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CONSUMER ALERT

ASSOCIATION HEALTH PLANS ARE BAD FOR CONSUMERS

Since the beginning of the debate on Association Health Plans (AHPs) the NAIC has joined with the National Governors' Association and the National Conference of State Legislatures, as well as several insurance and consumer groups, in opposing AHP legislation. This opposition stems from our strong belief that AHPs, as currently proposed in H.R. 1774 and S. 858, would: 1) Threaten the stability of the small group market; and 2) Provide inadequate benefits and insufficient protection to consumers.

AHPs would fragment and destabilize the small group market, resulting in higher premiums for many small businesses.

- Many states have acted to make health insurance more affordable to small businesses by creating small group insurance pools that spread risk across the state. The proposed legislation would allow employers with younger, healthier workforces to withdraw their employees from a state's small group market, thus leaving behind small businesses with older and sicker employees. While the rates may drop for those businesses that belong to associations, which offer health coverage, premiums will increase for the remaining pool.
- The legislation would exempt AHPs from state minimum benefit and service area requirements, thus allowing them to "cherry pick" good risk through the design of the benefit package or choice of service area. AHPs could also have limited risk simply due to the types of businesses that belong to the association.
- The proposal would not prevent employers from jumping back into the general small group market pool when they need more coverage (access is guaranteed under HIPAA portability requirements) and then switching back to the AHP after that care is received. Such adverse selection could significantly raise rates in the general pool.
- The proposed AHP legislation would allow certain AHPs to self-insure and accept insurance risk. These risk-bearing AHPs would not be subject to state solvency requirements that are in place to ensure that insurance companies have sufficient resources to avoid financial failure. Instead, inadequate federal solvency requirements are established – a maximum surplus of \$2 million would not provide enough protection. Likewise, the stop-loss coverage requirements would be ineffective because there would

not be sufficient oversight to ensure that adequate coverage exists when needed. States have been moving toward a risk-based standard that provides consumers greater assurance that their health plan has the resources necessary to fulfill their contracts. If this AHP legislation is enacted, consumers could expect plan failures like we saw with Multiple Employer Welfare Arrangements (MEWAs) in the 1990s.

AHPs would be exempt from state solvency requirements, patient protections, and oversight exposing consumers to significant harm.

- As currently proposed, AHPs would not be subject to state patient protections, including: direct access to an OB/GYN, access to emergency care, access to specialists, mandatory grievance procedures, and required internal and external appeals timelines and rights. Fewer consumers would have their rights protected.
- Oversight of AHPs would be inadequate at best. The AHP legislation does not include new resources for federal regulators and depends primarily on self-reporting to identify potential financial problems. States currently provide the oversight and regulation necessary to protect consumers from plan failure and fraud; the federal government would not be able to effectively duplicate the state structure.

The National Association of Insurance Commissioners is a voluntary organization of the chief insurance regulatory officials of the 50 states, the District of Columbia and four U.S. territories. The overriding objectives of state regulators are to protect consumers and help maintain the financial stability of the insurance industry. If you would like more information, please contact the NAIC Communications Department at (816) 842-3600 or send e-mail to communications@naic.org.