Orange County Association of Health Underwriters

Volume 13, Issue 3
November/December 2018

C.O.I.N.

COUNTY OF ORANGE INSURANCE NEWS

OCAHU CE Day, CAHU Foundation Gala and Angels Game Fundraiser for CAHU PAC Photo Coverage Inside!

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Cost Containment in the Large Group Health Insurance Market

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Register Now for

December Holiday Lunch

December 11, 2018

(see ad page 8)

Consumer Education Day Featuring Marilyn Monahan, Legal Update; Preparing For 2019

January 8, 2019

(see ad page 23)

OCAHU BDS

Friday, February 8, 2019

(see ad page 24)

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(Supplement to Consumer Education Day Presentation on January 8, 2019)

SAVE THE DATE!

OCAHU BUSINESS DEVELOPMENT SUMMIT 2019

A Perfect Storm….

Health & Welfare

Financial Wellness

Friday, February 8, 2019

Hyatt Regency, Newport Beach

See Ad Page 24 for Details!!!

National Association of Health Underwriters Gold Certified 2018

OCAHU Orange County Association of Health Underwriters

Making a Difference in People's Lives. One Member at a Time.

Our association is a local chapter of the National Association of Health Underwriters (NAHU). The role of OCAHU is to promote and encourage the association of professionals in the health insurance field for the purpose of educating, promoting effective legislation, sharing information and advocating fair business practices among our members, the industry and the general public.

Letter from OCAHU President, Ryan Dorigan

Happy Holidays to everyone and welcome to 4th quarter. We all understand what a hectic time of the year it is, so we want to take this time to remind you all how much your membership means to this organization.

If you know someone in this industry who hasn't joined NAHU yet , please help us out and share our story and invite them to an upcoming meeting.

November 6th is the mid term election day and it may be the most impactful election in our lifetimes. I know there are people who still feel that their vote doesn't matter but I want to remind everyone that its the local assembly folks and state senators that will decide the future of healthcare reform here in California.

If you have not registered to vote and you don't plan to vote on November 6th then please reconsider. Everyone's vote matters!

Its very likely that there will be some new faces in Washington D.C. after the election. We know that we will have a new Governor here in California. What do all of these changes mean for us in this industry?

We will be traveling out to Washington D.C. in February for our annual Capitol Conference. This year we want to look at offering a scholarship to one of our members who has never had the chance to attend this conference. We spend three days learning about the legislative process and hearing from some of the top guest speakers, including many legislators. The highlight of the trip is making the walk to the Capitol building and walking right into the offices of the folks we elected to office and educating them on the different health care issues.

If you have ever had any concerns that your voice isn't heard, then please make plans to join us on this trip in February. Make a contribution to our PAC and please join the fight.

As we move into 2019, we will have our monthly luncheon meetings and our broker development summit coming up in February. We have educational speakers scheduled all throughout the year. We also have our golf tournament and our Women in Business event already on the calendar. If you would like to volunteer your time to serve on these planning committees, or if you want to look at possible sponsorship opportunities, then please let me know.

2019 will be here soon!! Please make sure that this is the year that you become a leader in this organization. We need everyone of you!

Now take some time to see your family and enjoy the holidays. Stay safe and stay healthy and lets get ready to win!!! ##

NAHU Region 8 Meeting, August, 2018 Photos

OCAHU members Maggie Stedt, MaryAnn Trutanich, Dan Abrahams, Pat Stiffer and Nolan Warriner attend the regional meeting in Portland (left top, bottom, and center bottom)

NAHU Region 8 Meeting, Portland, Oregon, August, 2018

Cost Containment in the Large Group Health Insurance Market

By: Dorothy Cociu, RHU, REBC, GBA, RPA

OCAHU V.P., Communications & Public Affairs

If you've worked in the large group market, you know that large group employers constantly struggle to keep their health costs down. The good news is that in the large group market, there are generally more options available to assist the large group employer, although some do involve a certain amount of risk.

The rule of thumb is that the majority of costs come from a small group of individuals with chronic illnesses or catastrophic events. Finding ways to manage the cost of these types of claims and care will generally bring down the overall costs. This can be done with a variety of options for chronic and disease management programs, directed care to network providers or providers accepting a fixed rate payment (such as a percentage of Medicare in a reference based pricing plan), a strong preventive program to catch the big stuff before it becomes chronic, and RX cost management. Another important thing, with unfortunately little control over in some circumstances, is finding ways to prevent or regulate the overcharging of facilities and providers. That is of course a more difficult scenario, which I'll discuss later.

Obviously, if the large group employer is fully insured, the cost containment options have somewhat minimal flexibility. Of course the employer can choose wider vs more narrow networks, where the brokers usually want to provide a good provider matching analysis to be sure the majority of the used providers are covered in the network. Part of that analysis should also be comparing the cost vs. benefit. Obviously more narrow networks can reduce savings, but more obviously, many providers may be lost in the transition. The question is, does reducing the network size actually reduce costs?

The smaller network is generally created based on the prices for services that those providers are willing to accept for services. If they don't accept the lower pricing structure, they are not included in the narrow network. Some would argue, however, that the more quality providers will not, and should not, accept those lower rates from the network, so are we really reducing costs or are we forcing participants instead to use non-PPO providers, where there is less control over costs, other than the lower PPO non-network benefit levels? I've seen compelling arguments on both sides.

Obviously, employers can make deductible selections and compare HSA options and compatibility. But most agents have learned that not all employers and employees want high deductible health plans, and this alone does not lower premium costs as much as they once did.

