

An Update on Health Reform



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Review of 2014

health reform 2014



- 2014 is brought great changes to the world of health benefits.
- The kinds of coverage available and the requirements and options have changed for individuals, employers and employees.
- Policy changes of this magnitude are very difficult to undo.

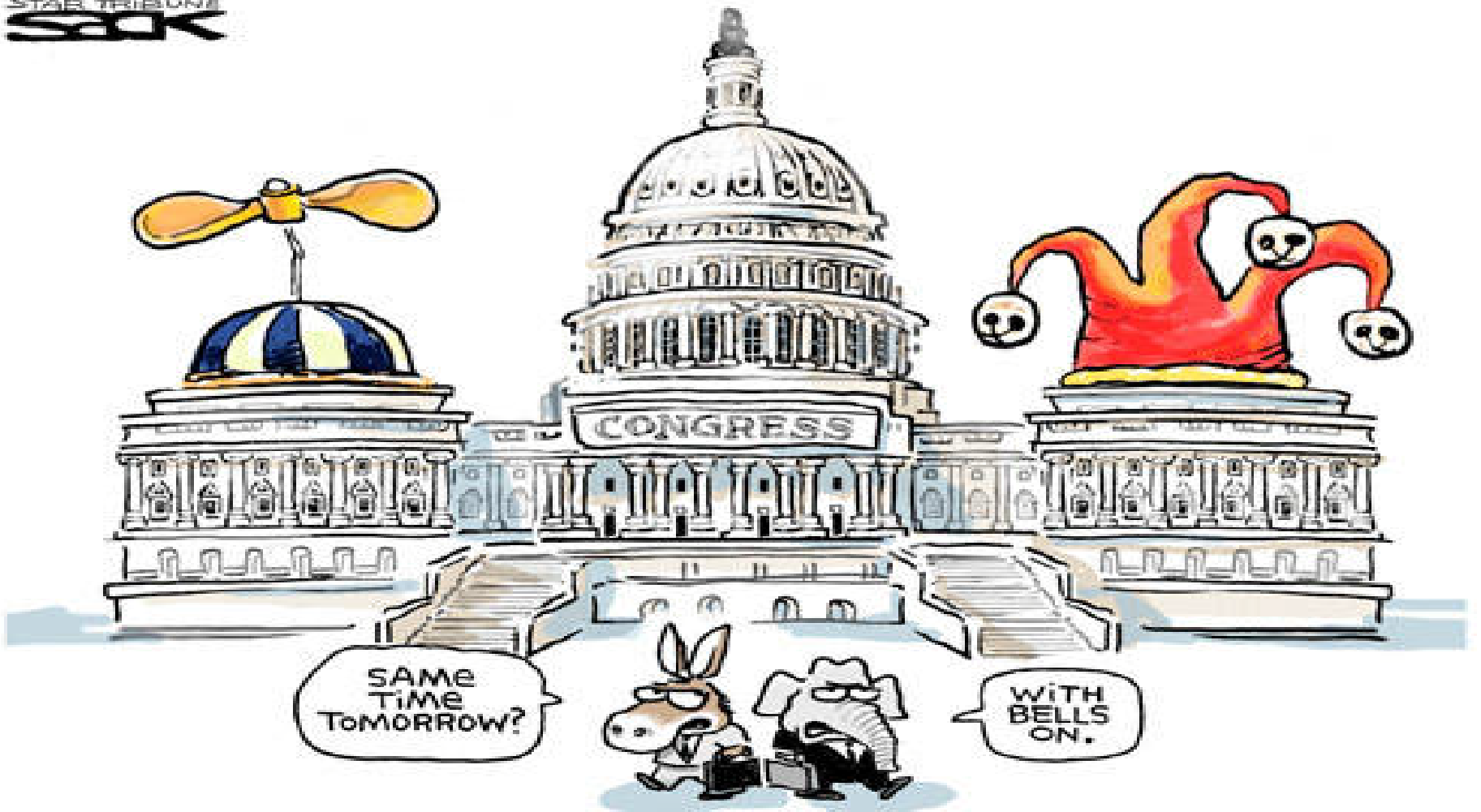
Bottom Line



Welcome to Washington!

