



### **About Samuel Fleet**

Samuel H. Fleet is President of AmWINS Group Benefits ([www.amwins.com](http://www.amwins.com)) of Warwick, RI, a leading wholesale broker of comprehensive group insurance programs and administrative services. With more than 20 years of health and benefit experience, Samuel Fleet has proven his unmatched expertise with the rapid rise of his company from a small regional organization to one of the most successful third-party insurance administrators in the country. AmWINS Group Benefits' parent company, AmWINS Group, is one of the largest insurance wholesalers in the United States.

# **Mandatory Loss Ratios and the Impact on Brokers**

As the National Association of Insurance Commissioners (NAIC), the Department of Health and Human Services (HHS), health care providers and the insurance industry battle about what's in and what's out of the Mandatory Loss Ratio (MLR) calculation, one thing *is* certain: commissions are an easy target. Commissions on individual and group health insurance have been coming down for years, but producers will see them squeezed even further as a result of the MLR calculation. If brokers want to survive in this changing environment, they will need to adapt and demonstrate flexibility.

Three options to do just that stand out:

1. Broaden your base by going after new opportunities.
2. Deepen your expertise to become more valuable to your customers.
3. Protect your position — and income — by working with industry groups on regulatory issues.

### **Crunch Time Is Here**

Beginning in 2011, the Patient Protection and Affordable Care Act (PPACA) requires health plans to limit non-medical care spending to 20 percent of premiums for individual and small group markets, and 15 percent for the large group market, which is defined as any company with more than 50 employees.

Insurers are already responding by tightening commissions. For example, Independence Blue Cross in Pennsylvania has switched from paying percentage commissions to a flat fee. Assurant Health in Wisconsin has capped commissions, and United Healthcare in Missouri is cutting commissions effective January 1, 2011. Golden Rule in Indiana has warned brokers it may retroactively reduce commissions paid after July 1, and the company cut advanced commissions from nine months to six months.

In addition, the National Association of Health Underwriters recently predicted to the *Wall Street Journal* that percentage commissions are on the road to extinction. The flat fees that will take their place are likely to reduce broker income significantly.

The bottom line is that it's time for brokers to stop counting on commissions from run-of-the-mill employer and individual health benefits and start *diversifying their practice* — now. The following suggestions are designed to help you meet that goal.

### **Become a Valued Consultant**

Smart brokers will deepen their expertise and demonstrate to their customers their value as health care benefit consultants. A good consultant will begin by listening and solving problems for businesses instead of simply focusing on price. Brokers need to get out of the price game completely and start looking for solutions for *real* business problems. Rates are going up and your core products are eroding, so you need to develop long-term relationships as the consultant. For example, you might need to help a small company that can't afford health coverage for their employees determine what they can provide; this is a good time for you to explore federal exchanges or self-insurance with these clients. You're going to have to use a different approach for your larger clients, so begin investigating potential solutions now.

The new health care law is complex, and with the years'-long timeline for further regulations to be created and

the commensurate phased-in implementation, companies are in need of sound advice. Some companies may take advantage of grandfathering provisions that protect their current benefit package, but they will need to understand the degree and types of changes that eventually may eliminate their eligibility for grandfathering.

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Other companies will want assistance to understand the comparative economic impact of the new and different options. Should they increase their benefit costs to comply with federal minimums, or should they drop coverage and pay the per-employee fine? Are there benefit changes they can make to increase affordability while still meeting government mandates? This is where the opportunity lies for you to become a true consultant. Every organization is going to face these issues, and they'll be looking to you to help them make the best decision for their company. Simply start a dialog about the fines and mandates, and work from there.

By becoming well-versed in data analytics — things such as the cost of x-rays or hospital stays from one institution to another and the changing dynamics of the federal law, brokers can shift their role from salesman to consultant; becoming a partner, not just a broker and/or vender.

