Patient Protection & Affordable Care Act (PPACA) Overview

House Select Committee on PPACA

January 25, 2013

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Office of Insurance Regulation (Office) 
Objectives - PPACA

- Reduce uncertainty to help maintain a stable market
- Allow companies to expedite product approval
- Promote off-exchange competition
- Maintain consumer protection / transparency
Life & Health Product Review

Form Review - Florida is a Prior Approval State:
For all policy forms (large group, small group and individual)

➢ Determine compliance with Florida Statutes and Rules (e.g., policy contracts, enrollment forms, schedule of benefits)

Rate Review - Florida is a Prior Approval State:
For small group and individual policies

➢ Actuarial reviews of rate filings to ensure compliance with Florida Statutes and Rules

Examples of Rating Factors: Age, Gender, Smoking status, Geographic location

Examples of Analysis Factors: Historical loss experience, Medical trend, Insurance trend, Risk changes
Major Challenges

- Conflicts between federal/state law
  - Instances of PPACA having greater consumer protections
  - Instances of Florida having greater consumer protections

- Substance of Office form & rate reviews

- Potential resource issues
# Major Conflicts of Law

<table>
<thead>
<tr>
<th>Issue</th>
<th>Florida</th>
<th>PPACA</th>
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</thead>
<tbody>
<tr>
<td><strong>Rating</strong>*</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Age Rating</td>
<td>Actuarially supportable - -- ratio is typically 7:1</td>
<td>Limited to 3:1</td>
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<tr>
<td>Gender Rating</td>
<td>Actuarially supportable – male/female rates different</td>
<td>Unisex rating</td>
</tr>
<tr>
<td><strong>Forms</strong></td>
<td></td>
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<tr>
<td>Rescission Language</td>
<td>Rescissions 2 years unless fraud</td>
<td>No Rescissions unless fraud or misrepresentation</td>
</tr>
<tr>
<td>Dependents to Age 30</td>
<td>Must be offered to age 30 with restrictions</td>
<td>Up to age 26 – no restrictions</td>
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</tbody>
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*Relevant Statutes and Rules: Section 627.410(6)(a)&(b); Rule 69O-149.005

*Supplemental: Office of Insurance Regulation Review PPACA January 2013*
Forms -- Current Regulatory Environment
[If Statutes/Rules are not changed]

Approve

- Form complies with all PPACA laws and Florida laws
- Form complies with only Florida laws

Disapprove

- Form complies with all PPACA laws, but not Florida laws

Rates -- Current Regulatory Environment
[If Statutes/Rules are not changed]

Rate Review:

- Premiums are reasonable in relation to benefits
- Rates cannot be excessive, inadequate or unfairly discriminatory

Outcome:

Disapprove* based on conflicts with age/gender rating

*Relevant Statutes and Rules: Section 627.410(6)(a)&(b); Rule 69O-149.005
Long-Term Options:

1. Expand Florida law to incorporate PPACA
   - Revise current statutes and rules
   - Resolve resource issues for current filings, reinstate review
   - Potential to better reflect new federal rulemaking

2. Retain Florida law / Memorandum of understanding w/ federal government
   - Greater certainty in market for insurers and consumers
   - Still some potential litigation issues
   - OIR resource issues

3. Retain Florida law / Rely on federal preemption

4. Permanent Exemption of Form and Rate Review
Form Review Logistical Issues
[If Office were to proceed with reviews]

Problem: Short timeline for exchange products
- March 28, 2013 – Companies may file products with Health & Human Services (HHS)
- May 1, 2013 – Companies submission deadline for products to be filed with HHS
- July 31, 2013 – HHS deadline for products to be approved

Influx of Filings March-July 2013

Outcome:
Approve* if beneficial Florida provisions are added
Rate Review Logistical Issues
[If Office were to Proceed with Reviews]

- New products without historical experience
  - New risk population
  - Uninsured
  - Pre-existing conditions

- Pent-up demand

- Federal risk redistribution programs
Short-Term Options:

1. Retain Florida law / Rely on federal preemption
   • Less certainty in market for insurers and consumers
   • Potential litigation issues
   • OIR resource issues

2. Increase resources to accommodate filing influx
   • Hire additional full-time employees
   • Outsource reviews

3. Short-term use and file informational only rate & form exemption
   • Exempt rates from substantive requirements of Florida law & rules
     [Forms can be submitted as informational filings for a period of time (two years), but exemption leaves Florida’s substantive requirements in place.]
   • Administrative options
     Forms — Consent Order
     Rates — Emergency Rule Promulgation / Rule Promulgation
     (Workshop, Financial Services Commission (FSC) Approval, Publication, Public Hearing, Joint Administrative Procedures Committee Review, Final FSC Approval)
Advantages of short-term use and file informational only rate & form exemption

- Speed-to-Market (more products)
- Regulatory certainty
- Transparency (informational filings in I-File)
- Experience for future reviews
- Florida laws still apply for consumer protections & policy forms
Other Challenges: Filing Requirements

- Unique form & rate filing situation
  - 49 states use the System for Electronic Rate & Form Filing (SERFF) via the National Association of Insurance Commissioners (NAIC)
  - Florida uses the I-File System

- Public records issues

- State filing and Health Information Oversight System (HIOS) filings – Health and Human Services (HHS)

- Potential duplicate filing issue
Question & Answer Participants

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Deputy Chief of Staff/Government Affairs