114th Congress

STAR TRIBUNE
S&K



Political Landscape



Washington is fractured.

The GOP is struggling with comprehensive health reform strategy, as is the Democratic leadership.

The good news is that there are some small signs of bipartisan cooperation!



What will the impact be in Washington? »»

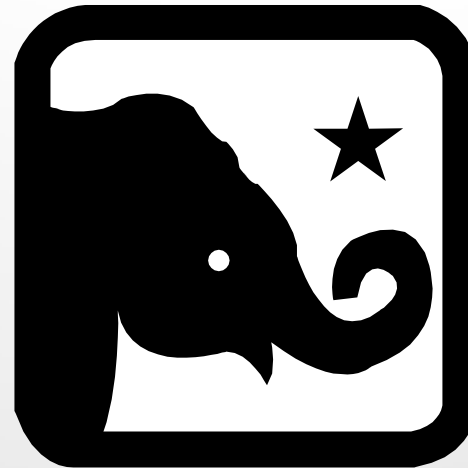
The Numbers

□ House

- 189 Democrats, 246 Republicans

□ Senate

- 44 Democrats, 54 Republicans, 2 Independents



Is Congress moving towards greater bipartisan collaboration on healthcare-related topics?

Maybe!!! But don't expect any significant action until later in 2015!

- ▶ There may be a “sweet spot” for smaller health reform changes in 2015 before the 2016 presidential race truly heats up.
- ▶ Still need 60 votes to pass legislation in Senate and 67 to override a veto; Republicans only have 54 seats
- ▶ Obama Administration has not changed; only the circumstances within which they're operating (aka: don't expect a full ACA repeal)
- ▶ New Senate Leadership = No More “Pocket Vetoes”
 - The former Senate Majority Leader (Senator Harry Reid D-NV) would not bring up healthcare related legislation .With new leadership, votes on healthcare and taxes are more likely

Is it still possible that the judiciary branch could unravel health reform?



- ▶ The Supreme Court just granted “certiorari” in the King v. Burwell case, which challenges to the ability of the federal government to issue health insurance premium tax credits and enforce the employer mandate via federally facilitated and partnership exchanges.
- ▶ The Supreme Court will consider the case in 2015 with oral arguments on March 4 and a decision likely at the end of June 2015.
- ▶ If premium subsidies in federal exchange states are struck down, that doesn’t mean that the insurance policies subsidy recipients are enrolled in are struck down too, just the means 82% of exchange consumers are using to pay for those subsidies.
- ▶ Since this is a matter of statutory authority, not constitutional authority, the whole law is very unlikely to be struck.

How Will Congress Respond?

- ▶ “What the *King* case does is gives us an opportunity and a reason to come to a consensus sooner so, when we get the ruling of the Supreme Court in June, we are then prepared to say, ‘Here is what is better for the American people in terms of affordability, quality and choice,’” said Sen. John Barrasso (R-WY, Chairman of the Senate Republican Policy Committee.
- ▶ “If [the justices] do what I think they should do — if they really read the law and act according to the way the law is written — then we’re going to have a real problem in America,” said Sen. Ron Johnson (R-WI), who is up for reelection in 2016 in a state that Obama carried twice. “The American public’s going to be asking us to act at that point in time. So we’ve got to figure that out.”
- ▶ “The onus is on us to present a logical solution prior to that case ever being heard. “Maybe the court will feel more confident making a decision if in fact there is a legislation solution [to the subsidy problem] that is realistic.” – Senator Richard Burr (R-NC)

Does the GOP Have a Solution?



- ▶ Recently GOP has made a lot of noise about replacing rather than repealing the health reform law.
- ▶ Do they have anything that is ready for prime time?
 - Burr/Hatch Patient CARE Act
 - GOP Study Committee Bill—Roe/Scalise
- ▶ At the present time—no GOP consensus! Now that they have control of the Senate, it will be interesting to see how they wheel and deal with President Obama!