You can also mix and match plan design options, such as deductibles, copays, OOP maximums, chiropractic options, fertility options, etc. These of course vary by carrier.

One of the biggest cost savers is in the selection of the RX plan. Pharmacy Benefit Managers (PBMs) vary greatly, and should be carefully and methodically examined and compared. Don't just select the lowest price plan. You need to be sure to check the variances in the types of brand names and specialty drugs covered, as well as the formulary options. Keep in mind, high cost specialty drugs for cancer, Hep-C and other drugs can be catastrophic in some cases to the employer and covered participants.

Today we also have options available with Accountable Care Organizations (ACOs), where groups of doctors, hospitals, and other health care providers come together voluntarily to fie coordinated high-quality care to Medicare patients. The goal of this coordinated care, according to CMS, is to ensure that patients get the right care at the right time, while avoiding unnecessary duplication of services and preventing medical errors. Today, insurers are duplicating this method in the group product sales, including Anthem (Vivity), Blue Shield (Trio), Aetna (Whole Health), etc. Kaiser has always emphasized using integrated care and electronic records to identify members with chronic illnesses, who account for 80-85% of the overall health care costs.

The Affordable Care Act (ACA) led to the creation of Minimum Value Plans (MVP), Minimum Essential Coverage Plans (MEC) to keep costs down, after the ACA forced employers with 50 or more (applicable large employers or ALEs) to offer coverage to their employees. It's important to keep in mind, if you are offering/recommending these plans to your employer clients, or if you're an employer, that MEC plans

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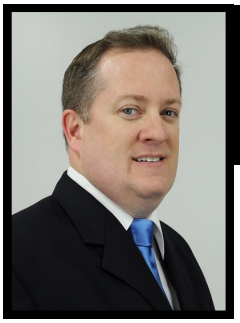

Legislative Update

Rob Semrow, OCAHU V.P. Legislation

Hello OCAHU members and friends...

The 2018 legislative session has completed, and yet there is still much left to be aware of and focused on. We have some initiatives that are concerning, and also a Governor's race, that while many feel it's already decided, still has very interesting moments to come.

This legislative session, like most, was filled with a multitude of proposals and bills that would have had far reaching impacts on our industry and our customers. CAHU and OCAHU worked on these bills and assigned some top priority bills some extra attention. Those efforts paid off, not always with the defeat or passage of a bill, but in changes to language and the scope of some of these bills. It is very important to understand that the process is not typically a win or lose situation, but one that helps get to outcomes that will provide positives and mitigate negatives.

I continue to be asked about SB562 (single payer) and if that is finally off the table. Unfortunately, it is not. It lost steam and momentum for obvious and important reasons, but it refuses to go away, and you can expect that we will hear a lot about it and its derivatives during the upcoming election season, and most certainly in 2019 with the new Governor feeling energized and carrying "a people's mandate"...

It will be interesting to see how loud they get after the votes on the upcoming initiatives, all of which seem to lack enthusiasm so far. Still, none of these should be taken lightly or dismissed as not needing attention and action. Many times, what is put in these initiatives finds its way in to like-minded legislators' bills in following years.

There are rumblings and issues that we can expect to see in 2019 as well. Possibilities include individual mandate legislation, OTC drug payments counting toward deductibles and out of pocket maximums, notifications galore, and more niche and specialized mandates.

As always, check in with the OCAHU and CAHU websites for the latest updates and information, and when you are making your new years resolutions for 2019 , and please add in "*Make at least one call this year to each of my legislators and let them know that my industry is important, does good and serves many in a way that no other system or bureaucracy could.*"

With that all being said, here are some of the updates and descriptions, as of the time of this writing, on priority bills that have passed and will become law:

AB1751 – CAHU Supported - This bill will require and authorize the Department of Justice (DOJ) to participate in an interjurisdictional information-sharing agreement between prescription drug monitoring programs across state lines. CAHU is supportive of the Legislature's coordinated efforts to curb opioid addiction and abuse and decrease the associated high costs of prescription drugs on premiums.

AB1753 – CAHU Supported – This bill will require and authorize beginning January 1, 2020, the DOJ to reduce or limit the number of approved printers of prescription forms for controlled substance prescriptions to 3. The bill would also require prescription forms for controlled substance prescriptions to have a uniquely serialized number, and would require a printer to submit specified information to the DOJ for all prescription forms delivered.

AB1785 – CAHU Supported – This bill will exclude the principal and interest of a 529 savings plan, from consideration for purposes of any asset or resources test, to determine eligibility for Medi-Cal benefits applicants or beneficiary whose eligibility is not determined using MAGI-based financial methods. This bill supports saving for a college education without fear of a loss of Medi-Cal benefits.

AB2088 – CAHU Supported – This bill will increase our client's access to and ability to correct or note inaccurate or incorrect information in their medical records. This improves communication and accuracy between patients and their providers.

AB2487 – CAHU Supported – This bill will require the application for a physician's and surgeon's certificate to include proof of satisfactory completion of a course on opiate-dependent patient treatment and management, and also includes at least eight hours of instruction in buprenorphine treatment of opioid use disorders.

AB2499 – CAHU Neutral – This bill was significantly amended in the Senate Health Committee to no longer increase the minimum medical loss ratio (MLR) percentages by 5%. Now the bill requires MLRs to be consistent with federal law and any rules or regulations issued as in effect on January 1, 2017.

