

Pennsylvania House Insurance Committee Public Hearing



Testimony on House Bill 1121: Office of Consumer
Advocate for Insurance

Thursday, August 30, 2007

Edward G. Rendell, Governor
Joel S. Ario, Acting Commissioner

Good morning. My name is Cindy Fillman and I am the Director of the Office of the Insurance Consumer Liaison. On behalf of Acting Commissioner Ario, thank you for the opportunity to talk to you about the work that the Insurance Department does for Pennsylvania consumers and, in particular, the work that we do in the Office of the Insurance Consumer Liaison. Insurance, as you know, touches the lives of virtually every Pennsylvanian in any number of ways. The Insurance Department focuses on consumers because insurance is an essential element in our present day life, securing our standards of living and the stability of our families, and offering the means of financial recovery when the unexpected occurs. Insurance premiums, considered in total, are likely to be among the top three items in any family budget. With such a large impact on Pennsylvania families, we remain committed in the Department to utilize the Commonwealth resources effectively and judiciously to the benefit of Pennsylvania's insurance consumers.

The Insurance Department Generally

Bureau of Consumer Services

The Bureau of Consumer Services, which has three regional offices, processes over 150,000 consumer inquiries and complaints per year. The Bureau recovered **\$12,596,185** for consumers in FY 2006-2007. Recently, this Bureau resolved a complaint regarding a group life insurance death claim where a disabled employee passed away, the death benefit was less than the amount in the employee handbook and the spouse was expecting. During the investigation the insurer advised that the insured had decreased his group insurance coverage. The investigator requested documentation showing insured action to decrease his coverage. The insurer was unable to produce the documentation and agreed to pay the full amount of benefit as stated in the employee handbook. This resulted in an additional \$110,816.00 paid to the beneficiary.

The Department also handles provider complaints to the benefit of the insured. For example, an out of state medical services provider filed a complaint concerning the delays it was experiencing with claim payment from a health insurance company. The insured of the health insurance company had been seriously injured in an automobile accident and had exhausted his auto medical payments coverage. It did appear that there was an unreasonable delay in claim processing by the health insurance company once it was notified that the auto coverage had been exhausted. As a result of our Department's inquiry, the health insurance company reviewed the situation and issued payment of \$48,300 to the medical services provider.

Consumer Services also provides relief to consumers through disaster recovery centers established throughout the state in response to state or federally declared disasters. The Bureau is responsible for reviewing market and product withdrawal activity. Finally, Consumer Services works closely with our Bureau of Enforcement to ensure that those who are engaging in illicit activities in the insurance marketplace are identified and sanctioned.

Bureau of Enforcement

The Department's Bureau of Enforcement examines companies to assure compliance with Pennsylvania laws and conducts market conduct examinations as a result of the surveys or referrals from Consumer Services. Our investigations include: monitoring the activity of both licensed and unlicensed insurance producers, and licensed insurance companies; examining the records, files and practices of insurance entities and their compliance with Pennsylvania laws and regulations; and overseeing that the rates charged in the marketplace are approved by the Department and are not unfairly discriminatory to any individual. For example, we check if companies are handling claims appropriately, are using proper notices, and are complying with relevant laws and regulations.

The Department has various levels of remediation and sanction available. If we determine that a company has improperly terminated a policy, we can order the company to reinstate the policy. The Commissioner is able to impose monetary penalties, as well as ordering a company to cease and desist its improper activity. The Department can place an individual licensee under supervision and, if violations continue, we can suspend or revoke his license. We are also able to order a company to pay restitution to individual consumers; this restitution could be in the form of a life insurance death benefit, coverage for performed health care services, reimbursement of premiums, etc.

The Insurance Department can order a company to correct itself through a public report. For example, the Department recently ordered HealthAssurance to correct thousands of violations related to the payment for provision of drug and alcohol services, a legislatively mandated benefit. The company also paid a penalty of \$150,000. The Bureau of Enforcement can also investigate whether improper conduct alleged by consumers, agents or other companies is occurring, either within a company or throughout the industry. Recently, the Bureau issued a penalty against ACE in the amount of **\$9 million** for bid-rigging and inadequate producer disclosures.

In the last five years, the Field Investigations and Market Conduct divisions recovered a combined total of over **\$66 million** on behalf of Pennsylvania consumers and \$14 million in penalties which were returned to the general fund.

Rate, Policy and Product Regulation

The Department regulates insurance products and their rates for compliance with current law. Rate review is accomplished through careful actuarial analysis to assure that rates are not excessive, inadequate or unfairly discriminatory. To perform this analysis, the Department has 21 highly trained certified actuarial fellows.

The Department has the ability to call for public hearings on rate filings when there is significant impact on consumers. For example, the Department exercised this ability several years ago for the Blue Cross/Blue Shield rate filings which requested premium increases for some of their individual and Medicare Supplement products. The Department also fully intends to conduct well-publicized, cross-state hearings on the Application for Consolidation submitted by Highmark and Independence Blue Cross.

