as agreed upon by the business customer annually when the insurance rates are negotiated.

Transparency of the advisor fees to the client annually would be a normal part of business.

However, these commissions should not be included as the insurance company "administrative expense" for purposes of the Medical Loss Ratio requirements. The insurance companies should only have to deal with their own administrative expenses so the marketplace can remain robust and competitive.

In my 29 year career selling health insurance, I can assure you that the single most effective "weapon" I can use as an expert advisor to my clients is a robust and competitive marketplace with many health insurance company options to choose from.

If I and my employees are doing our jobs and proactively obtaining competitive bids annually for all customers, they see the value and have no problem paying us for the services we provide.

However, the client is unfamiliar with purchasing advisor services for a fee and this would greatly confuse and frustrate them if they were forced to do so now. The insurance companies are experienced at collecting and paying the advisor fees on behalf of the business clients and the brokers/advisors.

**From:** Neal Scherzinger [mailto:nscherz@alliantservices.com]  
**Sent:** Thursday, March 17, 2011 5:00 PM  
**To:** Mullen, Timothy B.  
**Subject:** reply

The NAIC's Executive Committee Task Force on Professional Health Insurance Advisors, which was established in November, is asking for comments addressing these questions:

- What is or is likely to be the impact of removing commissions from what is defined as premium under the MLR requirements?

**Well, what has already happened. All the carriers have reduced commissions by 20% to 25%. Despite the fact per the (Kansas Commissioner) that the four of the five largest carriers in the state of Kansas already are meeting and have been meeting that threshold.**

- Have commissions been reduced since the passage of the federal law? If so, what is the impact of present and potential future commission reductions? Will this cause access issues? Is it likely agents/brokers will abandon health insurance markets?

**Yes, and most likely because they can since they've already done so...We've already seen carriers leave and abandon certain policies. Hopefully.**

- What will be the impact of a legislative change that treats producer commissions in the same manner as federal and state taxes for purposes of calculating the MLR?

**More of the same...**

- What is your opinion on the optimal solution to balance health plan/insurer concerns, consumer interests and the interests of agents/brokers?

**Keep the government out and let free market work! I could have suggested some changes in 20 pages that would have helped everyone better than what we got.**

**From:** John Crable [mailto:John.Crable@corpsyn.com]

**Sent:** Friday, March 18, 2011 10:02 AM

**To:** Mullen, Timothy B.

**Subject:** The NAIC's Executive Committee Task Force on Professional Health Insurance Advisors

Tim,

First, I want to thank you for seeking and accepting input from brokers and the careful consideration given to the broker commission-MLR issue currently under debate.

Please allow me to provide some brief background information on our company. I am a co-founder of Corporate Synergies Group, we are employee benefits brokers/agents/consultants with over 200 employees serving 600 plus employer groups in the Mid-Atlantic Region. The 600 plus clients have over 250,000 covered lives on healthcare plans that we manage.

**What is or is likely to be the impact of removing commissions from what is defined as premium under the MLR requirements?**

I am not completely clear on this question because I am not sure of the definition of the term "premium" in this context. If I assume by premium the reference is to the current topic of removing commissions from the MLR calculation then I believe everyone wins including and especially the consumer. The fact is that all healthcare companies can and do provide direct to consumer marketing pieces, web access, and pricing and yet even your largest most sophisticated employers choose to engage a broker or agent, they just might be called a consultant and rather than receive a commission the consultant may charge \$375 an hour. I recently met with an employer who had 27,000 employees and even though they had 4 full time and very sharp people in their Human Resources Department dedicated to just employee benefits they still spend over a million dollars a year in fees to 3 different brokers and consultants. Now if a company like that sees the value and need for a broker I have to believe that the average 20 person machine shop also needs the services and expertise delivered by a broker/agent.

**Have commissions been reduced since the passage of the federal law? If so, what is the impact of present and potential future commission reductions? Will this cause access issues? Is it likely agents/brokers will abandon health insurance markets?**

Answered in order of questions.....

Not only have commissions been reduced but several carriers including one of the largest private insurers in our country, Aetna, is removing broker compensation from their rates altogether. They have decided instead to list broker compensation as a separate line item on the monthly billing statement and the client must sign a letter acknowledging that broker compensation is no longer included in their base rates. We have not seen a reduction in pricing for clients as a result of this move.

What we are finding is that almost every client values the role a broker plays however they are now finding it challenging within their own organization to receive approvals to retain the broker at least at the level of engagement they had prior to the fees being a separate line item. Historically our fees covered a wide variety of employee and employer services such as marketing and comparing plan and carrier options, analyzing underwriting and claims, consulting on wellness plans, developing contribution strategies, administering COBRA, providing an employee and dependent call/advocacy center, color communication materials, webinars, compliance assessments and consulting, and administrative services such as retiree billing etc. Due to the commissions being removed and now listed as a fee certain members of the managements teams within our clients want to lower fees in exchange for removing services. This is ok with us as we price and provide services based on the clients budget unfortunately the employees and plan members lose services because the executives only cut what they feel to be frivolous services like an employee advocacy center or color communications when in reality those services are vital to helping the consumer get the most and best use of their health plan. Lower commissions equals less service to the consumer, it is the only way companies like us can continue to stay in business.

It will cause access issues where the brokers simply will not be able to exist under the line item pricing scenario and they pull out of the market. We are fortunate that we have the size and infrastructure to work within a fee based model but I would say that 90% of our competitors simply do not have the volume of business to operate that way. Organizations like ours does not work with small employers and the small employer will be hurt the most by brokers pulling out of the marketplace. the small employers will lose their advocates and trusted advisors.

