



Division of Insurance
Marcy Morrison
Commissioner of Insurance

Insurance Ombudsman

Report to the

Joint Budget Committee
of the General Assembly

Pursuant to the requirement of
House Bill 08-1216

September 15, 2008





Division of Insurance
Marcy Morrison
Commissioner of Insurance

Bill Ritter, Jr.
Governor

D. Rico Munn
Executive
Director

September 15, 2008

Dear Joint Budget Committee Members,

I am pleased to submit this report pursuant to §10-1-134, C.R.S. that requires the Commissioner of Insurance to study and report to the Joint Budget Committee on the need, potential structure and potential cost of a Colorado Office of Insurance Ombudsman. This report presents my recommendation for developing an Office of the Insurance Ombudsman for the Uninsured and the related costs.

The Division of Insurance appreciates having the opportunity to assess the need for the office and how it can benefit Colorado consumers. If you have any questions, please contact me at the Division.

Sincerely,

Marcy Morrison
Commissioner of Insurance

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Introduction

In 2008, the Colorado Legislature passed House Bill 1216 requiring the Commissioner of Insurance to study and report to the Joint Budget Committee on the need, potential structure and potential cost of a Colorado Office of Insurance Ombudsman. The bill specifies any such office should be structured to assist consumers with issues related to:

- Insurance availability,
- Claims processing,
- Coverage questions, and
- Matters of consumer education and assistance.

To meet the requirements of the bill, Insurance Commissioner Marcy Morrison and the Department of Regulatory Agencies' (DORA) Division of Insurance worked closely with DORA's Office of Policy, Research and Regulatory Reform to prepare this report. Staff conducted a thorough needs assessment, developed an appropriate structure for the Office and evaluated the costs. The one key criterion for the research was to ensure that any new office would not duplicate the current work of DORA's Division of Insurance.

After careful consideration of the research, the Commissioner of Insurance recommends that the legislature consider developing an **Office of the Insurance Ombudsman for the Uninsured**. This office should be created as a separate section within the Division of Insurance. The ombudsman will assist all Colorado residents, regardless of age or income level, who have no health insurance, or may lose their health insurance in the near future. The growing number and unique needs of Colorado's uninsured show the critical need for such an office.

Needs Assessment

House Bill 08-1216 requires a needs assessment for an ombudsman office. Staff from DORA's Office of Policy, Research and Regulatory Reform completed this requirement by:

- Reviewing the intent of the legislation,
- Analyzing the structure of the Division of Insurance,
- Researching ombudsman offices in other states, and
- Meeting with stakeholders to gather ideas.

Intent of the Legislation

Originally, House Bill 08-1216 was introduced as a consumer education and outreach bill for DORA. Upon second reading in the Senate, an amendment was added that directs the Commissioner of Insurance to assess the need for an insurance ombudsman.

The amendment's sponsor, Senator Bob Hagedorn, intended for the Office of Insurance Ombudsman to help individual Coloradans and small businesses with insurance issues. The Office would help insured consumers with denials of benefits and complaints against insurance

companies. In addition, the Office could help uninsured individuals find insurance or other resources to access services, and also assist small employers as they attempt to purchase different types of insurance. The original amendment envisioned the Office outside of the Division of Insurance so that the ombudsman could effectively advocate for consumers.

Structure of the Division of Insurance

To fully assess the need for an Office of the Insurance Ombudsman, a clear understanding of the structure and function of the Division is necessary. The Division is organized into two sections: Financial Services and Consumer Affairs.

Financial Services has a staff of 54 FTE who regulate the financial solvency of insurers and related licensed providers. This section preserves a safe and sound insurance marketplace for Colorado consumers. The section includes:

- Producer licensing
- Market conduct examinations
- Premium tax collection
- Rate and form filings
- Auditing policies for compliance with the law
- Financial examinations of the companies domiciled in Colorado

Consumer Affairs has a staff of 30 FTE who focus on consumer assistance and regulatory enforcement. Nine of these employees investigate unauthorized or illegal activity. Twenty-one of these employees investigate complaints and work with consumers, providers, carriers, employers and others to ensure that Colorado laws and regulations and insurance policy contract provisions are followed. These analysts work with consumers on a daily basis helping them resolve issues with their insurance companies or individual agents. The Division also has two full-time employees who handle outreach and consumer education among other duties. The section includes the following four subsections:

- Consumer Affairs - Life and Health
- Consumer Affairs - Property and Casualty
- Senior Health Insurance Program
- Consumer Education
- Compliance and Investigations

