



California Department of Insurance

CA Health Benefit Exchange
Board Presentation
May 24, 2011



Department of Insurance

Important Roles as Regulator of Health Insurance

- Licensing and Solvency
- Policy Approval
- Consumer Services
- Market Conduct
- Enforcement and Fraud
- NAIC and federal role



Small Group and Individual Markets

- **CDI Regulated Health Insurance for Small Group and Individual Markets**
 - 1.1 million – Small Group Health Insurance
 - **This is 33% of the Small Group market in CA**
 - 1.34 million – Individual Market
 - **This is 65% of the Individual market in CA**



Company Licensing

- Companies must be licensed prior to offering products to Californians
- Review by CDI:
 - Legal: Corporate Affairs Bureau
 - Financial Analysis
 - Company Licensing Division
 - Rate Filing Bureau (for some products)



Qualifications for CA: CDI reviews...

- Company's capital and investments
- Financial stability
- Reinsurance arrangements
- Management competence, character, integrity
- Claims handling
- Fairness of business methods
- Hazards to policyholders or creditors



Policy Review Process:

- Most policy forms have variable ranges, may be used in a number of different products.
- Attorneys review policies to
 - Assure compliance with state law and PPACA, including a detailed context review to eliminate internal contradictions within policy.
 - Reduce contractual uncertainty and ambiguity

Insurance Code § 10291.5

(b) The commissioner shall not approve any disability policy ... which is unintelligible, uncertain, ambiguous, or abstruse, or likely to mislead a person to whom the policy is offered, delivered or issued.



Rate Review: Financial Surveillance Branch (FSB)

Health Actuarial Office

- CDI reviews health insurance rates for individual, small group. There may be large group filings later this year.
- If CDI finds that an “unreasonable rate increase” is “not justified,” CDI posts findings on website.
- CDI does not have rate approval or disapproval authority.
- CDI reviews individual health insurance and Medicare Supplement rates for compliance with medical loss ratio requirements.



Consumer Services and Market Conduct Branch

- **Calls Received through Toll-Free
Consumer Hotline**
 - 200,000 calls in 2010 – for all lines of insurance

Types of health care call received by CDI

- 2010 – 51% Claims Issues, 46% Rating & Underwriting Issues
- 2007 – 65% Claims Issues, 35% Rating & Underwriting Issues



Consumer Services and Market Conduct Branch (cont.)

- **Consumer and Provider Complaint Process**
 - CDI investigates all consumer and provider complaints within our jurisdiction.
 - Each case is assigned to an Insurance Compliance Officer.
 - Within 3-5 days, the Officer will acknowledge the case to the consumer, contact insurer and seek detailed response.
 - The Officer mediates the dispute and respond back to consumer with result of the review.
 - If issues related to medical necessity, case referred to IMR program.
 - Perform regulatory review of the insurer's practices.
 - Make a determination if violations are present and if the case is deemed justified.
 - Significant violations are referred to Legal Division for enforcement.
 - Trends are referred to Market Conduct for examination.



Consumer Services and Market Conduct Branch (cont.)

- **Consumer Protection:**

- CDI investigates and resolves consumer and provider complaints, referring appropriate matters for enforcement and market conduct examination.
- CDI implements independent medical review processes to determine the propriety of treatment decisions controlled by insurers.



Licensed Health Agents

- Licensing education and examination standards ensure quality and protect consumers
 - 320,000 agents and brokers are licensed to practice in California.
 - The Department issues approximately 70,000 new licenses per year and renews approximately 105,000 licenses per year.
 - All new in-state applicants and out of state applicants who have not previously been fingerprinted receive background checks and are fingerprinted.
 - Extensive background checks are conducted on approximately 3,800 cases per year where misconduct is suspected.



Enforcement –Insurer Conduct

- Unfair Practices Act (UPA) and other statutes of general applicability
- UPA prohibits specified acts including misrepresentation of financial status of an insurer or an insurance product, unfair discrimination in rates, and numerous claims related practices. First instance violations subject an insurer to a civil penalty of up to \$5,000, or if willful of up to \$10,000, and an Order to Cease and Desist the acts.
- Any insurer's Certificate of Authority can be suspended for conducting its business fraudulently, not carrying out its contracts in good faith, and habitually compelling claimants or creditors to resort to litigation.



Fraud investigation and prosecution

- Department of Insurance peace officers investigate and arrest those engaged in fraud. The average caseload for the Fraud division is approximately 2100 cases.
- In 2009-10 chargeable fraud in healthcare handled by Department fraud officers amounted to \$320,384,787.



Fighting fraud (continued)

- “Qui tam” actions:
 - CDI obtains substantial penalties from perpetrators of fraudulent, wasteful, and abusive costs and kickback schemes in the medical system.
 - Basis: because the cost of such schemes are borne by insurers.
 - CDI investigates and intervenes in “whistleblower” lawsuit.
 - CDI recovers restitution and significant statutory penalties for the state for each act of misconduct.



Fighting fraud (continued)

Consumer Protection:

- CDI has a long history of criminal prosecution of fraud, and recovers substantial penalties.
- CDI provides prosecutorial support and expertise to District Attorneys across California.



NAIC Membership

- **National Voice, National Role:**

- CDI is a voting member of NAIC.
- NAIC has pivotal role in federal health reform implementation.
- Commissioner Dave Jones is a member of the NAIC's Health Committee.
- CDI chairs and participates in a wide range of NAIC committees, task forces, and working groups.
- CDI also directly interfaces with HHS.



CDI-DMHC Coordination

- Many ongoing, regular consultations. Here are some examples
 - Two weekly calls between department actuaries and attorneys regarding PPACA and state legislation implementation, development of guidance and regulations
 - Quarterly meetings of Consumer Services Staff



Responsibilities Specific to CA's Health Benefit Exchange

- Carriers must be in good standing with regulator in order to sell in Exchange.
- Insurance Commissioner must make recommendations to Exchange Board about whether any carriers should be excluded based upon pattern of excessive rates.



Responsibilities Specific to CA's Health Benefit Exchange

- Review products for compliance with state and federal law.
- Rate review: under federal law, products must be priced the same inside and outside the Exchange. MLR and actuarial value reviews.
- Help consumers by answering questions, assisting with claims disputes and investigating all consumer and provider complaints.