Orange County Association of Health Underwriters

Volume 15, Issue 4
July/Aug 2021

C.O.I.N.

COUNTY OF ORANGE INSURANCE NEWS

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Orange County Association of Health Underwriters

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Thank you for being a part of OCAHU!

What's Inside

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.

Would you like to be more involved in our industry?

Contact a board member today!

See page 14 for a list of members.

PRESIDENT'S MESSAGE

By: JoAnn Vernon

Wow, it has been a different world over the last 12-months! We've definitely learned how to be resilient and adapt to change. In business, we learned how to continue to grow our book of business by utilizing new tools and resources. We are in a heavily regulated industry and this past year, proved not to be any different. We continued to pivot and get up to speed quickly so that we can be the best resource to our clients.

I'm excited to begin this new term as President of OCAHU and be a part of the return to in-person meetings. I would like to extend a special thank you to MaryAnna Trutanich, RHU, CHRS for her dedication and leadership over these past 2 years. I'd also like to thank the following Board members for returning: Juan Lopez, Pat Stiffler, Sarah Knapp, David Ethington, Dave Benson, John Austin, Gonzalo Verduzco, Maggie Stedt and Jennifer Holmberg.

Welcome to our new Board Members:

- Social Media: Adriana Medieta with Zeguro
- Corporate Sponsorships: Louis Valladares with AGA

We will begin our new Board year July 13th at our Strategic Planning Meeting. If you have any suggestions to help make this upcoming year a success, please let one of us know. We are always looking for talented individuals to join the board and/or serve on a committee. If you are such an individual and would like to be part of the process, I would love to hear from you.

OCAHU Recognized with Gold Certification

By: Jennifer Holmberg, MAOM, CEBS - OCAHU VP Communications & Public Affairs

OCAHU was recognized with Gold Certification on May 21, 2021. This award as is part of NAHU's Chapter Certification Program, which is an ongoing program that recognizes excelling chapters throughout the calendar year awarded to the strongest chapters in the nation. To earn a Gold Certification, the chapter must satisfy 9 out of 14 criteria.

"The leadership of NAHU members has a far-reaching impact on providing for the healthcare needs of individuals, families and business in their communities. We are grateful for OCAHU's hard work with chapter development and recognize them for their efforts with this well-deserved award," said NAHU CEO Janet Trautwein.

MaryAnna Trutanich, Immediate Past President of OCAHU states "OCAHU exemplifies the dedication to providing the best opportunities for our members through their dedication to chapter development." "This year, OCAHU organized 1,100 pounds of pasta for Pasta Thon/ Katerina Club and raised over $56,000 for New Hope Grief Support in our local community, delivered our COIN Magazine as part of our communications efforts and hosted monthly meetings with various topics to increase and maintain NAHU memberships. These projects and many others have set a standard of excellence in the health insurance industry that we are proud to represent."

The National Association of Health Underwriters represents 100,000 professional health insurance agents and brokers who provide insurance for millions of Americans.

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Feature Article:

Supreme Court Rejects Challenge to Affordable Care Act

By: Paul Roberts - Director of Education and Market Development, Word & Brown General Agency

The Supreme Court of the United States (SCOTUS) ruled on June 17 on a case against the Affordable Care Act (ACA), the third challenge to the law since its 2010 inception.

The case, *Texas v. California*, centered on the constitutionality of the ACA's "Individual Shared Responsibility" (individual mandate) provisions, and the resulting viability of the entire law. **The court has now ruled 7-2 that the states challenging the law do not have the legal standing to upend the law.**

To understand the challenges to the ACA, it's important to highlight the three main pillars of the law. These pillars are often referred to as the ACA's "three-legged stool" principles. The three pillars of the law (its "legs") support the entire ACA (the "stool"). If one leg is pulled from the stool, one would assume the entire stool would fall down. While true in the physical world, the logic might not work the same when applied to the ACA. This created a potential problem for the law today.

ACA's Three-legged Stool Principles

The ACA contains three major principles, which is the key structure of the law. These principles shape access to affordable health care in the country, and are the core of the law as follows:

Principle 1 of 3: The "Individual Shared Responsibility" (individual mandate) provisions

This item requires Americans to maintain "Minimum Essential Coverage" (MEC) – that is, health coverage that meets standards prescribed by the law – for themselves and their tax dependents, or pay a penalty. This penalty was reduced later to $0.00 beginning in 2019, which triggered the current case against the ACA.

Principle 2 of 3: Prohibition on pre-existing condition exclusions

The ACA mandated that carriers could not charge higher premiums or refuse to insure a person based on his or her pre-existing health conditions. The ACA was able to apply this on insurers by creating the individual mandate that ensured all people would seek/maintain coverage – including the healthy Americans who might have foregone obtaining coverage without the mandate itself. This broadened the risk-pools for insurers, allowing them to drop consideration of a person's individual health when determining whether or not to extend coverage.

Principle 3 of 3: Premium Tax Credits (PTCs) and Marketplaces/Exchanges

The ACA created state Exchanges, like Covered California and Nevada Health Link, which allow American consumers a place to compare and purchase individual coverage outside the workplace (with annual enrollment periods), which meets "MEC" standards and has no limits on pre-existing exclusions. The ACA also created PTCs to help Americans with incomes below certain thresholds pay for coverage purchased on an Exchange. PTCs are paid in advance to individual insurance carriers, which significantly decrease the cost of coverage for persons with Individual and Family Plan coverage purchased on a state exchange.

Note: Other provisions, such as the employer mandate and reporting responsibilities, Essential Health Benefits, etc., are included in the ACA, too. While important, they are often considered "noise" outside of the heart of the ACA's core – which is formed by the three aforementioned principles. This brief overview of the ACA is not intended to be comprehensive.