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will eliminate the $2,000 penalty, but will NOT eliminate the $3,000 penalty for employees who go to the exchange and qualify for premium subsidies. MVP plans meet the requirements and avoid penalties in both areas.

I truly believe that one of the keys to keeping plan costs down in the large group market is to keep the RX costs under control. Prescription drugs are a large portion of the overall cost of a group health plan. Prescription drug costs continue to rise and pharmaceutical companies advertising their highest cost drugs have done nothing to help the situation. In fact, they have, in my opinion, exasperated the situation.

The enormous growth in costly new drugs for complex diseases and long patent periods are causing limited generic alternatives. Primary cost drivers include price inflation, rebates on brand and specialty drugs, utilization increases (much can be contributed to TV advertising in my opinion), and new, high-cost specialty drugs. According to the Express Scripts Drug Trend Report 2016, published February, 2017, Drug Trend was 10.3% in 2017 and is projected to be 11.6% in 2018, and 12.7% in 2019. Published data shows brand name drug prices have increased nearly 11%. Specialty drug spending is forecast to increase another 15% in 2018, which is up to 50% of the total dollars spent on pharmacy costs.

The highest cost medications on the market right now are gene therapy agents such as Kymriah ($373k), Luxturna ($850k) and Yescarta ($475k). Hep-C drugs have received a lot of press due to their enormous price tags. *Yes, they CURE the disease, not just manage it. But there is a high cost attached to that.* Treatments ranged from 12 to 24 weeks initially, and are now down to 8 to 12 weeks. You've all heard the stories… I had self-funded clients a few years ago paying about $180k for the treatment, which lasted up to 6 months or more. Then there was Sovaldi, called the $1,000 pill, that costs $84k for the 12 week cycle (although the same medication in other countries were a fraction of that cost).

According to Pro-Act data (Pro-Act is a PBM, used with permission), the first medications (Ribavirin and Interferon) were less than 30% effective and had to be used for close to a year. Due to the fact that they had significant side effects, members would often time not complete therapy due to intolerability. The average cost was approximately $60,000 annually. When Sovaldi, Harvoni, etc. were released, the treatment durations dropped (12-24 weeks), response levels rose (90-95% or better response), and tolerability improved. The initial medications cost $100k+ for the course of treatment, but due to increased competition from medications such as Epclusa and Mavyret, treatment courses could be now around $30,000.

There is no silver bullet, but key cost savings strategies continue to include utilizing advanced utilization management (prior authorization, step therapy, drug quantity management), therapy optimization, specialty drug management programs and specific specialty pharmacies within their networks to manage costs. The use of a percentage co-pays rather than a flat dollar co-pay also keeps costs down, because if the employee/covered person can see the actual cost of the drugs, they tend to make better choices. I highly recommend the use of mandatory mail order programs for ongoing maintenance drugs. Plan participants can also take advantage of manufacturer sponsored co-pay assistance programs. Also, if available, consider generic drugs only. Obviously, you most often don't have a choice of PBMs in fully-insured plans.

Obviously, the best way to contain costs in the large group market in my opinion is to self-fund. You then have the freedom to choose your plan components to make it work best for each employer. Plan design options can make or break a plan financially. Find the right TPA, the best and most affordable stop loss/excess loss carrier, the right network (or reference based pricing option), the most cost effective RX PBM, and monitor the costs constantly, and make changes as necessary.

I don't have the space to detail all of the self-funded ideas I have in this article, but I will share some at the OCAHU BDS in February at a new CE class.

Bottom line, self-funding offers ERISA pre-emption of state mandates, complete freedom of plan design (staying within the ERISA requirements and ACA requirements, of course), plan continuity (plan goes on long term; you can change the components you need to as time goes on, but you don't have to change plans every few years like in the fully insured market when your carrier increases their prices), state uniformity, and so many more positive features. Yes, it's more time-consuming for the agent. Sometimes you might get paid less than on a fully insured plan. Yes, the agent's fees and commissions are 100% transparent, so your employer client sees how much you're getting paid (ERISA requires full disclosure). But bottom line, it can save them money.

Self-funding can also offer price transparency with the

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Annual Holiday Luncheon

December 11, 2018

JT Schmid's | 2610 E. Katella Avenue | Anaheim

Registration: 11 AM | OCAHU Business & Lunch: 11:30AM

Speaker Presentation: 12N - 1 PM

It's that time of year again. You're burning the midnight oil during open enrollment and tension is high! TAKE A BREAK… Join us at OCAHU's Annual Holiday Luncheon. It will be a festive occasion with great food and great friends, at the same time supporting the children who are spending their holidays at Children's Hospital Orange County (CHOC).

Bring a toy, book, iTune or Amazon Gift Card (valued at $10+), and receive a $10 credit toward your Business Development Summit registration fee at the February 8th event.

Make this holiday a memorable one for a child!

Register at ocahu.org

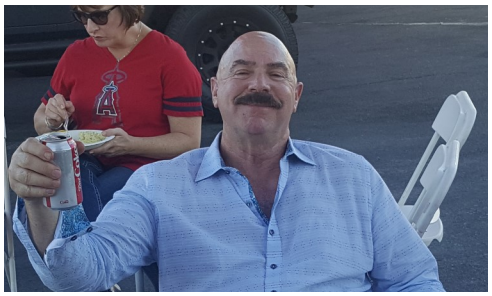
OCAHU PAC Fund Raiser Event at Angels Game, September, 2018 Photo Coverage

Let's Play Ball!

Ryan Dorigan, MaryAnn Trutanich and Nolan Warriner pre-game (above, center)

Tailgating pre-game with OCAHU Members and guests

Center: Wrong game???



