

# Stop Job-Killing PPACA Constraints on Agents and Brokers

On January 1, 2011, the Medical Loss Ratio (MLR) regulation made final the requirement that health insurance carriers spend 85% of their premiums (large group) and 80% (individual and small group) on direct medical care and the remainder on administrative costs. This extremely onerous provision contained in the Patient Protection and Affordable Care Act (PPACA) will cripple health insurance markets and create even more job loss for hundreds of thousands of independent health insurance agents and brokers and their employees.

Independent health insurance agents and brokers do not work for the insurance carriers. They run their own businesses and are appointed by many insurance carriers based on their state license, liability insurance and confirmation of their knowledge of the carrier's product offerings. They are hired by individual consumers and employers to serve as their agent/broker of record and to represent them before all of the insurance carriers with which the agent is affiliated. Only the individual consumer or employer can decide whether or not to keep their agent. This book of business has value, so it's in the agent's best interest to maintain the client's satisfaction throughout the life of the policy. Typically, the agents and brokers handle plan design, enrollment and claim problems for their clients and assist beneficiaries with accessing their benefits. Sometimes the issues they deal with are as easy as a request for a replacement card, and sometimes it is a case that can take days, weeks or even months to resolve.

## *Agents and Brokers Make a Difference for Their Clients Every Day*

"On January 2, I received an urgent call – a cry for help from a parent of a City of Life Church employee. A very rare, very large cancerous tumor had been found in the chest of their 25-year-old son David, a youth pastor who was also an expectant father. The son was to be flown to Cook Children's Hospital in Texas for testing and surgery at the beginning of the week. With the case still in underwriting, going through the normal process would take at least another week. So, I e-mailed my manager that urgent help was needed – it was New Year's weekend! By early Monday, January 5, my manager had spoken with the underwriting manager urging the necessity to have the group approved today. By early afternoon, the client was approved. Within the first few working hours of the New Year, the case had been approved, issued a group number and the young pastor had a member I.D. number. The surgery was a success and that week I received a call from his father thanking me for saving his son's life. The surgeon told David's family that if he had not had surgery so quickly, he would have died."

*– Tanya L. Burns (FL)*

Millions of individual consumers and small businesses depend on licensed agents and brokers to help them navigate the health care marketplace and find health plans that suit their needs and budgets. In fact, the Congressional Budget Office (CBO) has reported that agents and brokers often "handle the responsibilities that larger firms generally delegate to their human resources departments -- such as finding plans and negotiating premiums, providing information about the selected plans, and processing enrollees."<sup>1</sup>

Services provided by agents and brokers extend the intent of the PPACA MLR provisions to reduce overall spending on administrative costs. Agents and brokers save their clients money every day by negotiating on their behalf with insurers and matching them up with the benefits that best fit their needs. Carriers report that agent-placed individual health insurance business has better retention rates and fewer claims issues because of the help agents and brokers provide. With employers, agents and brokers also help save money on compliance issues and by designing innovative benefit packages that include cost-saving components, like wellness and disease management programs.

A survey of nearly 2,400 independent health insurance agents and brokers conducted in February 2011 shows that just one month after the MLR regulation went into effect, more than 70 percent of health agents experienced a decline in their business revenue as a result of PPACA.<sup>2</sup> The survey also shows 25 percent of respondents reporting business revenue reductions of 21 percent to 50 percent, and an additional 25 percent reporting losses of between 11 percent and 20 percent.

According to the Bureau of Labor Statistics<sup>3</sup>, the average income for agents and brokers ranges from \$45,000 to \$62,000. Entry-level agents make less than \$26,000 their first year.<sup>4</sup> If current commission reduction trends continue, the average health insurance broker will be making around \$38,000 annually, far less than the average American worker. In an economic climate where job opportunities are scarce – especially for trained professionals and full-time workers – the MLR as currently structured is

---

<sup>1</sup> Congressional Budget Office, "Key Issues in Analyzing Health Insurance Proposals," Pub. No. 3102, December, 2008, p. 70.