Case Against the ACA in 2012

When the ACA was first signed into law in March 2010, the constitutionality of the "individual shared responsibility" (individual mandate) was challenged. In a 2012 SCOTUS decision, SCOTUS determined the "individual shared responsibility" provisions – including the resulting tax penalties for non-compliance – are considered constitutional. SCOTUS highlighted that Congress has the authority to issue taxes to raise revenues. Because non-compliance penalties for the "individual shared responsibility" are taxes from Congress, it is within Congress's authority to issue the mandate. At the time, SCOTUS was split 5-4, with a conservative lead. Chief Justice John Roberts, a conservative, switched aisles with the liberal justices in this groundbreaking decision.

Continued on page 6

"Repeal and Replace" the ACA

Following the 2016 elections, Republicans swept the Presidency, U.S. House, and U.S. Senate. One of the main messages of the Republican campaign was to "repeal and replace" the ACA, which became a primary focus of the new Trump Administration. Even though Republicans had a slight majority in the Senate, some senators from more moderate states were concerned about the scope of "replacement," and the resulting public perception if the ACA was eliminated. In 2017, the House passed a bill that would repeal and replace the ACA, dubbed the "skinny replacement" bill. When it made its way to the Senate, it failed by a 49-to-51 vote, with the late Senator John McCain breaking ranks with Republicans casting the 51st "no." Plans for repeal and replacement of the ACA were stalled.

Reduction of "Individual Shared Responsibility" Provisions Penalty

In 2017, the Trump Administration successfully passed the "Tax Cuts and Jobs Act" (TCJA), which was a law targeting tax reform and corporate taxes. TCJA also targeted the individual mandate tax penalty, and reduced it to $0.00 beginning in 2019. This was done through a budgetary process called "reconciliation," which only requires a majority vote and is reserved for changes in taxes and revenues only.

This brought challenges to the previous 2012 court decision, which ruled that the ACA Individual Mandate is constitutional because of the tax "penalty" Congress can assess onto individuals for non-compliance. SCOTUS ruled that Congress has the authority to issue taxes to raise revenues. However, now that the penalty is $0.00, it is impossible for Congress to raise revenues and, therefore, the mandate might no longer be valid. Moreover, because it's one of the ACA's three main legs of its stool, the entire ACA may fall with it.

Most-Recent Case: Can the ACA Stand with a $0 Penalty for "Individual Mandate" Non-compliance?

Republican state attorneys general, led by Texas, filed a lawsuit against the United States claiming that the individual mandate is no longer constitutional and the entire law must therefore be removed. Democrat state attorney generals and the U.S. House of Representatives (now under control by Democrats) stepped in to defend ACA.

In December 2018, a federal court in Texas (5th Circuit) struck down the ACA in whole, but stayed its ruling pending appeal. The court ruled the individual mandate invalid – and that the mandate was so connected to the law, Congress would not have passed the ACA without it.

On appeal, a split panel decision made by the three federal judges in the 5th Circuit of Appeals deemed only the "individual mandate" of the ACA is unconstitutional – but not the entire law. The appeals court directed the lower court to re-hear the case and create a report on the areas of the ACA that Congress intended to be in severable from the mandate. Before the lower courts could make progress on the directive, in March 2019, SCOTUS announced it would hear the case in its fall 2020 term for a decision in 2021. This action blocked the lower courts from carrying out the appellate court's directive. SCOTUS thus began considering Texas vs. California.

Supreme Court's Options

In its ruling (technically, an "opinion") on June 17, 2021, SCOTUS had several options as it decided the case:

1. It could dismiss the case on technical grounds, claiming that Texas plaintiffs lacked standing to bring the case forth in the first place. It could throw the entire case out, upholding the entire ACA - with the individual mandate and its $0.00 noncompliance penalty.
2. It could maintain the status quo – agreeing with the Texas 5th Circuit Appellate court's ruling on the invalidity of the individual mandate, allowing the lower courts to begin deciding which parts of the ACA Congress intended to be "severable" from the whole law (which would take several years).
3. It could uphold the ACA, but invalidate the individual mandate and everything tied close to it.
4. It could strike down the ACA in full.

The Court's decision to reject the case on technical grounds (1, above) still leaves the door open to future ACA challenges; however, for now, the law remains in effect. Health insurance brokers and employers should note that the entirety of the law as we know it today remains in place – including the employer mandate and employer reporting responsibilities, in addition to the individual mandate and all other items contained in the law.

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Legislative Update:

2021 California Gubernatorial Recall Election

By: David Benson - OCAHU VP Legislation

Organizers of a campaign to recall Governor Gavin Newson (D) turned in 1,719,943 valid signatures, exceeding the 1,495,709 required to trigger a recall election. More than 2.1 million signatures were turned in by the March 17th filing deadline. Voters who signed the petition have until June 8th to request removal from the petition.

The recall will be certified and a date for the election will be scheduled if more than 1,495,709 signatures remain following the removal request deadline. The election will take place between August and November. Lieutenant Governor Eleni Kounalakis must schedule the election within 60 to 80 days. Democrats favor having the election in August before Governor Newsom signs or vetoes legislation passed during the current session.

Recall supporters said Newsom mishandled the state's response to the coronavirus pandemic, did not do enough to address the state's homelessness rate, and supported sanctuary city policies and water rationing.

Since 1911 there have been 55 attempts to recall a sitting California governor. The only successful recall campaign was in 2003 when voters recalled Gray Davis (D) and elected Arnold Schwarzenegger (R).

