Orange
County Association of
Health
Underwriters

Volume 14, Issue 2
September/October 2019

C. O. I. N.

COUNTY OF ORANGE INSURANCE NEWS

A Summer of Conventions and Fun… Now it's Time to Buckle Up for the "Fun" in the Fourth Quarter!

To Help You, Please Register for OCAHU CE Day and CAHU Convention!

OCAHU and Inland Empire Members at the Gordon Memorial Dinner at the NAHU convention, San Diego! ***Complete Coverage Inside!***

Inside this Edition:

Feature Article:

What to Do with Medical Loss Ratio Rebate Checks

By: Paul Roberts, OCAHU VP of Professional Development

Page 5

Congrats to OCAHU Members Pat Stiffer and Jessica Word on special honors!! See pages 16 & 17!

Register now for

CE Day!

Tuesday, September 10, 2019
8am to 3 pm
5 hours of CE!

See ad on page 9!

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Thank you for being a part of OCAHU!

Would you like to be more involved?

Contact a board member today! **See page 20 for a complete list!**

CAHU Annual Convention & Symposium

October 3rd thru 5th

Right Here in Orange County!

See ad on page 24

Register Now for CE Day!

September 10, 2019

See ad on page 9!

Making a Difference in People's Lives.

One Member at a Time.

Our association is a local chapter of the National Association of Health Underwriters (NAHU). The role of OCAHU is to promote and encourage the association of professionals in the health insurance field for the purpose of educating, promoting effective legislation, sharing information and advocating fair business practices among our members, the industry and the general public.

President's Message

From MaryAnna Trutanich

Hi everyone. Our voyage has begun. I hope you all have received my video saying hello. If not, please contact our wonderful Executive Director, Gail James Clark at orangecountyahu@yahoo.com to ensure we have your accurate email address.

At our Strategic Meeting in June, the Board planned many events (both Educational and Fun) for the coming year. Another reason why we need your current email, you don't want to miss out on these events! Keep a look out for the invitations and email announcements.

This summer we had a Vanguard event, which was a two-location brewery tour. Fun was had by all and I want to thank David Ethington and his committee for putting it together. We were also well represented at the NAHU convention in San Diego in late June/early July.

In the coming year, we ask that you please pre-plan events on your calendar, so that you don't miss any! Our first will be CE Day on September 10th, so please join us! Most meetings are on the second Tuesday on the month (barring special events, etc.), and you can usually see event information at least 2-3 month in advance if you look at the back cover of the COIN—Schedule of Events section.

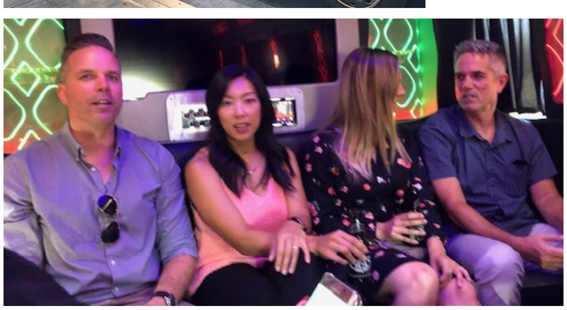
MY ASK this edition? We are always looking for Volunteers. If anyone would like to help with any event, with legislation, with communications, etc., please contact any of the Board members. You can find all of our contact information on the Board of Directors page 20 in the COIN! ##

OCAHU– Vanguard Brew Tour Summer, 2019

OCAHU's 1st Vanguard event was a success! Thank you to all of you who were able to come out. Thank you to our event sponsors: AGA, LISI, and BenefitMall. Our first event included a tour of the Brewheim and Towne Park Breweries. We enjoyed getting to know new faces alongside some tastings at each of the breweries.

We look forward to meeting new faces as we grow Vanguard into the future. Vanguard will develop as the mentoring arm for new brokers coming into the industry. Please keep an eye for future events!

For those of you who are interested in growing the Vanguard program, you can do so by joining our committee! Please reach out to David Ethington, our Vanguard Chair, for more details.



Good times were had by all OCAHU members in attendance, at the breweries and on the bus! For more photos, see page 15

Feature Article: What to Do with Medical Loss Ratio Rebate Checks

By: Paul Roberts, VP of Professional Development for OCAHU

The Affordable Care Act (ACA) requires group health plans to spend a minimum percentage of premium dollars on members' health care expenses and services. It also sets a threshold on the maximum amount of premium dollars that can be spent on other administrative costs, such as marketing, profits, salaries, agent commissions, etc. These requirements, known as a plan's **Medical Loss Ratio (MLR)**, require group health plans to reimburse employers for any premium dollars that exceed MLR limits.

In the Small Group market, the law requires an MLR of 80%. That is, at least 80% of premium dollars must be spent on health care-related expenses, and no more than 20% of premium dollars may be spent on administrative expenses. In the Large Group market, the MLR rises to 85%.

Any year a health plan exceeds its MLR requirements, the health insurance carrier has until 9/30 of the following year to distribute MLR rebate funds. ***Plans that exceeded MLR requirements in 2018 are required to distribute MLR reimbursement checks by 9/30/2019.*** **Employers have several options when it comes to utilizing or dispersing the MLR rebate funds, but the law gives them just 90 days to take action.** Furthermore, employees are also notified about forthcoming MLR rebate checks by their plan(s) as required by law, which can also put pressure on employers.

