Medical Xpress

Rising complaints of unauthorized Obamacare plan-switching and sign-ups trigger concern

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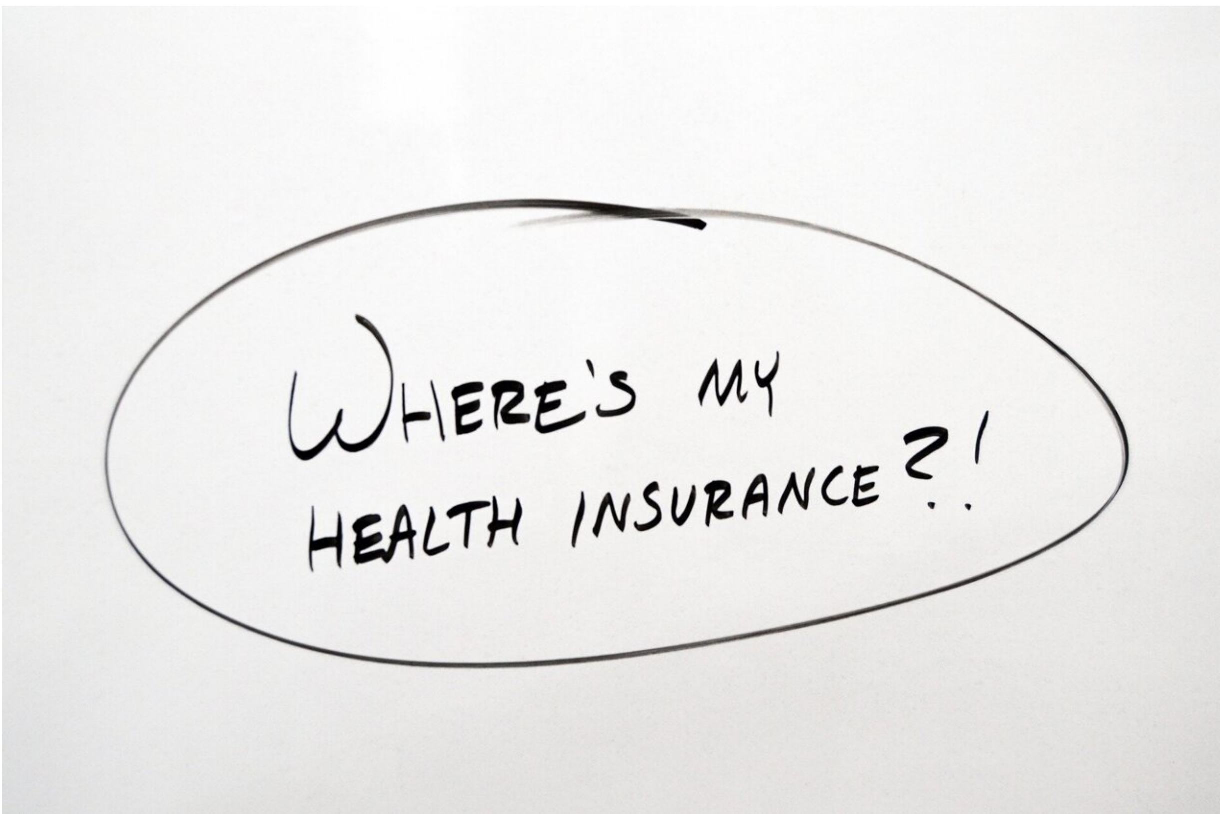

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Federal and state regulators aren't doing enough to stop the growing problem of rogue health insurance brokers making unauthorized policy switches for Affordable Care Act policyholders, say consumers, agents, nonprofit enrollee assistance groups, and other insurance experts.

"We think it's urgent and it requires a lot more attention and resources," said Jennifer Sullivan, director of health coverage access for the Center on Budget and Policy Priorities.

The Centers for Medicare & Medicaid Services, which oversees the ACA, "has acknowledged the issue," said former Oklahoma insurance commissioner John Doak. "But it appears their response is inadequate."

The reactions follow a KFF Health News article outlining how licensed brokers' easy access to policyholder information on healthcare.gov has led unscrupulous agents to switch people's policies without express permission. Those agents can then take the commission that comes with signing a new customer. Dozens of people and insurance brokers responded to the earlier report recounting similar situations.

Some switched policyholders end up in plans that don't include their doctors or the medications they regularly take, or come with higher deductibles than their original coverage choice. If their income or eligibility for premium tax credits is misrepresented, some people end up owing back taxes.

Agents whose clients have been affected say the switches ramped up last year and are continuing into 2024, although quantifying the problem continues to be difficult. The problem seems concentrated on the federal healthcare.gov website, which is the marketplace where people in 32 states buy ACA plans, which are also known as Obamacare. CMS declined to provide the number of complaints that have been filed.

