

Insurance on the Hill: 2008 and the Road Ahead

Joshua Goldberg
Health Policy &
Legislative Analyst
NAIC

Ethan Sonnichsen
Government Relations
Manager
NAIC

2008

- Medicare Bill
- Genetic Information Nondiscrimination Act (GINA)
- Mental Health Parity

Medicare Bill

- Medicare Improvements for Patients and Providers Act (MIPPA)
 - Included new marketing restrictions for Medicare Advantage (MA) program
 - Did not expand state authority over MA plans
 - Authorized implementation of revisions to Medigap plans

GINA

- Genetic Information Nondiscrimination Act
 - Prohibits insurers from using genetic information to make underwriting, and pricing decisions based upon genetic information
 - Limits ability of insurer to request or require genetic testing prior to enrollment
 - Requests NAIC to amend Medigap Model to comply with bill.

Mental Health Parity

- Included in Emergency Economic Stabilization Act
- Requires parity between coverage of mental health services and medical/surgical services
 - Cost sharing provisions
 - Coverage of out of network providers
- Exempts small group and individual market
- Increased cost exemption if total costs increase by 1% due to mental health parity
- Stronger state laws preserved

The Road Ahead

- Medicare Advantage Marketing
- Comprehensive Health Reform
- Individual Market Rescissions

Medicare Advantage

- SCHIP expires in March
- Support in both House and Senate for returning oversight of Medicare Advantage marketing and sales to the states
- Reductions in MA plan reimbursement also probable

Comprehensive Health Reform

- **Obama**
 - Employer mandate on larger employers
 - Guaranteed issue/Community rating
 - Mandate to cover children
 - Health exchange
 - Public plan to compete with private plans
 - Tax credit for small businesses
 - Reinsurance
- **McCain**
 - Tax credit for individuals/Elimination of tax exclusion for ESI
 - Sale of insurance across state lines
 - Increased funding for high risk pools

Multistate Pooling

- Creating larger, multistate purchasing pools for individuals and small businesses has become a popular idea on the Hill
- Some are discussing using them to drive changes in state laws
- Reconciling benefit and provider mandates is a hurdle

Individual Market

- House Committees have been focusing upon problems in the individual health insurance market
- Availability, cost, and quality of coverage
- Rescissions are emerging as an issue
 - Requirement for 3rd party review passed House

State Flexibility

- NAIC endorsed legislation to grant states flexibility in designing comprehensive health reform programs
- Would provide additional flexibility in use of federal funds
- 80 bipartisan cosponsors in House, 3 in Senate

Open Questions

- Economy, Iraq supplanting health as top voter concern
- Everyone's second choice is the status quo
- Cost, Cost, Cost

Financial Products - 2008

- Post-Hurricane Katrina cycle to post-2006 election sense of urgency
- Tremendous insurance regulator scrutiny (bills and hearings galore)
- Every year is an election year – especially an actual election year

2008 Review

- 2008 - What might have been:
 - Surplus Lines/Reinsurance
 - Reinsurance collateral
 - Office of Insurance Information
 - NARAB 2
 - Bond insurance legislation
 - Risk retention group legislation
 - Holocaust-era claims handling
 - Travel life
 - Flood reform/catastrophes issues

2008 Review

- Surplus lines/reinsurance legislation (H.R. 1065)
 - “Federal tool” with broad support
 - Single state supervision model
 - Stalled in the Senate
 - NAIC made some suggestions
 - Improve surplus lines provisions
 - Let’s get reinsurance right
- Separate bill on reinsurance supervision in the House (H.R. 6213)

2008 Review

- Insurance Information Act (H.R. 5840)
 - Office of Insurance Information (OII) in Treasury, with narrow preemption power
 - Supporters saying information exchange could have been helpful re: AIG
 - Focused on international agreements
 - Part of the Treasury blueprint (is there a future there?)

2008 Review

- NARAB 2 (H.R. 5611)
 - Creates an entity to facilitate non-resident licensing of producers
 - Originally in GLBA
 - House passed/No Senate action
 - DOJ has a variety of Constitutional concerns

2008 Review

- Municipal Bond Fairness Act (H.R. 6308)
 - FGIs suffered from mortgage meltdown
 - Several hearings/briefings
 - HR 6308
 - Credit rating agencies must have a level playing field for municipal bonds and other securities
 - Treasury can receive and collect data on FGIs:
 - Explicitly protects State oversight

2008 Review

- Risk Retention Group legislation (H.R. 5792)
 - Expands RRGs into commercial property (a deal breaker for several States)
 - Effectively codifies NAIC corporate governance standards
 - Requires certain accreditation-like standards for safety and soundness
 - Enhanced disclosures

2008 Review

- Holocaust-era claims
 - ICHEIC has wound down
 - H.R. 1746 requires insurers to respond to inquiries and HCPO monitoring
 - NAIC partners with HCPO as alternative
- Travel life restrictions
 - First considered for TRIA
 - Would prohibit discrimination based on foreign travel
 - Almost an amendment on DHS appropriations bill

2008 Review

- Natural Catastrophes
 - Numerous bills with little consensus
 - Tax deferred reserves, building codes, savings accounts
 - Latest storms (Ike, Hanna) lost in the mix with economy and election
 - H.R. 3355 passed the House
 - Natcat plan using state programs and securitization
 - McCain and Obama weigh in

2008 Review

- Flood Insurance Program reform (H.R. 3121 and S. 2284)
 - Katrina proved it needs fixing
 - Senate and House have different ideas
 - Debt forgiveness, coverage increases
 - Got wind?
 - NFIP didn't run out of money under expanded borrowing authority
 - Nat Cat commission

2008 Review

- What came to be:
 - Short term Flood reauthorization
 - Hearings and more hearings
 - Regulatory modernization:
 - Everyone is for it
 - Nobody agrees on what “it” is
 - The \$700 billion gorilla in the room
 - AIG sheds light on GLBA issues

2009 Outlook

- New administration with new priorities
- Potential for expanded Dem majorities
- Financial oversight will dominate
 - regulate the unregulated (CDSs, other derivatives)
- Feds in insurance: “Camel’s nose under the tent?”
 - Remember: Under McCarran Ferguson and GLBA, it’s their tent, and we’re the camel
 - I’m an optimist – No OFC
 - Continued scrutiny - Targeted reforms – Coordination