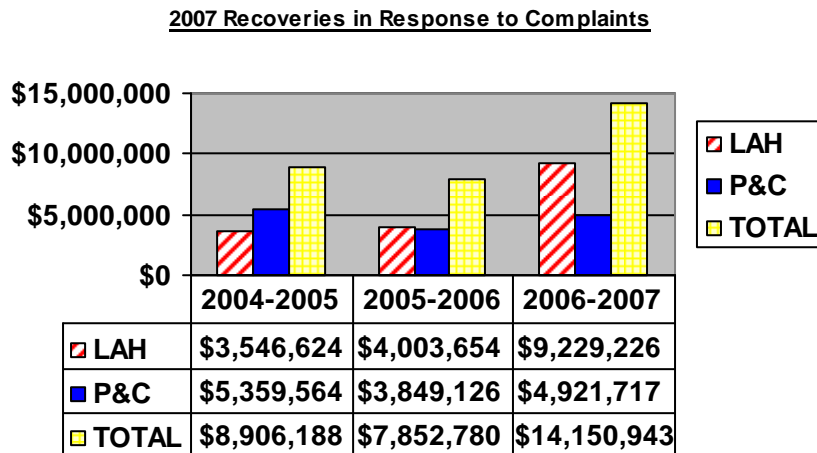
Many of the activities originally envisioned for an Office of Insurance Ombudsman are already taking place in the Life/Health and Property/Casualty subsections of Consumer Affairs. Specifically, the current staff:

- Handles approximately 25,000 phone calls, letters, e-mails, etc. a year.
- Assesses initial calls to determine if the assistance needed requires a formal complaint process. Formal complaints that take issue with a particular insurance company or producer must be submitted in writing.
- Investigate roughly 4,500 complaints a year

It is important to note that the Consumer Affairs section does not provide assistance to individuals who are uninsured. If someone calls for assistance finding insurance, staff may refer them to Medicaid, CHP+ or other general resources that may be able to provide assistance. Current staffing levels can not handle outreach or assistance to Colorado’s nearly 800,000 uninsured.

The Consumer Affairs section has a high satisfaction rate among consumers who file formal complaints. Each time a complaint file is closed, Consumer Affairs sends out a customer satisfaction survey. In 2007, 34 percent of consumers who completed the complaint process returned the survey. Ninety-one percent of the survey respondents rated the quality of service provided by Consumer Affairs as satisfactory or excellent.

The following chart¹ demonstrates the funds that have been recovered by Consumer Affairs in response to formal consumer complaints.



LAH: Life and Health
P&C: Property and Casualty

After assessing the Division structure, it is clear that many of the duties outlined in the final legislation are already performed by the Division.

Ombudsman Programs in Other States

The third part of the needs assessment focused on other state ombudsman programs. Staff examined a variety of other structures. With the exception of Arizona, none of the states adjoining Colorado have insurance ombudsman programs. This includes Kansas, Nebraska, New Mexico, Oklahoma, Utah and Wyoming.

¹ Annual Report of the Commissioner of Insurance to the Colorado General Assembly on Complaints Against Insurers, FY 2006-2007

After reviewing other models of insurance ombudsman programs and considering the growing rate of the uninsured in Colorado, the most appropriate model for Colorado is the uninsured ombudsman model. States with an ombudsman or other programs that assist the uninsured with locating health insurance and health care services include Illinois, Massachusetts, Nevada and Washington.

These offices inform the consumers of their rights, provide guidance and warnings about insurance fraud and provide consumer-oriented information. Although they cannot recommend individual insurance companies, they do help callers pinpoint what they need by asking guided questions. For those who cannot afford private insurance, ombudsmen refer callers to state and federal programs to check eligibility requirements. For those without any health coverage, ombudsmen help them find discounted or free health care in their area, including hospitals, clinics, prescription programs, and dental programs.

Stakeholder Commentary

The final part of the needs assessment involved a stakeholders meeting to solicit ideas and opinions from people outside of DORA. The Division and DORA met with stakeholders on July 8, 2008, to solicit information and opinions from the insurance industry and consumer groups about the possible need and development of an Office of Insurance Ombudsman (see Appendix A). The Commissioner and staff presented research results and discussed the services that the Division currently performs. Senator Bob Hagedorn attended the meeting and commented on the intent of the bill. Staff also solicited stakeholders' comments.

Consumer groups voiced their opinion that an insurance ombudsman could act as an independent advocate for citizens. They also recognized the work being done in that vein at the Division currently. These groups felt that assisting the uninsured is an area of need currently not being addressed anywhere in state government.

