



July 19, 2024

The Honorable Ron Wyden
Chairman
Committee on Finance
United States Senate
Washington, DC 20510

Dear Chairman Wyden:

Thank you for your letter regarding allegations that agents and brokers are submitting plan changes and enrollments in the Federally-facilitated Marketplace (Marketplace) without consumer consent. We share your goal of protecting Marketplace consumers and appreciate your interest in this topic.

The Centers for Medicare & Medicaid Services (CMS) is taking swift action to protect consumers from unauthorized activity by agents and brokers in the Marketplace and to root out bad actors who are violating CMS rules. CMS remains committed to protecting consumers in the Marketplace to ensure they are enrolled in their chosen plan and to suspending and/or terminating agents and brokers who defraud consumers. We are taking stronger actions given the very concerning activity by some agents and brokers related to unauthorized enrollments and unauthorized plan switches in which a consumer was switched from their selected plan into a new one or was signed up for coverage without their knowledge or consent. We continue to ensure that affected consumers receive assistance to retroactively restore coverage, cancel unauthorized enrollments, and update tax forms to ensure consumers do not suffer adverse tax implications when unauthorized activity occurs.

In addition to providing timely consumer assistance, CMS is focused on stopping bad actors in the Marketplace. CMS has increased oversight of agents and brokers to protect consumers from unauthorized plan switches and unauthorized enrollments. CMS is ramping up its review of alleged fraudulent or abusive conduct by agents and brokers and issuing suspensions and terminations of these agents' and brokers' Marketplace Agreements with the Department of Health and Human Services (HHS) when appropriate, barring them from being able to enroll consumers in HealthCare.gov coverage and insurance affordability programs. Between June 21, 2024, and July 10, 2024, CMS issued 200 suspensions of agent or broker Marketplace Agreements for reasonable suspicion of fraud or abusive conduct related to unauthorized enrollments or unauthorized plan switching. When an agent or broker's Marketplace Agreement is suspended, they are prohibited from participating in the Marketplace enrollment process, and as such, receiving commission payments for enrollments through the Marketplace. CMS will continue with robust oversight and monitoring of suspicious system activities by some agents

and brokers and anticipates future suspensions of the Marketplace Agreements for additional agents and brokers who are suspected of unauthorized activity over the coming months.

In addition to these compliance actions, CMS has made technological changes to address increases in unauthorized changes in consumers' enrollments by agents and brokers. Starting on July 19, 2024, CMS will block an agent or broker from making changes to a consumer's Marketplace enrollment unless the agent is already associated with the consumer's enrollment. This new step builds on CMS's previous work to protect consumers on the Marketplace by suspending and terminating agents and brokers who perform unauthorized Marketplace activity.

An agent or broker who is not already associated with a consumer's enrollment must now take additional steps to update a consumer's Marketplace enrollment, even with their consent. Unassociated, or "new," agents and brokers will be required to conduct a three-way call with the consumer and the Marketplace Call [Center](#), or to direct the consumer to submit the change themselves through [HealthCare.gov](#) or via an approved [Classic Direct Enrollment or Enhanced Direct Enrollment](#) partner website with a consumer pathway. CMS anticipates these updates will help block unauthorized changes by agents and brokers to Marketplace enrollments.

CMS has also been engaged with a broad spectrum of stakeholders to address fraudulent activity and to help improve the service provided to Marketplace consumers. Over the past year, CMS has met with the five most prominent enhanced direct enrollment entities that assist consumers on the Marketplace as well as the Association of Web-Based Health Insurance Brokers to discuss how their direct enrollment platforms can be exploited by agents and brokers engaging in fraudulent activity and to discuss opportunities for better monitoring of agents and brokers who use their platforms. In addition, we have met with agents and brokers that assist consumers on the Marketplaces to reiterate the importance of reducing inaccurate consumer applications and ensuring that consumers consider the total cost of their plan, including deductibles, and not just the monthly premium.

Finally, CMS coordinates with state Departments of Insurance (DOIs) and Marketplace issuers to investigate and resolve unauthorized enrollments and unauthorized plan switches. We have always shared lists of agents and brokers whose Marketplace Agreements have been terminated with the state DOIs that license the agent or broker. We are now sharing data with state DOIs earlier in the process, upon issuance of the suspension of agent or broker Marketplace Agreements for reasonable suspicion of fraud or abusive conduct related to unauthorized enrollments or unauthorized plan switching. Data about consumer cases is also available to the states and issuers in the Health Insurance Casework System. We have also taken steps to train and share information with state DOIs about complaints in their states so that they can conduct an investigation and take action under state authorities, as applicable. We continue to engage with DOIs and issuers to ensure we are comprehensively tackling these problems. CMS continues to evaluate all regulatory, operational, and technological options to prevent unauthorized activity in the Marketplace and hold those responsible for it accountable. The HHS Office of Inspector General is also notified when the Marketplace terminates an agent for cause.

Thank you again for your letter and for your continued engagement on this issue. If you have further thoughts or questions, please have your staff contact the CMS Office of Legislation at (202) 690-8220.

Sincerely,

A handwritten signature in blue ink that reads "Chiquita Brooks-LaSure". The signature is written in a cursive style with a large initial "C".

Chiquita Brooks-LaSure