FROM: **Charles Symington, SVP Government Affairs**
Ryan Young, Senior Director Federal Government Affairs
John Prible, VP Federal Government Affairs
Jen McPhillips, Senior Director Federal Government Affairs
Wes Bissett, Outside Senior Counsel Government Affairs

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RE: **Obama Administration Releases New Details on PPACA**

Last Friday, the Obama Administration released two major rules intended to provide additional guidance on the Patient Protection and Affordable Care Act (PPACA). The first was written by HHS and details a variety of important exchange-related topics (http://www.ofr.gov/OFRUpload/OFRData/2012-29184_PI.pdf), and the second is on Multi-State Plans and was released by the Office of Personnel Management (OPM) (http://www.ofr.gov/OFRUpload/OFRData/2012-29118_PI.pdf).

The HHS rule, totaling 373 pages, is intended to give additional guidance on numerous topics, most notably it contains some long-awaited information on Federal health insurance exchanges. In addition, the new regulation provides new specifics on the PPACA's risk adjustment, reinsurance and risk corridor programs, cost sharing reductions, advance payments of premium subsidies, as well as some conforming and technical changes to the Medical Loss Ratio rules.

In a win for agents and brokers, the regulations envision producers selling health insurance through the Federal exchange(s). Although many details will still need to be released on exactly how producers will function within the exchanges, this is a positive step. This is especially true since so many states will forgo setting up their own exchange, instead letting the Federal government step in. The regulations also address producer compensation on page 240 when HHS proposes that agent and broker compensation must be the same both inside and outside of exchanges for "similar health plans". The regulation states that this is an effort to create a "level playing field", and that federal exchanges will only certify an insurer if its plans comply with these new compensation rules. Also, the regulation stipulates that only agents and brokers who complete registration and training stipulated by the federal exchange may have their information displayed on the exchange's website (pg. 244).

In other notable developments from the new HHS regulations, the Department proposes insurers pay a user fee of 3.5% of premiums for each plan they sell through an exchange. This is intended to cover the administrative cost of running the exchange(s), among other things. The regulations also build off previously issued guidance on a trio of new programs-- the risk adjustment, reinsurance and risk corridor programs-- intended to reduce the impact of adverse selection created when exchanges are up and running. In the MLR portion of the regulations, HHS intends to change the MLR formula to adjust for the monetary impact of the three risk adjustment programs. The rule also proposes a two month delay in MLR rebate payments for consumers while the new MLR formula is administered.

The second set of regulations, written by the OPM, provides new details on the Multi-State Plan Program (MSPP), also created by the PPACA. Multi-State Plans are health plans to be offered through exchanges on a national level, the terms of which will be negotiated directly by the OPM which will then also administer the plans. By 2017 all exchanges must carry at least two Multi-State Plans, one of which must be a non-profit. The Multi-State Plan concept was created by the drafters of the PPACA with the stated intention of increasing competition and giving consumers access to the same health care as federal government workers. Many worry these plans could compete on an uneven playing field with other private plans in the exchanges, since they are administered by the federal government and do not have to comply with many of the rules that a normal plan would.

Big "I" government affairs is working to continue analyzing these new regulations, and will have additional information in IN&V this week. In the meantime please call Ryan Young, Wes Bissett or Charles Symington with any questions.