Industry stakeholders expressed concern that an insurance ombudsman office, as defined in House Bill 1216, would be a duplication of many current Division of Insurance activities. They also worried the ombudsman may refer consumers to particular insurance carriers or products. They recommended that a program designed to assist the uninsured may be better placed in another state agency. Additionally, the National Association of Insurance and Financial Advisors wrote, "It is our firm belief that most of the uninsured are such by choice, and probably would not contact your staff for advice or education, in any event."

At the stakeholders' meeting, it became evident that the greatest need is in assisting the uninsured.

Recommendation for Implementation

After careful consideration of the research, the Commissioner of Insurance recommends the development of an **Office of Insurance Ombudsman for the Uninsured**. This office should be created to assist all Colorado residents, regardless of age or income level, who have no health

insurance or are about to lose their health insurance. Staff should be prohibited from endorsing particular private insurers or products, and any personal information collected by ombudsman should be protected and confidential.

Lack of Services for the Uninsured

Colorado's rate of uninsured has grown over the last decade. According to the Census Bureau, in 1998, the number of the uninsured in Colorado was 592,000, a rate of 15.1 percent. In 2008, the most recent Census Bureau data show the number has grown to 799,000, a rate of 16.7 percent. Additionally, Colorado's rate of uninsured is consistently higher than the national rate of 15.4 percent.² Currently, the State of Colorado does not provide any coordinated, comprehensive services to Colorado citizens who do not have health insurance. Until broad health care reform is in place, members of this group will continue to need assistance in finding affordable health insurance and accessing services from organizations that serve the uninsured.

An Ombudsman for the Uninsured

Creating an ombudsman program for the uninsured would help make government more efficient by maximizing government services. State and federal programs are not fully utilized. Although 85,000 people, 11 percent of the uninsured in Colorado, are eligible for Medicaid or CHP+, they are not currently enrolled.³ This office could help capture this population and direct individuals to appropriate programs already in place.

This office would meet DORA's mission of consumer protection by helping them understand their rights and empowering them with accurate information. For workers who may be losing their benefits, staff could help them understand their continuation rights, so they do not miss the opportunity to keep their health insurance when they transition to their next job. Staff could also warn consumers about how to watch out for fraudulent health care plans.

Solving the problem of the uninsured is complex and requires a comprehensive solution. An office for the uninsured would not eliminate this challenge, but it is one part of a solution to help meet the need of this growing population.

Office Duties

The Office of Insurance Ombudsman for the Uninsured should be responsible for the following:

- Direct consumers on how to buy private health insurance;
- Educate consumers about continuation rights;
- Provide referrals to state and federal programs;
- Refer consumers with regulatory inquiries or complaints to Consumer Affairs;
- Create a strong network with other government agencies and nonprofit organizations; and
- Build an interactive referral database with accurate and current information.

² U.S. Census Bureau, Current Population Survey, 2005 to 2008 Annual Social and Economic Supplements.

³ Colorado Blue Ribbon Commission for Health Care Reform, by the Lewin Group, "Cost and Coverage Impacts of Five Proposals to Reform the Colorado Health Care System."

Staff Structure

The Commissioner recommends a four FTE staff structure for the Office of Insurance Ombudsman for the Uninsured with a supervisor/ombudsman, two research staff, and a program assistant.

Supervisor/Ombudsman: Supervise staff, provide information on the uninsured to the legislature, liaison with other state programs and agencies, partner with nonprofit groups, create a public dialogue in the media about the uninsured and the underinsured, and promote the services of the program.

Research Staff: Offer advice, referrals and assist callers with finding health insurance coverage and health care. Participate in outreach initiatives. Work closely with Consumer Affairs, other agencies and nonprofit organizations. Create and continually update a database with accurate and current information for the uninsured. Maintaining this database will require staff to monitor and obtain information from a broad scope of governmental and non-profit entities.

Program Assistant: Assist the director with the administration of the office, public relations, marketing, education and community outreach efforts.

Location of the Office

The Office of the Ombudsman for the Uninsured should be located within the Division as a new, separate section. The director should report directly to the Commissioner. Although there may be questions about whether locating this office within the Division of Insurance may conflict with its regulatory role and may cause confusion for the public, the Commissioner is confident the staff can delineate its responsibilities and effectively serve both the insured and the uninsured. The office would also be able to work more closely with the Division to problem solve and build consensus for policy initiatives.

Other Legislation

Any development of an ombudsman program should be coordinated with the Senate Bill 08-217 Centennial Care Choices Program. At this time, a Centennial Care Choices panel has been formed to investigate the development of low-cost limited health plans for the uninsured.

