

PA Insurance Insights

The Pennsylvania Insurance Department Newsletter

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Consumer Liaison

Educating Pennsylvanians on Insurance Topics

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Message from the Commissioner



This is my first newsletter as Acting Insurance Commissioner, and I want to first say I am grateful for the opportunity Gov. Wolf has given me to lead this department and to continue to work with everyone in the insurance industry to provide these vital products for the people of Pennsylvania. I am also pleased to be carrying on the great work of former Commissioner Teresa Miller in implementing Gov. Wolf's top priority for the Insurance Department, consumer protection and education.

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You may contact the department at RA-IN-Insights@PA.gov

@PAInsuranceDepartment



@PAInsuranceDept



Commissioner continued

You'll notice a few changes in our newsletters going forward. First of all, they will be quarterly instead of monthly. We will be focusing more on our department's behind-the-scenes work on behalf of consumers to make sure they are protected from any unfair insurance practices and informed about how they can get the most for their insurance dollars and our work with insurers and producers to keep our market vibrant.

In this edition, we'll look at an innovative approach some insurers are taking to risk sharing with some providers, in an effort to both hold down costs and ensure high quality health care. This is one example of how we plan to share best practices in the industry. I'm also excited to report on the Insurance Department's approval of Pennsylvania's first admitted carrier's private flood insurance product designed for high risk flood zones. And, we'll report on needed staffing additions at the Insurance Department, to better meet the needs of consumers, insurers we regulate, and professionals we license.

Our Consumer Services Bureau will highlight some issues we are hearing about from consumers to alert the industry to these issues and encourage insurers and producers to handle them proactively. In this issue, the bureau addresses best practices for short-term limited duration and limited benefit plans in the marketplace. In future editions, we may also discuss enforcement actions and market conduct examinations, to make both consumers and industry professionals aware of what is happening in the market. Finally, our consumer liaison will discuss what he is hearing as he travels the state.

I hope these stories will enhance our ability to work together to continue to provide the people of Pennsylvania with the protection they need for themselves and their families, while maintaining and enhancing our vibrant insurance market.

Jessica K. Altman

"I am also pleased to be carrying on the great work of former Commissioner Teresa Miller in implementing Gov. Wolf's top priority for the Insurance Department, consumer protection and education." - Acting Commissioner Altman



Staffing to Meet Consumer Protection Needs

The Insurance Department is committed to serving the citizens of Pennsylvania in its role as insurance regulator and advocate for the insurance consumer. To support this mission, the department is focused on identifying the right skill sets needed to provide quality customer service and the expertise required to address the National Association of Insurance Commissioners' (NAIC) regulatory requirements.

The department recently filled several vacant positions to allow more efficient and timely financial analysis and examination of insurance companies. We will continue to maintain the staffing level to do this, while balancing the cost to the Commonwealth taxpayers by operating with a leaner complement of positions.

If you are interested in working for the Insurance Department or other Commonwealth agencies, please visit <http://www.employment.pa.gov>. For Insurance Department job opportunities or questions, please email our resource account ra-in-human-resources@pa.gov.

Private Flood Insurance for High-Risk Flood Zones Approved

The Insurance Department recently approved the first private flood insurance product from an admitted carrier that proposes to write coverage in high-risk flood zones, specifically meant to comply with mandatory flood purchase requirements in federal law. The policy includes a certification requirement that meets the private flood insurance conditions specified in 42 U.S.C. § 4012a (b) and does not have any provision not in compliance with 42 U.S.C. § 4012a (b), which is from the U.S. Code that regulates flood insurance purchase and compliance and escrow accounts. This certification is very important to consumers seeking flood insurance to satisfy mortgage requirements.

The department's Property and Casualty Bureau's Product Regulation Division worked with the insurer, understanding the significance of getting this product approved, in the hope it will lead to more companies filing similar flood insurance products.

Since launching its one-stop shop flood insurance webpage in February 2016, the department has been advocating for private coverage as a way to provide more choices for consumers. The webpage provides information on private flood insurance, along with the federal government-run National Flood Insurance Program (NFIP). The number of private policies more than doubled during the webpage's first year, with most policies written by surplus lines companies. Any agents or agencies wishing to appear on this list should contact the department by completing a request form and emailing the completed form to ra-in-floodins@pa.gov. Please access the request form [here](#). Any insurers wishing to appear on this list should contact the department by emailing ra-in-floodins@pa.gov. Additions will be made to this list as they are received and verified.

