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February 1, 2014

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Dear Members:

During the 2013 Legislative Session, the Legislature required the Department of Commerce to study the guaranteed renewability of individual health plans. As noted in the attached report, Commerce does not recommend any changes in 2014 to the existing statutes related to the guaranteed renewability of individual health insurance plans. Commerce is committed to ensuring that consumers are able to receive affordable, comprehensive coverage that meets their needs, with minimal disruption to their care and to the health insurance market. We will continue to monitor the need for changes to health insurance statutes in the future as health reforms continued to be implemented in Minnesota.

Sincerely,

A handwritten signature in cursive script that reads "Mike Rothman".

Mike Rothman
Commerce Commissioner



Guaranteed Renewability Report on Minnesota

January 31, 2014

Introduction

In 2013, the Minnesota legislature directed the Department of Commerce to study Minnesota Statutes section 62A.65, which is the state's statute requiring guaranteed renewability of health plans in the individual insurance market:

Laws 2013 Chapter 108, Section 103

The commissioner of commerce, in consultation with the commissioner of health, and representatives of health carriers and consumer advocates, shall study guaranteed renewability of health plans in the individual market and assess the need for statutory provisions related to permitting the discontinuance or modification of health plan coverage in the individual market by a health carrier. The commissioner shall submit recommendations and draft legislation, if needed, to the chairs and ranking minority members of the legislative committees with jurisdiction over health insurance policy issues by February 1, 2014.

This report provides information resulting from that study.

Background

Minnesota Statutes section 62A.65 requires in part that individual health plans issued to Minnesota residents be guaranteed renewable.

Subd. 2. Guaranteed renewal. *No individual health plan may be offered, sold, issued, or renewed to a Minnesota resident unless the health plan provides that the plan is guaranteed renewable at a premium rate that does not take into account the claims experience or any change in the health status of any covered person that occurred after the initial issuance of the health plan to the person. The premium rate upon renewal must also otherwise comply with this section. A health carrier must not refuse to renew an individual health plan, except for nonpayment of premiums, fraud, or misrepresentation.*

This provision prohibits a health insurer subject to Section 62A.65 from cancelling an individual's health insurance coverage unless they have not paid the premium or there is evidence of fraud or misrepresentation. Section 62A.65 also prohibits modifications to individual health plans, such as eliminating or limiting specific benefits. While insurers are allowed to terminate individual health plans if they entirely leave that market they cannot discontinue or cancel specific individual policies or product lines. (MINN. STAT. §62A.65, subdivision 8.)

As the 2014 Affordable Care Act reforms were implemented during the beginning of the open enrollment period, consumers in many states began to receive notices from their insurance companies that their policies would be canceled because they were no longer compliant with the federal law.¹ This did not happen for many consumers in Minnesota because of the protections found within Section 62A.65.² Instead, insurers were required to bring their existing non-grandfathered individual plans into compliance with the new federal requirements, including meeting Essential Health Benefits standards. While many Minnesotans received notices regarding policy changes, because of the consumer protections found within Section 62A.65, Minnesota consumers did not experience disruptive coverage terminations to the extent consumers did in other states.

Study

Throughout this study, Commerce consulted with the Minnesota Department of Health and engaged broad stakeholder representation from health carriers and various consumer advocacy groups. Commerce led five separate meetings attended by carrier and consumer representatives as well as Commerce and Health staff and leadership. Representatives from twenty-four organizations were invited to participate in these discussions.

Initial meetings with each group outlined Commerce's goals in conducting the study and considering legislative changes and allowed representatives to provide feedback regarding any concerns with the existing statute or with any proposed changes that may be suggested. Following the initial meetings, Commerce invited both the health carriers and advocates to submit written comments. Commerce also issued a formal Request for Information in order to receive specific data from the health carriers to help us assess the need for statutory provisions related to permitting discontinuance or modification of individual health plan coverage by a carrier.

Consumer and patient advocates expressed concern about the possibility that insurance carriers would cease to offer products that included a particular benefit or cost-sharing structure that would potentially disrupt a consumer's care plan. They believed that strong regulatory processes should be put in place in conjunction with any statutory changes in order to ensure consumers are adequately protected as plan changes are requested by carriers. Without more information about how carriers might choose to alter their products, however, they were uncomfortable supporting changes to the existing guaranteed renewal statutory requirements.

The participating health carriers indicated strong preference to update the existing Minnesota statutory language in 2014 to allow health plans to be modified from year to year, and to allow cancelation of specific products. Industry representatives emphasized the Affordable Care Act reforms that ensure consistency and affordability of product offerings would mitigate the

¹ For example, Kaiser Health News reported in October 2013 that "Florida Blue, for example, is terminating about 300,000 policies, about 80 percent of its individual policies in the state. Kaiser Permanente in California has sent notices to 160,000 people – about half of its individual business in the state. Insurer Highmark in Pittsburgh is dropping about 20 percent of its individual market customers, while Independence Blue Cross, the major insurer in Philadelphia, is dropping about 45 percent" (<http://www.kaiserhealthnews.org/stories/2013/october/21/cancellation-notices-health-insurance.aspx>).

² For example, MPR News noted in their October 31, 2013 report, "In other states, however, insurers are sending cancellation notices, a practice prohibited in Minnesota. Under state "guaranteed renewability" consumer protection laws, insurers can't cancel a health insurance policy outright." (<http://www.mprnews.org/story/2013/10/31/health/law-minnesotans-more-expensive-plans>)

potential risk of changes industry might make to products for consumers. Carriers believe that updating the state law to allow modification and termination of outdated products allow them more flexibility to adapt to market changes and consumer needs going forward, and will allow them (along with Commerce Health) greater efficiency in creating and updating their product filings from year to year.

Commerce requested specific data from carriers to attempt to understand the following:

- The volume of products and enrollees that would be affected by termination or modification of individual coverage plans sold before January 1, 2014;
- The estimated cost to the carrier to maintain products sold prior to January 1, 2014; and
- The anticipated modifications a carrier may make to their products if those changes were allowed under state law, and how the carrier would notify or help enrollees with any such changes.

Three carriers currently operating in the individual health insurance market responded to this request by the indicated deadline, and two responded after the deadline. Carriers were hesitant to estimate the number of affected enrollees at the time of the request for information, as the open enrollment period for MNsure is still in progress and may affect their share of enrollees and the distribution of those enrollees among the different products currently available in the individual market. Additionally, in submitted comments, carriers acknowledged the difficulty in projecting the cost of the products that are required to be renewed under current state law, and none of the carriers provided information regarding the anticipated modifications they would consider making to their individual health plans in future years.

Recommendations

Upon completing this study and considering the comments and information provided by the Department of Health and the involved stakeholders, Commerce does not recommend that any changes be made in 2014 to the existing statutes related to the guaranteed renewability of individual health insurance plans. Minnesota's guaranteed renewal laws have contributed to a stable market and have allowed consumers to experience a higher level of consistency with their individual plans compared to other states without robust standards. Commerce believes that before considering a change to our guaranteed renewal laws, it would be prudent to allow time for the provisions of the Affordable Care Act to be fully implemented and to gain a better understanding of what changes are likely to be considered by the carriers in order to determine what regulatory oversight would be necessary related to requests for modification and/or termination of existing health plans.

Questions regarding this study may be directed to Alyssa Von Ruden, Health Policy Advisor, Minnesota Department of Commerce Insurance Division, at Alyssa.vonruden@state.mn.us or 651-539-1747.