Estimated Costs

Since the Division is cash-funded by premium taxes paid by the profession and industry it regulates, it may be difficult to justify that the Division use premium taxes to pay for a program that assists non-policy holders. However, lowering the rate of the uninsured is an important statewide public policy issue and it would be reasonable to use general funds. A service that could potentially assist nearly 17 percent of the population would be a great benefit to all Colorado residents.

The estimated costs for an Office of Insurance Ombudsman include the following:

Supervisor/Ombudsman (Rate/Financial Analyst IV)

This position would be responsible for the following activities:

- Supervise staff – estimated at 40 hours per month x 12 months = 480 hours per year
- Education and outreach – estimated at 80 hours per month x 12 months = 960 hours per year
- Liaison with the General Assembly and other state agencies and programs and Partner with non-profit agencies – estimated at 60 hours per month x 12 months = 720 hours per year

Total estimated time for director = 2160 HOURS= 1.04 FTE

Two Research staff (Rate/Financial Analyst II)

This position would be responsible for the following activities:

- Advise, refer and assist callers with finding health insurance coverage and health care – estimated at 100 hours per month x 12 months = 1200 hours per year
- Participate in outreach initiatives – estimated at 40 hours per month x 12 months = 480 hours per year
- Create and update a database with accurate and current information for the uninsured – estimated at 40 hours per month x 12 months = 480 hours per year

Total estimated time for rate/financial analyst II = 2160 HOURS PER EMPLOYEE= 1.03 FTE (two positions)

Administrative Support (Program Assistant I)

This position will be responsible for assisting in

- Office Administration – estimated at 100 hours per month = 1200 hours per year
- Scheduling outreach and other activities of staff – estimated at 40 hours per month = 480 hours per year
- Preparing consumer education materials = 20 hours per month x 12 months = 240 hours per year
- Meeting coordination activities – estimated at 40 hours per month x 12 months = 480 hours per year

Total estimated time for program assistant I = 2400 HOURS= 1.15 FTE

FISCAL IMPACT

1.00 FTE Rate/Financial Analyst IV =	\$75,888
Medicare match	\$1,100
PERA	\$7,703
2.00 FTE Rate/Financial Analyst II =	\$113,256

Medicare match	\$1,642
PERA	\$11,495
1.00 FTE Program Assistant I =	\$35,820
Medicare match	\$519
PERA	\$3,636
TOTAL PERSONNEL COSTS	\$251,060
TOTAL INDIRECT COSTS PER DORA	\$76,444
TOTAL FISCAL IMPACT	\$327,504

Conclusion

In response to House Bill 08-1216, the Commissioner of Insurance directed staff to perform a needs assessment, create a plan, and estimate the costs associated with establishing and maintaining an Office of an Insurance Ombudsman for Colorado. Because of the growing rate of the uninsured in Colorado, and a lack of services for the uninsured in DORA's Division of Insurance, the Commissioner of Insurance recommends that the legislature consider **developing Office of Insurance Ombudsman for the Uninsured**.

Research for this report is available upon request.

Appendix A - Stakeholders Meeting, July 8, 2008

Kelli Fritts	AARP
Brandon LaSalle	American Family Insurance
Donna Moody	Colorado Assoc. of Commerce & Industry
Vanessa Hanneman	Colorado Association of Health Plans
Dorothy Marshall	Colorado State Association of Health Underwriters
DeDe DePercin	Colorado Consumer Health Initiative
Julie Reiskin	Colorado Cross Disability Coalition
Donna Marshall	Colorado Business Group on Health
Terry Whitney	Colorado State Senate Majority Office
Patrick Boyle	Delta Dental/COPIC Lobbyist
Mike Benschneider	Farmers Insurance
Arthur Powers	HIV Advocate
Jerry McElroy	Kaiser Permanente
Jim Snook	National Association of Insurance & Financial Advisors
Carl Larson	National Association of Insurance & Financial Advisors
Tony Gagliardi	National Federation of Independent Business
Bill Imig	PCIA
Kelly Campbell	PCIA
Gary Frisch	PIIAC
Cathy Wanstrath	Pinnacol/AIG/LTAC
Chris Chandler	Prudential
Linda Daniel	Rocky Mountain Health Plans
Carole Walker	Rocky Mountain Insurance Info. Assoc.
Julie Hoerner	State Farm/AHIP
Travis Berry	Stewart/Progressive
Danny Tomlinson	Tomlinson & Assoc.
Philip A. Lyons	United Healthcare