During a recall election voters must answer 2 questions. The first would ask whether Newsom should be recalled from the office of governor. The second would ask who should succeed Newsom if he is recalled. A majority vote is required on the first question for the governor to be recalled. The candidate with the most votes on the second question would win the election. In 2003 Arnold Schwarzenegger received 48.58% of the vote.

As of the beginning of June, 51 individuals have announced campaigns if the recall goes to the ballot. The most well-known candidates are former San Diego Mayor Kevin Faulconer (R), 2018 Republican gubernatorial candidate John Fox, former U.S. Rep Doug Ose (R), and Caitlyn Jenner (R). Newsom is barred from being listed among the candidates who can be considered if the recall passes.

This election will not have the same drama as the 2003 recall election. A recent Public Policy Institute of California poll of likely voters found that 56% oppose recalling Newsom, while 40% support it. In 2003 56% of the voters favored recalling former Governor Gray Davis.

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COIN COMPLIANCE CORNER

What Agents and Your Clients Need to Know!

HIPAA Privacy & Security Enforcement Updates—

By: Dorothy M. Cociu, RHU, REBC, GBA, RPA, LPRT

In the Privacy & Security world right now, it's more about breaches and cybersecurity than anything else. 2020 and 2021 have certainly opened our eyes to the dangers of being unprepared for a cyber-attack. With ransomware attacks such as Colonial Pipeline and JBS Foods and many others, we're seeing first-hand that hackers are exploiting security weaknesses and holding the data of many companies hostage, and often demanding millions of dollars to unlock their own data, which in turn, has shut down supplies for critical goods and services. They are attacking essential services, hospitals, medical centers, and private businesses. There seems to be no end in sight. I'm covering this topic in detail in the July-August issue of CAHU's The Statement, so if you want to learn more about it, please be sure to read the Feature Article, which provides important tools to keep your data safe.

Cyber Alert

As far as HHS and OCR updates, on June 9, 2021, HHS/OCR joined the battle against cybersecurity by sharing **"Cyber Alert: Updates on Ransomware and Critical VMware Vulnerability."**

OCR shared the following alerts from the White House and Cybersecurity and Infrastructure Security Agency (CISA). Organizations are encouraged to review the information below and take appropriate action.

White House Memo: What We Urge You To Do To Protect Against The Threat of Ransomware

Anne Neuberger the Deputy Assistant to the President and Deputy National Security Advisor for Cyber and Emerging Technology has released a memo titled "What We Urge You To Do To Protect Against The Threat of Ransomware." This memo addresses the growing number and size of ransomware incidents and calls upon government and private sector to take steps to protect their organizations from this growing threat. The memo also outlines the U.S. Government's recommended best practices – a small number of highly impactful steps to help your organization focus and make rapid progress on driving down risk.

Below are a variety of resources that you can use to keep your healthcare facility protected from ransomware attacks:

- CISA Ransomware Guidance and Resources
- CISA Ransomware Guide
- DarkSide Ransomware: Best Practices for Preventing Business Disruption from Ransomware Attacks
- FBI Ransomware Webpage
- FBI IC3 Webpage for Ransomware
- NIST's Tips and Tactics for Dealing with Ransomware
- HHS HC3 Homepage
- 405(d) Ransomware Threat Flyer
- 405(d) Spotlight Webinar- Ransomware
- 405(d) Ransomware Cyber Awareness Flyer
- Ransomware Task Force: Combatting Ransomware Report
- Software Engineering Institute Resources for Preparing and Responding to Ransomware

In addition to these materials, the HHS Office for Civil Rights' Fact Sheet: Ransomware and HIPAA provides further information for entities regulated by the HIPAA Rules.

CISA Alert on Critical VMware Vulnerability - PATCH IMMEDIATELY IF FOUND

The Cybersecurity and Infrastructure Security Agency (CISA) is aware of the likelihood that cyber threat actors are attempting to exploit CVE-2021-21985, a remote code execution vulnerability in VMware vCenter Server and VMware Cloud Foundation. This vulnerability was discussed on the May 27 CISA weekly Security Operation Centers (SOC) call.

Although patches were made available on May 25, 2021, unpatched systems remain an attractive target and attackers can exploit this vulnerability to take control of an unpatched system. VMware vCenter Server and VMware Cloud Foundation are part of the underlying infrastructure for most agencies with on premises network management. Based off CISA visibility, several agencies are showing unpatched instances of these products.

CISA encourages agencies, state and local governments, critical infrastructure entities, and other private sector organizations to review VMware's VMSA-21-0010, blogpost, and FAQ for more information about the vulnerability and apply the necessary updates as soon as possible, even if out-of-cycle work is required. If your organization cannot immediately apply the update, then apply the workarounds in the interim.

Notification Links:

- https://www.vmware.com/security/advisories/VMSA-2021-0010.html
- https://

Continued on page 9

www.vmware.com/security/advisories/VMSA-2021-0010.html
- https://blogs.vmware.com/vsphere/2021/05/vmsa-2021-0010.html
- https://core.vmware.com/resource/vmsa-2021-0010-faq
- https://kb.vmware.com/s/article/83829

HHS/OCR informed everyone of what to do to report an incident or indicators of potential compromise in this annoucement. You can visit https://us-cert.cisa.gov/report.

OCR Settles 19th Investigation in the HIPAA Right of Access Initiative

In other HHS/OCR news, on June 2, 2021, OCR announced that they had settled their nineteenth investigation in the HIPAA Right of Access Initiative.

The Office for Civil Rights (OCR) at the U.S. Department of Health and Human Services announced its nineteenth settlement of an enforcement action in its HIPAA Right of Access Initiative. OCR announced this initiative to support individuals' right to timely access their health records at a reasonable cost under the HIPAA Privacy Rule.