The MLR rebate checks are generally small, ranging from about $20 to $30 per participant. Forwarding these funds to employees can be a challenge, because the funds may result in additional taxable income and can be a burden on payroll. Often, the administrative cost to release the funds to employees is greater than the amount of the rebate checks themselves, which is why employers are granted flexibility when it comes to utilizing the funds.

The Department of Labor (DOL) provides three options for distributing rebates:

- Reduce subscribers' portions of the annual premium for the <u>subsequent policy year</u> for <u>all subscribers</u> covered under any group health policy offered by the plan.
- Reduce subscribers' portions of the annual premium for the <u>subsequent policy year</u> for <u>only those subscribers covered by the health policy on which the rebate is based.</u>
- Provide a cash refund only to subscribers who were covered under the group health policy on which the rebate is based.

The law does not require employers to track down former employees for MLR rebates, but COBRA participants must be included in any premium rebates, if applicable.

If the plan is funded solely by the employer, then the employer may keep the rebate check – as long as the rebate funds are not considered "plan assets" under ERISA law. If the funds are considered "plan assets,'" then the funds must be used to enhance employees' benefits.

If the employer has a Section 125 Premium Only Plan (POP) in place, and its employees pay premium contributions on a pre-tax basis, then any MLR rebate amount given to those employees is generally considered taxable income. It is important for an employer to check with its accountant or payroll personnel for counsel on these tax issues. Because of these tax ramifications, most employers opt to utilize MLR rebate funds for future premium payments, or toward benefit enhancements for employees.

Whatever action the employer takes, a documented plan is critical, and communication of this plan is of equal importance. The employer's MLR rebate plan should clearly document and summarize the employer's 90-day action plan, should apply to all similarly-situated employees, and should be available for retrieval and review by employees. If you'd like more help on MLR rebate checks and calculations, please reach out to me at 866-375-2039.

##

DON'T FORGET TO REGISTER FOR THE CAHU ANNUAL CONVENTION & SYMPOSIUM,

OCT. 3-5, RIGHT HERE IN ORANGE COUNTY!

SEE AD PAGE 24!

NAHU Convention 2019 Highlights & Photos

The 2019 NAHU convention was held in San Diego in June/July, 2019. It was an informative and fun event for the many OCAHU delegates in attendance.

OCAHU was a big winner in the Awards category! We were well represented on July 1 and 2nd, with the following awards for OCAHU and CAHU:

Blue Ribbon of Excellence—CAHU

Website Award—CAHU

Media Relations Award—CAHU

Landmark Award—CAHU

Most New Members for a Large State—CAHU

Pacesetter Award—OCAHU

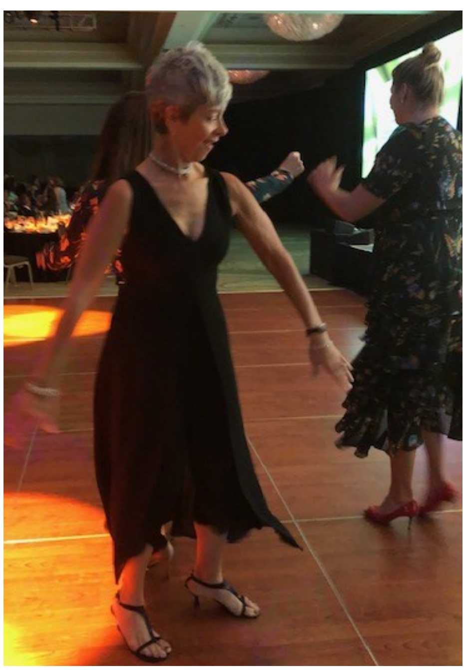
Robert W. Osler Professional Development Award—OCAHU

William Flood Award—OCAHU

Distinguished Service Award, - Pat Stiffer

Thanks to all of the OCAHU Members who attended!
##

Above: Maggie Stedt, Ryan Dorigan & MaryAnna Trutanich on the pre-conference bay cruise. Right: Pat Stiffer receives Distinguished Service Award.

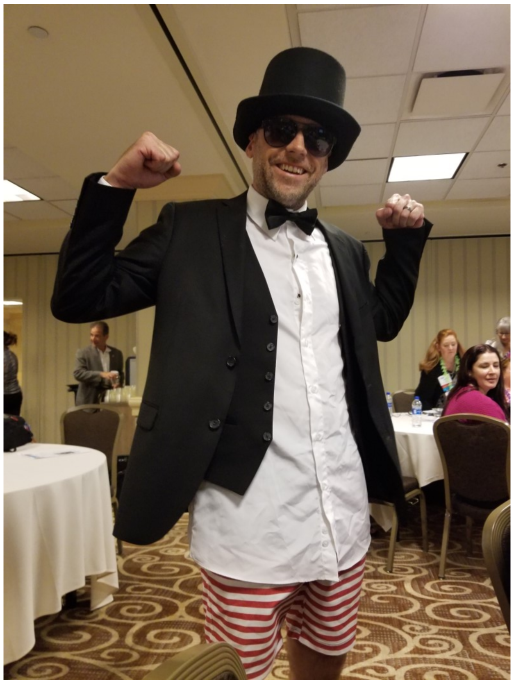


Top Right: OCAHU members over dinner in Little Italy.