More Angels Game Photos

There's no noise-making in base-ball!!!

Are you in any of these photos? If not, join PAC and help us support CAHU legislative activities!

OCAHU GIVES BACK!

By: Pat Stiffer, OCAHU

OCAHU GIVES BACK!

Thanks to the generosity of our members, Orange County Association of Health Underwriters has always been known as the Philanthropic Chapter of NAHU. At our recent CE Day we presented Cystic Fibrosis a Southern CA with a donation of $23,473 and New Hope Grief Support Community a donation of $46,215. In addition, we held a raffle at the Medicare Summit at Pechanga in August. This raffle allowed us to send $1000 for the Fire victims in California. This is the reason why OCAHU has won the William Flood Public Service Award for a record 7 years in a row! Thank you all for your support of our Philanthropic projects.

Pat Stiffler

OCAHU Public Service Chair

##

Single Payer Update

By: Dorothy Cociu, RHU, REBC, GBA, RPA, OCAHU V.P
Communications and Public Affairs

As Rob Semrow pointed out in his Legislative Update on page 6, Single Payer is not going away… It's basically on a short-term hold, waiting for the November elections results.

In the meantime, I thought I would provide you with some information to give to your employer clients during this temporary lull in the single payer movement.

CAHU has provided us with a lot of tools to help fight SB 562 and other single payer initiatives. I'd like to print some of these helpful tools in the COIN this issue, to remind you that they are available when we need them. First, there is a sample letter to legislators that you can give to your employer clients to send out… The elections will be just days after this issue comes out… ***We may need some of these tools right away if certain elections go against our industry's wants/desires/needs… So I'm anticipating you may be grasping for things to tell your clients or share with them if that happens…***

SAMPLE EMPLOYER LETTER

(PUT ON LETTERHEAD)
(INSERT DATE)

Dear Senator:

I am a constituent and an employer in your district and **OPPOSE SB 562 (LARA** and **ATKINS)** that seeks to establish a $400 Billion government-run universal single payer health care bureaucracy that is paid for in large part by employers and will result in significant California job losses.

The State Senate estimates **SB 562** will cost at least $400 Billion per year, with a minimum of $50-$100 Billion in new payroll taxes with no cap on the wages subject to the new tax. Though the financing mechanism for this measure has not yet been specified, past legislative attempts at government run health care have proposed major increases in payroll and income taxes on businesses and individuals. Payroll tax increases would lead to thousands of job layoffs as existing business and employers would be forced to cut costs in order to meet the new tax burdens caused by **SB 562**. As a result of this bill, California would have the highest state taxes in the United States, forcing business to relocate out-of-state.

Universal government-run health care system funds must compete with other claims on government funding, such as education, welfare, water, transportation and infrastructure. With limited public funds, whatever the government can't pay for will be on the backs of employers and employees. California should not impose such an unfair burden on California employers, which hinders my ability to fairly compete in the marketplace, whether that is in California or other states and globally.

I believe that you, as my elected representative, should instead focus on positive changes to reduce the cost of health care services, reduce the costs to doing business in California, and OPPOSE adding a new $400 Billion government dispensed universal single payer health care programs that will burden the remaining business in California.

Please vote **"NO"** on **SB 562 (LARA** and **ATKINS) each time it comes before you for a vote**.

Next, I'd like to print the SB 562 talking points that CAHU has published on it's website for our use…

TALKING POINTS

SB 562 would establish a state-run single-payer health care system. All Californians will lose their current health plans, to be replaced by government run health care, with benefits yet to be determined, to be serviced by a government-run entity populated with political appointees yet to be identified, to include provisions yet to be named - all paid for by a doubling of your annual tax bill.

SB 562 forces California businesses and individuals to hand over at least $107 Billion in new state taxes per year to pay for a government run health care system. Economic analyses estimate it will take $400 Billion annually, more than double the annual state budget, to set up and operate single payer as set out in SB 562. At a time when California has recovered somewhat from the Great Recession, and residents were just mandated to pay $69 billion in higher taxes for long-neglected education, water and transportation infrastructure repairs and upgrades, SB 562 will harm residents with a limitless price tag and no guarantee of better health care for anyone.

HERE IS WHY

- Single-payer mandates a government-run monopoly on all health care services in California. It eliminates all private insurance, Medicare, Medi-Cal, Long Term Care, Covered California, and the valuable advocacy services of insurance professionals and advisors.

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A BETTER WAY TO TAKE CARE OF BUSINESS
A model
for the world.
An advantage
for your employees.
More than 500 international organizations and governments use us as a model for innovative and cost-effective care.*
Choose better. Choose Kaiser Permanente.
* Kaiser Permanente International, http://xnet.kp.org/kpinternational/participants.html, accessed November 25, 2014.
kp.org/choosebetter
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COIN COMPLIANCE CORNER

What Agents and Your Clients Need to Know!

September/October, 2018 Legal Briefing

From Marilyn Monahan, Monahan Law Offices

This is a summary of some recent developments of interest to consultants and employers:

ACA/Federal: Highlights

Annual Medicare Part D Notice: The annual Medicare Part D creditable/non-creditable coverage notices are due. The notices must be distributed **prior to October 15, 2018**. The timing of the notice is intended to coordinate with Medicare's annual open enrollment period, which starts on October 15th. Employees (and their dependents) who are Medicare eligible need to know whether the prescription drug coverage offered by the employer is creditable or not, so that they can make an informed decision about whether to enroll in a Medicare Part D prescription drug plan (and avoid future premium penalties if they do not enroll and the employer's coverage is not creditable).

