



December 1, 2015

The Honorable Larry Hogan
Governor
State of Maryland
Annapolis, MD 21401-1991

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H-107 State House
Annapolis, MD 21401-1991

The Honorable Michael E. Busch
Speaker of the House
H-101 State House
Annapolis, MD 21401-1991

Re: HB 228 (Chapter 159 of the Acts of 2013) – Captive Producer Program Report

Dear Governor Hogan, President Miller, and Speaker Busch:

Pursuant to Section 9 of Chapter 159 of the Acts of 2013 (HB 228), the Maryland Health Benefit Exchange (MHBE) submits this report on the captive producer program. Specifically, HB 228 required the MHBE to conduct a study on the captive producer program, established under § 31-113(p) of the Insurance Article, analyzing the effect of the program on enrollment.

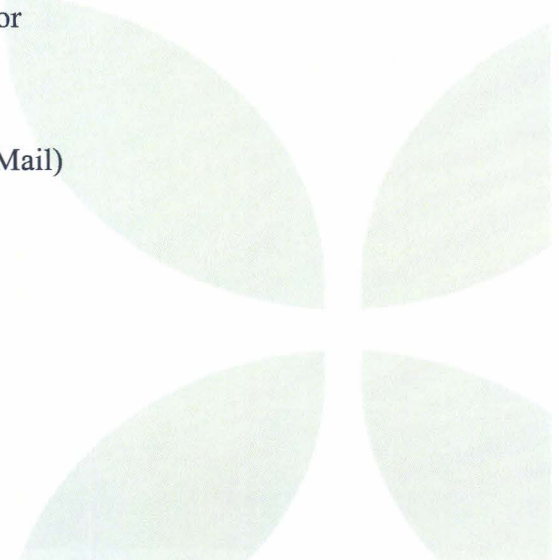
If you have any questions regarding this report, please contact me at 410-547-1273 or at carolyn.quattrocki@maryland.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Carolyn Quattrocki".

Carolyn Quattrocki
Executive Director

cc: Cathy Kramer, DLS (Electronic)
Sarah Albert, DLS Library and Information Services (Mail)





Study of Captive Producers: A Report to the Governor and Maryland General Assembly

**Maryland Health Benefit Exchange
December 1, 2015**

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Introduction

Producers—also referred to as brokers or agents—are individuals licensed to sell, solicit, or negotiate insurance contracts for compensation. Captive producers have exclusive appointments with a single carrier to receive compensation as a captive producer only from that carrier. The Maryland Health Progress Act of 2013¹ created a policy allowing captive producers to enroll certain individuals into qualified health plans (QHPs) offered in the Exchange by the carrier from which the captive producer has an exclusive appointment without having to be separately certified as an individual Exchange navigator. The Act also requires the Maryland Health Benefit Exchange (MHBE) and the Maryland Insurance Administration (MIA) to conduct a study of the captive producer program, including an analysis of the effect of the program on Exchange enrollment, the reduction in the percentage of the state’s uninsured, the percentage of Maryland residents eligible for federal subsidies and cost-sharing assistance who access federal affordability programs, and the percentage of Maryland residents who transition from health benefit plans outside the Exchange to QHPs inside the Exchange. The MHBE and MIA must report the findings of this study and any recommendations for further legislative action to the Governor and Maryland General Assembly by December 1, 2015. The purpose of this report is to provide the findings and recommendations of this study.

Background

The Maryland Health Progress Act of 2013²

The Maryland Health Progress Act of 2013 established the MHBE’s captive producer program through January 1, 2017, and delineated several parameters for the program.³ A captive producer may enroll the following individuals into QHPs:⁴

- An individual who is currently enrolled in one of the carrier’s non-group plans and does not have an insurance producer of record in connection with the carrier’s non-group plan
- An individual who initiates contact with the captive producer or the carrier for the purpose of requesting assistance or inquiring about the carrier’s plan and does not acknowledge having an insurance producer in connection with any existing coverage

If an individual has an insurance producer of record, a captive producer must refer the individual back to this insurance producer unless:⁵

- The individual is eligible for—but has not obtained—federal premium subsidies and cost-sharing assistance, and the insurance producer of record is not authorized to sell QHPs in the individual Exchange; or

¹ 2013 Md. Laws ch. 159.