Yes, we are seeing smaller agencies selling their health insurance business to the large national brokers which is of course reducing competition in the marketplace. We receive several calls a week from smaller brokers looking to sell us their health insurance blocks of business but sadly they are not worth much due to the unsure nature of our business as a result of this very MLR issue. It is sad to talk to a family that has sold and serviced health plans to the mom and pop shops in their town for 40 years and now they want to sell but can't get any value. Imagine running a successful, service oriented family business for 40 years and because of some legislation unintended to effect you and your business specifically you literally have a business worth nothing. I really do feel bad for these friendly competitors.

**What will be the impact of a legislative change that treats producer commissions in the same manner as federal and state taxes for purposes of calculating the MLR?**

I started my career on the insurance carrier side of our business and the reality is that the sales and servicing of insurance has always been driven by third party advocates known as agents and brokers. The insurance carriers simply are not equipped to sell and manage the business on their own which is why even when they had the option to handle these functions internally they always chose to pay brokers to handle that part of the business. What is perhaps even more important is to recognize that yes the carriers pay us in commissions but we do not work for the carriers we represent and work for our clients it just so happens that the clients pay us by way of commissions. To assume we are an administrative expense to an Aetna or a Blues would assume we work for those companies and trust me we do not. We are advocates for the consumer, plain and simple.

**What is your opinion on the optimal solution to balance health plan/insurer concerns, consumer interests and the interests of agents/brokers?**

I am in my 18th year in the insurance business and I can say without reservation that the consumer concerns and interest are the same concerns and interest shared by the broker/agent. We are in an industry where you are only as good as your last renewal effort and client services. There are very few contracts that bind a client and insurance agent and a broker can be replaced and or fired on a whim. Brokers and agents have to prove their value every single day, every single client interaction. The ultimate consumer protection is the idea that a neutral third party is there to assist them to navigate the complexities of healthcare and to assist consumers with service issues and to advocate on their behalf. Insurance companies need brokers to distribute and service clients if they didn't they would have stopped paying commissions before now. Removing the commissions from the MLR calculation allows the insurance company to focus on improving efficiencies in their operating systems, improving administrative function, wellness management etc and not worry about an impending fine because they did not meet the MLR requirement simply because they and gain servicing of their plans through a broker.

In closing I thought it might be helpful to provide a stat from our own company. I mentioned the number of covered employees and dependents in our client base. I mentioned that we provide an employee call center which intakes calls and addresses issues relating to claims, billing, eligibility, enrollment, id cards, patient advocacy etc. In 2010 our Benefits VIP service center had over 58,000 interactions with over 98% of the consumers responding with satisfied or very satisfied in follow up survey results. Those stats include interactions with Medicare and Medicaid patients as well as CHIP programs. We can only provide this valuable consumer service through our commission based arrangement, unfortunately many of our fee based clients forgo our menu of consumer service offerings in favor of only paying fees towards the financial analysis and plan management.

**From:** Darrell Smith [mailto:dsmith@wordandbrown.com]

**Sent:** Friday, March 18, 2011 9:28 AM

**To:** Cliff King

**Cc:** bradford-backlund@leavitt.com; Ken LaRovere; dmazz1@earthlink.net; larry@insurenv.com; dheffley@nevadamedplans.com; richard540@aol.com; greg@clemenseninsurance.com; janm@americansentryinsurance.com; len@insurance4u-us.com; 1chiligirl@cox.net; bobb@kiains.com

**Subject:** Public comments for the Professional Health Insurance Advisors (EX) Task Force meeting on March 27 in Austin, Texas

**Importance:** High

**Mr. King,**

**Thank you for soliciting comments from the public regarding the impact of the Medical Loss Ratio (MLR) requirements of the Patient Protection and Affordable Care Act (PPACA) on health insurance brokers/agents, insurance consumers and insurance markets. I understand that you will be presenting these comments at the Professional Health Insurance Advisors (EX) Task Force meeting on March 27 in Austin, Texas.**

**The following are our responses and comments on this very important topic. Will this email suffice or do you need this in another format?**

**1. What is or is likely to be the impact of removing commissions from what is defined as premium under the MLR requirements?**

PPACA MLR language addresses the Individual & Family Plan (IFP), Small Group and Large Group health markets. IFP and Small Group MLR is set at 80%, Large Group at 85%.

Imbedding broker commissions into the MLR creates the most market disruption in the Individual and Family Plans (IFP) and Small Group segments.

Large Group is likely to be shielded from negative MLR impacts as commissions are historically low due to volume membership and premium as well as a high number of Self Funded groups.

*Key IFP and Small Group considerations:*

- IFP Considerations: The current, pre-2014 IFP market, does not include a mandate to purchase, subsidies to assist in purchasing where needed and remains medically underwritten. Our company's biggest selling IFP carrier has, due to MLR rules, been forced to reduce broker commissions from 15%, to 4% at the low end, based on broker production. This significant reduction is one that few markets could sustain. Rather, such reductions threaten to destabilize the market by making it financially difficult for brokers to

continue providing professional sales and enrollment guidance to IFP consumers.

- While commissions have been dramatically reduced, the amount of work in the pre-2014 IFP market has not diminished. To illustrate the scope of the problem, here is a general list of requirements for brokers involved in broker IFP sales:
  - Pass and maintain licensing requirements;
  - Purchase E&O insurance;
  - Invest in HIPAA compliant infrastructure, which can include an office; a website; a comparative quoting system; support staff, etc.
  - Invest in 'lead sourcing', which can include advertising, direct mail, purchasing leads, outbound telemarketing, community group participation for networking opportunities, etc.
  - Follow-up with prospects with multiple phone calls, faxes, emails and in-person visits. Due to the high cost of health insurance, many prospects will prefer to delay a decision – health insurance purchasing has been referred to as a “grudge buy” that consumers would prefer to avoid altogether.
  - Advise prospects of available multiple plans and benefit choices and provide professional guidance as to which plans best meet prospects' needs and budgets. This requires a thorough understanding of plan networks, benefit designs, service reputations, etc.
  - Guide the prospect through the application process and ensure all needed paper work is completed and submitted on time
  - Negotiate with health plan underwriters, as needed, to assure an approval
  - If necessary, repeat the process with multiple health plans
  - Approximately 50% of IFP applications are rejected by the health plan, thus generating zero income for the efforts of the broker.
  - After the sale, the broker is expected to provide service support for client claim resolution issues, family status changes , benefit questions and more and then repeat sales process at renewal time