Potential Topics of 2015 Congressional Action



- ▶ Targeted PPACA repeal and change measures that focus particularly on aspects of the law that impact jobs and employers
 - 40 Hour Bill
 - Employer Reporting
 - Scope of Employer Mandate (50–99)
 - Small Group Size 1–100/Composite rating
- ▶ 2017 Waiver Changes and Improvement
- ▶ Exchange Improvements
 - Subsidies
 - Functionality for Agents and Others
 - SEP Changes
- ▶ Market Reforms
 - Age Band Relief
 - Copper Plan/Out of Pocket Changes
 - MLR changes
- ▶ Small Business Tax Credit Changes
- ▶ HIT Tax Delay
- ▶ Medicare--SGR Fix, Medicare Advantage Funding, ACA AEP, Creditable Coverage, Observation Status

Forty Hours is Full-Time

- Introduced on January 6 and on January 8 House passed H.R. 30 by a vote of 252–172 in January. The vote fell largely along party lines, with all Republicans voting in favor and twelve Democrats crossing the aisle in support
- Senators Susan Collins (R–ME) and Joe Donnelly (D–IN) sponsored S. 30: Forty Hours is Full Time Act
- Obama Administration has already issued a veto threat
- CBO Score is \$53.2 billion over 10 years
- GOP has to figure out how to get to 67 votes in the Senate.

Broker Bill/MLR Bill

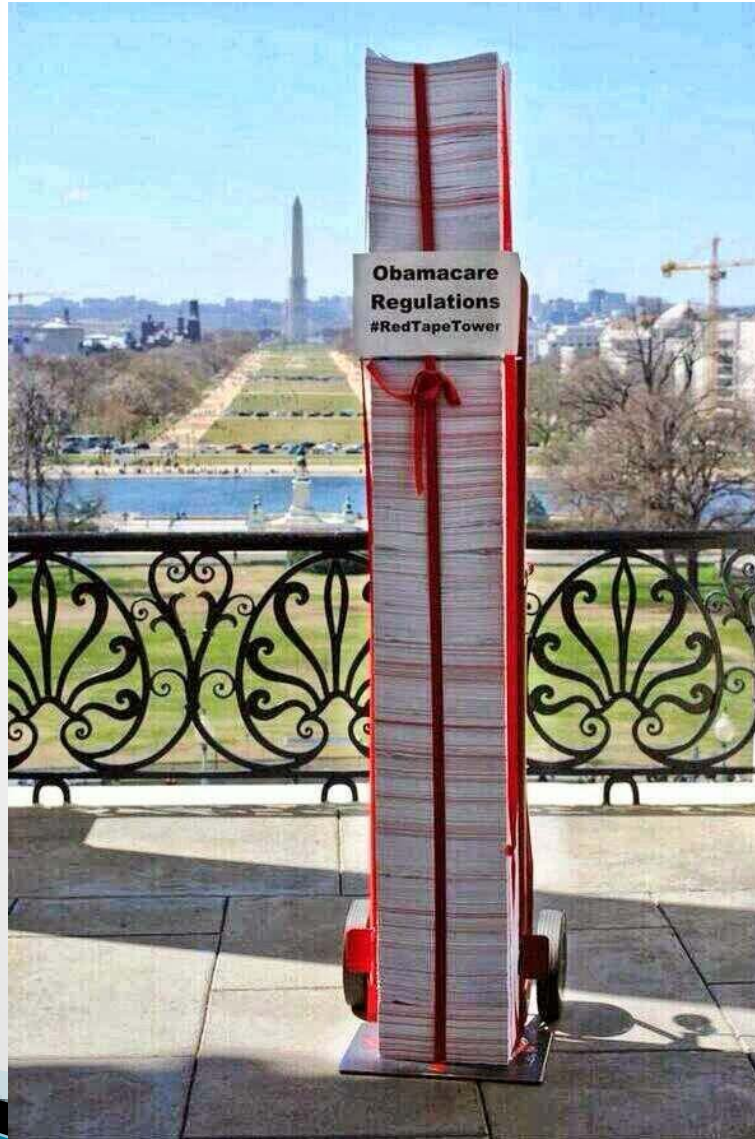
House

- Rep. Billy Long (R–MO) and Rep. Kurt Schrader (D–OR) have sponsored H.R. 815
- So far it has 20 bipartisan cosponsors

Senate


- Last Session: Access to Independent Health Insurance Advisors Act of 2013 (MLR bill) introduced in March by Senator Mary Landrieu (D–LA).
 - Sen. Landrieu was not re-elected to the 114th Congress
- Other original cosponsors: Senators Johnny Isakson (R–GA), Mark Begich (D–AK) and Lisa Murkowski (R–AK).
 - Sen. Begich was not re-elected to the 114th Congress
- Working on Senate Democrat champion

So What Lies Ahead From the Administration?





