REPORT OF THE

STATE CORPORATION COMMISSION ON THE ACTIVITIES OF THE OFFICE OF THE MANAGED CARE OMBUDSMAN

TO THE HOUSE COMMITTEE ON COMMERCE & LABOR; THE HOUSE COMMITTEE ON HEALTH, WELFARE AND INSTITUTIONS; THE SENATE COMMITTEE ON EDUCATION & HEALTH; THE SENATE COMMITTEE ON COMMERCE & LABOR AND THE VIRGINIA JOINT COMMISSION ON HEALTH CARE

COMMONWEALTH OF VIRGINIA
RICHMOND
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To: The House Committee on Commerce & Labor
The House Committee on Health, Welfare and Institutions
The Senate Committee on Education & Health
The Senate Committee on Commerce & Labor
and
The Virginia Joint Commission on Health Care

The report contained herein has been prepared pursuant to § 38.2-5904 of the Code of Virginia.

This report documents the activities of the Office of the Managed Care Ombudsman for the reporting period covering November 1, 2004, through October 31, 2005.

Respectfully Submitted,

Commissioner Clinton Miller, Chairman

Commissioner Theodore V. Morrison, Jr.

Commissioner Mark C. Christie

Report on the activities of the Office of the Managed Care Ombudsman

Executive Summary

This annual report on the activities of the Office of the Managed Care Ombudsman ("the Office") covers the period from November 1, 2004 through October 31, 2005. During this time, the Office informally and formally assisted over 800 consumers with general issues or specific problems regarding a Managed Care Health Insurance Plan (an "MCHIP"). The Office continued conducting outreach and educational programs to help consumers understand the benefits available from their MCHIP and provided tools as well as direct assistance to consumers in resolving problems they encountered. When applicable, consumers were referred to another regulatory agency for assistance. We conclude that the Office continues to provide a valuable service to consumers whose health insurance is provided by an MCHIP, and that the Office functions in accordance with the legislation that created the Office in 1999.

The Office of the Managed Care Ombudsman (the "Office"), was established in the State Corporation Commission's Bureau of Insurance (the "Bureau"), on July 1, 1999, in accordance with § 38.2-5904 of the Code of Virginia. This report is submitted pursuant to § 38.2-5904 B 11, which requires the Office to submit an annual report of the activities of the Office to the standing committees of the Virginia General Assembly having jurisdiction over insurance and health, and also to the Joint Commission on Health Care. This is the seventh annual report and covers the period from November 1, 2004 through October 31, 2005.

As reported in previous years, the Office is a resource for consumers whose health insurance is provided by a Managed Care Health Insurance Plan (an "MCHIP"), which is defined as a managed care plan and includes all Health Maintenance Organizations ("HMOs)", and Preferred Provider Organizations ("PPOs"); essentially any form of managed care provided by a health insurance company licensed by the Bureau to transact business in Virginia. Commensurate with the regulatory role of the Bureau however, the Office does not have the statutory authority to assist consumers unless their coverage is fully-insured and issued in Virginia. Consequently the Office is unable to assist individuals whose health insurance is provided by any of the following:

- the federal government; to include Medicare;
- state government; to include Medicaid recipients;
- Self-insured plans established by employers to provide coverage to their employees;
- plans issued outside of the Commonwealth.

When individuals insured by any of the above plans contact the Office, the staff refers the consumer to the appropriate federal or state regulatory agency for assistance.

The Office provides informal and formal assistance to consumers that encounter a problem with their MCHIP, and also responds to general questions. The Office provides general information and assistance to consumers who submit an inquiry, which typically concerns an issue or problem related to their health insurance or managed care. Inquiries are commonly received via correspondence, phone calls, or e-mail. When responding to inquiries, the staff utilizes the opportunity to educate consumers on how their particular MCHIP operates and the benefits available under the terms of their health insurance. During this reporting period, the Office responded to 661 inquiries, which is slightly less than the 695 inquiries the Office received during the previous reporting period.

The staff formally assists consumers that want to appeal an adverse decision their MCHIP has made. Once the consumer provides their his or her consent, which is documented on an inquiry form, the staff contacts the individual's MCHIP and ensures the individual has full access to all of the internal appeals provided by that particular

MCHIP. Designated staff at each MCHIP will in turn provide information on the circumstances involved in the appeal, and the Office will coordinate with the point of contact to resolve any factual issues or questions regarding an appeal. This frequently results in clarifying the reason the MCHIP has issued a denial, and helps the consumer formulate an effective appeal strategy. The Office also provides guidance to consumers on information to include in their appeals, and has created tip sheets on several types of denials that are commonly appealed. This specific information helps consumers focus on critical points to include in their appeals. Common types of appeals involve denials for prescription medication, hospitalization disputes, medical and surgical procedures, diagnostic tests and claims payment problems. During this reporting period, the Office assisted 172 consumers in filing an appeal, which is less than the 208 consumers the Office formally assisted during the last reporting period.

When an MCHIP reverses its denial and renders a decision in the appellant's favor, the Office closes the file. If an MCHIP issues an adverse decision or upholds its denial and there are further appeal opportunities, such as another internal appeal, the Office will assist the consumer with the next appeal. If the appeal involves a utilization review issue, which means the requested service or claim payment was denied because the MCHIP determined it was not medically necessary, the Office will assist the consumer until the internal appeal process is completed. If a final adverse decision is rendered, the Office will help the individual access the External Appeal program that is administered in the Bureau of Insurance. In instances when a consumer's appeal is not successful, the Office helps the individual understand why he or she lost the appeal. In those situations when a final adverse decision appears to be inconsistent with applicable insurance statutes, the Office will refer the matter to the appropriate section within the Bureau for review and investigation. In some cases, the Office refers consumers to the Virginia Department of Health, which has the statutory responsibility to regulate the quality of care provided by an MCHIP to its enrollees.

