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Behind the Scenes, Health Insurers Use Cash and Gifts to Sway Which Benefits Employers Choose

The insurance industry gives lucrative commissions and bonuses — from six-figure payouts to a chance to bat against Mariano Rivera — to the independent brokers who advise employers. Critics call the payments a "classic conflict of interest" that drive up costs.

by Marshall Allen Feb. 20, 5 a.m. EST

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The pitches to the health insurance brokers are tantalizing.

"Set sail for Bermuda," says insurance giant Cigna, offering top-selling brokers five days at one of the island's luxury resorts.

Health Net of California's pitch is not subtle: A smiling woman in a business suit rides a giant $100 bill like it's a surfboard. "Sell more, enroll more, get paid more!" In some cases, its ad says, a broker can "power up" the bonus to $150,000 per employer group.

Not to be outdone, New York's EmblemHealth promises top-selling brokers "the chance of a lifetime": going to bat against the retired legendary New York Yankees pitcher Mariano Rivera. In another offer, the company, which bills itself as the state's largest nonprofit plan, focuses on cash: "The more subscribers you enroll … the bigger the payout." Bonuses, it says, top out at $100,000 per group, and "there's no limit to the number of bonuses you can earn.

Such incentives sound like typical business tactics, until you understand who ends up paying for them: the employers who sign up with the insurers — and, of course, their employees.

Human resource directors often rely on independent health insurance brokers to guide them through the thicket of costly and confusing benefit options offered by insurance companies. But what many don't fully realize is how the health insurance industry steers the process through lucrative financial incentives and commissions. Those enticements, critics say, don't reward brokers for finding their clients the most cost-effective options.

Here's how it typically works: Insurers pay brokers a commission for the employers they sign up. That fee is usually a healthy 3 to 6 percent of the total premium. That could be about $50,000 a year on the premiums of a company with 100 people, payable for as long as the plan is in place. That's $50,000 a year for a single client. And as the client pays more in premiums, the broker's commission increases.

Commissions can be even higher, up to 40 or 50 percent of the premium, on supplemental plans that employers can buy to cover employees' dental costs, cancer care or long-term hospitalization.

Those commissions come from the insurers. But the cost is built into the premiums the employer and employees pay for the benefit plan.

Now, layer on top of that the additional bonuses that brokers can earn from some insurers. The offers, some marked "confidential," are easy to find on the websites of insurance companies and broker agencies. But many brokers say the bonuses are not disclosed to employers unless they ask. These bonuses, too, are indirectly included in the overall cost of health plans.

These industry payments can't help but influence which plans brokers highlight for employers, said Eric Campbell, director of research at the University of Colorado Center for Bioethics and Humanities.

"It's a classic conflict of interest," Campbell said.

There's "a large body of virtually irrefutable evidence," Campbell said, that shows drug company payments to doctors influence the way they prescribe. "Denying this effect is like denying that gravity exists." And there's no reason, he said, to think brokers are any different.

Critics say the setup is akin to a single real estate agent representing both the buyer and seller in a home sale. A buyer would not expect the seller's agent to negotiate the lowest price or highlight all the clauses and fine print that add unnecessary costs.

"If you want to draw a straight conclusion: It has been in the best interest of a broker, from a financial point of view, to keep that premium moving up," said Jeffrey Hogan, a regional manager in Connecticut for a national insurance brokerage and one of a band of outliers in the industry pushing for changes in the way brokers are paid.

As the average cost of employer-sponsored health insurance premiums has tripled in the past two decades, to almost $20,000 for a family of four, a small, but growing, contingent of brokers are questioning their role in the rise in costs. They've started negotiating flat fees paid directly by the employers. The fee may be a similar amount to the commission they could have earned, but since it doesn't come from the insurer, Hogan said, it "eliminates the conflict of interest" and frees brokers to consider unorthodox plans tailored to individual employers' needs. Any bonuses could also be paid directly by the employer.

Brokers provide a variety of services to employers. They present them with benefits options, enroll them in plans and help them with claims and payment issues. Insurance industry payments to brokers are not illegal and have been accepted as a cost of doing business for generations. When brokers are paid directly by employers, the results can be mutually beneficial.

In 2017, David Contorno, the broker for Palmer Johnson Power Systems, a heavy-equipment distribution company in Madison, Wisconsin, saved the firm so much money while also improving coverage that Palmer Johnson took all 120 employees on an all-expenses paid trip to Vail, Colorado, where they rode four-wheelers and went whitewater rafting. In 2018, the company saved money again and rewarded each employee with a health care "dividend" of about $700.

Contorno is not being altruistic. He earned a flat fee, plus a bonus based on how much the plan saved, with the total equal to roughly what would have made otherwise.

Craig Parsons, who owns Palmer Johnson, said the new payment arrangement puts pressure on the broker to prevent overspending. His previous broker, he said, didn't have any real incentive to help him reduce costs. "We didn't have an advocate," he said. "We didn't have someone truly watching out for our best interests." (The former broker acknowledged there were some issues, but said it had provided a valuable service.)