**The White House says it surpassed its goal
for the people enrolled in Obamacare.**



**It's amazing what you can achieve when you
make something mandatory, and fine people
if they don't do it, and keep extending the
deadline for months. It's like a Cinderella story.**



New and Proposed Regulatory Guidance

- ▶ New SEP Periods for Tax Time
- ▶ Final Payment Parameters Rule and Issuer Letter for 2016
- ▶ HHS/Treasury/DOL have proposed a new pilot procedure for a wraparound limited benefit coverage with employer plans for employees not covered by the mandate under select circumstances.
- ▶ HHS has proposed change to SBC rule to comply with guidance issued since the rule was finalized in 2012.
- ▶ Employer Reporting Forms Have Been Finalized
- ▶ Preliminary Guidance Was Issued on Cadillac tax
- ▶ No immediate action expected on non-discrimination rules.

Employer Limitations on Paying Individual Premiums

- ▶ The Obama Administration continues to clarify their position that if an employer creates some type of premium reimbursement arrangement to pay for health coverage, then such arrangements are subject to all federal health law market reform requirements, even if the reimbursement is for individual insurance coverage premiums.
- ▶ The Departments' prior guidance explains that employer health care arrangements, such as HRAs and employer payment plans, are group health plans.
- ▶ That means such arrangements are subject to the group market reform provisions of the Affordable Care Act, including the prohibition on annual limits under Public Health Service Act (PHS Act) section 2711 and the requirement to provide certain preventive services without cost sharing under PHS Act section 2713.
- ▶ Such employer health care arrangements will not violate these market reform provisions when integrated with a group health plan that complies with such provisions. However, an employer health care arrangement cannot be integrated with individual market policies to satisfy the market reforms.
- ▶ Consequently, such an arrangement may be subject to penalties, including excise taxes under section 4980D of the Internal Revenue Code.

▶ Administration just give non-compliant small group plans until June 30, 2015 to become compliant and will not impose penalties until then.



Employer reporting requirements: *The Next Big Thing!*

Extensive employer reporting required for “Play or Pay” mandate and employee eligibility for exchange subsidies. Reporting loop will include employers, employees, insurance issuers, exchanges and IRS.

IRC 6055 Reporting

- To facilitate IRS enforcement of the individual mandate
- Employers to report individual enrollee coverage during preceding year
- First “information returns” to be filed with IRS in 2015?
- Also written statement to each individual named in the information return

IRC 6056 Reporting (for periods beginning after Dec 31, 2013)

- Employer to report information on terms/conditions of coverage provided to employees
- To assist IRS in determining whether employer is subject to “Play or Pay” penalties for failing to provide affordable and minimum value coverage
- Report to include:
 - Name and EIN
 - Certification whether employer offers FT employees and dependents opportunity to enroll in minimum essential coverage and duration of waiting period
 - Months in CY when coverage available
 - Monthly premium for lowest cost option
 - Employer’s share of total allowed costs
 - Name and taxpayer ID for each FT employee and the months during which employee was covered under employer plan

Employer communications with employees, Exchanges and the IRS

Step 1

- ▶ Employer provides employees with information about coverage and availability of Exchanges

Step 2

- ▶ Employee provides Exchange with information to determine eligibility for the premium tax credit

Step 3

- ▶ Exchange verifies information and makes preliminary eligibility determination regarding the premium tax credit

Step 4

- ▶ Exchange notifies employer that employee may receive a premium tax credit
- ▶ Employer has right to appeal Exchange's determination of employee's eligibility within 90 days

Step 5

- ▶ Employer files information with IRS and employee –
- ▶ 6056 requirements
- ▶ Employee files personal return

Step 6

- ▶ Assessment of employer tax penalties
- ▶ Employer has right to appeal tax liability to IRS

It's Not Just The Mandate and Reporting! All Employers Can Be Subject To Heavy Fines For Other Requirements!



