

May 11, 2023

The Honorable Julie A. Su
Acting Secretary
U.S. Department of Labor
200 Constitution Avenue NW
Washington D.C. 20210

Dear Acting Secretary Su:

On behalf of The National Association of Insurance Commissioners (NAIC), the standard setting organization representing the chief insurance regulators in the 50 states, the District of Columbia, and the United States territories, we write to you regarding the confusion and costly expenses some workers and retirees are facing with the transition to coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) accompanied by eligibility for Medicare.

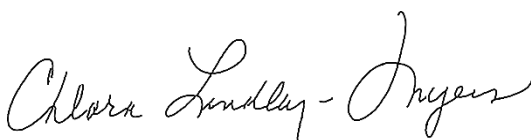
We thank you for the members of your Department's Employee Benefits Security Administration who joined the October 17, 2022, open meeting of the NAIC's Senior Issues Task Force to discuss this topic. Their participation was helpful.

As you are aware, COBRA grants temporary continuation of coverage to individuals enrolled in group health plans when coverage would otherwise end upon the occurrence of a qualifying event. For individuals who are eligible for or enrolled in Medicare when COBRA coverage begins, Medicare is the primary payer and COBRA plans become secondary.

However, for individuals that qualify for COBRA and are eligible for Medicare but have not yet enrolled in either Medicare Part A or Medicare Part B, group health plans may recoup any paid claims. Many workers and retirees are not aware of their Medicare eligibility or the need to enroll in the program, even if one is still employed. As a result, many workers and retirees find themselves facing out-of-pocket costs for claims paid under COBRA benefits due to their Medicare eligibility, as well as penalties for late enrollment in Medicare.

One of the suggestions offered during the October 17 meeting is for more robust notification and communication about COBRA and Medicare to workers and retirees. We appreciate that Medicare enrollment and penalties, secondary payment rules, and COBRA are complicated issues. The NAIC requests you to examine this issue and we, as the state insurance regulators, are prepared to work with you to find solutions to aid and help our workers and retirees in this confusing interaction between COBRA and Medicare.

Sincerely,



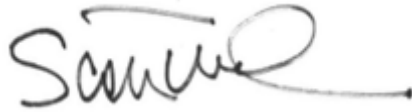
Chlora Lindley-Myers
NAIC President
Director
Missouri Department of Commerce
and Insurance



Andrew N. Mais (*He/Him/His*)
NAIC President-Elect
Commissioner
Connecticut Insurance Department

Handwritten signature of Jon Godfread in black ink.

Jon Godfread
NAIC Vice President
Commissioner
North Dakota Insurance Department

Handwritten signature of Scott White in black ink.

Scott White
NAIC Secretary-Treasurer
Commissioner
Virginia Insurance Department