- As a rule of thumb, some brokers estimate a 30% success ratio where 70% of their prospect efforts do not result in successfully helping a consumer through the applications process. That means a great deal of prospecting and follow-up.
- On average, to write a single IFP policy, a broker will spend up to 8 hours of prospecting and following-up (factoring in applications that get declined and prospects who do not apply). Average first year commissions of 5% applied to an average \$400 monthly premium will generate a \$240 commission or \$30 an hour in compensation under the above scenario. It is hard to justify running a professional, compliant, and licensed agency at this level of compensation.

Based on the above, brokers may find they can only justify working with just the healthiest and easiest IFP prospects.

After 2014, the purchase of IFP will be mandated, the policies guaranteed issued and many Nevadans will be able to access subsidies. At that time, this process could be re-examined.

But, imposing post-2014 commissions on the pre-2014 market will result in market disruption with the likely result of adding to the number of un-insured in Nevada.

- Small Group Considerations: The small group health market remains fragile. Employers are faced with a tough economy and rising health premiums. In addition, in 2014 under PPACA, there will be no mandates for employers to purchase or penalties for not purchasing. It will remain in the state's best interests to keep employers funding group coverage, whether through the exchange or on the open market. If employers stop sponsoring coverage, many of their employees will join the subsidized pool in the exchange or risk not purchasing coverage at all. The group market requires a sophisticated proposal and in-person presentation, often followed by an in-person enrollment and a high level of service and renewal support

Small Group commissions are sustaining modest reductions at this time and any further pressure will lead to an under-served market. Therefore, like IFP, Small Group broker compensation should be removed from MLR calculations.

**2. Have commissions been reduced since the passage of the federal law? If so, what is the impact of present and potential future commission reductions? Will this cause access issues? Is it likely agents/brokers will abandon health insurance markets? Please cite specific examples.**

Yes, commissions have been reduced by most carriers. As stated above, the amount of commission reduction is certain to have a negative market impact.

In one example, Aetna IFP went from a range of 15% - 20%, based on production levels, to a production level range of 4% - 10%.

**3. What will be the impact of a legislative change that treats producer commissions in the same manner as Federal and State taxes for purposes of calculating the MLR?**

Treating commissions in the same manner as taxes is the logical approach.

The cost to attract, sell, enroll and service a customer is simply an inescapable cost of doing business and should be treated as such. Under the current MLR arrangements, health plans are forced to pay brokers at unrealistic low levels. Yet, brokers remain at the front line in terms of addressing the needs of the uninsured. Without an active and engaged broker community, who will serve today's insurance needs of Nevadans?

**4. What is your opinion on the optimal solution to balance health plan/insurer concerns, consumer interests and the interests of agents/brokers?**

We recommend that broker commissions from IFP and Small Group be removed from MLR calculations. Health insurance carriers fight to offer competitive retail pricing and no carrier has been overly generous with their commission levels.

According to 2008 data from the federal Bureau of Labor Statistics the average annual broker income was \$45,430 annually.

If Nevada wishes to preserve a professional, licensed and experienced sales resource to help consumers and small businesses sort through and purchase health insurance, it should take immediate steps to request a waiver from HHS to remove broker commissions from the MLR computations.

**Mr. King, I thank you for requesting input from the public. I hope that our comments above are helpful and may be of use in the presentation to the Professional Health Insurance Advisors (EX) Task Force meeting.**

**From:** Kevin Sampson [mailto:Kevin@healthbenefits.net]

**Sent:** Friday, March 18, 2011 12:19 PM

**To:** Mullen, Timothy B.

**Cc:** Bradford Backlund; Michael Lyons

**Subject:** Comments for upcoming 3/27/11 NAIC Hearing in Austin

The interests of the general public are under a direct threat by the impending requirements of the Medical Loss Ratio (MLR) provisions of the Patient Protection and Affordable Care Act (PPACA), and unless “Independent Agent” commissions are set aside from the MLR requirements, the interests of the general public will be diminished.

Current PPACA language lumps agent’s commissions, together with insurance company administrative fees, within the MLR allowable percentage, 15% for large group, and 20% for small group and individual policies. In order to make a decision about excluding the agent’s commissions from the MLR percentage, a little background may be in order. Today, the general public has multiple ways to purchase their individual health insurance, and employers have just many options to purchase their group plans, with the majority of purchases handled through the current agent/broker distribution system. This agent / broker system has given the general public the ability to receive unbiased advice about multiple health insurance products, help in the selection of a health plan, and service throughout the life of the health insurance plan, regardless of the insurance company. The ability of the agent/broker distribution system to continue this service to the general public can either be impeded and eventually abolished by including compensation within the administrative fee, or it can be strengthened by including compensation in the same category as the Federal and State taxes, as properly stated within this upcoming Bill. It is my opinion that the general public should have the right to use an unbiased compensated health plan advisor to help them select the correct health plan,

and help them when they have any kind of a question, comment, or concern relating to their health policy. Moving the compensation into the same category as the Federal and State taxes will help them retain this right. If the compensation is left in the MLR formula, the insurance company will eventually become the general public's only advisor.

The question before us today is: "Which distribution model is best for the general public, the insurance company representative, or the independent agent / broker that have full knowledge of multiple health insurance plans?"

The answer to this question should be the primary factor when making the decision to place the agent compensation in the same subset as the Federal and State taxes in the upcoming Bill.