Even so, CMS representatives said during a December committee meeting of the National Association of Insurance Commissioners that they were "acutely aware" of the problem and were working on solutions.

A similar NAIC gathering was held in March. During those meetings, state regulators urged CMS officials to look for unauthorized switches, rather than reacting only to filed complaints. State regulators also want the agency to tell them sooner about agents or brokers under investigation, and to be provided with the number of affected consumers in their regions.

In an April 4 written statement to KFF Health News, Jeff Wu, acting director of CMS' Center for Consumer Information & Insurance Oversight, pointed to the agency's sharp prohibition on agents enrolling people or changing their plans without getting written or recorded consent, and said his team is "analyzing potential additional system controls to block unauthorized or fraudulent activity."

It is also working with state regulators and large broker agencies, Wu wrote, to identify "the most effective ways to root out bad actors." He also said more agents and brokers are being suspended or terminated from healthcare.gov.

Wu did not provide, however, a tally of just how many have been sanctioned.

Low-income consumers are often targeted, possibly because they qualify for zero-premium plans, meaning they might not know they've been switched or enrolled because they aren't paying a monthly bill.

Also, rules took effect in 2022 that allow low-income residents to enroll at any time of the year, not just during the annual open enrollment period. While the change was meant to help people who most need to access coverage, it has had the unintended effect of creating an opportunity for this scheme to ramp up.

"There have been bad apples out there signing people up and capturing the commissions to do so for a while, but it's exacerbated in the last couple of years, turning it from a few isolated incidents to something more common," said Sabrina Corlette, co-director of the Center on Health Insurance Reforms at Georgetown University.

Many victims don't know they've been switched until they try to use their plans—either because agents changed the policy without talking to them or because the consumer unknowingly enrolled by responding to online advertisements promising gift cards, government subsidies, or free health insurance.

The challenge now is how federal regulators and their counterparts in the states can thwart the activity without diminishing enrollment—a top priority for the marketplace. In fact, Obamacare's record-breaking enrollment figures are being touted prominently in President Joe Biden's reelection campaign.

Thwarting the switches "really comes down to oversight and enforcement," Corlette said. "As soon as regulators identify someone who is engaged in unauthorized plan-switching or enrollment, they need to cut them off immediately."

That isn't simple.

For starters, consumers or their agents must report suspected problems to state and federal regulators before investigations are launched.

Such investigations can take weeks and states generally don't have access to complaints until federal investigators finish an inquiry, state regulators complained during the NAIC meetings.

Doak attended the December meeting, where he urged federal regulators to look for patterns that might indicate unauthorized switching—such as policyholders' coverage being changed multiple times in a short period—and then quickly initiate follow-up with the consumer.

"All regulators have a duty to get on top of this issue and protect the most vulnerable consumers from unknowingly having their policies moved or their information mistreated," Doak told KFF Health News. He is now executive vice president of government affairs for Insurance Care Direct, a health insurance brokerage.

Being more proactive requires funding. Wu said the agency's administrative budget has remained nearly flat for 13 years even as enrollment has grown sharply in the ACA and the other health programs it oversees.

And the complaint process itself can be cumbersome because it can involve different state or federal agencies lacking coordination.

Even after complaints are filed, state or federal officials follow up directly with the consumer, who might have limited English proficiency, lack an email address, or simply not answer their phone—which can stall or stop a resolution, said Katie Roders Turner, executive director of the Family Healthcare Foundation, a Tampa Bay, Florida, nonprofit that helps people enroll or deal with problems that arise with their plans.

Suggested improvements include creating a central form or portal for complaints and beefing up safeguards on the healthcare.gov site to prevent such unauthorized activity in the first place.

Currently, licensed agents need only a name, date of birth, and state of residence to access policyholder information and make changes. That information is easy to obtain.

States that run their own marketplaces—there are 18 and the District of Columbia—often require more information, such as a one-time passcode sent to the consumer, who then gives it to their chosen agent.

In the meantime, the frustration is increasing.

Lauren Phillips, a sales agent in Georgia, said she reached out to an agent in Florida who was switching one of her clients, asking her to stop. When it happened again to the same client, she reported it to regulators.

"Their solution was for me to just watch the policy and fix it if it happens again, which is not a viable solution," Phillips said.

Recently, after noticing the client's policy had been switched again, she reported it and changed it back. When she checked two mornings later, the policy had been terminated.

"Now my client has no insurance at all," Phillips said. "They say they are working on solutions. But here we are in the fourth month of the year and agents and consumers are still suffering at the hands of these terrible agents."