Currently, the NFIP is under a short-term extension. Congress is working on a long-term extension of the NFIP, contained in the 21st

Century Flood Insurance Reform Act. The Insurance Department, along with the National Association of Insurance Commissioners, continues pushing for this law to include specific provisions allowing private insurance coverage acceptable for federally-backed mortgages.



Consumer Liaison Dave Buono Educates Pennsylvanians on Insurance Topics



As the consumer liaison for the Insurance Department, I get to meet many great Pennsylvanians. This year alone, I visited many counties throughout the state to educate consumers on a variety of topics.

Whether presenting "Insurance 101 for Teen Drivers" to students in Elk County or talking about the "Do's and Don'ts of Annuities" in Quakertown,

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Consumer Liaison Continued

I walked away from 2017 understanding that Pennsylvanians want to understand insurance and want to make the right decisions to protect themselves, their families and their property.

"Insurance 101 for Teen Drivers" is an interactive lesson for high school teachers to help students learn about auto insurance, and how their actions behind the wheel affect not only their safety, but their wallets, and their parents' wallets, too.

This year, I hope to meet many more Pennsylvanians. We will continue visiting schools, correctional facilities, libraries, senior groups and more to learn how we can help.

If you have any upcoming events where you need a speaker, be sure to reach out to us. We are happy to talk about any insurance issue.

Some of our presentations include:

Insurance Introduction

Insurance 101 for Teen Drivers

Homeowners Insurance 101

The Do's and Don'ts of Annuities

Health Insurance Literacy

Private Flood Insurance



Acting Commissioner Named to Leadership Position on NAIC

Acting Insurance Commissioner Jessica Altman has been assigned to serve as vice chair of the Health Insurance and Managed Care Committee of the National Association of Insurance Commissioners (NAIC).

The NAIC is the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia and five U.S. territories. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer reviews, and coordinate their regulatory oversight.

Among other charges, the Health Insurance and Managed Care Committee analyzes policy implications and effects on states of proposed and enacted federal legislation and regulations, examines factors that contribute to rising health care costs and insurance premiums, and monitors the activities of other NAIC work groups and task forces focusing on issues related to health insurance.

The assignment allows the commissioner to further Gov. Wolf's and her priority of consumer protection and finding ways to make health insurance more affordable and accessible at the national level.

Altman said she looks forward to continuing to work on behalf of Pennsylvania's health insurance consumers with greater influence at the national level.



**National Association of
Insurance Commissioners**

USTIF's Online Payment System Provides More Convenience, Transparency

The Insurance Department last summer unveiled a revolutionary online reporting and payment system for an environmental cleanup fund that is providing users with more convenience and real-time access to information.

The Underground Storage Tank Indemnification Fund (USTIF) is an Insurance Department-managed program that provides coverage for environmental cleanup in the event of a fuel leak from an underground tank. USTIF acts essentially as a small insurance carrier, providing low-cost environmental pollution coverage not readily available in the open insurance marketplace.

In order to maintain the fund, the USTIF program collects and invoices payments and fees from fuel distributors, gas stations, tank installation companies and even consumers; in fact, one cent from each gallon of gas consumers pump goes to the USTIF program. Annual revenue averages \$60 million.

For 23 years, the fee filing system required manual entry of check information by a financial processor. As technology has evolved, it became clear that the system was antiquated and the platform on which it was built could no longer be maintained.

The new fee billing system (FBS), unveiled last July, has greatly enhanced the USTIF program's ability to handle the reporting of distributor fuel deliveries and the processing of the required fee payments.

In addition, FBS allows for multi-user access by USTIF and Pennsylvania Department of Environmental Protection (DEP) staff, third party administrator personnel and the 5,000 program participants for which the USTIF provides coverage—a first in the program's history.

USTIF clients can access the dedicated website, ustif.pa.gov, which contains a direct link into the new fee billing system. They can view complete account information, including active tanks at the site, payment and billing histories, and fuel deliveries reported to USTIF by their respective distributors. In addition, they can now make an immediate online electronic payment that is immediately posted to their account, eliminating the need to mail in paper checks.

This is a significant upgrade for the program.



Underground storage tank removal

To implement the new system, the USTIF team embarked on a multi-year project to redesign the methods and processes by which fees are collected, processed, and posted into the participant's accounts.

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USTIF continued

In 2015, the USTIF website, which is located on the Insurance Department's website, was redesigned and given its own dedicated page. The website is used as a tool to disseminate program information, FAQs and fee information and, most importantly, as a platform to access the new web based billing and payment system.

The USTIF planning team established requirements for the new system and held workshops and webinars with industry representatives in order to obtain their feedback and input on the proposed processes. The team also provided information on the new processes through a mass mailing and the USTIF website.