Failure to comply with a Public Health Service Act (PHSA) mandate set forth under PPACA will potentially trigger an excise tax of \$100 per day under the Internal Revenue Code “with respect to each individual to whom such failure relates.”

Note: The penalty cannot exceed 10% of the amount paid by the employer for group coverage in the preceding year, and small employers (2 to 50 employees) with fully insured plans are not subject to penalties for failures caused by the insurance/carrier. Penalties are self-reportable on IRS Form 8928.

ACA annual/lifetime limits on EHBS
Dependents to age 26
Retroactive recissions
Failure to cover preventive care
Failure to provide timely notices – SBC, Grandfathered plan, MLR, WHCR, etc.
Restrictions on ER & PCPs
Improper PreX conditions
Failure to follow OOPM limits
90-day waiting period
Appeals processes, AND
MORE!!!



While health reform can seem overwhelming and the Congressional outlook can be discouraging,



On the **Bright Side**

all of the changes to our delivery system, new requirements and new benefits provide a tremendous opportunity for Brokers to grow their businesses, enhance communications and show value to clients!



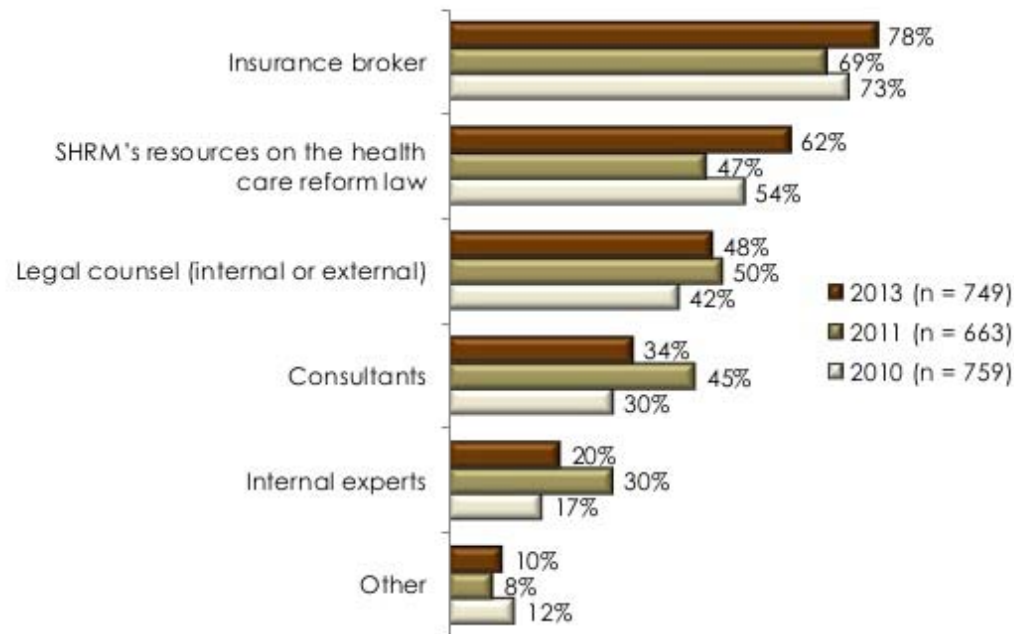
Health Care Reform Dialogue
WEBINAR SERIES



Resources Used by Organizations to comply with ACA



What resources is your organization currently using in regard to the health care reform law?



Note: n = 749. Percentages do not equal 100% due to multiple response options.

Brokers the Best Source of Exchange Help

- ▶ Agents and brokers got top marks in a new survey by the pro-ACA think tank, the Urban Institute on sources of information about exchange plans, with 84 percent of people saying they were helpful.
- ▶ Call centers turned in the worst performance, helping just 58 percent.
- ▶ The Robert Wood Johnson Foundation funded the research to help inform future enrollment efforts which can be accessed here: <http://urbn.is/SsDqA0>
- ▶ New data from the Kaiser Family Foundation has affirmed the role of brokers in four of the most successful state-based exchanges.
- ▶ “A large number of brokers in the four study states were certified and often worked collaboratively with assisters to enroll uninsured people,” the Kaiser report said


Employer requirements mean opportunities for brokers.