Middle Right: NAHU members, including Maggie Stedt, MaryAnna Trutanich and David Ethington at the Region 8 meeting in San Diego.

Above: Shake that booty, Gail! (Executive Director Gail James Clarke; Bottom right: Committee for Regional Meeting in Long Beach (including Ryan Dorigan) announces meeting at the Queen Mary in August, 2019.

More NAHU Convention Photos



Right: NAHU Staff, including Janet Trautwein and Marci Buckner, discuss legislative issues at the NAHU convention in San Diego.

Top left: OCAHU immediate past president Ryan Dorigan dances it up to promote the Region 8 meeting in Long Beach. Middle Right: Ryan Dorigan at the NAHU convention.

Middle left: MaryAnna Trutanich, Gail James Clarke, Pat & Bob Stiffer at dinner on the bay during convention.

Bottom left: MaryAnna Trutanich speaks her mind at the Town Hall meeting. Bottom middle: Gail James Clarke and Jessica Word at LPRT cocktail hour. Bottom right: Dorothy Cociu and Don Goldmann at LPRT cocktail party.

More NAHU Convention Photos

NAHU Convention at the Sheraton Harbor Island Resort in San Diego, June/July, 2019

September 10, 2019

8:00 AM to 3:00 PM

(Speaker Line-up Subject to Change)

OCAHU's Annual CE Day Can't be Missed!
You'll walk away with 5 CE's and
TONS of useful information to help you in
your business.

Event Location

Hyatt Regency John Wayne Airport | 4545 MacArthur Boulevard | NB

Registration Fees: Member & First Time Guest: $50 | Non-Member: $75

Register online at ocahu.org

AGENDA

8:00 to 9 AM
Registration, Continental Breakfast and Vist with Sponsors

9 to 9:55 AM
You've Got the BOR, Now What?
· Course # Pending | 1-HR CE
Jeff Strong, Sterling Administration

10 to 10:55 AM
Annual Legislative Review 2018-2019
· Course 377411 | 1-HR CE
Jim Morrison, CAHU VP of Legislation

11 AM to 11:55 AM
Compliance Basics
· Course 332709 | 1-HR CE
Marilyn Monahan, Esq.

12 to 1:00 PM
Visit with Sponsors, OCAHU Business , Charity Check Presentations and Lunch

1:00 to 1:55 PM
Social Media Strategies for Health Insurance Agents
· Course 375371| 1-HR CE
Paul Roberts, Word & Brown

2:00 to 2:55 PM
True North: NAHU Code of Ethics as a Moral Compass for Agents
· Course 368971 | 1-HR CE
Paul Roberts, Word & Brown

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Orange County Association of Health Underwriters

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Legislative Update—State & Federal

By David Benson, VP of Legislation

On the state side, every year the California Association of Health Underwriters (CAHU) puts together a list of priority legislative bills that Leg Committee Members track throughout the year. Our current healthcare system is very complex. As well-intentioned as legislators are in trying to improve our healthcare system, most bills have unintended consequences. As healthcare legislation works its way through the legislative process our Lobbyist meets with elected officials to discuss CAHU's position on each bill and possible amendments to eliminate the unintended consequences.

Here is an update on the bills OCAHU members discussed with legislators when we were in Sacramento last May.

AB 5 CAHU Position Support AB 5 clarifies that a recent California Supreme Court ruling, Dynamex Operations West, Inc. vs Superior Court (Dynamex) ***does not alter an insurance agent or broker's ability to be an independent contractor***. Without this clarification, many agents could be forced to become W-2 employees. This would have negatively impacted agents and brokers by restricting commissions and the ability to work independently while impacting existing tax reporting and deductions.

AB 1309 CAHU Position Support For policy years beginning on or after January 1, 2020, the open enrollment period for the individual market (in and out of the Exchange) would start November 1 and run through January 31. Currently open enrollment closes January 15th.

AB 651 CAHU Position Support This bill would require a health care service plan contract or a health insurance policy issued, amended, or renewed on or after January 1, 2020 to provide that if an enrollee, insured, or subscriber (individual) receives covered services from a noncontracting air ambulance provider, the individual shall pay no more than the same cost sharing that the individual would pay for the same covered services received from a contracting air ambulance provider, referred to as the in-network cost-sharing amount.

AB 1611 CAHU Position Support This bill requires a health plan or insurer, on or after January 1, 2020 to charge patients only the reasonable and customary fee for any emergency room care in or out-of-network. This bill also closes the loophole that leaves workers with self-insured or federally-regulated coverage through their job exposed to surprise bills.

Bills starting with "AB" are Assembly Bills. Once these bills work their way through the Assembly Health Committee, the Appropriations Committee and are voted on by the full Assembly, the bill goes through the same process in the State Senate. If amendments are added to the bill while going through the Senate Committees the bill goes back to the Assembly for another vote.

Throughout the year our OCAHU Legislative Committee (which is open to all OCAHU members) meets with members of the State Assembly and Congress in their Orange County District Office to educate legislators on the role of the agent, our position on healthcare bills and how to eliminate unintended consequences that are written into proposed healthcare legislation. We also offer to solve constituent healthcare challenges and set up Town Hall meetings to discuss healthcare topics of interest such as Covered CA, plan options available during open enrollment and how to sign up for Medicare.