Working for Employers, Not Insurers

Contorno is part of a group called the Health Rosetta, which certifies brokers who agree to follow certain best practices related to health benefits, including eliminating any hidden agreements that raise the cost of employee benefits. To be certified, brokers (who refer to themselves as "benefits advisers") must disclose all their direct and indirect sources of income — bonuses, commissions, consulting fees, for example — and who pays them to the employers they advise.
Dave Chase, a Washington businessman, created Rosetta in 2016 after working with tech health startups and launching Microsoft's services to the health industry. He said he saw an opportunity to transform the health care industry by changing the way employers buy benefits. He said brokers have the most underestimated role in the health care system. "The good ones are worth their weight in gold," Chase said. "But most of the benefit brokers are pitching themselves as buyer's agents, but they are paid like a seller's agent."

There are only 110 Rosetta certified brokers in an industry of more than 100,000, although others who follow a similar philosophy consider themselves part of the movement.

From the employer's point of view, one big advantage of working with brokers like those certified by Rosetta, is transparency. Currently, there's no industry standard for how brokers must disclose their payments from insurance companies, so many employers may have no idea how much brokers are making from their business, said Marcy Buckner, vice president of government affairs for the National Association of Health Underwriters, the trade group for health benefits brokers. And thus, she said, employers have no clear sense of the conflicts of interest that may color their broker's advice to them.

Buckner's group encourages brokers to bill employers for their commissions directly to eliminate any conflict of interest, but, she said, it's challenging to shift the culture. Nevertheless, Buckner said she doesn't think payments from insurers undermine the work done by brokers, who must act in their clients' best interests or risk losing them. "They want to have these clients for a really long term," Buckner said.

Industrywide, transparency is not the standard. ProPublica sent a list of questions to 10 of the largest broker agencies, some worth $1 billion or more, including Marsh & McLennan, Aon and Willis Towers Watson, asking if they took bonuses and commissions from insurance companies, and whether they disclosed them to their clients. Four firms declined to answer; the others never responded despite repeated requests

Insurers also don't seem to have a problem with the payments. In 2017, Health Care Service Corporation, which oversees Blue Cross Blue Shield plans serving 15 million members in five states, disclosed in its corporate filings that it spent $816 million on broker bonuses and commissions, about 3 percent of its revenue that year. A company spokeswoman acknowledged in an email that employers are actually the ones who pay those fees; the money is just passed through the insurer. "We do not believe there is a conflict of interest," she said.

In one email to a broker reviewed by ProPublica, Blue Cross Blue Shield of North Carolina called the bonuses it offered — up to $110,000 for bringing in a group of more than 1,000 — the "cherry on top."

The company told ProPublica that such bonuses are standard and that it always encourages brokers to "match their clients with the best product for them."

Cathryn Donaldson, spokeswoman for the trade group America's Health Insurance Plans, said in an email that brokers are incentivized "above all else" to serve their clients. "Guiding employees to a plan that offers quality, affordable care will help establish their business and reputation in the industry," she said.

Some insurer's pitches, however, clearly reward brokers' devotion to them, not necessarily their clients. "To thank you for your loyalty to Humana, we want to extend our thanks with a bonus," says one brochure pitched to brokers online. Horizon Blue Cross Blue Shield of New Jersey offered brokers a bonus as "a way to express our appreciation for your support." Empire Blue Cross told brokers it would deliver new bonuses "for bringing in large group business ... and for keeping it with us."

Delta Dental of California's pitches appears to go one step further, rewarding brokers as "key members of our Small Business Program team."

ProPublica reached out to all the insurers named in this story, and many didn't respond. Cigna said in a statement that it offers affordable, high-quality benefit plans and doesn't see a problem with providing incentives to brokers. Delta Dental emphasized in an email it follows applicable laws and regulations. And Horizon Blue Cross said its gives employers the option of how to pay brokers and discloses all compensation.

The effect of such financial incentives is troubling, said Michael Thompson, president of the National Alliance of Healthcare Purchaser Coalitions, which represents groups of employers who provide benefits. He said brokers don't typically undermine their clients in a blatant way, but their own financial interests can create a "cozy relationship" that may make them wary of "stirring the pot."

Employers should know how their brokers are paid, but health care is complex, so they are often not even aware of what they should ask, Thompson said. Employers rely on brokers to be a "trusted adviser," he added. "Sometimes that trust is warranted and sometimes it's not."

Bad Faith Tactics

When officials in Morris County, New Jersey, sought a new broker to manage the county's benefits, they specified that applicants could not take insurance company payouts related to their business. Instead, the county would pay the broker directly to ensure an unbiased search for the best benefits. The county hired Frenkel Benefits, a New York City broker, in February 2015.

Now, the county is suing the firm in Superior Court of New Jersey, accusing it of double-dipping. In addition to the fees from the county, the broker is accused of collecting a $235,000 commission in 2016 from the insurance giant Cigna. The broker got an additional $19,206 the next year, the lawsuitclaims. To get the commission, one of the agency's brokers allegedly certified, falsely, that the county would be told about the payment, the suit said. The county claims it was never notified and never approved the commission.
The suit also alleges the broker "purposefully concealed" the costs of switching the county's health coverage to Cigna, which included administrative fees of $800,000.