Additionally, the Department publishes rate filings, policy form changes, and proposed mergers and acquisitions in the Pennsylvania Bulletin and on our web-site to allow consumers and other interested parties to comment before a transaction is approved or disapproved. The Department also includes individual consumers, consumer organizations, and other stakeholders in the Department's regulatory review process, so that consumer voices are represented in the promulgation of new regulations and the improvement of current regulations.

The Office of the Insurance Consumer Liaison

Outreach

Since January 2005, the Office of Insurance Consumer Liaison has held 140 Consumer Meetings, published a quarterly newsletter in English and Spanish, compiled a stakeholder list of over 800 people and organizations, reinvigorated the Department's Speakers' Bureau and trained 26 individuals to increase our outreach capabilities. Among our many outreach activities, we began working with high school, college and university students regarding insurance issues they would soon be facing, and we trained drivers' education teachers on auto insurance issues specific to high school students and provided curricula that they could use in educating their students. We also do targeted outreach to senior Pennsylvanians and the Spanish speaking community.

Legislation

The Office of Consumer Liaison reviewed, provided comments and consumer insight to the Department and through the Department to the Legislature on all proposed and draft legislation involving insurance issues including, but not limited to: Prescription for Pennsylvania, Long Term Care Partnership, small face value policies, motor vehicle financial responsibility, senior protection in annuities/suitability, Cover All Kids, surplus lines, Continuing Care Retirement Communities, autism services, amendments to the holding company law, and the risk-based capital trend test. Most recently the Office of Consumer Liaison worked with the Office of General Counsel to draft the legislation for English as a Controlling Language.

Prescription for Pennsylvania

The Office of Consumer Liaison coordinates the insurance reform piece of the Governor's Prescription for Pennsylvania. In addition to these coordination efforts, we've worked on position papers for the Governor's Office including:

- * Pay for Performance initiatives implemented by PA health carriers,
- * Hospice and palliative care coverage enacted in other states,
- * Older child coverage legislation in other states,
- * Student health insurance coverage at Pennsylvania's colleges and universities, and

- * Challenges to offering Health Savings Accounts as an option under standard benefit packages with the proposed statutory language

Recent Research Reports

To understand and begin dialogue to address policy concerns raised by consumers, legislators and the Department, the Office of Consumer Liaison researches various issues of interest. Some examples of reports that resulted from this effort are:

Teen Driving Report. Nationally, over 5900 teens are killed each year in driving accidents. Teens as a group believe they are invincible, and that **they will never** be an accident victim. In researching information for the Governor's Office, we found excellent programs, videos, recommended parent/student interactions and other information from seven major auto insurance companies regarding teen drinking and driving.

2020 Vision. The Office of Consumer Liaison took a leadership role in formulating the Department's responses to the Commonwealth's 2020 Vision initiative. The Department will focus on these five trends as Pennsylvania's population ages:

- * Need for seniors to receive reliable insurance information from an objective, independent source they trust
- * Need for suitable and affordable insurance products as an alternative to long term care insurance
- * Need for a shift from front end regulation to increased education, outreach, and policing of the insurance industry through complaint investigations, market conduct exams and enforcement
- * Need for all families to have access to affordable, quality health care
- * Technology development must keep pace with the changing needs of seniors

We are working toward streamlining all our web based insurance information for seniors through a special icon on the Department homepage.

Health Insurance Survey. Over the past year, we surveyed consumers we came in contact with through our newsletter and outreach on whether consumers read and paid attention to the details in their Explanations of Benefits statements and whether they are familiar with Health Savings Accounts and the concept of Universal Health Care. We used this information to increase education about the importance of being aware of one's own benefits and the changing healthcare landscape.

Home Fuel Tank Coverage. The Governor's Office requested the Office of Consumer Liaison to investigate an incident where fuel oil spilled into a homeowner's basement and contaminated the area inside and outside of the home, resulting in expensive clean-up. The homeowner's insurance company denied the claim, and the homeowner is currently in litigation with the oil company for recovery of costs. Our task is to find out if there is any way of helping the homeowner as an insurance consumer.

We spoke with the homeowner, researched PA Insurance Department policies and PA statutes, **and** interviewed the four largest homeowner insurance carriers in the state to inquire about their coverage for home fuel spills and compared it to other state's coverages. We found two of the four major carriers in Pennsylvania do not cover fuel oil spills and other states' exclusions for pollution damages were similar.

Flood Education and Advocacy

Hurricane Ivan which struck in September of 2004 caused considerable damage to many homes in western Pennsylvania. Department staff worked closely with representatives of the Federal Emergency Management Agency (FEMA), the Pennsylvania Emergency Management Agency and the National Flood Insurance Program (NFIP) to help victims access emergency relief and secure follow-up assistance.

Based on our communications with consumers, legislative offices, and other states, we identified adjustment issues, inadequate coverages, and appeals problems. We met with FEMA officials, discussed our concerns and committed to coordinating a Web cast with the National Association of Insurance Commissioners on producer education. For their part, the NFIP committed to doing a second level review of flood insurance claims that dissatisfied consumers brought to our attention. We also had several outreach events which focused primarily on flood coverage.