On the Federal side of legislation, here is a brief summary of activities:

- The House voted 419-6 to pass H.R. 748 to fully repeal the ACA's Cadillac/excise Tax. The Senate has placed the bill under Rule 14 consideration, allowing it to bypass the committee process and be voted on the floor. NAHU urges the Senate to quickly advance this legislation to President Trump to be enacted into law.
- The House Energy and Commerce Committee advanced their surprise billing legislation, H.R. 3630, with an amendment that allows providers to use arbitration to appeal the benchmark under certain conditions. NAHU opposes arbitration and supports the benchmark standard. The arbitration process would lead to higher premiums.

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What Agents and Your Clients Need to Know!

This is a summary of some recent developments of interest to consultants and employers:

Federal: Highlights

Section 4980H Affordability Percentage: The IRS has announced the section 4980H affordability percentage for 2020 (IRS Rev. Proc. 2019-29). To avoid the 4980H(b) employer shared responsibility penalty, "applicable large employers" (ALEs) must offer full-time employees (and their dependent children) "minimum essential coverage" (MEC) that is "minimum value" (MV) and "affordable." Each year, the IRS adjusts the percentage that is used to calculate affordability. For 2020, the percentage is going down a little, to 9.78%. A year-over-year comparison:

Year	Percentage
2015	9.56%
2016	9.66%
2017	9.69%
2018	9.56%
2019	9.86%
2020	9.78%

Section 4980H Employer Shared Responsibility Penalties: The section 4980H penalties for calendar year 2020 are estimated to be $2,570 for the 4980H(a) penalty and $3,860 for the 4980H(b) penalty (for 2019 the penalties were $2,500/$3,750).

Health Savings Accounts: Preventive Care: Chronic Conditions: A new development at the federal level expands the list of health care that may be paid for using health savings account funds, which may make high deductible health plans and health savings accounts more attractive to employees.

Under section 223 of the Internal Revenue Code (IRC), individuals who are enrolled in a high deductible health plan —and do not have other disqualifying coverage and meet other requirements—may contribute to a health savings account (HSA). In addition, section 223(c)(2)(C) includes a safe harbor

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HIPAA Privacy & Security Updates—From Dorothy Cociu, COIN Editor and HIPAA Privacy & Security Consultant & Trainer

There were no notices of HIPAA Privacy & Security breach settlements or civil monetary penalties announced since the last issue, but I would like to update you on other HHS/OCR news since the last issue.

First off, I will be attending the annual HHS/OCR/NIST Safeguarding Health Information: Building Assurance through HIPAA Security conference October 16 & 17, 2019, held in Washington, DC. Therefore, I'm sure I'll have plenty to report in the next issue!

On June 26, 2019, the HHS Office for Civil Rights issued new Frequently Asked Questions on HIPAA and Health Plans Support Care Coordination and Continuity of Care. The FAQ explains when and how one health plan can share PHI about individuals in common with a second health plan for care coordination purposes under the Privacy Rule. The FAQ clarifies that, in certain circumstances, the Privacy Rule permits a health plan to use PHI to inform individuals about a replacement for health insurance, even if the plan received the PHI for a different purpose, and without the communication to the individual being deemed marketing. For example, a health plan could use PHI to inform customers reaching the age of Medicare eligibility of the availability of Medicare Advantage plans for continuity of care purposes without seeking a separate authorization for the communication.

On July 16, 2019, the HHS Office for Civil Rights (OCR) announced Limited Waiver of HIPAA Sanctions and Penalties During a Declared Emergency, due to Tropical Storm Barry.

Severe disasters, such as tropical storm Barry, impose additional challenges on health care providers. HHS Secretary Alex Azar declared a public health emergency in Louisiana to prepare for potential impacts of the tropical storm, following President Trump's emergency declaration for the state. Under these circumstances, the Secretary has exercised the authority to issue a limited waiver of HIPAA sanctions and penalties. The HHS Website offers more information on HIPAA and emergency situations. ##

Updates on Previous Stories Written in Recent Issues of the COIN

Equifax Data Breach Settlement Update; Pharmaceutical Companies Pay for Keeping Generic Drugs off the Market

By: Dorothy Cociu, RHU, REBC, GBA, RPA, LPRT

OCAHU V.P. Communications & Public Affairs

Equifax Data Breach Settlement Update

I previously reported on the Equifax Data Breach that affected 147 Million people in September, 2017. According to the Federal Trade Commission in July, 2019, Equifax has agreed to a global settlement with the FTC, the Consumer Financial Protection Bureau, and 50 U.S. states and territories. The settlement, according to the FTC, includes up to $425 million to help people affected by the data breach. The total settlement is reported to be over $700 million.

If your information was exposed in the data breach, you can file a claim at EquifaxBreachSettlement.com for these benefits (summarized):

- Free Credit Monitoring and Identify Theft Protection Services

◊ Up to 10 years free credit monitoring, including at least 4 years of free monitoring of your credit report at all three cred it bureaus and $1,000,000 of identity theft insurance

◊ Up to six more years of free monitoring of your Equifax credit report.

If you were a minor in May, 2017, you are eligible for a total of 18 years of free credit monitoring.