Affordable Care Act (ACA) Forms 1094/1095 Compliance: Final versions of the 2018 Forms 1094/1095, and the accompanying instructions, have been released. The 2018 Form 1095-C must be furnished to employees by **January 31, 2019**. The 2018 Forms 1094-C and 1095-C must be filed with the IRS by **February 28, 2019** (if filing on paper) or **April 1, 2019** (if filing electronically). If an employer files 250 or more Forms 1095-C, the employer must file electronically.

Small employers do not have to furnish and file the Forms 1094 and 1095, unless they self-fund. A small employer that self-funds must furnish and file the Forms 1094-B and 1095-B.

The IRS has increased the penalties for failing to furnish and file the 2018 forms. The penalty for failure to furnish is $270 per form ($3,275,500 maximum), and the penalty for failure to file is $270 per form ($3,275,500 maximum).

The IRS has been sending out form **letter 5699** to employers that have not filed the Forms 1094/1095 in past years, but perhaps should have. If, for example, an employer files so

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HIPAA Privacy & Security Updates—From Dorothy Cociu, COIN Editor and HIPAA Privacy & Security Consultant & Trainer

Anthem Pays OCR $16 Million in Record Breaking HIPAA Settlement Following Largest U.S. Health Data Breach in History

On October 15, 2018, HHS announced that Anthem, Inc. has agreed to pay $16 million to the U.S. Department of Health and Human Services, Office for Civil Rights (OCR) and take substantial corrective action to settle potential violations of the Health Insurance Portability and Accountability Act (HIPAA) Privacy and Security Rules after a series of cyberattacks led to the largest U.S. health data breach in history, which occurred between December 2, 2014 and January 27, 2015, and exposed the electronic protected health information of almost 79 million people.

According to HHS and OCR, The $16 million settlement eclipses the previous high of $5.55 million paid to OCR in 2016.

Anthem is an independent licensee of the Blue Cross and Blue Shield Association operating throughout the United States and is one of the nation's largest health benefits companies, providing medical care coverage to one in eight Americans through its affiliated health plans. This breach affected electronic protected health information (ePHI) that Anthem, Inc. maintained for its affiliated health plans and any other covered entity health plans.

The announcement and press release states that on March 13, 2015, Anthem filed a breach report with the HHS Office for Civil Rights detailing that, on January 29, 2015, they discovered cyber-attackers had gained access to their IT system via an undetected continuous and targeted cyberattack for the apparent purpose of extracting data, otherwise known as an advanced persistent threat attack. *After filing their breach report, Anthem discovered cyber-attackers had infiltrated their system through spear phishing emails sent to an Anthem subsidiary after at least one employee responded to the malicious email and opened the door to further attacks.* OCR's investigation revealed that between December 2, 2014 and January 27, 2015, the cyber-attackers stole the ePHI of almost 79 million individuals, including names, social security numbers, medical identification numbers, addresses, dates of

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use of reference based pricing programs (using Medicare rates as the payment allowance benchmark and eliminating the PPO network), which has seen considerable cost savings throughout the country. This requires a lot more prep time (90 days to 6 months prior to the renewal date) to allow for complete education of the HR Department and down to the end user, the employees and their covered dependents. This is one of the only ways to stop the overcharging by hospitals and facilities that are rampant in health care, by using a known rate (Medicare) as a benchmark.

All in all, cost containment in the large group market can be successful, if the agent is willing to put in the time with data analysis and education.

##

Editor and Author's Note: The information and ideas contained herein do not necessarily reflect those of the Orange County Association of Health Underwriters, the California Association of Health Underwriters, or the National Association of Health Underwriters.

Mark Your Calendars and Register Today!

OCAHU Holiday Program

Tuesday, December 11, 2018

JT Schmid's

2610 E Katella Ave, Anaheim

See ad page 8 for details

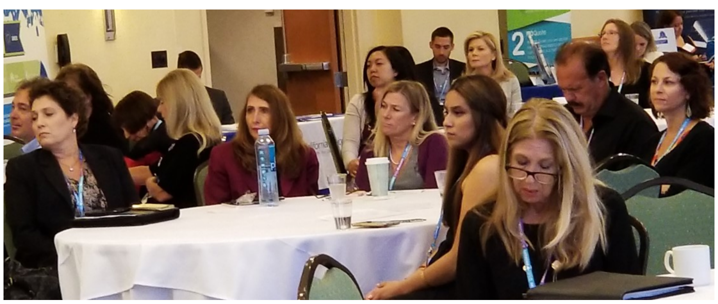
More CE Day Photos 2018

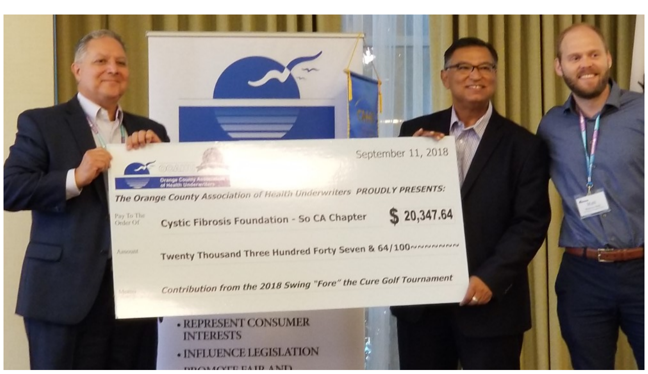
Left: Michael Lujan presentation. Right: OCAHU awards New Hope Grief Support with a $46,215 check!