The Diabetes, Endocrinology & Lipidology Center, Inc. ("DELC") has agreed to take corrective actions and pay $5,000 to settle a potential violation of the HIPAA Privacy Rule's right of access standard. DELC is a West Virginia based healthcare provider that provides treatment for Endocrine disorders.

In early August 2019, a complaint was filed with OCR alleging that DELC failed to take timely action in response to a parent's records access request made in July 2019, for a copy of her minor child's protected health information. OCR initiated an investigation and determined that DELC's failure to provide timely access to the requested medical records was a potential violation of the HIPAA right of access standard. As a result of OCR's investigation, DELC provided the requested records in May 2021, nearly two years after the parent's request.

"It should not take a federal investigation before a HIPAA covered entity provides a parent with access to their child's medical records," said Acting OCR Director Robinsue Frohboese. "Covered entities owe it to their patients to provide timely access to medical records."

In addition to the monetary settlement, DELC will undertake a corrective action plan that includes two (2) years of monitoring. A copy of the resolution agreement and corrective action plan may be found at https://www.hhs.gov/sites/default/files/delc-ra-cap.pdf - PDF.*

*People using assistive technology may not be able to fully access information in this file. For assistance, contact the HHS Office for Civil Rights at (800) 368-1019, TDD toll-free: (800) 537-7697, or by emailing OCRMail@hhs.gov.

HIPAA Violations/Settlement Update

On the HIPAA Violations/Settlement front, on May 25, 2021, OCR announced it had settled a Clinical Laboratory case for $25,000 for HIPAA Security Rule violations.

Peachstate Health Management, LLC, doing business as AEON Clinical Laboratories (Peachstate), has agreed to pay $25,000 to the Office for Civil Rights (OCR) at the U.S. Department of Health and Human Services (HHS) and to implement a corrective action plan to settle potential violations of the Health Insurance Portability and Accountability Act (HIPAA) Security Rule. Peachstate is based in Georgia and is certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA). Peachstate provides diagnostic and laboratory-developed tests, including clinical and genetic testing services.

In December 2017, OCR initiated a compliance review of Peachstate to determine its compliance with the HIPAA Privacy and Security Rules. OCR's investigation found systemic noncompliance with the HIPAA Security Rule, including failures to conduct an enterprise-wide risk analysis, implement risk management and audit controls, and maintain documentation of HIPAA Security Rule policies and procedures.

"Clinical laboratories, like other covered health care providers, must comply with the HIPAA Security Rule. The failure to implement basic Security Rule requirements makes HIPAA regulated entities attractive targets for malicious activity, and needlessly risks patients' electronic health information," said Robinsue Frohboese, Acting OCR Director. "This settlement reiterates OCR's commitment to ensuring compliance with rules that protect the privacy and security of protected health information."

In addition to the monetary settlement, Peachstate has agreed to a robust corrective action plan that includes three years of monitoring. The resolution agreement and corrective action plan may be found at: https://www.hhs.gov/sites/default/files/peachstate-ra-cap.pdf - PDF*.

*People using assistive technology may not be able to fully access information in this file. For assistance, contact OCR at (800) 368-1019, TDD toll-free: (800) 537-7697, or by emailing OCRMail@hhs.gov.

Please everyone, stay safe out there. Not only from COVID-19 (I hope you're all vaccinated by now!), but from the current "state of emergency" (my words, not the government's) regarding Cybersecurity. Again, please read the Feature Article in the upcoming July-August issue of the Statement for ways to protect your data! ##

CAHU Capitol Summit

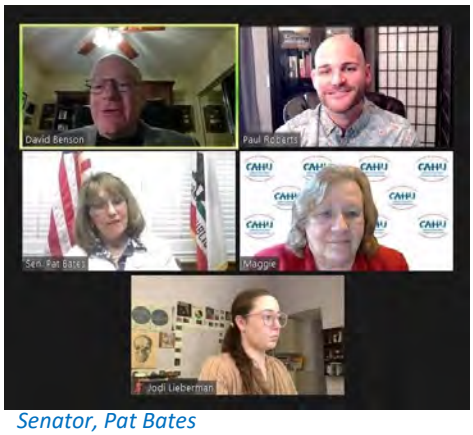
By: Jennifer Holmberg, MAOM, CEBS - OCAHU VP Communications & Public Affairs

Every year our association participates in the CAHU Capitol Summit. This Summit focuses on legislative updates for California and touches on any Federal legislations that affect our insurance community. We have the opportunity to meet with local legislators and educate them on pertinent issues or bills that we are hoping to get passed. This year we met with the following legislators:

- **Senator, Pat Bates** – 36th Senate District (Orange County to San Diego County)
- **Senator, David Min** – 37th Senate District (Villa Park to Laguna Beach)
- **Assemblywoman, Janet Nguyen** – 72nd Assembly District (Los Alamitos to Fountain Valley)
- **Assemblyman, Steven Choi** – 68th Assembly District (Anaheim to Lake Forest)

Our scheduled meetings with legislators may consist of two or three OCAHU members, a staff member from the representative's office and/or the representative themselves. This year we were able to meet with each legislator's office virtually. During our time together, we discussed items such as the role of the agent, single payer challenges, affordability for coverage, marketplace subsidies, COBRA and the ARPA subsidies, and educating constituents on healthcare in general. We invited them to speak to OCAHU members in an upcoming Town Hall and will be following up in the near future to schedule. We welcome the ability to have these valuable meetings, as they not only help educate, but also open a line of communication.

The Capitol Summit is also an opportunity to network with members of CAHU from all across the state of California. There are several networking events that are scattered throughout the agenda for members to connect with one another. This year the Vanguard Council put together a Hot Wing Challenge. Our very own MaryAnna Trutanich won the trophy this year!