Address Confidentiality Program

To comply with the Domestic and Sexual Violence Address Confidentiality Program as mandated by Act 188 of 2004, the Office of Consumer Liaison implemented the program for the Department of Insurance. We placed information on our website at the Consumer Liaison page about the Address Confidentiality Program and the link to the Office of Victim's Advocate's page which comprehensively describes the program. All impacted Department offices are ready to honor substitute addresses, if needed.

The Department partnered with the agent and industry trades (Agent Associations, Pennsylvania Association of Mutual Insurance Companies, and Insurance Federation of Pennsylvania) to disseminate information about the address confidentiality programs to producers and companies.

Expanded Initiatives under Acting Commissioner Ario

- **Prior Approval for Health Filings**

The Acting Commissioner is in favor of expanding the Department's authority for health insurance rate increases to require prior approval as is the current procedure for property and casualty lines.

- **Highmark and IBC Consolidation**

The Office of Consumer Liaison has been critically instrumental in assuring that the Department's web-based compilation of materials and comments filed in the Highmark/IBC consolidation are user-friendly, to encourage consumer comments. We will be preparing our office's comments on the consolidation in the near future.

- **A Consumer Advisory Council.**

The Office of Consumer Liaison will be proposing the creation of a Consumer Advisory Council to the Governor's Office. We believe that a small group of legislative appointees and some hand-picked consumer-advisors, meeting on a bi-monthly or quarterly basis would be an organized way to secure different and statewide perspectives on consumer insurance issues.

- **Increased Use of Consumer Services Data and Company Surveys**

The Office of Consumer Liaison will begin to work more closely with the Bureau of Consumer Services as they have the mechanisms in place to collect data useful to us in establishing new educational programs both for consumers and producers. Analysis of consumer data and company surveys can help us identify systemic issues/problems with consumer/producer interactions. Most consumers avoid contacting their insurance company. With Office of Consumer Liaison encouragement, they may find that such contact does not need to cost them money, but may provide them with useful, educational information and program opportunities.

- **Focus Groups**

The Office of Consumer Liaison will be working with the Department's Office of Communications to conduct focus groups on important consumer issues for use in targeting our education, outreach and web work. A focus group's personal feedback is very useful.

- **External Appeals Process Research**

We are currently researching our Act 68 third level appeal process in comparison with New York and other states' processes. In Pennsylvania, the Act 68 appeal process is a combined effort with the Department of Health. We review contractual challenges and Health looks at medical necessity. New York's system allows for a first level of review by an external review entity as a first level review and has a high success rate for consumers. Given the high success rate that New York sees for consumers, we are contemplating whether similar legislation and ultimately implementing a similar system in Pennsylvania would be worthwhile.

- **Senior Issues Complaint Unit**

In Pennsylvania we have the third largest senior population by percentage and this ratio continues to grow. The ability to understand and be sensitive to the complex circumstances surrounding senior issues requires unique skill sets and training. The Department intends to create a unit of highly trained insurance investigators to work directly with seniors both on insurance complaints as well as educational matters so that the needs of this vulnerable population can be handled more effectively.

- **WEB Based Complaint Tracking**

Consumers who come to the Department for assistance, in many cases, have exhausted all other avenues of addressing their grievances with insurance carriers and producers. Our goal in handling their complaints is to provide better transparency to the complaint process by providing 24/7 access to the status of their complaint and the ability for them to communicate electronically, at their convenience, on other issues surrounding the complaint.

- **Medical Services Provider Prompt Payment Improvements**

The Department is looking to develop technology solutions allowing for faster reconciliation of medical services provider prompt payment complaints. Our current system relies solely on paper based support. We envision development of a WEB based solution that allows providers to register complaints electronically, provide notification to insurers of provider complaints and to address them immediately. The system would also have appropriate tools for the Department to provide electronic oversight to ensure that all complaints are handled swiftly and accurately.

- **Shoppers' Guides**

The Department's internet website has a large variety of consumer brochures that the Office of Consumer Liaison supplies to the public at our outreach events. While the topics covered in the online brochures are very relevant to consumers, many need updating and revision. This is no small task. For example, long term care insurance is complex and confusing enough to most consumers. It would benefit the citizens of Pennsylvania if our office could provide the most up-to-date premium comparisons, along with explanations of the different options when buying this type of insurance. Some of the best websites maintained in other states have interactive capability where consumers can type in desired long term care options and receive a more realistic comparison of their premium costs.

Conclusion

Consumers can always benefit from more advocacy, so the Department is not opposed to this bill. However, the regulation of insurance inherently involves ensuring that consumers' interests are properly addressed in policymaking, rate requests, complaint

resolution, and direct advocacy and enforcement actions. The Insurance Department already does all this vital work. The Department is an agency that collects more for the general fund than we spend. We collect approximately \$42 million and give back approximately \$25 million. Given our vigorous consumer protection measures and fiscal efficiency, whatever resources are available for consumer protection may be better utilized within the Department.

Thank you again for this opportunity and your kind attention. I would be happy to answer any questions you may have.