- Cash Payments (capped at $20,000 per person) for expenses you paid as a result of the breach, like:

◊ Losses from unauthorized charges on your accounts

◊ The cost of freezing or unfreezing your credit

◊ The cost of credit monitoring

◊ Fees you paid to professionals like an attorney or accountant

◊ Other expenses like notary fees, document shipping fees and postage, mileage, and phone charges

For the time you spent dealing with the breach, you can be compensated up to $25 per hour up to 20 hours. There are limited funds available so your claim may be reduced.

If you submit a claim for 10 hours or less, you must describe the actions you took and the time you spent doing those things.

If you claim more than 10 hours, you must describe the actions you took and provide documents that show identity theft, fraud, or other misuse of your information.

There is compensation for the cost of Equifax credit monitoring and related services you had between September 7, 2016 and September 7, 2017, capped at 25% of the total amount you paid.

Even if you do not file a claim, you can still get free help recovering from Identity Theft for at least seven years, and free credit reports for all US consumers starting in 2020 (up to 6 free credit reports per year for 7 years from the Equifax website. In addition, you can get one free Equifax report at AnnualCreditReport.com.

You must file your claim by January 22, 2020, so time is running out.

For more information, visit the Federal Trade Commission website or the Equifax website.

Scammers and Con Artists Targeting Equifax Settlement Efforts

Probably not a surprise to most of us, con artists and scammers immediately targeted those affected by the Equifax settlement offers in the news.

Several news agencies, including CBS News, reported that the FTC warned consumers that con artists and scammers have put up fake websites to look like the official Equifax settlement website, hoping to lure people into providing them with sensitive financial information. The FTC noted that consumers NEVER have to pay a fee to claim benefits from the settlement, and said anyone that calls you to

Continued on page 14

Updates on Previous Articles—Equifax Settlement and Pharma Penalties, continued from page 13

urge you to file a claim is most certainly a con artist.

If you're leery of doing anything on a website, you can always download and print a hard-copy form, and send them to Equifax Data Breach Settlement Administrator, c/o JND Legal Administration, PO Box 91318, Seattle, WA 98111-9418.

Several phishing scams were reported in multiple states, including Florida, where residents and victims received emails that looked legitimate, but at further review, had incorrect addresses or website addresses, or even incorrect grammar or spelling. All of these are signs of a scam or phishing incident. Remember to do the research, so you're not putting yourself into even a worse position!

Pharmaceutical Companies Pay for Keeping Generic Drugs off the Market

In an update on a more recent story published in the COIN (July-August, 2019), CNN reported that pharmaceutical companies are set to pay nearly $70 million to California over "collusive" deals that kept generic drugs off the market and raised prices, according to a statement made by California Attorney General Xavier Becerra.

According to the Attorney General, under such "pay-for-delay" agreements, drugmakers could maintain a monopoly on branded medications after their patents expired. These practices, according to the AG, caused consumers "to pay as much as 90% more for drugs shielded from competition."

Four settlements were reportedly reached with drug companies Teva Pharmaceutical Industries, Endo Pharmaceuticals and Teikoku Pharma over the practices, according to the Attorney General. These agreements will also some consumers to recover costs related to their drugs.

Teva reportedly kept a generic of Provigil, a drug used to treat narcolepsy, from entering the market for almost six years, according to AG Becerra. Part of the settlement paid by Teva will be used to create a $25 million fund for California residents who purchased Provigil between 2006 and 2012.

I'm sure we haven't heard the last of this! ##

Reference Sources: Equifax Data Breach Settlement, July, 2019, Federal Trade Commission Website Data; "Con Artists push fake

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NAHU Region 8 Meeting, Long Beach, August, 2019 Photos

Above: OCAHU Member Cathy Daugherty, along with other region 8 members, attend regional meeting. Below: Don Goldmann, John Evangelista, Sarah Knapp, Maggie Stedt and others.

More Event Photos—Brewery Tour and Region 8 Meeting

There's Gail James Clark shaking her booty again! (Executive Director, Brewery tour, above)

Above: OCAHU members enjoy brewery tour. Bottom right: OCAHU members Adriana Mendieta, Dave Benson, Maggie Stedt, Sarah Knapp, Pat Stiffer, Paul Roberts, MaryAnna Trutanich, Cathy Daugherty & John Evangelista at Region 8 meeting

Right: Region 8 RVP Patrick Burns runs the Regional Meeting in Long Beach.

The 2019 NAHU Distinguished Service Award Presented to Pat Stiffler

At the 2019 NAHU Convention in San Diego, OCAHU past president Pat Stiffer was awarded a prestigious Distinguished Service Award. This award is presented to members who have contributed significantly above and beyond what is normally called for in connection with association volunteer service at the local, state, and national level over an extended period of time. Pat's commitment of time, talent and finances to the advancement of the association and health insurance is exemplary.

"The leadership of NAHU members has a far-reaching impact on providing for the healthcare needs of individuals, families and business in their communities. We are grateful for Patricia's dedication to association volunteer service and recognize her for those efforts with this well-deserved award," said NAHU CEO Janet Trautwein.

Pat has been a member of NAHU and the Orange County Association of Health Underwriters for 20 years. She is a Past President and Awards Chair for OCAHU. She is currently the Public Service Chair and Women in Business Charity event Chairperson. She also serves on the California Association of Health Underwriters as the Awards Chair. In addition, she is the NAHU National Vice Chair of Awards. Pat has been a licensed insurance agent for 32 years and is currently Vice President of Options in Insurance Agency in Anaheim Hills, CA. OCAHU congratulates Pat Stiffer!