### **Seizing New Opportunities**

Despite the health care sea change, experts expect supplementary and voluntary benefits to thrive in an era of heavily regulated core health benefits. Consumers will be looking for coverage that fills in gaps left by low-cost, standardized products in government-run exchanges. Employers will want affordable options for services such as wellness, vision, dental, long term care and other benefits to attract and retain employees as they are forced to cut back on health care coverage due to rising prices.

Other opportunities that brokers can bring to their customers include:

- **Retiree Drug Subsidy:** The change in the tax treatment of the Retiree Drug Subsidy has caused many employers to look for better options. The Employer Group Waiver Plan — more commonly known as EGWP and pronounced “egg-whip” — allows employers to contract with the federal government for a capitation fee as a Prescription Drug Plan (PDP) sponsor. This approach generally works out to cover about 35 percent of a company's drug costs, compared to the average 20 percent yield of the subsidy. Even better is the 800 Series EGWP, which allows employers to shift the administrative burden to a third-party administrator (TPA).

Assisting your client in selecting the right TPA is yet another opportunity to prove your dedication as a valuable consultant for your clients. Be sure to look for an independent third-party administrator that isn't associated with a particular carrier, and is current with both technology and HIPPA. You need to find a TPA that looks at self-funded health plans as a business; as something of a profit and loss statement. It's their job to eliminate these costs (remember, it's not about gross discounts; it's about the net claims paid.) To learn these things, take the time to interview the TPA with the aim of finding an administrator that will serve as a partner.

- **ERISA Plans:** Self-funding may well become more popular as companies seek to customize their benefits and hold down costs. To minimize risks brought on by the elimination of lifetime and annual caps, self-funded employers will need adequate stop-loss coverage. As their broker consultant, you should endeavor to find unlimited maximum stop-loss coverage (some stop-loss coverage has lifetime coverage maximums). The other option is to carve out certain specific risks for separate coverage, such as organ transplantation, or for specialized management, such as kidney dialysis. In these instances, the employer acts as the insurer looking to mitigate risk. Carve-out plans allow the employer to pay a predetermined amount; therefore, it's your job as the broker to research available coverage and present it to your clients. You must also consult with your client to ensure they avoid getting hit with premiums by choosing the right plan for them.

Brokers can also find opportunities in working with the nonprofit insurance pools the new federal legislation funds. These co-ops will be looking for help in identifying third-party administrators and other services, and you should be the one to help explain and establish stop-loss coverage. Start by listening carefully to their needs, then conduct the research on their behalf and help the association to set up their co-op. Ask them what they need and what they don't want, and assist them in selecting appropriate vendors. The broker helps distribute the product to the employer groups comprising the co-op, so be sure to weigh the pros and cons of every product.

### **Protecting the Home Front**

Finally, brokers should be working closely with their professional organizations to influence how regulators view the services they provide.

The medical loss ratio provision requires insurance carriers to spend a specified percentage of premium revenue on either reimbursement for clinical services or on "activities that improve healthcare quality." While sales commissions to brokers are often viewed as solely an administrative cost, there is a substantive argument to be made that at least a portion of the commissions underwrite broker activity that promotes health care quality.

For example, many brokers who work with small groups or individuals provide enrollment assistance, claims advocacy services, billing and collection, wellness and COBRA continuing coverage coordination. Each of these directly impacts the ability of employees to enjoy high-quality health care

If the broker/agent community is successful in making this argument to federal regulators, the way commissions are treated in the medical loss ratio calculation may be moderated to favor higher commissions. I encourage you to examine the reports on this subject provided by the NAIC, the Big I and NAHU. Promote the value of your consultative abilities dedication to finding plans to suit your clients' needs.

As brokers and agents have suspected for some time, the new federal law will change many of the rules and practices that affect their business success. However, these changes will also bring new opportunities. The brokers who reach into new areas, stay on top of federal developments and work hard on industry issues will position their businesses to thrive. For more good information on how to adapt to the changing laws, visit [CIAB.com](http://CIAB.com), [AHIP](http://AHIP) and [NAHU](http://NAHU), and then begin reshaping yourself from a price-quoter to a valuable broker consultant.