² Id.

³ Insurance Article, § 31-113(p)(1), Annotated Code of Maryland.

⁴ Id.

⁵ Insurance Article, § 31-113(p)(2)(i), Annotated Code of Maryland.

- The individual would prefer not to seek further assistance from his or her insurance producer of record

If a captive producer is not aware of an insurance producer of record, then the captive producer must disclose to the individual that there may be an insurance producer of record in connection with an existing policy.⁶ In offering information and assistance to a carrier's current enrollees regarding QHPs, a carrier and its captive producers must do the following:⁷

- Comply with fair marketing standards developed jointly by the MHBE and the MIA
- Not employ marketing practices or offer information and assistance to only certain enrollees in a manner that will have the effect of enrolling a disproportionate number of the carrier's enrollees with significant health needs in QHPs offered in the individual Exchange
- Act in the best interest of the individual

Captive producers must disclose to the individual that they are employed by the carrier and are only able to provide information about and sell QHPs offered by that carrier. Captive producers must also disclose that the individual Exchange offers QHPs sold by other carriers that may meet the individual's needs.⁸ At the individual's request, the captive producer must do the following:⁹

- Refer the individual for further assistance to an independent insurance producer, the appropriate Connector Entity, or the call center
- Provide written information about the individual Exchange, the Connector Program, and the call center

The captive producer must document that he or she has provided the required disclosures and that the individual has acknowledged understanding of the disclosures and does not want to be referred to an independent producer, an individual Exchange Connector Entity, or the call center, and wants to receive information and assistance from the captive producer.¹⁰ This documentation is subject to the MIA's review in a market conduct examination and must be retained for at least three years and be provided to the MHBE on a quarterly basis.¹¹ A captive producer may not provide information or services related to health benefit plans not offered by the captive producer's carrier.¹² A carrier must also provide a list of its current captive producers to the MHBE.¹³ If a carrier or captive producer fails to comply with these requirements, then the MHBE may suspend, revoke, or refuse to renew the captive producer's authorization and impose sanctions against the carrier.¹⁴

⁶ Insurance Article, § 31-113(p)(2)(ii), Annotated Code of Maryland.

⁷ Insurance Article, § 31-113(p)(3), Annotated Code of Maryland.

⁸ Insurance Article, § 31-113(p)(4)(i), Annotated Code of Maryland.

⁹ Insurance Article, § 31-113(p)(4)(ii), Annotated Code of Maryland.

¹⁰ Insurance Article, § 31-113(p)(4)(iii), Annotated Code of Maryland.

¹¹ Insurance Article, § 31-113(p)(5), Annotated Code of Maryland.

¹² Insurance Article, § 31-113(p)(6)(i), Annotated Code of Maryland.

¹³ Insurance Article, § 31-113(p)(3)(ii), Annotated Code of Maryland.

¹⁴ Insurance Article, § 31-113(p)(7), Annotated Code of Maryland.

Regulations

Maryland regulations set out the required standards and training for captive producers who apply for authorization through the MHBE.¹⁵ To qualify as a captive producer, an applicant must be licensed by the MIA and hold a current and exclusive appointment with a single carrier.¹⁶ An applicant must submit an application to the MHBE and complete the producer authorization training approved by the MIA.¹⁷ The application must include the following:¹⁸

- The MHBE's application form
- An attestation that the applicant will notify the MHBE of any changes to the application information within 30 days
- The MHBE's application fee
- Evidence that the applicant is licensed by the MIA as an insurance producer
- Evidence that the applicant successfully completed the necessary producer authorization training

A captive producer's authorization must be renewed after two years.¹⁹ The MHBE may suspend or revoke a captive producer's authorization for such reasons as intentionally misrepresenting or concealing a material fact in the captive producer application or engaging in fraudulent or dishonest practices.²⁰