In the year ahead, the system will undergo further development to add more features that will benefit both the USTIF program and its participants.

Health Insurers and Care Providers Sharing Risk

Ensuring that consumers have access to affordable and high quality health care continues to be a challenging goal of policymakers on the federal and state levels. Health care costs in the United States continue to grow unsustainably, and all of us involved in the health care system must do what we can to rein in those costs while promoting access to and the delivery of quality health care for all consumers. At the Insurance Department, one way of working towards that goal is by encouraging health insurers to explore partnerships with health care providers to work collaboratively to maintain high standards of quality while reducing costs.

Such collaborative efforts are often referred to as risk-sharing programs. In the most common risk-sharing arrangements, providers share in the savings when costs are kept low. Increasingly, however, insurers are asking providers to assume financial penalties when costs exceed expectations.

In partnership with the Pennsylvania Department of Health, the Insurance Department is monitoring these new risk-sharing arrangements between health insurers and providers. While the Department of Health's concern is focused on the quality of the care provided, the Insurance Department's primary concern is ensuring that consumers receive the care they paid for with their premiums.

Consumers transfer the risk of paying for health care to insurers, who then spread the risk among

many policyholders, using their expertise and experience to predict the amount of premium that will be necessary to pay for the care. Depending on the terms of their policies, insurers have considerable leeway in determining the most effective way to ensure that their policyholders receive the care they were promised, including shifting away from fee-for-service indemnification plans to value-based programs.

From the regulatory perspective of the Insurance Department, the key element of any risk-sharing arrangement is the impact it may have on the continued ability of the insurer to fulfill its commitments to its policyholders. The Insurance Department is primarily concerned that risk-sharing arrangements do not affect the direct relationship between the policyholder and the licensed insurer and do not negatively impact a company's solvency. Licensed health insurers have the responsibility to maintain the financial solvency necessary to assure payment of all claims and satisfaction of all obligations in accord with the

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Health Insurers continued

insurance policy or certificate issued to the consumer. The Insurance Department, of course, will be monitoring the financial health of insurers closely and reserves the right to raise objections if it appears that solvency may become an issue.

The delivery of health care continues to evolve at a rapid pace, and the Insurance Department is working hard to help health insurers adapt within the construct of the existing statutory and regulatory framework. We invite health insurers to keep us informed of their new ideas and to work with us to meet the shared goal of ensuring consumers have access to high quality, affordable health care.

Insurance Department Proactively Addresses ACA Changes

Pennsylvania, as well as the rest of the nation, weathered significant challenges to the health insurance landscape in 2017. The Insurance Department was very proactive and engaged in communicating our concerns to the federal government and in taking steps to mitigate any negative impacts on Pennsylvanians as a result of changes made by the federal government.

Former Commissioner Teresa Miller wrote letters to the Pennsylvania delegation and to the Trump Administration with proposals on how to stabilize the individual market. She also testified before Congress on multiple occasions highlighting these strategies and the impacts that inaction would have to Pennsylvania's market and its residents. Similarly, Gov. Wolf joined with governors in bipartisan efforts to denounce plans to repeal and replace the Affordable Care Act and to encourage stabilizing the individual market.

Acting Commissioner Jessica Altman continued this proactivity by working with Pennsylvania's five marketplace health insurers to mitigate the impact on consumers after President Trump discontinued cost-sharing reduction payments to insurers. Because of these steps taken, many consumers receiving financial assistance were able to find better plans and more affordable options than in previous years..

The Insurance Department also took action by developing an open enrollment campaign to fill the gaps left by reductions at the federal level around the 2018 ACA open enrollment period. The department partnered with state agencies, legislators, health care groups and insurers to inform consumers on how to find the best health plan and to sign up for that plan. The department created an advertising campaign for TV, radio and social media and co-hosted open enrollment events across the state. As a result of these efforts and despite the challenges created at the federal level, 396,725 Pennsylvanians selected health plans on Healthcare.gov, only a moderate decline from previous years.

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Individuals receiving assistance during the shortened Open Enrollment Period

396,725

Pennsylvanians that selected health plans on Healthcare.gov

ACA Changes continued

As 2018 moves along, the Insurance Department continues to actively monitor actions taken at the federal level, including the impact of the elimination of the individual mandate in 2019, the proposed Association Health Plan rule, and bipartisan Congressional proposals to stabilize the ACA. The department will continue to engage Congress and the Trump Administration concerning these current and future initiatives in an effort to stabilize the health care market and protect Pennsylvanians.

