

Humana Inc.
Government Relations
1776 Eye Street, NW
Suite 890
Washington, DC 20006
www.humana.com

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HUMANA.
Guidance when you need it most

The Honorable Max Baucus
Chairman, Committee on Finance
United States Senate
Washington, D.C. 20515

The Honorable John D. Rockefeller
United States Senate
Washington, D.C. 20515

The Honorable Charles Grassley
Ranking Member, Committee on Finance
United States Senate

The Honorable Orrin Hatch
United States Senate
Washington, D.C. 20515

Dear Chairman Baucus,

I am writing to express our deep concern over recent industry news relating to 2009 Medicare Advantage (MA) sales commissions. For over 20 years, Humana has understood the trust that the federal government has placed in us and others to serve Medicare beneficiaries, a number of whom are among the most vulnerable. It has been our goal to provide stability, satisfaction and value to Medicare beneficiaries.

We were outraged at the MA sales commissions recently announced by certain health plans. These commissions fly in the face of the spirit of the legislation passed earlier this year - the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) - with which Congress sought to promote stability in the market and prevent "churn" that can disrupt the lives of beneficiaries, sending them from one plan to another.

Based on MIPPA, CMS promulgated a rule and subsequent guidance that limited commissions paid to agents and brokers. This rule provided that first year commissions could be no more than 200% of the aggregate compensation in each subsequent renewal year. Renewal commissions must span five years. After the rule was issued, the industry became concerned that high first-year commissions would cause the "churn" all sought to prevent. CMS reissued guidance and clarified that for 2009, all commission payments would be paid at the renewal rate. Unfortunately, some plans have chosen to ignore the intent and spirit of the MIPPA law and subsequent rule and guidance by announcing unprecedented increases in sales commissions paid to agents. These actions undermine the intent of the rule changes, and dramatically exacerbate the potential for the abusive practices that the rules were intended to address in the first place.

Humana has not released our 2009 MA commission rates. Humana has consistently recommended strengthening oversight of MA sales and marketing, especially as it relates to commission payments. Specifically, Humana, in testimony before the Senate Finance Committee on February 7, 2008, offered the following recommendation:

"The Secretary of HHS should establish a requirement that limits the total commission compensation paid to agents to a fixed percentage of premiums. This will ensure agents fully inform beneficiaries of the products and associated plan rules and will reduce the opportunity for high-pressure sales. Further, such requirements should provide for level commission payments year-over-year - for renewal as well as for replacement sales."

The goal of this recommendation was to reward brokers and agents only when beneficiaries are satisfied with their choices, and penalize brokers and agents who use marketing tactics that result in beneficiaries signing up for a product they do not fully understand. Any attempt to do otherwise runs the risk of undermining the integrity of the program.

Humana has consistently recommended to CMS that commissions paid to contracted (delegated) agents and brokers should be capped at a percentage of the monthly government capitation rate paid to plans. At the time of the announcement of 2009 MA commission rates by some other health plans, Humana immediately contacted our trade association, America's Health Insurance Plans, with a proposal to correct this situation and to ask that they bring this issue to the attention of CMS. We understand that CMS is in the process of issuing further guidance.

Humana believes that first year commission should be capped at 4% of CMS per member per month premium which equates to \$338, at the low end of where commissions have been in recent years, and just as importantly, cap the payments to Field Marketing Organizations (FMOs) at \$200, with the stipulation that no portion of this payment can be used to enhance agent/broker compensation. Further, we believe that renewal rates should be capped at 1.5%-2.0% of the monthly government payment, also in line with historical trends (FMO payments capped at \$100). Finally, we believe that commissions paid in 2009 should be at the renewal rate and that 1) no additional payments, overrides or other side payments should be made to agents/brokers/FMOs; 2) there should be no retrospective changes to the commissions currently in place for renewal business; and 3) CMS should require a 2-year commission schedule to promote consistency within the industry.



In conclusion, the vast majority of sales made by Humana are made through our long-time employed sales force, which we believe is a much better long-term solution for beneficiaries, plans and the administration of the program. We believe the recommendations outlined above ensure that beneficiaries receive the health care benefits, coverage and coordination of care they deserve delivered at the lowest possible administrative cost.

Once again, we want to make it clear that we believe the increase in rates suggested by other health plans is not in the best interest of Medicare beneficiaries nor the Medicare program. In light of the Annual Election Period (AEP) on November 15, 2008, we look forward to working with you and your staff, other Members of Congress, and CMS in protecting Medicare Advantage beneficiaries, and we urge swift action in light of the AEP.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick O'Toole".

Patrick O'Toole
Vice President, Medicare Sales
Humana Inc.