Testimony before the House Insurance Committee

Public hearing on HB 717
Creating an Office of Consumer Advocate for Health Insurance

Presented by Carolyn Morris
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Good morning Chairman Micozzie, Chairman DeLuca, and members of the Insurance Committee. My name is Carolyn Morris and I am the Director of the Bureau of Consumer Services for the Pennsylvania Insurance Department. In my role, I oversee a staff of fourteen investigators committed to providing quality service to Pennsylvania's insurance consumers. The Insurance Department's core mission is to protect the interests of the consumer and in my role I see firsthand the important work that is done to accomplish this goal.

HB 717, which would establish an Office of Consumer Advocate for Health Insurance in the Department of Community and Economic Development, is not new to the legislature. This bill, or a similar version of it, has been before the General Assembly for several sessions. The merits of this legislation are well-intentioned. However, several components of the bill are concerning to us. Specifically, the Department is troubled the bill would cause unnecessary duplication of government services and creates confusion for consumers by fragmenting points of assistance. Questions also persist about the viability of long term funding for this newly created entity during a period of prolonged budget constraints.

However, before getting into those details, it might be helpful if I review specific duties of the Bureau of Consumer Services in addition to what the Insurance Department has done to improve its functionality, especially in light of the federal health care reform act.

The Bureau of Consumer Services processes over 15,000 written complaints and inquiries per year, with approximately 5,000 of those involving health insurance. When adding in telephone calls, the number of complaints and inquiries swells to over 70,000 annually. In the last calendar year, over $2 million was restored to individual consumers in benefits, premium refunds, and claims payments. The Department also handles complaints filed by a provider on the behalf of an insured individual and provides relief to consumers through disaster recovery centers established throughout the state in response to state or federally declared disasters. The Bureau is responsible for reviewing market and product withdrawal activity and also works closely with our Bureau of Enforcement to ensure that those who are engaging in illicit activities in the insurance marketplace are identified and sanctioned.

Accordingly, the Bureau of Enforcement can examine companies to ensure compliance with Pennsylvania laws and oversees market conduct examinations as a result of the surveys or referrals from Consumer Services. Investigations include: monitoring the activity insurance producers and insurance companies; examining the records, files and practices of insurance entities and their compliance with laws and regulations; and overseeing that the rates charged in the marketplace are approved by the Department and are not unfairly discriminatory to any individual. The Department has various levels of remediation and sanctions available, including

imposing monetary penalties, ordering a company to cease and desist its improper activity, placing an individual licensee under supervision, suspending or revoking licenses, and ordering a company to pay restitution.

It is important to note that the Department regulates health insurance products and their rates for compliance with current law. Rate review is accomplished through careful actuarial analysis to ensure that rates are not excessive, inadequate or unfairly discriminatory. The Department has the ability to call for public hearings on rate filings when there is significant impact on consumers. Additionally, the Department publishes rate filings, policy form changes, and proposed mergers and acquisitions in the Pennsylvania Bulletin and on our website to allow consumers and other interested parties to comment before a transaction is approved or disapproved. The Department's ability was recently expanded with the passage of Act 134 in December of 2011. This legislation, as of March 21 of this year, will provide the Department expanded authority to review health insurance rate increases in the small group market. This power, along with continued oversight of the individual health insurance market, provides us with an effective rate review program in the eyes of the U.S. Department of Health and Human Services (HHS).

In addition to our core regulatory functions outlined above, it is helpful to note ongoing work relating to our Consumer Assistance Grant received from HHS. Awarded in late 2010, the grant totaled approximately $1.4 million. The federal consumer assistance grant has allowed us to establish a Consumer Assistance Program (CAP) to help in educating individual health insurance consumers about available coverage and assisting them with health insurance complaints or appeals. It will also allow the Department to expand consumer services by improving its technological capacity to collect data and reach consumers.

The Department's three primary Consumer Assistance Program goals are to: provide information to health care consumers; assist consumers in the complaint, grievance and appeal process; and collect, analyze, and report data. With the CAP grant, the Bureau of Consumer Services can increase its capacity to serve even more people by enhancing the services provided. The Bureau processed nearly 5,000 health insurance written complaints and inquiries in 2011. Examples of consumer concerns include the cost of health insurance, the termination of coverage due to nonpayment of premium, or complex matters involving adverse decisions made by an insurance company. The Bureau works with consumers via walk-in consultation, phone, mail, e-mail, or fax. Consumers may also access the Bureau through the PID website, which offers the ability to file an online complaint.

The Consumer Assistance Grant offers a unique opportunity to supplement the Department's health insurance complaint handling functions with a dedicated health insurance assistance unit. This health insurance assistance unit, using the current call center referrals and online resources, will:

- Educate consumers with billing and claims problems about their rights and responsibilities with respect to their group or individual health insurance plan,
- Provide information on the internal and external grievance process, including the offer of a "tool kit" that contains appeal letter templates, FAQs, educational brochures, information on best practices, and
- Assist consumers in making informed enrollment and health plan choices by educating consumers on the various types of options.

