

Statement by Sandy Praeger, Kansas Insurance Commissioner July 21, 2005

Good morning. My name is Sandy Praeger, and I am the Insurance Commissioner for the State of Kansas. I am also the Secretary-Treasurer of the National Association of Insurance Commissioners (NAIC) – an organization representing the chief insurance regulators for all 50 states, the District of Columbia, and five U.S. territories.

I would like to take a moment to commend Mila Kofman on her insightful and timely report on the impact federal Association Health Plan (AHP) legislation would have on fraud and abuse. This report makes an important contribution to the debate by examining the unintended consequences of exempting AHPs from proven and effective state consumer protections and oversight.

The principal goal of insurance regulation is to protect consumers. It is in this critical area that federal AHP legislation fails so miserably. Simply put, allowing federal AHPs to operate outside the authority of state regulators will expose consumers to more fraud and insurance scams. As Mila Kofman's report shows, this is not just speculation but fact borne of years of experience with multiple employer welfare arrangements (MEWAs), association plans, out-of-state trusts and other schemes to avoid or limit state regulation.

One critically important lesson from the long history of insurance scams is that every time state regulation and oversight over these type of entities has been limited, the result has been the same – more fraud, loss of coverage, and mounting unpaid medical bills for providers and consumers.

As thoroughly detailed in Mila's report, state regulators have the resources and expertise necessary to prevent, identify, and shut down fraudulent plans and protect consumers. States have invested more than 125 years in regulating the insurance industry. State insurance departments nationwide employ more than 10,000 highly skilled people. The combined budgets of state insurance departments total more than \$700 million.

The comprehensive regulation and resources necessary to protect consumers from fraud and abuse would be lost under federal AHP legislation. The Department of Labor lacks the resources and expertise necessary to regulate insurance products, which would leave consumers at-risk of becoming victims of insurance scams and fraud.

As detailed in Mila's report, DOL has a very weak record in protecting consumers from fraud. During the most recent cycle of insurance fraud and scams, states were able to successfully shutdown 41 illegal plans. During that same time period, DOL was only able to shutdown 3 plans. Last year alone, state insurance departments shut down 48 AHP-like plans that were operating illegally, many through bona-fide associations.

Clearly, states, not the federal government, have the authority and local presence to take prompt action to protect consumers.

For example, 8 states (through cease and desist orders) were able to successfully shutdown a major insurance scam called TRG Marketing. A full two years after states took action against the insurance scam, DOL finally took action by filing a civil complaint in federal court. Such delays in taking regulatory action against these entities give unscrupulous operators more time to collect premiums, avoid paying claims, and perpetuate their fraudulent schemes on unsuspecting consumers.

Clearly, we must do more to expand access to high-quality and affordable health insurance coverage, particularly for small businesses who are struggling to afford and maintain coverage for their workers and their families. State have made tremendous strides and have acted aggressively to promote increased access to health insurance coverage through small-group reform laws and establishing purchasing pools. Moreover, states – as the laboratories of policy innovation – continue to experiment with tax credits, re-insurance, basic health plans, and programs to promote health and wellness. All of these efforts hold promise in holding down costs and expanding access to coverage.

It is critical that states and the federal government collaborate on these promising solutions. However, rehashing strategies that have been tried and failed, like AHPs, is not a step forward. Instead, federal AHPs would make the problem worse – by exposing consumers to more fraud and stripping away proven state consumer protections laws and oversight. It's time to move on to more effective solutions.