In an interview, John Bowens, the county's attorney, said the county had tried to guard against the broker being swayed by a large commission from an insurer. The brokers at Frenkel did not respond to requests for comment. The firm has not filed a response to the claims in the lawsuit. Steven Weisman, one of attorneys representing Frenkel, declined to comment.

Sometimes employers don't find out their broker didn't get them the best deal until they switch to another broker.

Josh Butler, a broker in Amarillo, Texas, who is also certified by Rosetta, recently took on a company of about 200 employees that had been signed up for a plan that had high out-of-pocket costs. The previous broker had enrolled the company in a supplemental plan that paid workers $1,000 if they were admitted to the hospital to help pay for uncovered costs. But Butler said the premiums for this coverage cost about $100,000 a year, and only nine employees had used it. That would make it much cheaper to pay for the benefit without insurance.

Butler suspects the previous broker encouraged the hospital benefits because they came with a sizable commission. He sells the same type of policies for the same insurer, so he knows the plan came with a 40 percent commission in the first year. That means about $40,000 of the employer's premium went into the broker's pocket.

Butler and other brokers said the insurance companies offer huge commissions to promote lucrative supplemental plans like dental, vision and disability. The total commissions on a supplemental cancer plan one insurer offered come to 57 percent, Butler said.

These massive year-one commissions lead some unscrupulous brokers to "churn" their supplemental benefits, Butler said, convincing employers to jump between insurers every year for the same type of benefits. The insurers don't mind, Butler said, because the employers end up paying the tab. Brokers may also "product dump," Butler said, which means pushing employers to sign employees up for multiple types of voluntary supplemental coverage, which brings them a hefty commission on each product.

Carl Schuessler, a broker in Atlanta who is certified by the Rosetta group, said he likes to help employers find out how much profit insurers are making on their premiums. Some states require insurers to provide the information, so when he took over the account for The Gasparilla Inn, an island resort on the Gulf Coast of Florida, he obtained the report for the company's recent three years of coverage with UnitedHealthcare. He learned that the insurer had only paid out in claims about 65 percent of what the Inn had paid in premiums.

But in those same years the insurer had increased the Inn's premiums, said Glenn Price, its chief financial officer. "It's tough to swallow" increases to our premium when the insurer is making healthy profits, Price said. UnitedHealthcare declined to comment.

Schuessler, who is paid by the Inn, helped it transition to a self-funded plan, meaning the company bears the cost of the health care bills. Price said the Inn went from spending about $1 million a year to about $700,000, with lower costs and better benefits for employees, and no increases in three years.

A Need for Regulation

Despite the important function of brokers as middlemen, there's been scant examination of their role in the marketplace.

Don Reiman, head of a Boise, Idaho, broker agency and a financial planner, said the federal government should require health benefit brokers to adhere to the same regulation he sees in the finance arena. The

Employee Retirement Income Security Act, better known as ERISA, requires retirement plan advisers to disclose to employers all compensation that's related to their plans, exposing potential conflicts.

The Department of Labor requires certain employers that provide health benefits to file documents every year about their plans, including payments to brokers. The department posts the information on its website.

But the data is notoriously messy. After a 2012 report found 23 percent of the forms contained errors, there was a proposal to revamp the data collection in 2016. It is unclear if that work was done, but ProPublica tried to analyze the data and found it incomplete or inaccurate. The data shortcomings mean employers have no real ability to compare payments to brokers.

About five years ago, Contorno, one of the leaders in the Rosetta movement, was blithely happy with the status quo: He had his favored insurers and could usually find traditional plans that appeared to fit his clients' needs.

Today, he regrets his role in driving up employers' health costs. One of his LinkedIn posts compares the industry's acceptance of control by insurance companies to Stockholm Syndrome, the feelings of trust a hostage would have toward a captor.
Contorno began advising Palmer Johnson in 2016. When he took over, the company had a self-funded plan and its claims were reviewed by an administrator owned by its broker, Iowa-based Cottingham & Butler. Contorno brought in an independent claims administrator who closely scrutinized the claims and provided detailed cost information. The switch led to significant savings, said Parsons, the company owner. "It opened our eyes to what a good claims review process can mean to us," he said.

Brad Plummer, senior vice president for employee benefits for Cottingham & Butler, acknowledged "things didn't go swimmingly" with the claims company. But overall his company provided valuable service to Palmer Johnson, he said.

Contorno also provided resources to help Palmer Johnson employees find high-quality, low-cost providers, and the company waived any out-of-pocket expense as an incentive to get employees to see those medical providers. If a patient needed an out-of-network procedure, the price was negotiated up front to avoid massive surprise bills to the plan or the patient. The company also contracted with a vendor for drug coverage that does not use the secret rebates and hidden pricing schemes that are common in the industry. Palmer Johnson's yearly health care costs per employee dropped by more than 25 percent, from about $11,252 in 2015 to $8,288 in 2018. That's lower than they'd been in 2011, Contorno said.

"Now that my compensation is fully tied to meeting the clients' goals, that is my sole objective," he said. "Your broker works for whoever is cutting them the check."

ProPublica data fellow Sophie Chou contributed to this story.