Senator, Pat Bates

Assemblywoman, Janet Nguyen

Senator Dave Min's Staff

MaryAnna Trutanich, winner of the Hot Wing Challenge

Assemblyman, Steven Choi

The Vanguard Council Hot Wing Challenge participants

Senior Summit

Maggie Stedt, CSA, LPRT - OCAHU VP Professional Development & Senior Summit Chair

Don't Miss this Event!

Register Now

Don't miss the 2021 Senior Summit held LIVE!

The Senior Summit is returning to Pechanga this year and we are looking forward to having you join us for this year's LIVE event!

Join us for the latest and greatest product solutions for your agency along with industry leaders and influencers presenting programs sure to help you tackle today's toughest challenges and strengthen your business.

Price: $179/$219 Non-Member
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Deadline to Register: August 19th 2021

For More Info or to Register Today: https://guestli.st/684435

*AHU Members must use a code to unlock this price at the time of registration.
If you are an AHU member and need code, please email: ieahu.administration@gmail.com

*Refund/Cancellation Policy: Registration fees are non-refundable either full or partial

NAHU Convention Awards

Sarah Knapp - OCAHU Awards Chair

The Awards Ceremony at the NAHU Virtual Convention was conducted on June 25, 2021. Congratulations to California and Orange County for receiving the following awards:

Landmark Award: Honors state chapters for outstanding achievements and excellence in serving their members and the industry. ***California***

Pacesetter Award: Honors local chapters for outstanding achievements and excellence in serving their members and the industry. ***Orange County***

Public Service – William F. Flood Award: Presented to a state or local chapter for excellence in public service activities. ***Orange County***

Public Speaking – William G. Wetzel Award: Presented to a member who has demonstrated excellence in public presentations. ***Paul Roberts***

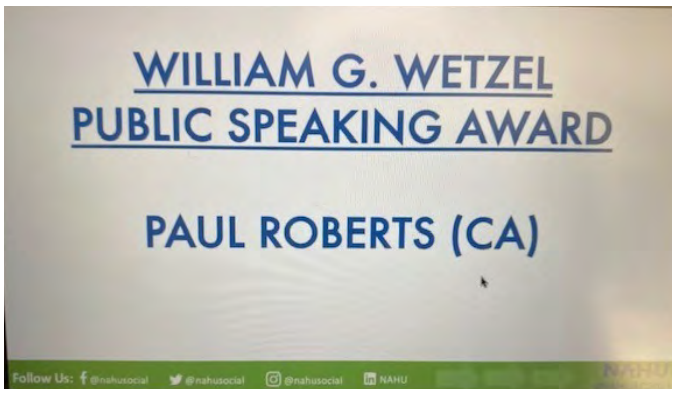
Website Award: Presented to the state and local chapters with the most effective and easily used websites. ***California***

Media Relations Award: The Media Relations Award honors state and local associations for outstanding media relations. ***California & Orange County***

National Membership Champion State Award: ***California***

Most New Members Award: ***California***

Highest Growth State: ***California***



CAA's "No Surprise Act" Changes to Health Plans Coming in 2022

By: Paul Roberts - Director of Education and Market Development, Word & Brown General Agency

In late December 2020, the Consolidated Appropriations Act (CAA) was signed into law. The bill's $2.3 trillion price tag is one of the largest spending measures ever enacted in American history, and also the longest bill ever passed by Congress.

The CAA contained some of the most significant COVID-19 relief since April 2020's CARES (Coronavirus Aid, Relief, and Economic Security) Act with about $900 billion of relief to taxpayers, businesses, and the economy. It also included a myriad of different legislative items impacting an array of sectors, not directly related to the COVID-19 pandemic. One of those sectors is the health care and health insurance industries.

The CAA contains three major sections of importance to health insurance brokers and their clients, all of which relate to health plans. One of those sections allows employers optional flexibilities for their Health Flexible Spending Accounts (FSAs) and Dependent Care FSAs. Another section contains new requirements for transparency, which will require "covered service providers" to create and release written disclosures describing direct or indirect brokerage compensation to plan fiduciaries. The third section is the remainder of the items in the "No Surprises Act," as contained within CAA, which provides protections for consumers against surprise medical billing.

These CAA changes are deep and far reaching. At the time of this article's publication in May 2021, regulations are not yet available for these changes. Regulations tell us how a new law will be facilitated, administered, and enforced. As regulations are released, we will learn more about these changes and how to implement them. For now, we only have the letter of the law itself, which is what this column is based on. We focus this month on the federal "No Surprises Act" changes related to surprise-billing, some of which resemble language in California's 2017 AB 72 law. Other CAA changes will be detailed in future columns, especially on transparency requirements, as further regulations become available.

Surprise bills arise when a patient receives care at an in-network facility by an out-of-network provider; or when a patient receives emergency services, without having a say in where they are treated under such emergency conditions. Surprise bills are often shockingly expensive, and hard-hitting to health care consumers. The CAA's No Surprises Act battles such occurrences, and implements changes which apply to individual- and group-health plans (grandfathered and non-grandfathered) with effective dates beginning on or after 1/1/2022.

The key provisions of the No Surprises Act on surprise billing are as follows; keeping in mind that this article is only a brief summarization of major items within the law and is not a comprehensive analysis.

Balance Billing: Surprise bills must be covered at in-network rates. Health plans may not extend surprise medical bills for emergency services rendered by out-of-network providers/facilities, air ambulance services (if the plan provides air ambulance services facilitated by in-network providers); and services provided by out-of-network providers at in-network hospitals or facilities. Ground ambulance services will be impacted, too; however, details are pending. For these services and circumstances, out-of-network providers may not balance bill patients (or hold patients liable) for any amounts exceeding in-network charges.