<sup>2</sup> "Economic Impact of Health Reform." Survey conducted by the National Association of Health Underwriters. February 2011.

<sup>3</sup> Bureau of Labor Statistic website, <http://www.bls.gov/oes/current/oes413021.htm>.

<sup>4</sup> *Occupational Outlook Handbook, 2010-11 Edition*. Bureau of Labor Statistics, US Department of Labor. December 17, 2009. Accessed at: <http://www.bls.gov/oco/ocos118.htm>.

causing irrevocable harm to hundreds of thousands of small businesses and jeopardizing desperately needed American jobs.

If independent health insurance agents and brokers commissions were removed – either through federal legislative or regulatory action or from what is currently defined as “premium” for MLR calculation purposes – it would significantly improve the dire situation that exists today for hundreds of thousands of small businesses owned and operated by insurance agents.

Of the approximately 1,400,000 agents and brokers<sup>5</sup>, most are independent and small business enterprises ranging from mom-pop shops to large brokerages. They frequently hire staff from the community to assist with day-to-day operations and problem resolution for their clients. Some of these jobs have already been eliminated, and the remainder is at risk, compounding the unemployment crisis.

Some may wonder why insurance agents and brokers don’t just change their business models and charge a fee for their services instead. Unfortunately, it’s not that simple. Health insurance carriers have been including agent and broker commissions as a small percentage of the cost of each and every insurance policy for almost 100 years, and commission revenue has never been part of the carrier’s bottom line. The reasons why agents are compensated this way, and cannot easily charge a separate fee for services, are a myriad of state-level licensing, consumer protection, anti-rebating and premium tax laws in each and every state that didn’t go away with the passage of PPACA.

Independent agents and broker compensation is also included in the premium as a service to the policy holder. Besides the convenience of only having to write one check, the embedded commission is really an insurance policy within an insurance policy to provide customers with advocacy services they don’t have to worry about paying for at the very times they most need it – when they face medical and/or financial trouble.

In addition to stabilizing revenue and maintaining jobs for licensed agents and brokers and their employees, removing their pass-through commissions from the MLR calculation would also benefit health insurance consumers and health insurance markets. Consumers would continue to benefit from the agents’ knowledge and expertise that most importantly includes cost-saving practices in this time of great change in the health care market.

---

<sup>5</sup> National Insurance Producers Registry, August 2010

Reversing this job-killing regulation would preserve important operational conveniences and consumer protections for small businesses and individuals. Finally, eliminating independent producer commissions from the MLR calculation will go a long way toward providing uniform and needed relief to all health insurance markets – and the consumers who reside within them. More than ever consumers are going to need expert advice and counseling during the transitional period as PPACA requirements are fully implemented over the next three years.

The commission reductions have had an immediate impact on the business decisions of health insurance agents and brokers. The NAHU survey indicates that 50 percent of agents and brokers have had to stop offering certain health insurance products to their clients or have had to cancel their agency appointments with certain health insurers altogether, both due to the negative financial impact of that business relationship. In addition, 41 percent of respondents report that as a result of the MLR regulation, they will have to cease serving specific markets, such as the individual market and very small businesses.

The commission payments to agents/brokers cover their expenses, including fixed costs such as office space, utilities, equipment; staff salaries and benefits, as well as workers compensation and unemployment insurance; errors and omissions liability (E&O) insurance coverage; and many more related professional expenses. In the micro-employer group market, a number of carriers now pay no commission at all post-PPACA and the MLR regulation. Agents and brokers are unable to assist these groups because their liability insurance will not cover the activities and advice.

Health insurance agents and brokers are the ultimate consumer protectors. They advocate for the individual consumer and client's behalf when problems arise, they identify health plan cost-saving opportunities and they keep consumers informed of new products and changes in the industry that may impact affordability and access.