OCAHU Member Jessica Word Nominated For Prestigious Innovator of the Year Award 2019

OCAHU member Jessica Word was recently nominated by the Orange County Business Journal for the 2019 **Innovator of the Year Award**. The awards program will be held at the luncheon and awards program on September 25, 2019 at the Hotel Irvine. OCAHU would like to congratulate Jessica on being nominated for this very prestigious award and wishes her the best of luck at the event! ##

Updates on Previous Articles—Equifax Settlement and Pharma Penalties, continued from page 14

Equifax settlement websites…. How to tell phony from real..", CBS News, by Kate Gibson, July 30, 2019; "Drug Companies to pay $70 million for delaying cheaper generics, California Attorney General Says." by Arman Azad and Jamie Gumrecht, CNN, updated July 29, 2019.

##

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***COIN Compliance Corner Legal Brief*, Continued from page 12**

that allows individuals to receive preventive care without a deductible or with a deductible that falls under the HDHP deductible limit and still be eligible to contribute to an HSA.

Periodically, the IRS issues guidance on what qualifies as preventive care for the purpose of the section 223 safe harbor. (See, e.g., IRS Notices 2004-50, 2004-23, 2013-57, and 2018-12.) For example, preventive care that must, under the ACA, be provided by non-grandfathered health plans without cost sharing falls under the section 223 preventive care safe harbor. (IRS Notice 2013-57.)

Recently, in IRS Notice 2019-45, the IRS expanded the list of preventive services that fall within the section 223 safe harbor. This expanded list includes low-cost preventive care, before the plan's deductible, that helps maintain the health status of individuals with chronic conditions. Using identified criteria, the IRS issued a list of particular services and items that now fall under the section 223 safe harbor when used by individuals diagnosed with specified chronic conditions. Two additional details to keep in mind: (i) the IRS noted that if an item is not on the list, even if it may meet the identified criteria, it does not fall within the expansion of the safe harbor created by the notice; and (ii) the list does not expand the scope of the preventive services that, under the ACA, must be provided by non-grandfathered health plans without cost sharing. The list is available at this link (it is included in the appendix to the Notice): https://www.irs.gov/pub/irs-drop/n-19-45.pdf

Medicare Part D Notices: Medicare Part D notices of creditable and non-creditable coverage must be must be distributed by employers that offer prescription drug coverage prior to October 15, 2019.

CHIP Notices: An updated CHIP notice is available at this link: https://benefitslink.com/src/dol/CHIP-model-notice-07312019.pdf

FMLA Forms: The Department of Labor is seeking comments on revisions to its model FMLA forms (84 Fed. Reg. 38061, Aug. 5, 2019). Written comments are due October 4, 2019. The proposed revisions can be found here: https://www.dol.gov/whd/fmla/forms2019.htm

California: Highlights

Individual Shared Responsibility Penalty: **California Variation (S.B. 78; Chapter 38):** The federal Tax Cuts and Jobs Act (H.R. 1; Public Law No. 115-97), reduced the ACA's individual shared

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Visit our Facebook Page for hundreds of photos from our various events held throughout the years! Don't forget to Like & Follow for up-to-date notifications.

www.facebook.com/OCAHU

Thanks Again to our OCAHU Corporate Platinum Sponsors!

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Membership News

New Members and Renewals! - John Evangelista, V.P. Membership

OCAHU is proud to announce the list of new members since the last issue!

Brian Barry

Lisa Boyajian

Celina Coffman

David Degala

Angela Gambino

WELCOME NEW MEMBERS!

Register Now for

CAHU Convention & Symposium

Costa Mesa

October 3-5, 2019

See Ad on page 24

Brokers Making a Difference

"Our Goal is to help all individuals and employers find appropriate health insurance at an affordable cost"

The Brokers Making a Difference website is designed to inform consumers, legislators and the media about the tireless work agents and brokers do in guiding their clients through the complex task of complying with numerous state and federal regulations while choosing and maintaining appropriate coverage at an affordable price. The website includes an interactive map where people can view specific examples of how brokers help their clients and gain a better understanding of the broker's role as an advocate and educator. This website highlights the vital role of benefit specialists in the health care industry and the value they bring to their clients throughout the year.

Visit: www.brokersmakingadifference.org

The website includes links for:

Workplace Health Insurance

Individual and Family Health Insurance

Medicare

Thank You OCAHU Sponsors!!!

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OCAHU Board of Directors and Staff 2019-2020

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Please Support CAHU PAC and HUPAC today!

CAHU-PAC was established in 1992 as the political action committee associated with the California Association of Health Underwriters (CAHU). Its mission is to facilitate, with strategically targeted political contributions, the legislative advocacy program of CAHU with a primary emphasis on supporting the role of the agent in the delivery of private health insurance. CAHU-PAC accepts contributions primarily from licensed insurance agents and insurance companies and operates under California legal authority.

HUPAC is the political action committee of the National Association of Health Underwriters. It is the mission of HUPAC to raise funds from NAHU members for the purpose of supporting the political campaigns of candidates who believe in private sector solutions for the health and financial security of all Americans.

