



National Association of Insurance Commissioners

July 24, 2009

The Honorable Bart Stupak  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Greg Walden  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Stupak and Ranking Member Walden:

We write on behalf of the National Association of Insurance Commissioners (NAIC) to provide the perspectives of State Insurance Commissioners on the problem of rescissions and post-claims underwriting in the non-group health insurance market. The NAIC represents the chief insurance regulators from the 50 states, the District of Columbia, and five U.S. territories, whose primary objective is to protect consumers and promote healthy insurance markets.

While we understand that the Indiana Insurance Commissioner is testifying on behalf of the State of Indiana at your July 27 field hearing, we would like to provide additional information on the activities of the states and the NAIC to address this problem. State regulators are acutely aware of the abuses that some insurers have engaged in with respect to rescissions and have taken action to address these problems when they have come to their attention.

We believe that there is a very good chance, if Congress adopts comprehensive health reform legislation this year, that rescissions abuses will become a thing of the past. Rescission is a practice that is largely limited to medically underwritten health insurance markets. All of the major health reform proposals currently under consideration would prohibit medical underwriting, thus eliminating any reasonable pretext for rescinding a policy. When paired with an effective and enforceable requirement that all individuals obtain health insurance coverage, we support this prohibition.

Until guaranteed issue requirements become effective, however, the America's Affordable Health Coverage Act (H.R. 3200) contains a provision that would limit the use of rescissions to cases of clear and convincing evidence of fraud and would require the Secretary of Health and Human Services to develop standards for independent third party review procedures. The NAIC is supportive of the principles behind this provision and has provided assistance to several Members on both sides of the aisle and in both chambers, including Chairman Stupak and Ranking Member Barton, to develop legislation that would establish such federal standards by building on state efforts. We look forward to working further with the Committee and the Congress to address this important issue.

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While we believe that these reforms would be helpful, state regulators are not waiting for federal action to address this issue. In response to news reports of rescissions abuses and to inquiries from the House Oversight and Government Reform Committee, the NAIC examined Insurance Department complaint data from all 50 states and the District of Columbia to determine the scope of the problem. (See attachment 1) The data showed few complaints from consumers dealing with rescissions, with 56 confirmed complaints related to rescissions and post-claims underwriting in 2007 out of nearly 78,000 total complaints regarding accident and health insurance policies. Of course, given the particularly harmful nature of rescissions, state regulators recognize that even one confirmed case of abuse is too many. For this reason, the NAIC began moving forward with initiatives to promote state efforts to enhance consumer protections.

The NAIC Regulatory Framework Task Force has been given the responsibility of determining to what extent rescissions are used and of recommending laws and regulations to prevent abuse of the process. To this end, at its most recent meeting in June, the Task Force approved a data call that will be sent to insurers selling coverage in the non-group market. This data call is intended to uncover the number of policies that have been rescinded in each state over the past five years, the health conditions that are most frequently cited as the basis of rescissions, and determine the formal procedures the insurers have in place to review rescission decisions. The Task Force has also been asked to study proposals for requiring independent, third party reviews of rescissions and for standardizing the forms and procedures used in the underwriting process to ensure that the questions on applications do not unnecessarily confuse applicants or elicit incomplete answers that may lead to rescissions.

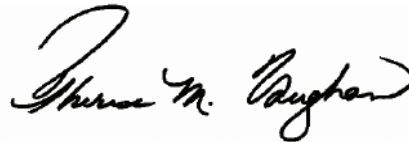
As these efforts move forward, individual states have taken action against these abuses. For instance, the California Department of Insurance recently levied a \$1 million fine against one major carrier, forced it to reimburse individuals for \$14 million in medical expenses incurred, and required it to offer coverage to 2,300 individuals whose policies were rescinded. The Department has also compelled other carriers to accept similar settlements.

Thank you again for your attention to this critical consumer protection issue. We stand ready to provide whatever assistance we can to Congress and this Subcommittee in preventing any future abuse of rescissions.

Sincerely,



Roger Sevigny  
NAIC President  
New Hampshire Insurance Commissioner



Therese M. Vaughan, Ph.D.  
CEO  
National Association of Insurance Commissioners



Sandy Praeger  
Chair, NAIC Health Insurance & Managed Care  
Committee  
Kansas Insurance Commissioner



Joel Ario  
Vice Chair, NAIC Health Insurance & Managed Care  
Committee  
Pennsylvania Insurance Commissioner

## Counts of Complaints by Year for Accident & Health Individual Coverage

<b>First Level Coverage</b>	Individual (505)	Individual (505)	Individual (505)	Individual (505)	Individual (505)	Individual (505)	Individual (505)
<b>Reason</b>	None	Underwriting Cancellation (815)	Underwriting Nonrenewal (816)	Underwriting Rescission (828)	Claim Handling Pre-existing Condition (1006)	Claim Handling Fraud (1009)	Claim Handling Post Claim Underwriting (1010)
<b>2003</b>	11,563	431	15	123	0	0	70
<b>2004</b>	11,823	472	9	124	26	1	49
<b>2005</b>	11,556	422	18	154	107	2	19
<b>2006</b>	11,602	502	10	106	141	3	32
<b>2007</b>	13,659	649	9	117	128	3	49

<b>First Level Coverage</b>	Individual (505)	Individual (505)	Individual (505)	Individual (505)	Individual (505)	Individual (505)	Individual (505)
<b>Second Level Coverage</b>	Health Only (530)	Health Only (530)	Health Only (530)	Health Only (530)	Health Only (530)	Health Only (530)	Health Only (530)
<b>Reason</b>	None	Underwriting Cancellation (815)	Underwriting Nonrenewal (816)	Underwriting Rescission (828)	Claim Handling Pre-existing Condition (1006)	Claim Handling Fraud (1009)	Claim Handling Post Claim Underwriting (1010)
<b>2003</b>	3,791	128	4	31	0	0	8
<b>2004</b>	3,584	144	2	31	10	1	10
<b>2005</b>	3,651	131	3	54	41	0	8
<b>2006</b>	3,276	126	3	33	64	0	20
<b>2007</b>	3,319	135	3	32	73	1	24

### **Criteria**

- \* The data counts are counts of the State Complaint Id submitted by the state.
- \* The counts are only associated to Risk Bearing Entities
- \* The counts are only for Confirmed Complaints not when it was received
- \* The data counts are specified to data that was submitted and loaded successfully.