Government Relations and Health Policy Consulting

Health and Financial Issues
2007

Health carriers and insurers will see the beginnings of many changes to the way their operations are regulated. State regulators have made, or are in the process of making, significant changes to the way company financial issues are overseen, how they are reported, what kind of areas will be subject to examination, and how taxes are allocated to list but a few areas undergoing review. The following is a brief overview of the major areas of change to watch and prepare for.

FINANCIAL ISSUES

Examination Procedures

The states are in the process of implementing new risk-focused examination procedures that will significantly change the way company examinations are conducted. The new procedures have been incorporated in large part into the various examiner and analyst handbooks and will likely become accreditation standards in 2010 or soon after. These new procedures will require significant hands-on input from senior management, including company CEO and CFO, and will focus on a company's risk profile rather than its static bottom line and risk based capital. It will be incumbent upon company senior management to familiarize themselves with the new procedures, and the new focus of the examination teams, to ensure that examinations are successful from the carrier's perspective.

In addition, there are new processes currently under development to give the states the authority to examine health plans and health insurers for compliance with federal anti-money laundering requirements, and in general with other federal laws and regulations. The federal Office of Foreign Asset Control (OFAC) asked that the states undertake examinations to ensure that carriers are complying with OFAC requirements. This is troublesome for health plans and insurers in particular given the fact that OFAC does not have specific requirements for appropriate anti-money laundering programs.

Financial Reporting

Disaster Reporting

A new disaster reporting group has been formed by the National Association of Insurance Commissioners to determine specifically whether health carriers and health plans should be included in the overarching disaster reporting framework that is currently under development. While health plans and carriers have generally not been opposed to inclusion in a reporting document, the onerous, and generally inapplicable reporting requirements currently under consideration, including claims data reporting by causation code and zip code, are troublesome.

Premium Tax Reporting

The National Association of Insurance Commissioners is considering changes to its annual reporting form, Schedule T, which would change the way carriers report and allocate their premium taxes. The new proposal, which would codify a "Rule of 200", would require carriers and health plans to allocate taxes based on group size, rather than group situs. Health plans and health trade associations have been vigorously opposing any Schedule T changes until a better understanding of the cost to carriers and policyholders has been developed.

Audit Reporting

The AICPA has revised a document titled *A Statutory Framework for Reporting Significant Deficiencies and Material Weaknesses in Internal Control to Insurance Regulators*, which can be found at *http://www.aicpa.org/download/acctstd/2005_0516_IC_StatFramework.pdf*. These revisions will require auditors to report significant deficiencies found during an audit, which is a significant departure from the new requirements contained in the NAIC's Model Audit Rule. That rule requires only the reporting of material weaknesses, which is a significantly higher standard of reporting. Carriers now will be required by their auditors to report these lesser standards to their domestic regulators. Questions still exist in many states regarding the confidentiality of these reports.

Corporate Governance

Issues relating to corporate governance have surfaced in myriad committees and working groups of the National Association of Insurance Commissioners. The most recent development is the creation of a corporate governance subcommittee to develop corporate governance rules above and beyond those already required by the federal Sarbanes-Oxley Act of 2002 and the amendments to the NAIC's Model Audit Rule. Health plans and insurers will need to be involved in these ongoing discussions to ensure that new rules, as they are developed, will not conflict with their various business models.

Financial Oversight

The National Association of Insurance Commissioners, through one of its subgroups, has begun work on a health trend test. The American Academy of Actuaries has agreed to begin reviewing data to assist with the test development. Health plans and insurers must pay close attention to the development of this test.

HEALTH INSURANCE ISSUES

External Review Issues

The National Association of Insurance Commissioners has significantly redrafted its External Review Model. Health Plans and health insurers must pay close attention to these new amendments, many of which would significantly change the scope of independent review and the manner in which independent review organizations are designated and selected.

Standardized Underwriting

The National Association of Insurance commissioners has agreed to begin development of a standardized underwriting form for use in all fifty states. Health plans and health insurers must pay close attention to the development of this form, to ensure that they are not prevented from requesting appropriate information and documentation from prospective insureds, in order to make clear and accurate underwriting decisions.