

Our Role at the 2005 Insurance Legislative Summit

The Council of Insurance Agents and Brokers (CIAB) and the Council of Employee Benefits Executives (CEBE) hosted the 2005 Insurance Legislative Summit in February. The annual meeting, held in Washington D.C., provides a forum for CIAB and CEBE members to discuss key insurance legislation, and to influence members of Congress on important issues affecting our industry and our clients.

The CIAB/CEBE is the most respected association for commercial property/casualty and employee benefits insurance in the United States. In addition to our corporate participation, Mesirow Financial is proud to have representatives on the board of directors for both councils.

Howard Engel, senior managing director of the Employee Benefits practice, and Nancy Ayers, managing director of the Condominium Risk Management practice, attended the Summit and met with various members of Congress to discuss how pressing insurance issues are impacting our clients. They also met privately with Congressman Mark Kirk, Senator Dick Durbin's Legal Assistant, and Senator Barack Obama's Legislative Assistant and his General Counsel to discuss the following topics:

EXTENSION/MODIFICATION OF TERRORISM RISK INSURANCE ACT (TRIA)

The Terrorism Risk Insurance Act (TRIA), signed by President Bush in November 2002, may expire at the end of 2005. Although this law was initially intended to be temporary, it has had a huge impact on the insurance industry. Most importantly, the law helped restore the industry after September 11, 2001 by providing a 90 percent federal reinsurance backstop to protect against the financial risk of acts of terrorism.

After the 2001 attacks, the global reinsurance industry responded by eliminating coverage for acts of terrorism--making TRIA essential. In addition, Congress enacted a sliding scale of "individual company retentions" which assures that even with the backstop, carriers are responsible for a significant portion of the risk. Without TRIA, another major attack would create huge financial liability that could destroy major insurers and endanger consumers.

Not surprisingly, several parties have been actively working to preserve TRIA. The House Financial Services Committee solidly approved a two-year extension in 2004 but Congress adjourned before extending TRIA. The Treasury Department is currently conducting a study on the effectiveness of the Act, and Senate Banking Committee Chairman Richard Selby is holding several hearings on the extension of TRIA. Nancy urged lawmakers to support a review of TRIA and extension or modification to protect America from the financial risk of terrorism.

HEALTH SAVINGS ACCOUNTS (HSAs) MORE ACCESSIBLE AND AFFORDABLE TO CONSUMERS

As a result of the 2003 Medicare Reform Act, Health Savings Accounts (HSAs) have proven to be a key component of current and future healthcare offerings, impacting how employers structure the healthcare plans offered to their employees. Comparable to the consumer-driven FSAs and HRAs, HSAs have significantly impacted healthcare savings and encouraged individual ownership of personal healthcare expenses and choices. President Bush has supported these efforts and will propose the expansion of the availability of HSAs this year by offering tax preferences to encourage the establishment of HSAs and supporting efforts that will provide greater flexibility in the design of HSAs.

Howard encouraged legislators to make HSAs attractive to more individuals and businesses as a healthcare option. His recommended initiatives included:

- Tax credits for small employer contributions to HSAs.
- Tax deductions for individuals purchasing high deductible health coverage.
- For low-income families, \$1,000 HSA contribution and a \$2,000 refundable tax credit to purchase a qualified high deductible plan.

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- Allowing contributions to HSAs above the deductible for greater retiree savings, as well as allowing early retirees to use funds from HSAs to pay for health coverage premiums.
- Broader coordination between HSAs, FSAs and HRAs.
- Expanded tax preferences to encourage the establishment of HSAs and efforts that will provide for greater flexibility in the design of HSAs.

LEGISLATIVE FIX FOR HEALTH INFORMATION PRIVACY

On August 14, 2002, implementation of the HIPAA privacy provision by the Department of Health and Human Services initiated the restriction of all Protected Health Information (PHI) disclosure in any form (i.e., electronic, oral or written). By law, the only way this information can be obtained, shared or used is with the individual's authorization or if the incumbent carrier volunteers to provide the PHI in accordance with HIPAA requirements.

A legislative provision allows incumbent carriers to provide and health plans to use or share personally identifiable health information for purposes of underwriting, premium rating, reinsurance or replacement of a group health plan or workers' compensation program.

Should Congress address HIPAA privacy regulations in the future and not include the carrier provision, it will become extremely difficult for insurance brokers to effectively evaluate health plans for employers wanting to replace or amend benefits. Without specific members' claim history information, carriers are unable to price most group plans. This may result in higher premiums, increased employee deductibles or the elimination of healthcare benefits altogether. If even a single employee refuses their information be shared for evaluating the plan, the entire group plan is immobilized.

Howard strongly supported the need for Congress to include the provision in any future changes to HIPAA privacy regulations.

Contact your Mesirow Financial representative if you have any further questions.

This article is intended as an overview and should not be viewed as legal advice. Please consult with your attorney if you have any questions.