

October 14, 2021

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-9907-P
P.O. Box 8016
Baltimore, MD 21244-8016

Re: Requirements Related to Air Ambulance Services, Agent and Broker Disclosures, and Provider Enforcement

Dear Sir or Madam:

On behalf of the Independent Insurance Agents and Brokers of America (IIABA), I write to offer our organization's views concerning the proposed establishment of insurance agent and broker compensation requirements for issuers in 45 CFR 148.410.

Founded in 1896, the IIABA is the nation's oldest and largest association of independent insurance agents and brokers, representing more than 25,000 agency locations under the Trusted Choice brand. Trusted Choice independent agents offer consumers all types of insurance—property, casualty, life, health, employee benefit plans and retirement products—from a variety of insurance companies.

IIABA strongly opposed the enactment of Section 2746 of the Public Health Service Act by Congress last December. These statutory requirements will impose new burdens and costs on the insurance industry without benefiting consumers or lowering insurance costs, and they will create confusion and lead to worse decision-making by purchasers. Transparency is laudable and often beneficial, but these new mandates will not produce the intended results in this context and will merely complicate the insurance purchasing process. We understand, however, the Department of Health and Human Services (HHS) is only engaged in a rulemaking process and acting at the explicit direction of Congress. We hope that as you finalize the development of 45 CFR 148.410 that you will be cognizant of the disruptive impact these requirements will likely have and look for ways to implement the will of Congress in the most efficient, effective, and reasonable way possible.

We also offer the following comments:

- IIABA appreciates that the notice of proposed rulemaking notes that these disclosure obligations and the responsibility for satisfying them falls only on issuers. There are many parties, including individual insurance producers, who have commented on the proposed rule that appear to believe the compliance obligation will apply to them. For this reason, HHS may wish to reiterate that these new requirements and the costs of compliance associated with them apply to issuers.
- The notice of proposed rulemaking also makes the assumption that compensation disclosures to potential policyholders prior to finalizing enrollment would be made by agents and brokers on behalf of issuers. We appreciate, however, that the notice also points out that issuers are



the parties responsible for compliance and presumes that issuers will be the entities providing compensation disclosures on documentation confirming enrollment and on renewal notices.

- The proposed rule's definition of and use of the phrase "commission schedule" is somewhat confusing and does not make clear what is intended. An issuer that pays an insurance producer a commission of X% for enrolling an individual in health coverage should be able to satisfy the new obligation by disclosing that a commission of X% was paid without also having to provide a more formal and potentially confusing "commission schedule." Providing a commission schedule to policyholders could be a way to satisfy the obligation, but it should not be required in all instances and scenarios.

We would like to thank you for the opportunity to express the views of independent insurance agencies on this issue. The IIABA appreciates the effort that has gone into this proposal. Please contact Wyatt Stewart at wyatt.stewart@iiaba.net or (202) 863-7000 should you wish to have additional information regarding our comments.

Sincerely,

Wyatt Stewart

Wyatt Stewart

Assistant Vice President, Federal Government Affairs