If Marketing Short-Term Limited Duration Health Plans, Consumer Disclosures are Key

The health insurance marketplace under the Affordable Care Act (ACA) is moving into uncharted territory with the repeal of the individual mandate but continued presence of ACA coverage and essential health benefits. These plans can be confusing for consumers, so it is important to address best practices for short-term limited duration and limited benefit plans in the marketplace.

The Insurance Department is expecting the marketplace to experience a larger presence of short-term and limited duration plans, whose cheaper premiums may entice consumers. These plans do have a place in the market for some consumers; however, it is important that agents are very clear when representing these plans and that they provide all necessary disclosures to consumers, as we have received numerous complaints from consumers who did not understand their plan or felt they were misled into believing that their plan offered certain types of coverage when it did not.

The main purpose of short-term limited duration insurance is to provide temporary coverage when an individual is transitioning between health plans. The consumer must understand that short-term limited duration plans are not a substitute for comprehensive major medical coverage, they generally do not cover pre-existing conditions and they do not contain the ten essential health benefits, making them non-compliant with the Affordable Care Act. And, if purchased in 2018, these plans may not satisfy the individual mandate and consumers may still receive a tax penalty.

Additionally, when agents are selling limited benefit plans to consumers, it is important that they disclose that these plans are intended as a supplement to a major medical policy, not as an individual's only source of health care coverage. Many times, these plans provide a fixed dollar amount upon the occurrence of a health event, but that sum may not adequately cover the bill for the health care provided in that event. Similar to short-term limited duration plans, limited benefit plans do not provide any of the essential health benefits and are not ACA compliant.

If the consumer still would like to purchase short-term or limited benefit insurance after all details are fully explained and all disclosures are made, then it is an acceptable transaction under current law. However, if while explaining these plans, an

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Limited Duration Health Plans continued

agent misrepresents a plan's coverage, omits material information on applications for coverage, fails to provide adequate review periods of policy documents and an opportunity to cancel prior to collecting payment for a policy or includes mandatory association fees as premium due without providing an itemized breakdown of all charges, the Insurance Department can take action against the agent and potentially the company.

In the past year, the Insurance Department has revoked seven licenses solely on the basis of misrepresentation of short-term limited duration and limited benefit plans, and if proper disclosures are not given, the department can continue to take action against agents. So, it is vital that consumers completely understand the package they are purchasing and the amount of coverage they will be receiving.

Legislative Update



As we open 2018, we are provided with an opportunity to reflect on the legislative changes coming from the state capitol. Only one piece of Insurance legislation made it across the finish line in 2017. House Bill 290, authored by Rep. Mike Metzgar and signed into law as Act 61, expanded the Underground Storage Tank Indemnification Board from 10 member to 14 members. The member from the now-defunct Middle Atlantic Truck Stop Operators was removed in favor of a member from a currently operating statewide organization representing fuel retailers and food merchants. Most importantly, Act 61 increases the allocation from USTIF to the Pennsylvania Department of Environmental Protection's Underground Storage Tank Environmental Cleanup Program and reduces the allocation to the Underground Storage Tank Pollution Prevention Program. Lastly, Act 61 requires USTIF pay an additional \$4 million for compliance and maintenance costs of the two programs.

Looking ahead, the Pennsylvania Insurance Department has begun engaging stakeholders and discussing the NAIC's Corporate Governance Annual Disclosure (CGAD) Model Act, which has been introduced as House Bill 1848.

The goal of the legislation is to provide regulators with a more complete understanding of the practices and policies in place that protect policyholders and shareholders and hold managers and directors accountable for their business decisions.

The Model Act provides a comprehensive approach to the preparation, submission, and review of the CGADs. Because of the sensitive nature of the content that will be disclosed in these narratives, the CGADs will be given confidential treatment under the act by state insurance departments, the NAIC, and any third-party contractors that receive them. This will hopefully encourage an open and frank discussion of corporate governance without fear that trade secrets will be revealed to competitors.

This legislation tracks closely with the NAIC's model law. Since the CGAD has been designated as an accreditation standard by the NAIC, the Insurance Department and the legislature must enact this legislation and its accompanying regulation by January 1, 2020.