To properly answer this question, we will need to clarify these two commonly used terms:

- 1) An "Insurance Company Representative" is an individual that represents the interests of the insurance company exclusively. The salaried compensation for the "Insurance Company Representative" comes exclusively from a single insurance company, their employer. Over the last few years, just about every health insurance company here in Northern Nevada has established a direct sales distribution system using their own "Insurance Company Representative" that allow them to bypass the "Independent Agent", thereby reducing the insurance companies compensation costs. Insurance Company Reps deal directly with the public for new sales and service. There is no question whose interests are being represented by "Insurance Company Representatives".
- 2) An "Independent Agent" operates in a completely different model. Independent agents represent their client's needs first and foremost.

The client is the employer, and the client's needs are their primary concern, in all matters. Independent agents do not favor one company's products or interests over another. Clients make the determination about the best plan, and because independent agents see multiple company offerings from the 10,000 foot level, they can proactively advise clients about the shortcomings and / or advantages of one plan over another. Clients rely on the experience of independent agents to advise them about the best policy for the best price, and agents rely on their customers to provide feedback about their experience with their recommendations.

And this leads to the contradiction in the current method of compensation that has been present in our industry since "Independent Agents" started representing client's interests first. The biggest part of this compensation dilemma can be resolved by removing the independent agent's commissions from the MLR formula. If the agent's commission is left in the MLR percentage formula as part of the administrative fee, the natural next step for all health insurance companies will be to reduce and eventually eliminate "Independent Agent" compensation. Unless this Bill is modified, health insurance companies will be moving more of their sales tasks to the least expensive distribution method available, and that would be with the exclusive use of their in-house "Insurance Company Representatives". This distribution method definitely places the interest of the insurance company in front of the general public's interests.

Because of the upcoming contraction of the administrative fee percentages, Northern Nevada health insurance companies have already begun to reduce agent's commissions, and this is just the start of the demise of the

“Independent Agent”. All of the health insurance companies providing individual and family policies in Northern Nevada have given their agents notice of their first “revised” (lower) commission agreements. And, last week, Anthem Blue Cross / Blue Shield provided notice that the commissions on both their small and large group products would be substantially reduced. The other group health plan carriers here in Northern Nevada will soon be following Anthem’s lead, just as we saw all of the individual and family carrier’s reduce their agent compensation over a 2 to 3 month period between November of 2010 and February of 2011. Once one company starts to reduce (eliminate) commissions, all are sure to follow. These “revised” compensation agreements are not binding agreements, and they can be cancelled at any time with notice. Once the full staff of lower paid “Insurance Company Representatives” are properly trained and in place, the commissioned “Independent Agent” agreements will be eliminated.

Because of the reduced compensation, and the eventual termination of the agent compensation agreements brought about by the inclusion of the compensation within the MLR percentage, both agents and brokers will be leaving the market. If the agent’s compensation is left in the administrative percentage of the MLR, the path is set for all insurance companies to transition the hourly “Company Employee” into the position of the “Customer Sales” position, and simply eliminate the “Independent Agent”. This would be a simple business decision in the distribution chain of any product.

Unfortunately, the “Insurance Company Representative” distribution model is not good for the general public. The general public will need more unbiased help now than ever as the new PPACA legislation is implemented.

The general public will need to know the complete pertinent details about every different company offering, the timetable and the requirements that insurance companies must follow as this federal legislation progresses. This information can only be delivered with the use of independent, compensated, agent / brokers. The Insurance Company Representative is not in a position to divulge every detail or requirement of PPACA, unless it is to the benefit of the insurance company.

If the decision is made to leave the agent compensation within the MLR formula, the “Insurance Company Representative” distribution model will become the industry standard, the “Independent Agent” will no longer be a part of the system. The public will lose their ability to obtain unbiased advice about their best health plan options when their only advisor is the single “Insurance Company Representative”.

By treating the agent commissions in the same manner as Federal and State taxes, the superior interest of the general public can be maintained. Because “Independent Agents” represent clients, and “Company Employees” represent insurance companies, these diametrically opposing interests cannot be lumped into one compensation bin. To retain the ability to fully represent the public (not the insurance company) “Independent Agents” need to be compensated outside of the realm and control of the insurance company.

The optimal solution for the public’s best interest is to solidify the “Independent Agent’s” position by moving the agent’s compensation away from the insurance company’s control, and this is by placing the compensation outside of the MLR formula, and within the Federal and State Taxes category. By allowing the agent compensation to be in the same subset as the Federal and State taxes, the continued interests of the public will be separated from the interest of the insurance companies.

**From:** Rob Pariseau [mailto:rob.pariseau@goagis.com]  
**Sent:** Friday, March 18, 2011 1:28 PM  
**To:** Mullen, Timothy B.  
**Subject:** Comments on MLR

Mr Mullen,

First, let me thank you for taking my comments.

Second, before answering your questions, let me briefly describe the role of the successful health benefits agent/broker/advisor

-We advocate on behalf of our clients employees to get the fairest possible treatment from their insurance carrier.. Last year we saved our clients employees over a half a million dollars, money that would have stayed with carriers instead benefited our clients employees.

-We save our clients millions annually by creating leverage and negotiating with their carriers. - - We also help them determine the most efficient plan designs and funding arrangements.

-We create multi media communications campaigns to educate employees on how to chose and use their health benefits so they don't buy too much or too little and so they access benefits timely and accurately to get ultimate satisfaction.

-We create and promote wellness programs to help clients target employees most vulnerable to deteriorating health and execute strategies to improve health, save money, increase productivity and reduce suffering.

- We provide patient advocacy services to help employees get the highest quality care, in the most appropriate setting, the first time.

-We help our clients keep in compliance with a plethora of state and federal regulations which lightens the load of courts and regulators.