Health plans must keep their provider directories up to date, and verify they are accurate every 90 days. Additionally, carriers must also establish a "response protocol" system, allowing them to respond to covered individuals, within a newly required one-business-day timeframe, when asked whether a provider or facility is considered "in-network." If incorrect information is given, a health plan must cover the services rendered by that provider at in-network rates.

Health plans must provide price comparison tools to consumers. These tools, which must be available by phone and internet, allow covered individuals and in-network providers to compare expected cost-sharing amounts for covered services.

Health plans must provide advanced Explanation of Benefits (EOBs) to consumers upon request, and to consumers proactively before scheduled care. For health plans with effective dates beginning in 2022, consumers may request advanced EOBs to see how services would be covered before they are provided. Health plans must provide advanced EOBs explaining benefits and estimates of cost-sharing before scheduled care. They must furnish such good-faith estimates, within three business days, of what the plan will pay and what the patient cost might be for covered services (whether the provider is in-network or out-of-network). For services scheduled within 10 days, the advanced EOB must be distributed within

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CAA's "No Surprises Act", cont. from page 13

one business day. This may be challenging for carriers, since the timelines are tight and because it can be difficult to predict charges for any related issues that may be discovered during the procedure with the doctor.

Providers must also furnish good-faith estimates of expected charges for services — including related billing and diagnostic codes in advance of a service. Providers are also expected to furnish charges for services that are reasonably expected alongside the scheduled services. This is likely to combat the related challenges mentioned in the aforementioned advanced-EOB section.

Health plans must notify individuals when a provider/facility leaves its network, and must provide related transitional continuity of care to patients in some circumstances. Required by the No Surprises Act, health plans must notify covered individuals when a provider/facility leaves a plan's network(s). For patients receiving certain types of ongoing care from affected providers or facilities, health plans must provide up to 90-days of transitional coverage (or until treatment ends) by those providers, at in-network rates. Such transitional coverage is generally available for patients being treated for serious/complex health conditions, inpatient care, non-elective surgery, pregnancy and terminal illness.

Carriers must update and re-release physical and digital ID cards, which (for plan years beginning January 2022 or later) must list plan deductibles and out-of-pocket maximum limits.

Regulators are working out the details of these new changes, and are expected to release regulations by summertime. Carriers will only have a few short months to implement changes in their health plans, and will likely be challenging to execute. As further regulations are released, we will keep you updated. Stay tuned for further columns to follow over the coming months on these CAA items, and the transparency item included in the law as more information is released by enforcing agencies and regulators.

##

The STATEment

CAHU's Magazine!

Check out CAHU's bi-monthly online magazine at https://www.cahu.org/newsroom.

OCAHU Golf Tournament

By: Juan Lopez - OCAHU VP Finance, Secretary & Golf Tournament Chair

On April 19, 2021 The OCAHU sponsored it 24th Annual "Swing Fore a Cure" Charity Golf Tournament after a one-year hiatus due to Covid 19. Proceeds of the tournament went to the Orange County Chapter of the Cystic Fibrosis Foundation. This was the first in-person insurance industry organized event statewide. We had over 100 golfers at the beautiful, private Aliso Viejo Country Club. Lunch was provided by our very own Grace Hong's Sgt Pepperoni's Pizza Truck, as well as Jimmy Johns Sandwiches. We capped the event off with the 19th hole celebration which included sprits and fajita bar for all to enjoy.

We want to thank the Golf Committee, all the volunteers, and especially all of our sponsors that made this great day possible. OCAHU is proud to Support Cystic Fibrosis Foundation's great mission and vision to find a cure in the near future.

Please mark your calendar for next year's Golf Tournament at Aliso Viejo Country Club on April 25, 2022 for a day of Golf, friendship, networking and fantastic fun.

##

Golf Tournament Photos

Practicing the Best Practices of the Hybrid Work Culture

By: Jessica Word - President, Word & Brown General Agency

None of us imagined at the beginning of the COVID-19 pandemic that some companies would continue to be working virtually over a year later. Even with the tier restrictions lifting in Orange County and throughout the state, we have faced a point where decisions are being made to wither return our workforce to in-person, continue to work from home, or in many cases, implement some sort of hybrid arrangement.

The decision is a seismic shirt in corporate America – businesses are embracing a new hybrid work environment where teams work both in the office and from home. Many business leaders are going through a process similar to Word & Brown, where we have worked with our leadership team to make substantial and consequential decisions on how to address working in a post-pandemic reality.

At the heart of our decision is not just the consideration of work output and productivity, but also the question of culture. Like many family-owned companies, we are proud of the culture we have built for our team members since your 1985 founding. We can't take for granted the strong relationships built through celebrations, teambuilding events, trainings, conferences and even lunch and water cooler conversations.

Businesses everywhere are grappling with this challenge: how to ensure excellence in workflow and productivity while maintaining a corporate culture that both supports and recognizes team member contributions to the organization. COVID-19 made this a challenge but we have learned new best practices that we can use to guide our new hybrid culture.

A Shift to a Hybrid Work Culture

When the pandemic began, we, like a number of businesses across the country, learned that team members can be just as productive working from home as they are in the office.

We took this important factor into consideration as our leadership began to plan for a return to the office. Before setting any plans into motion, we needed to know how our employees felt about a return to in-person work. A survey of our workforce determined about 70% preferred to continue to work from home.

With this overwhelming majority, we have decided to test a work from home policy that continues to optimize productivity while offering employees flexibility and healthier work/life balance.

Through the end of 2021, our work from home policy will allow each individual employee come into the office or continue to work from home. However, managers have the option to ask employees to come into the office, no more than two days a week in accordance with Centers for Disease Control and Prevention guidelines, for meetings, collaboration sessions, key presentations and more.