Agents and brokers are like any other middle class American family next door: they have rent or mortgages to pay; they bear the costs of raising children; they need to buy gasoline at prices escalating at a record-setting pace; and they need to put food on the table. They can't continue operating in a loss/net loss situation. These Americans, agents and brokers, want to remain in business – for themselves, their families, their employees and most importantly to serve their health care consumer clients. America should want the same for them.



# Economic Impact of Health Reform

No one sees the direct results of the Patient Protection and Affordable Care Act (PPACA) like the health insurance professionals who work directly with American employers and individual consumers looking for affordable health care. Members of the National Association of Health Underwriters (NAHU) responded to congressional leadership's request for information on the economic impact of the new health care law on health insurance professionals and their clients.

## Key Findings

Out of the **2,386** agents and brokers surveyed, **68%** either own their business or act as the principal, with the majority doing business in the small-group or individual market.

“It is essential that [policymakers] recognize and protect the indispensable role that licensed insurance professionals play in serving consumers.”

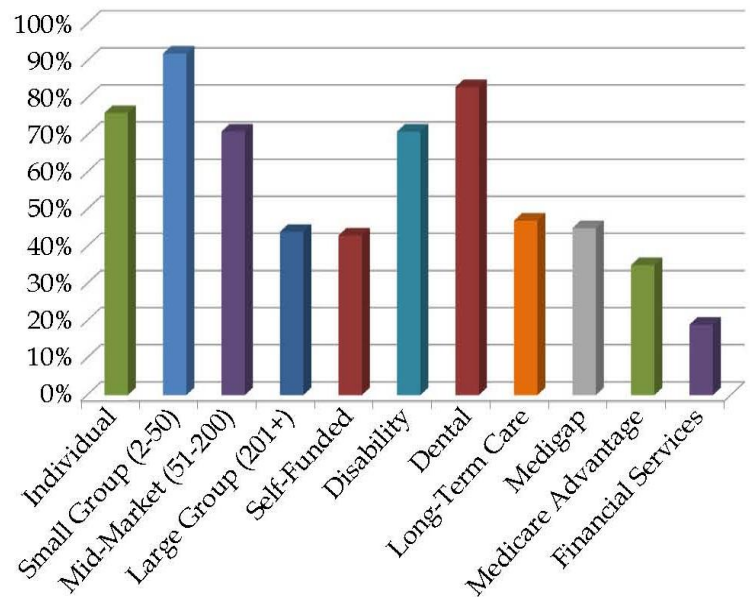
- National Association of Insurance Commissioners

Nearly **5%** of the respondents have lost their jobs as a result of health reform and its economic impact on the industry, with **72%** already seeing lost income due to the new medical loss ratio (MLR) requirements.

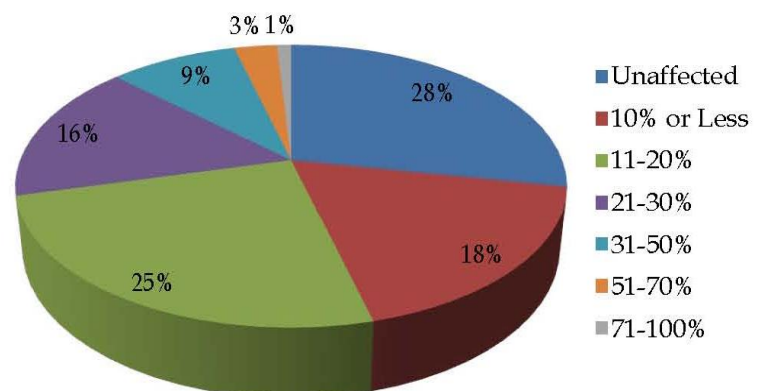
“[MLR] makes it next to impossible to continue my mission to make a difference and still make a living.”