- What is or is likely to be the impact of removing commissions from what is defined as premium under the MLR requirements? - removing commissions from MLR calculations will take pressure off carriers to cut commissions to meet MLR requirements, allowing us to continue to advocate for our clients and their employees versus their carriers.
  - Have commissions been reduced since the passage of the federal law? If so, what is the impact of present and potential future commission reductions? Will this cause access issues? Is it likely agents/brokers will abandon health insurance markets? - we've seen minimal reductions so far. We hear carriers are waiting on clarification from HHS, etc.
  - What will be the impact of a legislative change that treats producer commissions in the same manner as federal and state taxes for purposes of calculating the MLR? - organizations like ours will continue to be able to advocate, and invest in solutions that enhance wellness, and quality, the best ways to reduce cost in both the short and long run.
  - What is your opinion on the optimal solution to balance health plan/insurer concerns, consumer interests and the interests of agents/brokers? - clearly anything that weakens brokers merely strengthens carriers. Likewise, anything that weakens carriers financially fuels consolidation which reduces competition and increases prices. A strong broker community enhances competition, wellness and healthcare quality. All of these help reduce cost which ultimately promotes access.
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**From:** Elizabeth Lebherz [mailto:elebherz@coverageforall.org]  
**Sent:** Friday, March 18, 2011 2:09 PM  
**To:** Mullen, Timothy B.  
**Subject:** Comments for Hearing on MLR in Austin

Good afternoon Tim, I am writing on behalf of Phil Lebherz, Founder and Chairman of LISI, Inc., a premier California general agency for group health insurance, as well as the Founder and Executive Director of the Foundation for Health Coverage Education (FHCE), a 501(c)3 non-profit organization dedicated to helping the uninsured navigate the complex health coverage system. FHCE will be exhibiting at the NAIC Conference next weekend, and Phil wanted to share his comments to be considered at the hearing.

Phil Lebherz' comments: To begin, our organization has assisted over 2.5 million people with identifying their health coverage options since 2004. Through our [website](#) and U.S. Uninsured Help Line 800-234-1317, we continually receive feedback on how difficult it is for the average person to understand the available health coverage options and how much of a struggle it is to navigate the complex enrollment procedures to actually get covered. We have been performing a Patient Advocacy Study in 4 Emergency Rooms in San Diego, CA and have found that out of the 13,069 uninsured individuals who have taken our [Health Coverage Eligibility Quiz](#), 79% have been eligible for some sort of public health coverage, but are not enrolled. This indicates that there is a clear issue with the enrollment process in this country. We have hundreds of brokers who volunteer to assist our agency with helping the uninsured find coverage, whether it is public or private. One-on-one interaction coupled with the broker's knowledge of the industry is a facet of the industry that facilitates enrollment in all programs. Cutting the compensation of brokers, which was established in a free and open competitive market, will dramatically increase the uninsured in America because. You may or may not know this, but in groups of over 100 employees the commissions to brokers are published on the mandatory IRS schedule 5500, which has to be included in tax reporting every year. If American companies accept this commission, why would Congress think it knows better than the marketplace?

Brokers perform all kinds of services in the individual and small group market place. They have to not only know the health insurance business, but also the tax laws, discrimination laws, underwriting guidelines, and the different distribution channels for care. They need to be advocates not only for the small group, but also for the services provided to the employee as well as the dependents of the employees. It is not unusual for working Americans to share their most intimate information in life with the broker whom they trust to help them through some of their most trying times. The commission to the brokers, are paid in the premiums of individual and all size group policies as a convenience to the premium payer. The commission is not an expense of the insurance company and should not be computed in the MLR. The commission is simply a pass through of the cost for the broker's expertise, which, in most cases, the client is happy to pay for those services.

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**From:** Dave Williamson [mailto:dwmson2@windstream.net]  
**Sent:** Friday, March 18, 2011 4:02 PM  
**To:** Mullen, Timothy B.  
**Subject:** MLR impacts

I will sound off on the issue. I have never seen such a ludicrous approach to any problem as the one used by the President and the inept leaders of the last Congress.

The impact on the agents and on accessibility is tremendous.

(1) I have only been an agent for 10 years. I have stopped offering health insurance in my agency. Too much effort for too little compensation.

(2) The people looking for coverage today have an even worse time than prior to the passage of Obamacare. The rates are higher, the underwriting is more restrictive, ie no company will write a dependent on a policy by themselves whereas previously a 19 year old trying to get on his/her own could have their own reasonable policy. Not now.

(3) I am glad that I have spread my business model into areas other than health, otherwise I would be out of business, out of work and out on the street.

**From:** tim@thebenefitbarn.com [mailto:tim@thebenefitbarn.com]  
**Sent:** Friday, March 18, 2011 5:48 PM  
**To:** Mullen, Timothy B.  
**Subject:** MLR

The MLR regulations have given insurance companies the ability to slash agent's commissions and blame the government. The damage it has done to the distribution system is irreparable. I know that I, as an agent, am no longer actively marketing major medical insurance. The PPACA has forced agents who used to work with individuals and small groups to reinvent their practices. We had 3 years before our entire practices would be replaced by the new exchanges. At least we had time to transition without panic.

The MLR cut that transition time from 3 years to 9 months. The drastic cut in commissions of 40-70 % means I have to do more work for less money. The insurance companies are telling me that I can earn that money back if I place all my clients with them. That seems to work counter to the idea of giving the public choices.

I will still work with people to obtain major medical insurance who contact me by word of mouth but I no longer spend money to actively market for the insurance companies. This time last year I was looking to expand my practice. Since the MLR cuts, I am just looking to survive long enough to transition into senior insurance. I really don't know whether to blame Kathleen Sebelius or the insurance companies for my lower income. I suspect there is enough blame for them to share.

All I know is that a single, independent agent cannot support him/herself working exclusively with health insurance for families without prostituting him/herself and placing all their business with a single company. He/She has no choice but to transition into another line of business so that they are established when the exchanges make agents obsolete.

Even if the MLR regulations are amended by HHS, there is no guarantee that the insurance companies will reinstate commission levels to their prior levels.