PID is committed to informing individual and group consumers about health insurance through a coordinated program of education, dialogue and consultation with all the stakeholder groups. This grant will help Pennsylvania implement a comprehensive stakeholder engagement and communication strategy to inform and educate individual and group consumers, identify their concerns, and assist consumers in acquiring and maintaining health insurance. PID will accomplish these objectives using new educational materials created with funding provided by this grant. PID will disseminate this information via the web and possible partnerships with effective third parties. With contractor assistance, PID will research, draft, and design new outreach materials, a webinar, and an outreach toolkit that will address topics such as resolving billing issues, submitting grievances and complaints, appealing a coverage decision, and obtaining coverage when leaving or switching jobs.

The Bureau will collect consumer complaint and complaint resolution data and track that data to identify complaint trends by company and market-wide. By assembling this new database, PID will be able to work directly with health plans and healthcare providers to target areas for improvement. The data will also assist PID in identifying gaps in existing regulations, policies, and procedures. The database will include data such as: type of issue, specific insurer involved, resolution timeline, level of consumer satisfaction with the resolution, and benefit amount recovered for the consumer, to name a few.

As Pennsylvania's insurance regulator, PID has extensive information about insurance companies' consumer services and will implement web enhancements to increase the accessibility of this information to consumers. PID's data management needs are supported by an integrated web-based system that provides us with the ability to track and monitor consumer service complaints and inquiries. Within the modules are data elements that allow for the collection of detailed information about the individuals and entities, actions taken by

the staff, correspondence received and generated, caseload management reports, ad-hoc reporting capabilities and letter generation. Additionally, there are nightly automated data exports and transfers to the National Association of Insurance Commissioners to support data reporting requirements. This system provides PID with the ability to collect data and process consumer assistance information from the inception to conclusion of contact with insurance consumers.

PID intends to use a portion of the grant funds to enhance its interaction with consumers by developing an interface to the consumer services system that will allow consumers, for the first time, to check on the status of the Department's review of their specific complaint or inquiry and submit comments and questions. Additionally, PID intends to use this interface to enhance the quality of its data by developing a complaint and assistance reconciliation program with insurance companies.

From the information I provided you, hopefully I have conveyed the extent to which the Department already advocates for the interest of the consumer across all lines of insurance by seeing that consumers are treated fairly and insurers are in compliance with Pennsylvania laws. Due to our dedication to our mission, as well as our current efforts related to the Consumer Assistance Program, the Department feels that HB 717 is duplicative in nature and may ultimately come at a cost to the consumer. The regulation of insurance inherently involves ensuring that consumers' interests are properly addressed through insolvency monitoring, rate review, complaint resolution, direct advocacy and market regulation.

In addition, the proposed housing of the Office of Consumer Advocate for Health Insurance may prove confusing for Pennsylvanians. It is our understanding placement of the new entity would be given to DCED in order to maintain autonomy from the Insurance Department, as this entity would be responsible for representing the interests of the consumer before the Department or any court on a regulatory matter. However, fragmentation of government, such as splitting insurance oversight functions, will leave consumers unsure of which entity to go to with their problems and will lead to inconsistent outcomes that will jeopardize the health and stability of the insurance marketplace.

Lastly, long term funding for the Office of Consumer Advocate for Health Insurance is dubious. Current language in the bill indicates that the newly created office could apply for grant monies from the federal government provided in the Patient Protection and Affordable Care Act. However, the Department already does this, including the $1.4 million received for the Consumer Assistance Grant. The federal grant program is currently unfunded and there is no indication that Congress will provide funding on a consistent basis for the program in the

future. While judicious in our approach, aiming to use the federal grant monies prudently and as effectively as possible, the funding is slated to run out in October of this year. Cautionary tales of creating new entities like those provided in HB 717 without having a sustainable, long term dedicated funding stream abound.

One example is last session's version of this legislation. As it was filed last session, HB 2735 would have used the Consumer Assistance Grant as one option to fund the office. If the bill would have passed last session and the office had been created in late 2010 or early 2011, its funding would already be in jeopardy. The likelihood of the legislature or administration finding funds in our current budget would be slim. This scenario repeats itself across the county. States such as Texas and Arkansas, who aggressively used their federal grants to hire additional employees (as many as nine in the case of Texas) are already out of funds. Some units are slated for closure as early as this April. Again, the end result may be consumer confusion, as new government entities appearing and suddenly disappearing accomplish little to fully educate them.

Ultimately, while the Department does not disagree with the impetus behind HB 717 – that is, advocating for the interests of consumers in health insurance – the legislation falls short of achieving its goals. Namely, the Department, through the Bureau of Consumer Services and its current work on the Consumer Assistance Project, already strives for the same end result. Duplicating this in a different department would be administratively inefficient, costly, and fragment services for the consumer. With the health insurance market ever changing, especially with the advent of implementation of federal health care reform, now is not the proper time to pursue moving forward in implementing HB 717.

Thank you for the opportunity to speak today. At this time I welcome questions from the committee.