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Legislative Update continued

The Insurance Department also continues to strongly advocate for a legislative remedy for surprise balance billing, which occurs when a consumer gets medical care from a provider or at a facility that he or she believes is in his or her health insurance plan's network, but unknowingly receives services from an out-of-network provider and receives a bill for the full cost or a significant portion of the cost of the out-of-network services. Surprise balance billing can also occur following an emergency, when a consumer has little or no control over where he or she is taken to receive care and is taken to an out-of-network emergency room. Sen. Judy Schwank, Democratic chair of the Senate Health and Human Services Committee, and Rep. Matt Baker, Republican chair of the House Health Committee, have each introduced their own bills to tackle this problem. House Bill 1553 (Baker) and Senate Bill 678 (Schwank) have bipartisan co-sponsors, including House Insurance Committee

Chairs Rep. Tina Pickett (R) and Rep. Anthony DeLuca (D), House Health Committee Democratic Chair Florindo Fabrizio, Senate Banking and Insurance Committee Chairs Sen. Don White (R) and Sen. Sharif Street (D) and Senate Democratic Leader Sen. Jay Costa. The bills would protect consumers from surprise balance bills from medical providers by taking consumers out of the middle of the reimbursement process in the event that they receive a surprise balance bill. Insurers and the providers would negotiate with each other to settle the outstanding bill and any disagreement that remains would be settled by an arbitrated dispute resolution process.

Public Events Focused on Consumer Protection, Education



Acting Commissioner Altman joins members of Neighborworks Northeastern Pennsylvania in Scranton, after announcing the availability of the CLUE brochure, to help homebuyers learn of any claims filed on the property they are considering purchasing.

Acting Commissioner Altman took the Wolf Administration's message of consumer protection and education to the public at a number of events recently.

Several of these appearances related to the recently concluded open enrollment period for people to buy health coverage under the Affordable Care Act (ACA). The Trump Administration cut the open enrollment period in half, giving consumers from November 1 through December 15, rather than through January 31 as was the case the past four years, to get health coverage for the coming year. The Trump Administration also cut by 90 percent the advertising budget for open enrollment, and reduced drastically the funding for navigators, who help people sign up for coverage.

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Public Events continued

As part of efforts aimed at countering these cuts, Acting Commissioner Altman joined Sen. Lisa Boscola at an open enrollment sign up event in downtown Bethlehem. This was one of several sign up events organized by state Senate Democrats where navigators were available to answer questions and help consumers get coverage for 2018. The commissioner joined Acting Human Services Secretary Teresa Miller and Department of Aging Secretary Teresa Osborne at a sign-up event in Harrisburg. Information about and in-person help enrolling in the ACA, Medicare, and Medicaid were all available here. At this event, a consumer from Perry County told his story of turning 65 and becoming eligible for Medicare, but needing coverage for his wife, who is not yet 65. He found a plan for his wife through the ACA that provided better coverage at a better price than his employer's plan. In addition, the Insurance Department ran an advertising campaign on radio, TV, and online and partnered with other state agencies to alert consumers to the shortened open enrollment period and where to get information and sign up for coverage.

As part of the Wolf Administration's continuing focus on helping seniors, Acting Commissioner Altman again partnered with Secretary of Aging Osborne to roll out the Senior Auto Insurance Checklist. This brochure offers seniors tips on ways they may be able to save on their auto insurance by eliminating coverage they may no longer need. Speaking at the Mohler Senior Center in Dauphin

County, Acting Commissioner Altman urged seniors to review their policies, and if they have retired, consider dropping wage replacement or income loss coverage that was designed to cover lost wages if a car crash meant they couldn't work for a period of time. Seniors should also discuss with insurance professionals if they are driving less and at less congested times of the day and if grown children on the policy have now moved out and should be dropped from the policy. Seniors are also encouraged to take a PennDOT-approved mature driving class to burnish their driving skills, and get a state mandated 5 percent cut in their auto insurance premiums.

Consider flood insurance, even if your home is outside of a federally-designated Special Flood Hazard Area (SFHA), where this insurance is required for many mortgages, is the message Acting Commissioner Altman took to a public meeting organized by SEDA-COG in Union County. The Insurance Department maintains a flood insurance webpage with information on both the federal government's National Flood Insurance Program and private market flood coverage, which is becoming more available and may be a more affordable option for many homeowners, especially those outside of SFHAs. Over the past year, flooding from heavy rainstorms damaged scores of homes and businesses in areas of Centre and Dauphin counties that lie outside of SFHAs.

Urging prospective homebuyers to "Get a CLUE," Acting Commissioner Altman announced the availability of a brochure of the same name at a homebuyers' seminar in Scranton held by Neighborworks Northeastern Pennsylvania. The CLUE report contains information about all insurance claims filed on a property over the past seven years. This information can help make sure homeowners disclose all information required, and to make sure homeowners' insurance rates, which can factor in past claims, are accurate.



Acting Commissioner Altman reminds consumers of the shortened open enrollment period at a news conference at UPMC Altoona.