During this reporting period, there was a notable instance when the Office questioned the validity of an MCHIP's final adverse decision, and referred the matter for further review. The appeal concerned a woman's request for reconstructive breast surgery following a mastectomy, which was denied by her MCHIP. The Office suspected the denial violated a statutory requirement regarding mandatory coverage in such cases and consequently referred the matter to another section in the Bureau for review. Subsequently the Bureau concluded that the denial did violate the statute and addressed the matter with the MCHIP, which then rescinded its denial and approved coverage. In reviewing a similar denial it had previously issued, the MCHIP overturned its decision and issued approval for surgery, which effectively resulted in the Office indirectly assisting another enrollee.

Previous reports mentioned difficulties consumers frequently encountered because they did not fully understand how to utilize the benefits available under the terms of their health insurance. This trend has continued over the past year, and the Office has continued emphasizing the importance of understanding the principles of health insurance. In conjunction with providing informal and formal assistance to consumers, the Office continually educates consumers on the mechanics of how their health

insurance works. The goal is to not only assist consumers with an immediate problem, but also help them avoid future problems through an increased knowledge about their health insurance.

The Office continued to enhance the information it provides to consumers, in an effort to make this information more understandable and easier to access. As examples, the telephone automated voice menu was simplified to facilitate consumers contacting staff members, and information on the web pages for the Office was redesigned. During this reporting period, there were 5,112 visits to the Office's web page, compared to 5,284 visits during the previous reporting period. The Office also updated its electronic contact information on tip sheets and brochures disseminated to consumers due to a change in this information.

As in previous years, the Office conducted outreach programs to acquaint consumers with the Office and the assistance it offers. Consumer tip sheets and brochures were distributed at the Virginia State Fair, and staff made multiple presentations on the Office to special interest groups, such as families that receive benefits from Virginia's Birth Injury Fund. The Office also provided information to the Virginia Dental Association and encouraged the organization to refer its members' patients to the Office for assistance in appealing denials from their MCHIPs. The Office also conducted an outreach program at the Children's Hospital of the King Daughters, located in Norfolk, in conjunction with the hospital's Cancer Survivor Day. In a cooperative effort with the federal government's Department of Labor (the "DOL"), the Office participated in a joint seminar hosted by the Bureau and the DOL, which featured information for individuals employed in the insurance industry. The Office was mentioned in an article that appeared in Kiplinger's, a financial magazine with a national circulation.

The Office is the approval authority for each MCHIP's complaint system filing, which by statute must be approved by the State Corporation Commission. These filings describe how the MCHIPs administer their complaint, grievance, and appeal systems, and staff members use their knowledge of each MCHIP's particular procedures when assisting enrollees in the appeal process. During this reporting period, the Office reviewed 52 complaint system filings, which represented new filings, filings that had been previously approved but amended and approved filings the Office reconsidered because in the course of assisting an enrollee staff questioned whether or not the MCHIP was complying with its approved procedures. The number of filings the Office reviewed during this reporting period was double the number the Office examined during the previous reporting period.

By statute, each MCHIP is required to submit an annual complaint form to the Office. The report reflects the number of complaints the MCHIP received during the calendar year from consumers and other sources, such as the Bureau's Life and Health Consumer Services Section. In reviewing these reports, the staff noted that generally the number of enrollees in any particular MCHIP that filed a complaint is very small compared to the total number of enrollees. This is consistent with findings from previous years, but does not however, diminish the severity of serious problems that an extremely small number of enrollees have encountered with their particular MCHIP.

The Office continued working with the Virginia Department of Health's Center for Quality Health Care Services and Consumer Protection, (the "Center") which as noted regulates the quality of care that MCHIPs provide. The Center referred several consumers to the Office for assistance with an appeal, and the Office reciprocated by referring some consumers that appeared to have a potential quality of care complaint against their MCHIP. This collaboration benefited consumers, especially those consumers whose problems involved both an appeal and a quality of care issue.

Last year's report mentioned pending federal legislation that would authorize the creation of Association Health Plans ("AHPs"), which would enable unrelated small businesses to collectively purchase health insurance for their employees, even when these businesses were not all located in the same state. As proposed, AHPs would not be licensed or regulated by state insurance departments, resulting in consumers enrolled in such plans not having access to protections afforded by state insurance laws, and denying these consumers the ability to obtain assistance from a state insurance department. While legislation was not enacted, the issue is once again being discussed indicating there is still interest in AHPs. The Office will continue monitoring events this year and analyze any proposed legislation that is introduced.

Since the Office recognizes the importance of using every available means to provide information to consumers, it maintains a Internet web page that is designed to be consumer friendly. The web page contains information about the Office, and all of the tip sheets and brochures that have been developed to assist consumers. The web page also enables consumers to contact the Office via e-mail, which has proven to be very popular and enables consumers to initiate contact at virtually anytime, such as on weekends and receive a response the next business day. During the current reporting period, there were 5,648 visits to the Office's web page as compared to 5,112 visits during the previous reporting period.

As in previous years, staff of the Office of the Managed Care Ombudsman conducted outreach programs to inform consumers about the Office and the assistance it provides. The Office mailed brochures and tip sheets to consumers who contacted the Office for assistance, and also provided brochures and tip sheets at the Virginia State Fair as part of the Bureau's outreach program. The Office also provided brochures and tip sheets when staff made presentations to various groups. These efforts resulted in approximately 2,500 tip sheets and brochures being distributed to Virginia consumers. Staff made presentations to the Virginia Department of Business Assistance, Care Connection for Children at VCU, Virginia Chapter of the American Association of Healthcare Administrative Management and participated in a panel discussion at a meeting hosted by the Virginia Quality Healthcare Network.