Below: OCAHU CE Day attendees.

More CE Day Photos can be found on page 14!

CE Day 2018 Photos





More photos page 13

HIPAA Privacy & Security Updates, (Anthem Settlement) Continued from page 12

birth, email addresses, and employment information.

"The largest health data breach in U.S. history fully merits the largest HIPAA settlement in history," said OCR Director Roger Severino. "Unfortunately, Anthem failed to implement appropriate measures for detecting hackers who had gained access to their system to harvest passwords and steal people's private information." Director Severino continued, "We know that large health care entities are attractive targets for hackers, which is why they are expected to have strong password policies and to monitor and respond to security incidents in a timely fashion or risk enforcement by OCR."

HHS's Office of Civil Rights stated in their listserve and press release announcement on October 15 that in addition to the impermissible disclosure of ePHI, OCR's investigation revealed that Anthem failed to conduct an enterprise-wide risk analysis, had insufficient procedures to regularly review information system activity, failed to identify and respond to suspected or known security incidents, and failed to implement adequate minimum access controls to prevent the cyber-attackers from accessing sensitive ePHI, beginning as early as February 18, 2014.

In addition to the $16 million settlement, Anthem will undertake a robust corrective action plan to comply with the HIPAA Rules. The resolution agreement and corrective action plan may be found on the OCR website at http://www.hhs.gov/hipaa/for-professionals/compliance-enforcement/agreements/anthem/index.html.

The Corrective Action Plan (CAP) includes several corrective action obligations, including but not limited to:

- Security Management Process
  - ◊ Anthem must conduct an accurate and thorough Risk Analysis of the potential vulnerabilities to the confidentiality, integrity, and availability of ePHI held by Anthem
  - ◊ Within 30 days of receipt of the Risk Analysis Statement of Work (SOW), if HHS identifies deficiencies in the Risk Analysis SOW, HHS will provide Anthem with written technical assistance, as necessary, and later meet to confer in good faith
- Anthem shall review and revise, as necessary, the written policies and procedures addressing the compliance of security of ePHI
- Anthem shall distribute the written P&Ps to its workforce within 30 days of the adoption of the P&Ps
- Anthem will submit a written report with the documentation required by the agreement, and retain all documents

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MEET
SARAH
Likes: Puppies, volunteering, Mediterranean food.
Favorite Quote: "Dreams don't work unless you do"
- John C. Maxwell
Passion: Teaching brokers how to use PRO Apply
Sarah, a member of our Online Enrollment Support team, is just one of the many Warner Pacific employees dedicated to supporting our broker partners.
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Learn more about Oscar for Business by going to **hioscar.com/business**

Single Payer Update, HERE IS WHY…

Continued from page 10

- By eliminating employer-paid health coverage, single-payer shifts health care costs to employees.
- Single-payer will increase taxes for businesses and individuals by at least $107 Billion annually.
- A single-payer system like that laid out in SB 562 makes California less attractive to doctors and health care providers. Our best providers would leave the state, and new providers would have no incentive to practice in California.
- Single-payer puts an estimated 540,000 of Californian's workforce on the unemployment line.
- By giving Californians the highest state taxes in America and making California a less attractive place to do business, business will likely leave the state.
- While single-payer plans offer all citizens some kind of medical insurance, they cannot guarantee access to medical care.
- While SB 562 proponents claim "You can keep your doctor", the reality is that providers cannot be forced to participate in single payer.
- SB 562 as drafted has no realistic mechanism to control health care costs, fraud or abuse of medical services, as a result health care costs will skyrocket.
- Single-payer ultimately controls costs by rationing health care. Citizens in countries with single-payer models often wait months to see a doctor or specialist or to receive much-needed medical treatment.
- Single-payer means zero choices for consumers, discourages creativity, efficiency, quality, innovation and advancements in medical care.
- In government-run health care systems there is never enough money to provide timely care or the latest tech-

Continued on page 22

COIN Compliance Corner Legal Brief , *Continued from page 12*

many W-2s that the IRS suspects the employer may be an "applicable large employer" (ALE), the IRS may send out a 5699 letter asking why the employer has not filed any 1094/1095 forms. The employer has 30 days to respond.

Covered California Notices: Covered California has been sending notices to employers informing them that one or more of their employees obtained a "premium tax credit" (PTC) to help pay the cost of an individual policy issued through Covered California in 2018. If the employer is an ALE, the ALE may owe a penalty under section 4980H of the ACA because one or more of its employees received a PTC, if the ALE did not otherwise satisfy the mandates of section 4980H. If the employer believes that the employee is not entitled to a PTC (for example, if the employer offered the employee a health plan that was MEC, MV, and affordable), the employer can appeal. The employer has 90 days to appeal, and may submit documentation in support of the appeal. The necessary forms and instructions are available at this link: https://www.healthcare.gov/marketplace-appeals/employer-appeals/

Medical Loss Ratio Rebates: Insurers and HMOs have been issuing medical loss ratio (MLR) rebate checks (if a rebate is owed under the ACA, the checks must be issued by September 30th). In the case of a group health plan, the checks are generally issued to the group policyholder (the employer). In many cases, the employer will have to share a portion of the rebate check with plan participants. This is because (in summary) if an employee contributes to the cost of coverage, those contributions are considered "plan assets" under ERISA. Further, the portion of the rebate attributable to plan assets typically cannot be retained by the employer, but instead must be shared with the plan's participants. When determining whether and how to share the rebates, and the timing of the distribution, employers must follow applicable ERISA rules. Similar rules have been issued for church and government employers.