**From:** Stan Dean [mailto:standeanclu@hotmail.com]  
**Sent:** Saturday, March 19, 2011 2:25 PM  
**To:** Mullen, Timothy B.  
**Subject:** Effect of MLR

I'm responding to your inquiry regarding the effects of the MLR provisions.

What is or is likely to be the impact of removing commissions from what is defined as premium under the MLR requirements?

Removal of commissions from the MLR requirements will enable agents to address the issues involved with assisting individuals and groups find coverage which is suitable to their perceived needs and budget. I'm finding that it's not feasible to provide the level of service clients require at the new commission levels.

Have commissions been reduced since the passage of the federal law? If so, what is the impact of present and potential future commission reductions? Will this cause access issues? Is it likely agents/brokers will abandon health insurance markets?

I'm enclosing a graphic which dramatically reflects the effect of MLR requirement on the commissions for my individual book of business. On average, the effect has been a 50.91% reduction. The only reason the reduction is 50.91% is the fact that the most drastic reductions are at younger ages. The only saving grace is that when commissions are based on percentage of premiums, larger premiums generate larger commissions. Since my book of business is spread over a broad base of members, the reduction in commissions is "only" 50.91%. My take from the whole issue is that in order to maximize commissions under the current rules is to sell policies with low deductibles and rich benefits. Since I'm an advocate of Health Savings Accounts, that's counter to my convictions. I feel that to control insurance costs, we need to involve members in the claims process, or in the vernacular, have "skin in the game". I think that once people realize what the actual costs of care, they become better consumers.

Family of 5		Premium	
		Pre-MLR	Post MLR
		587.40	587.40
Male	46	17.75	
Female	40	17.75	
Male	14	17.75	5% of Total Family Premium
Female	11	17.75	
Male	7	17.75	
Total Comm		88.75	29.35
		66.9% Reduction	

Single Male plus Child		Premium	
		Pre-MLR	Post MLR
		215.39	215.39
Male	43	17.75	
Female	11	17.75	
Total Comm		35.50	10.77
		66.7% Reduction	

Single Female		Premium	
		Pre-MLR	Post MLR
		97.87	97.87
Female		17.75	
Total Comm		17.75	4.89
		72.5% Reduction	

What will be the impact of a legislative change that treats producer commissions in the same manner as federal and state taxes for purposes of calculating the MLR?

The current requirements do not recognize that as independent producers, we are responsible for all of the expenses involved in developing a relationship with a client. The current arrangements does not take into account that nothing in the requirements allows for fixed expenses, such as office rent, phones, computers. If we were to apply the same rationale to the provider side of the issue, i.e., providers, many of the expenses they incur are not directly related to patient care. Why are we treated differently? In my business, I'm having serious consideration of either offering richer benefit plans and reducing my consideration of young prospects. I cannot justify working with prospects who generate, i.e. \$4.89 per month when I'm looking at fixed overhead and the value of my time. While some agents I know have made the decision to abandon the market, that isn't a direction I intend to take. I'm just going to more judicious in deciding who I will deal with.

What is your opinion on the optimal solution to balance health plan/insurer concerns, consumer interests and the interests of agents/brokers?

I'm unsure as to what can be done but I think that agents needs must be addressed. We have active associations, i.e., the National Association of Health Underwriters who do a great job in advocating for agents, however, I' not aware of any individual agents who have been allowed to give their view and ideas.

As an agent with 47+ years of involvement in the health insurance business, and having experience on both the company side and agent side, I'm concerned for the industry. It appears to me that the whole intent of the current administration to eliminate agent involvement and go to a single payer system. If one likes other government agencies, i.e. the U.S. Postal Service, Amtrak, etc., I guess they'll love universal health care. Anecdotally, I could provide numerous of people who have experienced care under the Canadian and English health systems, and the negative anecdotes greatly exceed the positive ones. I hope this email adequately answers the question as to my views.

If you have any questions or need additional information, please give me a call at 208-634-3069. If I'm unavailable when you call, leave a message on my Voice Mail and I'll return your call at my earliest opportunity.

**From:** Haraden, Pat [mailto:pharaden@longfellowbenefits.com]

**Sent:** Sunday, March 20, 2011 10:06 PM

**To:** Mullen, Timothy B.

**Subject:**

Dear Mr. Mullen:

My name is Patrick J. Haraden; I am a licensed life and health producer and advisor in my home state of Massachusetts. I also hold various producer and consultant licenses throughout the country. My firm, Longfellow Benefits, provides health and welfare brokerage and consulting services to over 200 clients in over 20 states.

No matter what your opinion of the Patient Protection and Affordable Care Act, I believe we can agree that it is important to preserve consumer access to independent advocates who can help them navigate options and get the best service possible in the private insurance market. Unfortunately, that access is critically endangered because the new medical loss ratio (MLR) requirements has already led to compensation for independent insurance agents and brokers being slashed abruptly, in many cases by 50%.

Licensed independent insurance producers (agents and brokers) provide consumers of health insurance--both individuals and employers--with critical services. They help clients purchase health insurance by acquiring quotes, analyzing plan options, and consulting through the purchase process. After a plan is purchased, these licensed independent professionals also help employers comply with State and Federal laws and regulations; assist with establishing cafeteria plans and flexible spending arrangements; create educational materials and provide on-site assistance to aid in employee benefit communication; assist in managing eligibility for new hires and terminated employees; provide advocacy for employees and individual policyholders through the health insurance claim process; and advocate for employers with insurers in developing proposals, renewals, and for service issues throughout the year. To ensure their competence with all these tasks, these producers are required to complete continuing education on an ongoing basis to maintain their licenses.

In response to the Task Force's specific issues:

What is or is likely to be the impact of removing commissions from what is defined as premium under the MLR requirements?