Additional Guidance

In July 2013, the MIA issued Bulletin 13-22²¹ describing the fair marketing standards by which captive producers must disclose specific information to individuals seeking to purchase QHPs. The MIA and the MHBE developed the fair marketing standards in accordance with the charge laid out in §31-113(p)(3)(i)(1) of the Insurance Article, Annotated Code of Maryland. A captive producer authorized to sell QHPs must provide a disclosure to all applicants that states the following:

“As a captive producer appointed exclusively by _____ (Carrier), I am legally obligated to disclose that: I am only able to provide information about and sell qualified health plans offered by _____ (Carrier). Maryland Health Connection offers a variety of qualified plans sold by other carriers that may meet your needs. Maryland Health Connection also performs eligibility determinations for Medicaid. At any time, upon your request, I am required to refer you to an independent authorized insurance agent, the appropriate consumer assistance organization in your region, or the Maryland

¹⁵ COMAR 14.35.08.01.

¹⁶ COMAR 14.35.08.03.

¹⁷ COMAR 14.35.08.05; COMAR 14.35.04.04

¹⁸ COMAR 14.35.08.04(A); COMAR 14.35.04.03A.

¹⁹ COMAR 14.35.08.06(A).

²⁰ COMAR 14.35.08.06(D).

²¹ Bulletin 13-22: Fair Marketing Standards for Captive Producers (July 15, 2013). Retrieved from <https://www.mdinsurance.state.md.us/sa/docs/documents/insurer/bulletins/bulletin-13-22-captive-producer.pdf>.

Health Connection call center; and provide written information about Maryland Health Connection, the consumer assistance program, and the customer service center.”

This disclosure statement must be provided to an applicant before the captive producer provides any information or assistance, be on a separate document if issued in writing, and be recorded and stored in a format that can later be recovered. A captive producer and the producer’s associated carriers must retain documentation of the disclosure for three years.

Effect of the Captive Producer Program

The MHBE’s captive producer program is very small and has accounted for few enrollments. Out of the 1,131 producers authorized to sell plans through the MHBE, only 20 (less than 2 percent) are currently authorized as captive producers. Of these 20, 9 have appointments with Cigna, 5 with Evergreen, and 6 with Kaiser Permanente. Further, only 4 of these 20 captive producers enrolled individuals into QHPs in 2015.

Table 1 displays 2015 QHP enrollment by captive producers as a percentage of total QHP enrollment. The first row of the table shows the number and percentage of enrollments by captive producers who are currently authorized to sell plans through the MHBE. The second row of the table shows the number and percentage of 2015 enrollments made by captive producers who were authorized to sell plans through the MHBE earlier in the year, but are no longer authorized as captive producers as of the publication of this report.²² Overall, captive producers enrolled 101 individuals into QHPs in 2015, less than one-tenth of 1 percent of overall enrollment.

Table 1. 2015 QHP Enrollment by Captive Producers²³

	Number of QHP Enrollees	Percentage of Total QHP Enrollment
Currently Authorized Captive Producer Enrollment	60	0.05%
Formerly Authorized Captive Producer Enrollment	41	0.04%
Total Captive Producer Enrollment	101	0.09%
Total QHP Enrollment	115,000	

²² All enrollments were performed while the captive producer was authorized.

²³ In 2014, a total of 9 captive producers enrolled 213 individuals into QHPs.

Conclusion and Recommendations

The Maryland Health Progress Act of 2013 created a policy allowing captive producers to enroll certain individuals into QHPs offered by the carrier from which the captive producer has an exclusive appointment. Currently, 20 captive producers are authorized to sell QHPs on the Exchange. Captive producers enrolled only 101 individuals into QHPs in 2015, which is less than one-tenth of 1 percent of overall enrollment. Thus, the program has had little to no effect on Exchange enrollment, the reduction in the percentage of the state's uninsured, the percentage of Maryland residents eligible for subsidies who access federal affordability program, and the percentage of Maryland residents who transition from plans outside the Exchange to QHPs inside the Exchange.

Although enrollment through the program has remained low, administering the captive producer program poses little burden to MHBE staff. Given this low operational overhead and the continuing high volume of calls in the MHBE's call center from consumers seeking assistance, the MHBE recommends continuing the program. The MHBE further suggests that it should continue monitoring the program and revisit this recommendation if need be in the future.