The IRS has issued FAQs (updated periodically) on the tax consequences of the MLR rebates: https://www.irs.gov/newsroom/medical-loss-ratio-mlr-faqs Producers should advise their clients to seek guidance from their tax professionals on the tax consequences of the rebates.

Municipalities: Highlights

San Francisco: Fair Chance Ordinance (FCO): The Fair Chance Ordinance (FCO) regulates when and how San Francisco employers and City contractors may ask about and use arrest and conviction records in hiring decisions. As of **October 1, 2018**, all employers with 5 or more employees worldwide (previously it was 20 or more), and City contractors of any size, must comply. Employers should update their hiring practices and job applications to comply with the FCO.

The FCO applies to positions in which the employee works or will work at least eight hours per week in San Francisco, including temporary, seasonal, part-time, contract, contingent, and commission-based work. It also covers work performed through the services of a temporary or other employment agency, and any form of vocational or educational training (with or without pay).

The FCO contains a notice and posting requirement. The notice used must be updated to reflect the October 1 amendments to the ordinance; an updated version is available on the City's website.

California's Fair Chance Act (A.B. 1008) took effect on January 1, 2018. Like the FCO, the state law regulates how employers use arrest and conviction records in employment decisions. Employers in San Francisco must comply with both laws.

Continued on page 22

Visit our Facebook Page for hundreds of photos from our various events held throughout the years! Don't forget to Like & Follow for up-to-date notifications.

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Thanks to OCAHU's new Gold Sponsor, OSCAR!

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Membership News

New Members and Renewals! - Bill Brinegar, V.P. Membership

OCAHU is proud to announce the list of new members since the last issue

Rachel Jones

DeeDee Letroiani

Annette Midland

Ian Rice

WELCOME NEW MEMBERS!

Upcoming Renewals - Please renew your membership soon!

Dena M. Allchin
Denise Anderson
Logan S. Ascher
Brian Barry
Lisa Boyajian
Kaili Chang
Jeffrey W. Chicots
Alan R. Ewalt
Gale Gajardo
Angela Gambino
Mailiet Hoang
Carla Ibarra
Abid Lakhani
Bianca N. Lee
Jerry J. Lynch
Bill B. Mason
Courtney McFarland
Casey M. Meserve
Diana Miller
Lisa Montedore
Nancy Mundell
Hoa Nguyen
Maria Perez-Flatt
Joanna Ramey
Marianne Spenchian Richards
Stan R Russell

Upcoming Renewals, Continued

Veronica Sandoval
Jeffrey L. Scheibner
Ronald L. Sellers
Erica Selvaggio Ferrari
Paul Strain
Kenda J. Taylor

New Members—Would you like to be featured in our New Member Focus Column?

If so, please send a photo and short bio to our editor. Also, include the answers to these questions:

1) How long have you been in this industry?

2) Why did you decide to join us at OCAHU?

3) What is most important to you about this association and what it can bring to you or help you with?

Send to: dmcociu@advancedbenefitconsulting.com

You could be featured in the next issue of the COIN!

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Political Action Committee Report

By: Dan Abrams, OCAHU VP PAC

People often ask me, "Dan, where do my PAC dollars really go?" As a life and health insurance agent or carrier you might not realize how vital contributions are. Unlike other organizations, Political Action Committees rely on contributions from its employees or members to take on unfair legislation.

We all know that over the years it has been a fight to keep agents involved in the life and health insurance industry. With monetary backing, our CAHU advocates battle on the front lines; attending meetings and fighting against legislation aimed to undermine our industry.

If not already participating, start with a contribution of with $5 a month. If you're already contributing, please consider a small increase. Or, join the group of Diamond level sponsors at just $85 per month, which is equal to $1000 a year (or more).

Monetary contributions are the key to our success and need not be enormous to make a difference. Consider donating today!

Thanks,

Dan

SUPPORT CAHU PAC AND HUPAC TODAY!

Monthly Auto Pay Available

Legal Brief (continued from page 18)

San Francisco: Health Care Security Ordinance (HCSO): New health care expenditure rates take effect **January 1, 2019**, for all employees covered by the HCSO:

- $2.93/hour for large businesses (a business with 100 or more employees worldwide)
- $1.95/hour for medium-sized businesses (a for-profit business with 20-99 employees worldwide and a non-profit with 50-99 employees worldwide)

Employers should watch the City's website for an updated poster, which must be posted at job sites and workplaces.

The HCSO also requires covered employers to submit the Employer Annual Reporting Form by **April 30** each year or face penalties of up to $500 per quarter. An updated form is typically released a month before for the April 30th deadline.

Editor's Note: Don't miss Marilyn Monahan's presentation on January 8th, Legal Update, Preparing for 2019, which is a Consumer Education Day Event! Please register yourself and your clients..

See ad page 23!

Editor's Note: Marilyn Monahan can be contacted at Marilyn A. Monahan Law Office, 4712 Admiralty Way, #349, Marina del Rey, California 90292; (310) 301-3300 (office) or email her at marlyn@monahanlawoffice.com . ##

Single Payer Update, Continued from page 17

nology. That's because health care funds have to compete with other claims on government funds, such as education, welfare, water and transportation infrastructure.

