

December 19, 2018

The Honorable Edward J. Markey

United States See Pharmaceutical use, including drugs associated with opioid overdose treatment, can be a some life insurers consider when deciding to offer life insurance coverage. However, the regulators share your strong desire to protect consumers from unreasonable underwriting practices and agree that no applicant who carries Naloxone solely to save others should be denied insurance solely for that reason.

We understand that Massachusetts Insurance Commissioner Gary Anderson and his staff are developing guidance to ensure fair treatment of all consumers in the Commonwealth. Other state regulators and the National Association of Insurance Commissioners (NAIC)

¹ are closely monitoring the regulatory actions in Massachusetts and, we are sure, they will provide a model other states can consider using

In addition, several state regulators and the NAIC have reached out to life insurance carriers to discuss their underwriting practices as they relate to Naloxone to ensure all consumers are treated fairly. First responders or other good Samaritans are not discouraged from helping respond to the opioid epidemic.

As to your specific questions, we are able to provide the following responses:

Do state insurance commissioners collect information on the basis of insurance applications based on applicants' medications, and specifically, prescriptions for Naloxone? If so, does NAIC collect this information from the states?

The NAIC does not collect data on the number of or reasons for denials. During an audit state regulators review insurers' underwriting practices to ensure compliance with state laws and regulations, but any investigation specifically related to a denial based on a Naloxone prescription would likely be triggered by an inquiry or complaint. State insurance departments address consumer complaints they receive. States send closed complaint data to the NAIC, and the data is aggregated by code. However, while there is a complaint code for "refusal to insure," information such as why an application was denied is not collected at the NAIC level. States may be able to provide more detailed information.

Please explain how NAIC was able to tell the Surgeon General that there is "no indication this is a widespread problem."

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In an informal conversation on the telephone, the Surgeon General staff asked whether the NAIC staff had heard of an issue with insurance companies denying life insurance applications based on a prescription for Naloxone. The Surgeon General staff explained that an advisory encouraging the widespread use of Naloxone to save lives had been issued. NAIC staff represented that the issue had not been raised by regulators, insurers, or consumer representatives at any of the NAIC Life Insurance and Annuities (A) Committee in person meetings or open conference calls.

Has NAIC issued guidance to states to help prevent wrongful denials in this situation? If so, please provide that guidance. Is the NAIC aware of any state insurance commission that has issued guidance on this matter? If so, please provide that guidance.

The NAIC has not issued any guidance at this time. As already mentioned, the Massachusetts Division of Insurance is currently working on guidance on this issue in the Commonwealth. Once issued, the NAIC would distribute this guidance to the NAIC membership for their reference. Should they encounter a similar issue in their state.

Should national guidance be deemed necessary by the members of the NAIC, a charge would be developed and a group appointed to create that guidance through an open, transparent process that includes regulators, consumers, insurers, and other interested parties. Of course, states would then have the option of using that guidance, or not.

We appreciate the opportunity to respond to your questions and remain at your service if you have any additional questions or would like to have additional conversations. Please feel free to contact Brian Webb, Assistant Director, Health Policy and Legislation at bwebb@naic.org or Jennifer Cook, Senior Counsel for Health and Life Insurance Policy at jcook@naic.org.

Sincerely,

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