If commissions are excluded from the calculations, similar to premium taxes, fewer employers will consider dropping employer sponsored health insurance coverage altogether. Employers rely on independent brokers to assist them and their human resource departments in their employee benefit programs. Without brokers, or with fewer dollars to pay for these essential services, more employers will simply pay the penalties under PPACA for not offering coverage, and let their employees purchase coverage through the exchanges, with no licensed, seasoned professionals to assist them.

Have commissions been reduced since the passage of the federal law? If so, what is the impact of present and potential future commission reductions? Will this cause access issues? Is it likely agents/brokers will abandon health insurance markets? Please cite specific examples.

Yes. Specifically Aetna and Coventry have removed all commissions from their products and have told the producer community to negotiate commissions with each client and

they will provide billing services in some cases. Although this method may sound like a viable workaround, it does create issues when dealing with the employees paying their share of the “premium” under a Section 125 premium plan, as well as the proper calculation of COBRA rates for former employees and dependents.

What will be the impact of a legislative change that treats producer commissions in the same manner as Federal and State taxes for purposes of calculating the MLR?  
What is your opinion on the optimal solution to balance health plan/insurer concerns, consumer interests and the interests of agents/brokers?

As mentioned above, the consumers are mostly unaware of how the commission system works for employer sponsored health insurance since they pay such a low percentage of the premiums, and an even lower percentage of the commissions. Consumers understand the role of a broker as they (and members of this task force) use them without hesitation on auto, homeowners/renters, and other types of insurance as well as other purchases such as homes, apartments and stocks and bonds. Consumer groups, some funded by the insurance companies and taxpayers confuse the issue by saying they are lowering healthcare costs by eliminating the “middlemen” and other similar phrases. As we know from our experience in Massachusetts, very few employers chose to utilize the exchanges because of the lack of customer service and broker participation. “Navigators” or other similar roles are very helpful in helping people choose free or subsidized insurance, but they do not replace the role of the professional brokers for individual or employer sponsored coverage.

Licensed health insurance producers simply cannot continue to provide all these valuable and necessary consumer services without adequate compensation for their time, training, and increasing compliance costs. Like taxes, the portion of health insurance premiums paid over to independent agents is not part of an insurance company's potential profits, so it should not be part of the MLR calculation. These agents serve the employer/consumer, not the insurance company, and their compensation is included as part of the premium as a convenience to the consumer. Compensation is frequently negotiated with the producer and the employer depending on the level of services provided, and the complexity of the case. Prompt action is required to restore adequate compensation for the services these licensed professionals provide to consumers.

The decision to exclude producer commissions from the MLR calculations still does not address one of the main issues that PPACA was meant to address, and that is healthcare costs. Broker commissions, which are regulated by market conditions, have not increased (several have decreased) as a percent of premium over the last several years. The same can not be said about pure medical and pharmacy claims expenses.

In my experience most big life decisions are emotional rather than rational, which is why we use professional brokers or other professionals for all our large purchases. Healthcare is the most emotional purchase because of the irrational behavior that drives people to the most costly providers and plans, assuming incorrectly that they provide superior care.

I would urge the Task Force to make a rational, rather than emotional or political decision to exclude commissions from the MLR calculation.

**From:** Marybeth Snyder [mailto:msnyder@superiorbenefitplans.com]

**Sent:** Monday, March 21, 2011 7:45 AM

**To:** Mullen, Timothy B.

**Cc:** Elizabeth Bettinger

**Subject:** Broker Commissions and PPACA's Medical Loss Ratios: Groups Need Disclosure AND Compensated Assistance

I read in Employee Benefit Advisor that you were seeking comments on this topic.

The PPACA loss ratio requirements are intended to highlight/reduce insurance company profits. Ironically, by including Broker commissions in these loss ratios, more room is granted to the insurance companies to manage to these loss ratios. This outcome is not what PPACA intended: that insurance companies would have it easier at the expense of fewer services to employers seeking to purchase health insurance for the benefit of their employees.

I believe that broker commissions should be removed from what is defined as premium for the purpose of the MLR requirements.

Our client companies rely on us to manage eligibility, Cobra, Mini-Cobra; advise on renewal choices, change carriers and vendors, assist employees with open enrollment choices of plan, solve problem claims, interpret carrier managed care requirements and contract provisions, run interference when ID cards don't arrive, and negotiate rates, funding arrangements and plan provisions.

In anticipation of the loss ratio changes, carriers in our market have reduced staff making it even less likely that employers get the help they need to manage their plans and to assist their employees.

In anticipation of the loss ratio changes, carriers in our market have cut broker commissions making the performance of our service largely uncompensated in groups of fewer than 50-100 employees.

Brokers fulfill a key roll of advocating and negotiating between client companies and insurance companies and vendors. We must be compensated to perform this roll. Provided full disclosure is made to the client of the broker compensation and the services, broker commissions should stand outside the loss ratios.

**From:** Ron Iverson [mailto:roniverson@guardingyourgold.com]  
**Sent:** Monday, March 21, 2011 9:57 AM  
**To:** Mullen, Timothy B.  
**Subject:** Compensation structure for agent/producer/brokers after PPACA

**Dear Mr. Mullen and NAIC Committee members:**

I am taking this opportunity to address your committee in regard to compensation structures being considered after Minimum Loss Ratio provisions of the PPACA.

I am currently in my 41st year in the insurance business, having been an agent in one town in one state during that time. I have also held non-resident licenses in several other states during that period.

I have experienced insurance operations in both the Property/Casualty and Life/Health arenas. I have been successful as an agent, a broker, a General Agent, a Managing General Agent, and as a National Marketer during this forty years. I have authored several books and insurance continuing education courses regarding Medicare, Medicare Supplement, Medicare Advantage and Medicare Part D, as well as Long Term Care Insurance. For several years I taught insurance continuing education.