- There is no guarantee that proponents will be successful in obtaining $225 Billion in federal waivers, if they do not, more taxes will be needed from all Californians to meet that $225 Billion shortfall in funding.
- There are at least three separate issues that need voter approval to address state constitutional barriers. These include Prop 98 Education Funding mandates, the Gann Budget Limit and Prop 30 from 2012 that guarantees certain funding to counties.

Single-payer initiatives have failed in every state, including Vermont and Colorado, due to the multi-billion dollar price tag. Most Californians want the legislature to focus on positive changes to reduce the cost of health care and to provide for a competitive health insurance marketplace in a public/private partnership.

Let's hope we don't need any of these tools, but if we do, we hope this is helpful! ##

Editor's Note: Please check the CAHU website regularly at www.cahu.org!

Privacy & Security Update– Anthem Settlement

Continued from Page 14

and records for at least 6 years

- Anthem is expected to fully and timely comply with all provisions contained in the CAP.

This huge settlement should be a reminder to all that HIPAA Privacy & Security rules and compliance is serious business… ***If Anthem can have a serious breach, what about your agency? Are you training your staff properly to comply with the Privacy laws? Are you protecting yourself from cyber attacks? Do your employees know how to avoid the somewhat (sadly) common types of spear phishing emails that can result in this? If not, I highly recommend you train yourself and your staff appropriately!***

Stay tuned for more HIPAA Privacy & Security Updates in the next issue! ##

Register at ocahu.org

CONSUMER EDUCATION DAY
Legal Update: Preparing for 2019

Monthly Luncheon | January 8th

Invite Your Clients!

Hyatt Regency John Wayne Airport
11 AM to 1 PM

Available for 1-Hour CEU | Course Number: Pending

SPEAKER

Marilyn A. Monahan
Owner
Monahan Law Office

A perfect storm is an event in which a rare combination of circumstances drastically aggravates the event. We believe we are in this rare combination of circumstances.

Exciting speakers are coming your way! Here's a sneak peek:

- Individuals from Washington DC will speak about what is going on in our industry;
- Denise Winston of *Money Starts* here to speak on Workplace Financial Wellness Programs (invite your clients to come and hear Denise);
- CE's to help all lines of business' for the brokers; small group, large group and Medicare;
- AND, best of all, because this event falls on a Friday, we will be hosting Happy Hour in the Exhibit Hall!

So mark your calendar, YOU definitely don't want to miss this!

For more information visit www.ocahu.org

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Friday, FEBRUARY 8, 2019; Hyatt Regency, Newport Beach

A PERFECT STORM….

HEALTH & WELFARE FINANCIAL WELLNESS

Legislative Report, Continued from Page 6

AB2789 – CAHU Supported – This bill as of January 1, 2020, will require health care practitioners authorized to issue prescriptions to have the capability to transmit electronic transmission prescriptions, and would require pharmacies to have the capability to receive those transmissions. CAHU believes this bill will help to reduce overprescribing or fraudulent prescriptions and is another measure to curb opioid addiction and abuse, and decrease the associated high costs of prescription drugs on healthcare premiums.

AB2863 – CAHU Supported – This bill will limit the amount a health carrier may require a beneficiary to pay at the point of sale for a covered prescription to the lowest available cost, whether it is the applicable cost-sharing amount or the retail price. It would also require the amount paid for a prescription to be applied to the beneficiary's deductible and out-of-pocket maximum if the beneficiary opts to pay the cash price.

SB910 – CAHU Opposed – This bill will prohibit the sale of short-term limited duration health insurance in California, even in circumstances that would leave a consumer without any other coverage options.

SB1008 – CAHU Neutral – This bill will, after recent amendments, require dental health plans to utilize a uniform benefit matrix created by DMHC or DOI. The bill also, requires DMHC or CDI to post plan's or insurer's MLR annual report on their Internet Web sites within 45 days after receiving the report by July 1 of each year.

SB1121 – CAHU Opposed – this bill will drastically expand the civil liability of agencies of all sizes providing service in California. SB 1121 vastly expands the scope of who can sue companies and non-profits for data breaches. Even more troubling, this bill would impose a minimum of $100 and a maximum of $750 in statutory damages per consumer breach.

There are just some of the many pieces of legislation that we worked on this year. If you are wondering what you can do to help save your industry and your healthcare, we need you to get involved. Each year, you need to make a phone call, make a visit and send an email to your legislators.

Stay tuned and get involved. Remind your clients that as a member of OCAHU, you are a part of a group of dedicated industry professionals who are working with legislators and other advocates to create responsible and responsive change that have positive impacts and as important, positive outcomes.

Best of luck in these challenging times my friends!

Robert Semrow

CP – 949-413-6566

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CAHU Foundation Gala, September, 2018

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- THE C.O.I.N. -

Please join us at our events!

SCHEDULE OF EVENTS:

November - No regular meeting. NAHU webinar only.

December 11, 2018, **OCAHU Holiday Luncheon**, **JT Schmid's**, 2610 E Katella Ave, Anaheim, CA (details page 8), 11 am—1 pm

January 8, 2019, OCAHU Consumer Education Day, Hyatt Regency, John Wayne Airport, 4545 MacArthur Blvd., Newport Beach, CA, **Marilyn Monahan, Legal Update: Preparing for 2019. *Bring your clients***. 11 am—1 pm

February 8, 2019, **OCAHU Business Development Summit**, ***A Perfect Storm; Health & Financial Wellness,*** Hyatt Regency, John Wayne Airport, 4545 MacArthur Blvd., Newport ***Beach*** (Note Friday, not Tuesday), 7:30 am —3:30 pm