

House Committee on Energy and Commerce
Commissioner Kim Holland

Testimony before the Subcommittee on Oversight and Investigations
June 26, 2007

Good morning Mister Chairman and members of the Committee.

My name is Kim Holland and I am the Oklahoma State Insurance Commissioner, an elective office I have held since January 2005. I appreciate the opportunity to speak to you today about an issue for which I care deeply: the safety and security of our citizens promised by the availability of quality insurance products and services. I want people to want to be insured.

The primary obligation of my agency is to protect our insurance consuming public. I, and my staff of over 150 dedicated individuals, take this obligation very seriously. Our office fields over 60,000 calls to our consumer assistance division each and every year, plus an additional 12,000 calls to our federally funded SHIP program. We license and regulate the activities of over 80,000 agents, monitor the financial solvency and market conduct of over 1,600 insurance companies and my twelve member law enforcement team responds to more than 700

insurance fraud and abuse allegations each year. We act swiftly and aggressively on behalf of all policyholders against any carrier, agent or broker that has acted unlawfully or otherwise not delivered on their promise to policyholders.

Since the roll-out of Medicare Part D in November of 2005, the Oklahoma Insurance Department has responded to an unacceptable number of complaints caused by the inappropriate and sometimes fraudulent marketing of Medicare Part C and Part D products by certain insurance companies and their sales producers. We have received hundreds of complaints from confused, unhappy and frightened citizens who have been misled or deceived during a sale.

The passage of the Medicare Modernization Act has made access to affordable medications possible for 20% of Oklahoma's population, a large measure of whom depend solely on social security for their livelihood. The creation of new and affordable programs under Medicare Parts C and D means that many of our nation's seniors no longer have to choose between a **meal** or their medication. But it is this reality – a pressing demand for coverage and a growing supply of

available plans (54 in Oklahoma alone!) – that necessitates adequate regulatory oversight.

Yet the MMA’s preemption of states’ authority to oversee the licensure, market conduct and financial solvency of Medicare Part D agents and carriers and the marketing practices of Medicare Advantage insurers has allowed them to exploit this exemption from regulatory oversight. Our seniors are plagued by aggressive and frequently misleading advertising, agent high pressure sales tactics, and a lack of responsiveness if not outright neglect from their insurance company. A letter I received just this month from a senior care-giver offers a poignant illustration of the problems. I quote directly from her correspondence: “WellCare employees are stationed on every other corner in the neighborhood. They are approaching people in the street, including our residents, to sign them up for WellCare Services. They do this in a very aggressive manner. They do this without establishing the care needs or the current providers of the patients”. She writes that 90 percent of their residents suffer from chronic illness and that their ability to form competent judgments is impaired. She also writes that she sent a

letter expressing her concerns to Well Care in October of 2006 and has received no response. She told me personally that her CMS regional office's regional manager did not know how to adequately address the problem. While the sales activities have relented somewhat, she says that WellCare is not facilitating disenrollment in a timely manner and patient care is being denied.

As you are aware, we recently completed a targeted market conduct examination of Humana, one of America's largest providers of Medicare Advantage plans, in response to an escalation in number and nature of unresolved complaints involving the sales tactics of agents selling their products. When finally completed, the examination exposed chronic and blatant disregard for state regulation and for senior policyholders, and the inadequacy of federal oversight.

That examination focused on the current limits of our authority regarding Medicare Advantage and Part D products – insurers' obligation to properly license their sales agents. However, the full scope of market conduct oversight customarily performed for the benefit of insurance consumers goes well beyond licensing. Insurance

Departments monitor compliance of an insurer's handling of complaints; claims practices; marketing and sales materials and advertising; producer licensing as well as appointed agent training and conduct; underwriting and rating practices; policyholder service; and company operations and management. Our rigorous examination standards ensure that consumer protections are kept at the forefront of an insurers' enterprise – equally balanced with their profit motives. Our inability to assert this balance has resulted in a travesty of security for Medicare beneficiaries.

Since the presentation of my testimony in May, I have met with Humana executives who outlined new processes and heightened compliance oversight of their Medicare business stream. While we are still in disciplinary discussions with the company and will continue to monitor their activities closely, I am somewhat encouraged by their actions to devote increased resources to assist and protect their Medicare plan policyholders.

However, the problems identified with Humana are certainly not unique to them, but rather a glaring example of what is occurring on a

regular basis as companies pursue market share in an unregulated environment. Insurance Departments across the nation are receiving complaints of a similar nature from seniors, their families and caregivers against many insurers, including other dominant players WellCare, Coventry, Pacificare and Pyramid Life.

While I applaud CMS for their recent efforts to compel insurers to refrain from marketing activities while they attempt to address the issues I raised during my testimony to the Senate Special Committee on Aging, their efforts are simply no substitute for the 136 years of state based insurance regulation that has resulted in our sophisticated and expansive and incomparable understanding of insurance company financials, operations and marketing. Congressmen, we put this expertise to use every day, acting quickly and appropriately on behalf of the industry and the consuming public. Given our seniors' chronic and continuing complaints against insurers, why are State Insurance Department's experience, assistance and protections being denied those in need at their continued peril.

I opened my remarks telling you I want people to want to be insured. It's a challenging proposition, but an important goal in ensuring the financial security of Oklahomans and the future prosperity of Oklahoma. But I can tell you that my progress is severely impeded when my public is fearful that their insurer or their insurance product is bad; when they begin to question whether going without coverage is safer and less costly than simply going without.

So today I ask again, that Congress unencumber me from the unproductive, unnecessary, and dangerous preemptions that expose my citizens to the neglect and abuse I have described and let me do my job. Allow me to fully deploy the substantial and immediate resources of my office to protect the interests of all policy-holders, regardless of their age and regardless of the private health plan they purchase. I am not interested in territorial squabbling or finger-pointing. I am interested in working together for the benefit of my folks back home. If government cannot protect our most vulnerable – our children, our frail, our disadvantaged, our elderly – of what use are we? Let's do our job.

Thank you.