**OPPORTUNITY
AHEAD**

- ▶ **Mandate applicability and compliance**
- ▶ **Plan structure and options**
- ▶ **Employee counting, tracking, and reporting**
 - ▶ **Groups of 50–99 still need to report detailed counts—only penalties delayed!**
- ▶ **Notices, fees and filings**
- ▶ **Maintaining a compliant plan beyond the mandate**
- ▶ **Reaching out to clients to provide information and show influence**
- ▶ **Client recruitment tool**

NAHU Visibility

- ▶ In 2014, NAHU has received more than 7,500 press hits.
 - ▶ In 2013, NAHU received more than 11,000 press hits.
 - ▶ In 2012, NAHU received more than 7,500 press hits.
 - ▶ In 2011, NAHU received more than 4,400 press hits.
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Results as of: 11/10/14

Total Candidates Funded:	209	Pct.	\$ 610,000.00	\$ Percentage
Win:	188	90%	\$ 517,250.00	85%
Loss:	16	8%	\$ 56,750.00	9%
Too Close to Call:	5	2%	\$ 36,000.00	6%
House Candidates:	186	89%	\$ 505,500.00	83%
Senate Candidates:	23	11%	\$ 104,500.00	17%
Democratic Candidates:	65	31%	\$ 193,000.00	32%
Republican Candidates:	144	69%	\$ 417,000.00	68%
Incumbent Candidates:	198	95%	\$ 586,500.00	96%
Challenger / Open Seat Candidates:	11	5%	\$ 23,500.00	4%
Retiring at End of Term	12	5%	\$ 26,000.00	4%

Total House Candidates Funded:	186	Pct.	\$ 505,500.00	\$ Percentage
Win:	170	91%	\$ 439,750.00	87%
Loss:	13	7%	\$ 49,750.00	10%
Too Close to Call:	3	2%	\$ 16,000.00	3%

Total Senate Candidates Funded:	23	Pct.	\$ 104,500.00	\$ Percentage
Win:	18	78%	\$ 77,500.00	74%
Loss:	3	13%	\$ 7,000.00	7%
Too Close to Call:	2	9%	\$ 20,000.00	19%

Recent NAHU Accomplishments

- Lobbied for and were successful in getting the 40 hour bill passed by the House
- Lobbied for and got OE dates for 2016 to extend into the coverage year and not completely line up with the Medicare AEP
- Payment parameters regulation included numerous NAHU-suggested SEP changes
- 2015 federal exchange includes find an agent feature and SHOP exchange includes all NAHU requested broker features. Different broker climate with CMS.
- Lobbied for repeal of the free choice voucher and were successful
- Lobbied and were successful in getting the small employer deductible cap repealed
- Had legislation introduced to improve the Small Business Tax Credit, Broker Exchange Issues, Web-Broker Issues, Employer Reporting Requirements, More Plan Options for CDHC consumers, Medicare OEP Issue
- Regulatory lobbying and comments have resulted in dozens of small changes that have made implementation improvements for employers and individuals and the law less onerous for brokers

Recent NAHU Accomplishments

- Voiced strong objections to recent Medicare Part D rule that included compensation and other limitations on the role of brokers – resulted in both Senate Finance Committee chairs of both parties requesting that the provisions be revoked. In scaled back final rule we lobbied for and was successful at getting Medicare renewal commissions restored to 50% and fraud testing requirement one-time only
- SHOP exchange was built to contain broker-needed improvements and individual exchange is coming along!
- **Most important** – many bipartisan cosponsors on MLR bill resulted in much publicity about the role of brokers and an appreciation for their important role in helping consumers with their health insurance needs

NAHU Resources

- Washington Update and Daily Newswire
- Compliance Corner
 - Resources and Webinars
 - Blog
 - Customized Answers to Compliance Questions for Members
 - FAQs, templates, analysis and links to guidance and other resources
- PPACA Certification Course
- New Self-Funded Certification
- Partnership Resources to Help Members with Client Compliance



Thank you!

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