Our decision to give employees the choice when they come into the office gives them the flexibility to plan their work week around school schedules, doctor's appointments, home repairs and more. While we know employees appreciate having more control over their work/life balance experience, we are optimistic that productivity and work output will continue to be high.

Continued on page 18

Practicing the Best Practices of the Hybrid Work Culture, cont. from page 17

A More Creative Approach to Office Space

Open office floor plans have many benefits. While allowing for collaboration, it also creates an inclusive culture, where everyone is seemingly at the same level. However, the pandemic caused our company and many others to reevaluate these space configurations, in addition to satellite offices set up in a similar way.

Over the course of the last year, we concluded that we can – and should – take a more creative approach to our office space. For example, we are reducing our office space by 20% at our Orange headquarters. This will allow us to create hybrid workstations and remove assigned desks to allow for a more flexible and collaborative environment. We are also considering rolling out this approach to our five regional offices located throughout the state.

A Continued Emphasis on Culture

Our leadership team's primary concern is our culture. Many team members have missed out on both planned and spur-of-the-moment celebrations that foster comradery and community.

We think we have found a solution. We kept our celebrations alive through regular virtual events. In fact, we have forged stronger connections with employees outside our core Orange office team better than before.

We've also continued to hold our quarterly all-employee meetings where our owners, John Word and Rusty Brown, acknowledge new employees, celebrate work anniversaries, recognize our Service of Unequalled Excellence award winners and more. Some events are as simple as "take a selfie wearing your company gear and win a prize," which are designed to keep our teams engaged and connected with one another.

We are also committed to hosting more in-person events, such as a recent Cinco de Mayo taco lunch at our offices, where colleagues could meet and mingle before heading home. We hear from our workforce that they appreciate these occasional in-person functions at the Center Club now that COVID restrictions are lessening.

As we and other businesses across the county get plans in place for a return to the office, our team views 2021 as a transitional year. The hybrid work culture shift requires all leaders to regularly check in with employees to obtain their feedback so that adjustments can be made on an as needed basis. Work/life balance, along with reimagined work spaces and an emphasis on both virtual and in-person events, will remain key considerations as we plan for 2022 and beyond. ##

Dependent Parent Health Care Coverage (AB 570)

By: Jennifer Holmberg, MAOM, CEBS - OCAHU VP Communications & Public Affairs

The following article was written by Samantha Young, LA Times: Click Link to Article

When Laura Chavez's 74-year-old mom needed eye surgery last month, Chavez paid cash for the procedure. The cost? $15,000 — and that was for just one eye. She couldn't afford both.

Her mom, Esperanza Chavez, doesn't qualify for Medicare because of her immigration status. And she can't find a private health insurance plan under $1,000 a month.

"We're constantly having to make decisions based on costs rather than 'Is this medication really going to help keep you alive and healthy?' " said Laura Chavez, 41, a San Franciscan whose mother has diabetes. "It's just unfair to have to think about it that way."

Now, a California lawmaker is pushing a bill that would require private health plans regulated by the state to extend coverage to some subscribers' parents. Business groups and others fear the legislation could jack up insurance premiums, but the bill has strong backing from health advocacy and immigrants' rights organizations, as immigrants make up a sizable portion of California's uninsured population.

Policyholders can already add children up to age 26 to their health plans — a benefit available nationally under the Affordable Care Act. But California would be the first state to extend the benefit to dependent parents, who are expensive to cover because they are older and sicker than the overall population, health experts say.

"This is groundbreaking and, quite frankly, a shift in the paradigm about the way we think about people getting health care," said Assembly member Miguel Santiago (D-Los Angeles), author of AB 570. "The bottom line is we want everybody to get healthcare, and we will fight every angle to ensure that people get adequate healthcare."

Many states have experimented with how to cover America's roughly 33.2 million uninsured people, about 400,000 of whom are 65 or older. California's income-eligible children can receive public health insurance regardless of their immigration status, New Jersey parents can cover a dependent child up to age 31, and Floridians can cover their kids up to age 30 so long as they aren't married or don't have dependents of their own.

One group that would benefit from California's legislation, backers say, would be green-card holders who haven't met the five-year waiting period to qualify for Medicare and Medicaid, and those here illegally.

While striving to cover parents is a laudable goal, said Sherry Glied, a former assistant secretary at the U.S. Department of Health and Human Services during the Obama administration, employers could face higher insurance premiums.

"This is an expensive population, and it's also susceptible to real risks," said Glied, now dean of New York University's Robert F. Wagner Graduate School of Public Service.

Glied fears some people would abuse the coverage. For instance, she said, someone could bring an ailing parent into the country on a tourist visa, sign them up on their employer's health plan and arrange for the treatment they need.

California already gives income-eligible unauthorized immigrants up to age 26 full benefits from Medi-Cal, the state's version of Medicaid for low-income people.

Lawmakers are considering separate proposals to broaden Medi-Cal eligibility. One bill would apply to immigrants age 65 and up who are in the country illegally, and another would make all Californians eligible regardless of age or immigration status.

Similar efforts have failed repeatedly over the past several years because of cost concerns, but California now has a $75.7 -billion budget surplus.

Unlike the Medi-Cal measures, which rely on state funding, the bill authored by Santiago, working with California Insurance Commissioner Ricardo Lara, would transfer the cost onto employers and insurance companies. It would allow parents or stepparents — regardless of age — whose children claim them as dependents on their taxes to be added to private health plans regulated by the state. They include job-based plans and those purchased on the open market or through Covered California. Employer-sponsored plans regulated by the federal government would not be subject to the bill.