To support CAHU-PAC or HUPAC, visit OCAHU.org, CAHU.org or NAHU.org, download a one-time or monthly contribution form, or contact OCAHU's Vice President, Political Action, Grant Molden at 714 425-7277, or email him at gmoulden@lisibroker.com

Some Preliminary Photos from Senior Summit

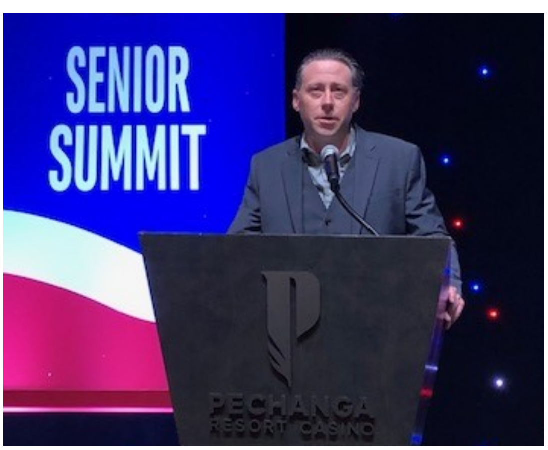
Note: Complete Coverage of Senior Summit Will Be Featured in the November-December Issue of the COIN

Top Left: Juan Lopez, Maggie Stedt and other committee members

Top Right: Membership Table at Senior Summit

Left Below: NAHU President Patricia Giffey, Nicholos Uehlecke (HHS), John Green, NAHU VP Congressional Affairs, Jim Morrison, CAHU VP Legislation

Below Top: JSA Award 2018; Below Bottom: Carrier Panel; Blue Shield, United American, Anthem-Blue Crss, United Health Care, Health Net



Left Middle; John Evangelista gives membership push; Bottom Left: Ryan Dorigan at Senior Summit

Continued on page 23

Compliance Corner Legal Updates, continued from page 22

responsibility penalty to zero, effective December 31, 2018. As a result, beginning with the 2019 tax year, individuals who do not have health coverage will not have to pay an individual shared responsibility penalty to the federal government.

However, effective January 1, 2020, that penalty is essentially being revived in California. S.B. 78 (Chapter 38), which was signed by the governor on June 27th, creates the Minimum Essential Coverage Individual Mandate (Cal. Govt. Code § 100700, et seq.). As a result of S.B. 78, Californians will have to have health coverage in 2020 or pay a penalty to the Franchise Tax Board (FTB). This change will impact employers in several ways, including by encouraging employees to sign up for group coverage to avoid paying the penalty.

Under the new California law,

> (a) For each month beginning on or after January 1, 2020, a California resident shall be enrolled in and maintain minimum essential coverage for that month, unless an exception applies.
>
> (b) For each month beginning on or after January 1, 2020, a California resident shall also ensure and maintain minimum essential coverage for any person who qualifies as that California resident's applicable spouse or applicable dependent, unless an exception applies.

Similar to the ACA, certain exceptions to the coverage mandate apply.

For purposes of this coverage mandate, the definition of "minimum essential coverage" is similar to that used for MEC coverage in the ACA (26 U.S.C. § 5000A(f)), and includes (Cal. Health & Safety Code § 1345.5):

> Coverage under an eligible small or large group employer-sponsored plan, including grandfathered plans and policies.
>
> Coverage under an individual health care service plan contract or individual health insurance policy, including grandfathered contracts and policies.
>
> Coverage under certain government-sponsored programs, including Medicare Part A, Medicare Advantage, full scope Medi-Cal, and TRICARE.
>
> Student health coverage that substantially meets all the requirements of Title I of the Affordable Care Act pertaining to non-grandfathered, individual health insurance coverage.

As noted, not only is coverage required, there is a penalty if you do not have it. The bill provides that, "An Individual Shared Responsibility Penalty shall be imposed for failure to meet the requirement of the Minimum Essential Coverage Individual Mandate" (Cal. Rev. & Tax. Code §§ 61010 & 61015). The method for calculating the penalty follows a formula similar to the one that applied under the ACA (before the penalty was reduced to zero).

To implement the law, the bill also contains a reporting requirement (Cal. Rev. & Tax. Code § 61000, et seq.). Under this reporting mandate, returns will have to be filed with the FTB by March 31st of each year (the first set of returns will be due March 31, 2021, for the 2020 tax year). The reporting requirement will be similar to the ACA's 6055 reporting mandate (the 1094/1095-B series forms), which applies to insurers, HMOs, and self-funded employers. (Last year, the IRS announced that it is re-thinking the 6055 reporting mandate in light of the reduction of the individual shared responsibility penalty to zero—but the IRS is not re-thinking the 1094/1095-C series reporting requirement.) Failure to comply will result in a $50 penalty per each covered individual (Cal. Rev. & Tax. Code § 61005 (j)). We look forward to receiving further guidance on the details of the reporting mandate.

Importantly, S.B. 78 also makes premium assistance available to an expanded group of individuals to help pay for the mandated coverage (Cal. Govt. Code § 100800, et seq.):

> (a) The Exchange shall administer a program of financial assistance to help low-income and middle-income Californians access affordable health care coverage through the Exchange.
>
> (b) The program may provide financial assistance to California residents with household incomes at or below 600 percent of the federal poverty level, and may provide other appropriate subsidies designed to make health care coverage more accessible and affordable for individuals and households.

This premium assistance program is referred to as "Individual Market Assistance."