**I provide this background for one simple reason--to illustrate that the agent is the backbone of the insurance delivery system. While there are those who feel that there is no value in compensating agents for their work, and that health insurance can be delivered by simply choosing a plan from a computer, I write to tell you they are wrong.**

Delivery and distribution is a common challenge to the marketing of **any product** produced in the free enterprise system--whether it be clothing, cars, food, electronics, or any item found in a small local store or a large box store. **Delivery of health insurance is no different.**

**The days of "getting rid of the middleman" are long gone.** With 309 million people in the United States, the average person has no idea of how or what to purchase in relation to getting the best deal for their available monies. There is probably no more important **informational or educational need** than that found in insurance in general, and health insurance in particular. This need is fulfilled in the "eye to eye" contact between purchaser and seller. I have educated, advised, and counseled thousands of policyholders in helping them to understand the fundamentals and options of their insurance purchase decisions.

**Without the help (and significant work) of hundreds of thousands of insurance producers, most Americans would be seriously deficient in understanding the details of their health insurance needs.** America cannot afford to consider laying the supposed "savings" of exchanges, group plans,

individual plans, and health care insurance in general, on the backs of producers through either lower or non-existent compensation, by including their work in a minimum loss ratio scenario. **To do so would be seriously misguided, and create an educational void which would defeat the purpose of health care savings and availability in this country.**

There is no benefit to the average Americans' health insurance needs via a few **"cookie cutter" plans, a few "exchanges," and a few group health choices,** either to the employer or the employee. Without the aid, education, and assistance of insurance producers (who need to be adequately compensated for their work to be able to stay in business) **the American public is the loser, if this provision of PPACA is allowed to impede the needs of the public.**

Please consider my thoughts and I thank you for the opportunity to express them.

**From:** Stacey Dumas [mailto:staceyd@benefitsolutionsllcs.com]  
**Sent:** Monday, March 21, 2011 12:21 PM  
**To:** Mullen, Timothy B.  
**Subject:** MLR Rules

Hello,

I am writing to you in response to an article I read in Employee Benefit Advisor that advised your committee is looking for response from the broker community regarding the MLR. I would like to provide my thoughts on the questions as they were outlined and appreciate your consideration.

As I understand it, currently it is anticipated to include broker compensation on the administrative side of the MLR. On a conference call with Cigna a few months ago, Cigna stated that they look at that proposal as negative impact to brokers since it would require brokers to be compensated from the insurance company "profits". So far, commissions have not been greatly reduced by any of the three carriers in Vermont, but we are told that it is a calendar quarter-by-quarter basis now with some companies. I think that the insurance companies are taking a "wait and see" approach but making us aware big changes could happen at any given time. As you can imagine, this puts brokers on shaky ground and I know there are some that are either abandoning health insurance or focusing new efforts in more promising, stable areas.

I do understand the issues surrounding health care and access issues. In the state of Vermont, a program that was intended to provide coverage for all Vermonters called "Catamount" was enacted about 4 years ago (it is likely that program will be dissolved shortly due to lack of funding). As a broker in Vermont, I have people calling me frequently for help trying to understand/apply for catamount and are frustrated because when they call the call center for Catamount, they frequently received wrong information or differing information when calling more than once. Had brokers been the source of support, there would have been less frustration. Although one insurance company did allow broker compensation, it was only for those plans that people paid full price for. Rarely, were people paying full price. But, since the people that were supposed to be the call center for catamount were either not informed or not perhaps as interested, I frequently helped people (without receiving any compensation for it) attempt to figure out "the system". Brokers are licensed individuals who are required to take 24 continuing education hours per two year period. Most brokers I know will help people even if we can't be compensated .....but if the compensation goes away entirely I believe you will see brokers move to other areas and abandon health insurance almost entirely, except for large group, which will leave only the call centers for the majority of Americans.

I believe that the more cost effective approach would be to keep the broker compensation outside of the administrative portion of the MLR (if that is indeed where it will likely have a negative impact on brokers). When the United States already has a well trained, well educated base of brokers that can do an outstanding job of helping people find the care they need, it seems like it would be far more cost effective to continue in this way with brokers being compensated by the plans they sell, on a continual monthly basis so that we are there to help people as their needs change. "Selling" health insurance is a very small part of what we do – advising people to get what they need and can afford is really what we are all about. **Also, this**

**is a sales force that the government does not have to fund, we are subcontractors!** Staffed call centers are going to require benefit packages, retirement plans, etc.

Perhaps the thinking is that brokers will turn to fee for service work? I think some will. But, I think it will be a harder sell since the new system is supposed to be simplified (however people WILL still need help), plus it will not be less expensive to buy on the exchanges (at least not in the long run), so to pay a broker will be an additional fee many will not feel like they can afford. Additionally, brokers then become collection agencies and will greatly increase overhead to have to do billing/collection, etc which may make it a less desirable occupation. I have long-standing relationships with my clients and they trust me to guide them in the best way and although I think they would hire me if they could, having “another bill” will be something they will try to avoid and try to make it a go on their own. They WILL still have that need for assistance after PPACA takes effect, but will likely count on the call centers to direct them.

The other question that I ask is this: If you put all of the brokers in the country out of work, will you have just “fired” a talented well trained body of workers (that will then join the ranks of the unemployed) and hire a new staff of paid employees that need to be trained? Will they be required to be licensed? What if it doesn’t work well – will it be too late since brokers had to move on to survive?

My opinion is this:

Treat your broker community as the asset we are. Don’t try to “re-create” what does work. Build in our compensation, fair and reasonable to ALL – the broker, the consumer, the government and don’t put more people out of work. Keep us employed and let us do the work we know and love and are very, very good at! Work with us to figure out what is fair and reasonable, let us help you design how we can best assist the consumer. It will SAVE government money to build us into the system, not throw us out. We KNOW insurance – we know it well, and we care about the people we help. You will get a better monetary return and a happier consumer base that feels well supported and assisted if you make us a part of the process.

Thank you for letting me express my opinion. I am happy to provide more comment if there is opportunity in the future as well.