The Assembly Health Committee has approved the bill, which needs to clear the Appropriations Committee before heading to the Assembly for a vote.

It's hard to pinpoint how many Californians could benefit from the measure. Nationwide, about 3.4 million people were claimed as dependents on their children's tax returns in 2019, and an estimated 400,000 of them lived in California, according to an analysis by the California Health Benefits Review Program.

Continued on page 22

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This is a pivotal year for our industry. Consider contributing so your voice can be heard at our state's capitol. CAHU-PAC is working for your best interest and those of your clients.

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Did you know Ease has a blog with valuable information that can help you and your clients? This blog is not focused on their specific technology, but some of the important topics surrounding the broker community. Below are a few recent blogs.

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- The Agency's Guide to Better Servicing Employers in 2021

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Check out CAHU's new Podcast Series at: http://anchor.fm/cahu and https://www.cahu.org/our-issues or on Spotify! (search CAHU) or at cahu.org. Designed to allow CAHU members to share with their office staffs, employer clients and consumers!

Membership News

We'd like to welcome the newest members of OCAHU!

David Chappell

Anne Lam

Riley St. Clair

Celebrating Members

Gonzalo Verduzco - OCAHU VP Membership

A Huge Thank You to our loyal members!

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2007
Rhett Bray
Karol Chun
Sandi Eber
Joy Gunderson

2008
Debi Callahan
Margarite Fox
Alan Herman
Mirna Koch
Robert McIsaac
Donna Morgan
2009
Tom Christian
Joseph Dyer
Lawrence Hartley
Diana Miller
Paul Pendorf
Maggie Stedt
MaryAnna Trutanich

2010
Christina Ramus
Don Riggs
Bob Stiffler

2011
Joann Freeman
Nancy Mundell
Mary Ramirez
Noran Teran
Dennis Ullmann
Lisa Volkov
Jessica Word

15-20 Years

2002
Tim Beck
Juan Lopez
Lisa Oudt

2003
Brenda Florio
Grace Hong
Junko Horii
Ann-Marie Lander
Tonda Moses
Joe Partise
John Ringer
Carol Soltero

2003
Timothy Sweany
Robert Wagner

2004
Joseph Halder
Daniel Templin
D'Vorah Mariscal
Eric Sims

2005
Daniel Callahan
John Evangelista
Tracy Hanson
David Lane
Kelly Moore
Lynn Wischmeyer

2006
Terri Green
Irene Krinsky
Susan Sheldon-Livingston
Chris White
Jeff Williams

20-25 Years

1997
Craig Lack
Candy Newberry
Dennis Romero

1998
Rob Semrow

1999
Judy Burlingham
Anna Grubbs
Karen Patterson

2000
Sylvia Cano
Tom Garnett
Meg McComb

2001
Patrick Freeman
Glenn McDonald
Karen Nixon
Patricia Stiffler

25-30 Years

1991
Kari Dobson
Scott Buettner

1992
Helen Zajac

1993
Janice Hollander

1994
Deborah Ferguson
Arthur Fries
Jonathan Gotz
James Remick
Patrick Rodriguez

1996
David Benson
Maribeth Tennison

30+ Years

1980
Suzanne Purnell

1985
Rusty Brown
John Wayland
John Word

1987
Dorothy Cociu

1988
Jane Smith-Bowen
Michael Lugo

1989
Dan Abrams
Stuart Friedman

Leading Producers Round Table (LPRT)

Daniel Abrams
Dorothy Cociu
Cathy Daugherty
John Evangelista
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Dependent Parent Health Care Coverage (AB 570), cont. from page 19

The overwhelming majority of those parents already have health coverage through Medicare or Medicaid, the analysis concluded, leaving 20,000 to 80,000 Californians who could benefit.

Despite the relatively small number, California employers say this mandate would raise premiums by $200 million to $800 million a year, depending on how many people signed up.

“Small employers will be forced to reassess how much they can contribute to employees’ dependent premiums,” Preston Young, a policy advocate at the California Chamber of Commerce, told lawmakers at a recent Assembly Health Committee hearing.

Lara, California’s insurance commissioner — whose parents were once immigrants here illegally — said the bill would help the poorest of the Golden State’s families, giving those with no other options “substantial peace of mind.”

“When we needed care as children, our parents were always there for us,” Lara said. “As our parents age, a lot of us in turn have become their caretakers.”

Chavez finds herself in the role of caretaker to her children and her mother. She has insurance for herself and her two daughters through her employer, the nonprofit organization Challenge Day.

But she can’t afford to buy a comprehensive insurance plan for her mom on the open market. A bare-bones policy, Chavez said, costs more than $1,000 a month because her mom has preexisting conditions. She doesn’t qualify for Medicare or Medicaid because she is in the United States illegally.

If Chavez could add her mom to her job-based policy, she wouldn’t have to pay cash for her mom’s needs, and the whole family could share one deductible and one cap for out-of-pocket costs, she said.

“It would bring significant financial relief,” Chavez said. “Every month, there are charges we have to budget for and pay for. God forbid she has to go to the emergency room.”

This story was produced by Kaiser Health News, one of the three major operating programs at the Kaiser Family Foundation.

##

Note: *CAHU is closely watching AB 570 which would require an individual health care service plan contract issued, amended, or renewed on or after January 1, 2022, that provides dependent coverage shall make dependent coverage available to a parent or stepparent who meets the definition of a qualifying relative under Section 152(d) of Title 26 of the United States Code and who lives or resides within the health care service plan’s service area. In particular, the individual must meet IRS requirements, including that the head of household provided more than 50% of the person’s total support.*

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CAHU Women's Leadership Summit, DATE and LOCATION: TBD

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