Registered Domestic Partners (S.B. 30; Chapter 135): On July 30th, the governor signed S.B. 30 (Chapter 135), a bill that changes the law relating to registered domestic partnerships. The changes take effect January 1, 2020, and could impact employee benefit plans.

Continued on page 26

Legislative Update, Continued from Page 10

- NAHU-supported legislation was introduced in the House that would allow seniors to continue using HSAs after the age of 65, including those with employer-sponsored coverage.
- The IRS issued guidance to expand the range of chronic conditions to the list of preventive care benefits that may be provided by a HSA compatible plan.
- A federal judge upheld the Trump Administration's short-term plan final rule, rejecting a lawsuit that it violated the ACA's coverage requirements. An appeal of the decision is expected.

If you would like to join our Legislative Committee please call David Benson (VP of Legislation) at 949 272-2120.

##

DON'T FORGET TO REGISTER FOR OCAHU'S

CE DAY

ON SEPTEMBER 10, 2019!

SEE PAGE 9 FOR INFORMATION!

More Senior Summit Photos

Below: Nicholas Uehlecke, HHS

Bottom: Maggie Stedt at Senior Summit

The California Association of Health Underwriters (CAHU) is California's Premier Association of Health Insurance Agents, Brokers, Consultants and Benefit Professionals.

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NAHU WASHINGTON UPDATES

According to the August 23, 2019 Washington Update, NAHU provided Fast Facts, including:

- The Trump Administration is considering potential regulatory options for resolving the Medicare three-day hospital stay requirement. NAHU urges Congress to support bipartisan legislation that would provide for a resolution through statute.
- The Administration announced it will appeal the federal court ruling that overturned their prescription drug rule to require list prices in consumer advertisements.
- ICYMI: The Healthcare Happy Hour features a special conversation on our efforts to stop surprise billing with the Coalition Against Surprise Medical Billing's Katy Spangler.

Be sure to catch of the NAHU Washington Updates on Fridays! Check your email spam filter to be sure you're receiving these valuable updates!

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Compliance Corner Legal Briefs Continued from page 22

Existing California law defines a registered domestic partnership as two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring. Also under existing law, to enter into a registered domestic partnership the domestic partners must be either of the same sex or of the opposite sex and over 62 years of age. S.B. 30 removes the requirement that persons be of the same sex or of the opposite sex and over 62 years of age (Cal. Fam. Code § 297), so that opposite sex couples of any age will be able to register. Under the revised law, registered domestic partnerships will be defined as follows:

> (a) Domestic partners are two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring.
>
> (b) A domestic partnership shall be established in California when both persons file a Declaration of Domestic Partnership with the Secretary of State pursuant to this division, and, at the time of filing, all of the following requirements are met:
>
>> (1) Neither person is married to someone else or is a member of another domestic partnership with someone else that has not been terminated, dissolved, or adjudged a nullity.
>>
>> (2) The two persons are not related by blood in a way that would prevent them from being married to each other in this state.
>>
>> (3) Both persons are at least 18 years of age, except as provided in Section 297.1.
>>
>> (4) Both persons are capable of consenting to the domestic partnership.

Expanding the number of individuals who qualify to enter into registered domestic partnerships could impact benefits eligibility, for both self-funded employers and employers with fully insured plans. With regard to fully insured benefits, under California law, insurers and HMOs are required to provide coverage to registered domestic partners to the same extent that they provide such coverage to spouses. (Cal. Ins. Code §§ 381.5 and 10121.7; Cal. Health & Safety Code § 1374.58.) Employers with self-funded plans have the option to offer coverage to domestic partners, and may decide to extend coverage only to registered domestic partners, or may adopt a broader definition of domestic partnership. Due to this change in the law, more couples may register as domestic partners. As a result, enrollment in group benefit plans that offer coverage to registered domestic partners may increase. In all events, employers should review their plan materials to ensure eligibility terms and conditions conform to the new law.

Employers should also remember that, with regard to benefits, registered domestic partners may be entitled to tax favored treatment on the state level in California, but may not be eligible for the same tax favored treatment on the federal level (unless one domestic partner qualifies as a tax code dependent of the other partner). Employees should be advised to seek guidance from a tax professional. ##

Editor's Note: Marilyn Monahan can be contacted at Marilyn A. Monahan Law Office, 4712 Admiralty Way, #349, Marina del Rey, California 90292; (310) 301-3300 (office) or email her at marlyn@monahanlawoffice.com .

Mark Your Calendars For

October Events!

CAHU Annual Convention & Symposium

October 3-5. 2019

Hilton Costa Mesa, CA

OCAHU Monthly Meeting

October 8, 2019

Hyatt Regency, Newport Beach

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- THE C.O.I.N. -

Please join us at our events!

SCHEDULE OF EVENTS:

OCAHU CE Day, September 10, 2019, 8 am to 3 pm, Hyatt Regency, 4545 MacArthur Blvd, Newport Beach, CA

CAHU Annual Convention & Symposium, October 3-5, 2019, Hilton Costa Mesa, 3050 Bristol Street, Costa Mesa, CA

OCAHU October Luncheon Meeting, October 8, 2019, 11 am—1:30 pm, Hyatt Regency, 4545 MacArthur Blvd, Newport Beach, CA

OCAHU Holiday Luncheon, December 10, 2019, 11 am to 1:30 pm, JT Schmid's Tustin (at the District), 2415 Park Ave, Tustin, CA