State of New Jersey

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June 23, 2015

Honorable Gary S. Schaer
c/o David J. Rosen, Ph.D.
Legislative Budget and Finance Officer
Office of Legislative Services
State House Annex
P.O. Box 068
Trenton, New Jersey 08625-0068

Dear Chairman Schaer:

Please accept the following response to your letter of May 20, 2015 which contained questions raised at the Department of Banking and Insurance budget hearing on May 18, 2015. In order to respond to your inquiries as quickly as possible, please find a partial list of responses to your questions below. We are working to prepare additional answers for the remainder of your questions.

Chairman Schaer:

- The New Jersey Real Estate Commission (REC), in the Department of Banking and Insurance was created to administer and enforce New Jersey's real estate licensing law, N.J.S.A.45:15-1 et seq. The REC issues licenses to real estate brokers and salespersons, real estate schools, and course instructors, and also establishes standards of practice for the real estate brokerage profession. The REC collects revenue from the issuance of licenses on a biennial basis as well as various other fees. Why has there been a steep decline in fines collected by the REC since FY 2012?

  Response: The fines collected in FY 2012 included two large individual payments of $50,000 and $30,000. Fines of this size are very unusual. Excluding these two large sums, the fines totaled $88,908 for FY 2012. The average annual fines over the four year period were $75,969. Given that, the total for FY 2012 does not vary greatly from the four year average.

- The Department of Banking and Insurance is responsible for investigating fraud committed by licensees in both the Banking and Insurance divisions. These investigations may result in consumer recoveries and fines imposed on the industries the Department regulates. All fines collected by the Department are designated for the General Fund. Why has there been a decline in the amount of fines levied and collected as a result of fraudulent activity between FY 2014 and FY 2015?

Response: Year-to-year variability in the amount of fines levied and collected is typical in insurance enforcement cases and civil fraud prosecutions. The incidence and severity of insurance law and civil fraud violations is not static or predictable. Such statistics are impacted by factors such as changes in market conditions and participants, economic conditions and the impact of deterrence efforts. Further, specifically regarding civil fraud matters, the Bureau of Fraud Deterrence has increased its focus on large complex cases that have a much longer cycle from start to finish, but which typically result in higher penalties once resolved. Through the current fiscal year none of the anticipated large cases have been completed. In short, variability in fine levies and collections is normal and expected. In addition, the recent data is too new to demonstrate a trend in either a positive or negative direction with regard to Department fine levies and collections.

- "Network adequacy" refers to an insurance provider's ability to deliver benefits promised to the consumer by providing reasonable access to a sufficient number of in-network primary care and specialty physicians, as well as health care services included under the terms of the contract. The Department of Banking and Insurance is responsible for regulating and monitoring network adequacy in the State of New Jersey. How many cases filed with the department, in regard to network adequacy, have been found to be in favor of the consumer?

  Response: In FY 2015, there were a total of 11 cases decided by Independent Utilization Review Organizations (IURO) which service the Independent Health Care Appeals Program (IHCAP or external appeal). Of these 11 cases, five were decided in favor of the consumer. The IHCAP mechanism resolves requests by covered persons to their carrier to use out-of-network providers, subject to in-network cost sharing, because a network provider was not available with the appropriate expertise and/or experience (in-plan exception). The IURO reversed the carrier's denial of an in-plan exception in five of the 11 cases, and upheld the carrier's determination in the six other cases.

<u>Assemblyman Singleton</u>

- The Federal Emergency Management Agency's (FEMA) National Flood Insurance Program (NFIP) is responsible for reviewing claims filed by NFIP policyholders affected by Hurricane Sandy. FEMA announced that it will reopen flood insurance claims amid accusations that Hurricane Sandy victims may have been cheated out of flood insurance payments. The Commissioner of Banking and Insurance indicated, during the Assembly Budget Committee hearing, that approximately 2,000 to 3,000 individuals submitted complaints to the Department of Banking and Insurance in regard to flood insurance claims. Where are these complaints in the adjudication process? What is the percentage of complaints received related to the public adjuster role in the process?

  Response: All flood complaints received by the Department have been referred to FEMA, the agency with jurisdiction over the NFIP. The Department received 85 complaints against public adjusters as a result of Sandy out of a total of 2,090 Sandy complaints, so 4% of Sandy complaints were against public adjusters. Of these 85 complaints, 26 were found to be valid.

I trust that the foregoing is responsive to the first four questions in your letter. The responses to the additional questions requested will be forthcoming in a separate response.

Very truly yours,

Kenneth E. Kobylowski
Commissioner