- Beverly Gossage  
Eudora, KS

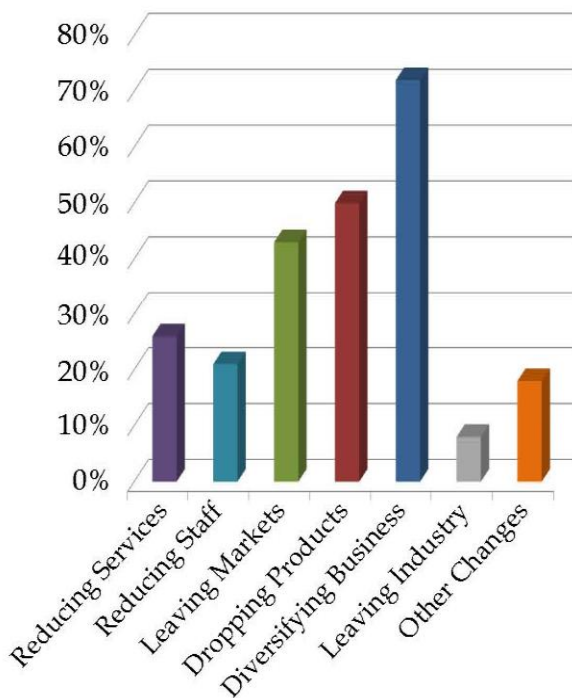
### Health Insurance Markets



### Decline in Income



## Changes to Business

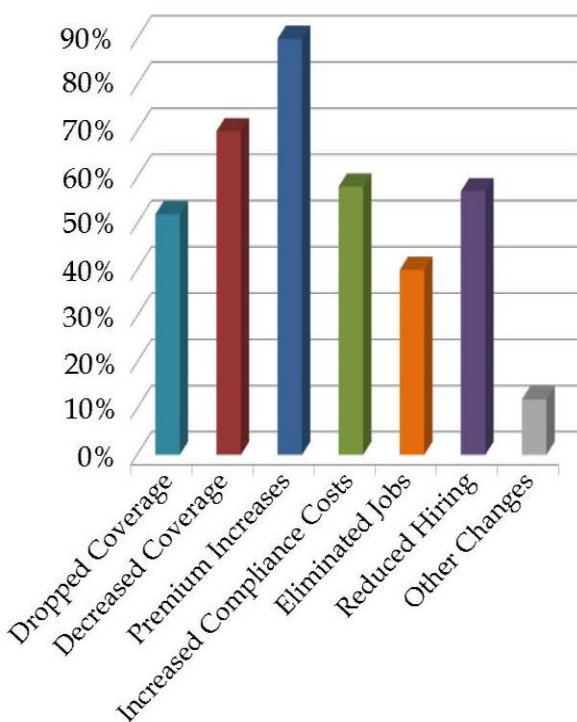


Almost every respondent expects to make significant changes in their business to cope with the economic challenges of PPACA, including **26%** expecting to reduce client services and **50%** pulling out of servicing entire product areas.

“We are no longer able to provide child-only policies due to the guarantee-issue mandate... The parents are faced with higher premiums and the agents and brokers who were selling these policies are not able to take care of their clients’ [needs].”

- Claire Howes  
Atlanta, GA

## Impact on Clients



**90%** of respondents have also seen premiums increase, and **52%** have experienced clients completely drop coverage because of increased cost.

“One group I have serviced for about eight years decided they would drop their group plan [altogether] because they feel free health care is on its way.”

- Joe M. “Jody” Crawford  
Little Rock, AR

The National Association of Health Underwriters (NAHU) represents more than 100,000 licensed health insurance agents, brokers, consultants and benefit professionals through more than 200 chapters across America. NAHU members service the health insurance needs of large and small employers as well as people seeking individual health insurance coverage. Every day, NAHU members work to obtain insurance for clients who are struggling to balance their desire to purchase high-quality and comprehensive health coverage with the reality of rapidly escalating health care costs. As such, one of NAHU’s primary goals is to do everything we can to promote access to affordable health insurance coverage for all Americans.