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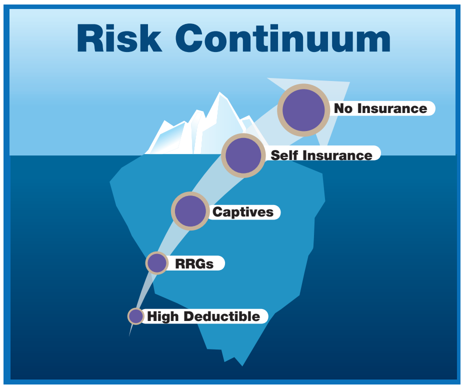
Admitted vs Surplus Lines

By Michael Boldt

BRMS Insurance Services has been appointed by GuideOne Insurance®, an "A"[1] rated insurance carrier, to offer admitted liability insurance to California's best nursing homes and assisted living facilities. Until this product entered the California marketplace, long-term care facilities were, for the most part, left with less attractive alternatives to cover the significant liability risks associated with providing care. Now that this superior option is available, first-class administrators and other long-term care executives must acquire a basic understanding of admitted versus non-admitted insurance.

Alternatives Involve Significant Risk



The first step in grasping the advantages of admitted "A" rated insurance, is to know a bit about the alternatives. Alternatives include: No Insurance; Self-Insurance; Pure Captives; Protected/Segregated Cell Captives; Group Captives; Risk Retention Groups; High Deductible Programs; etc. All of the arrangements listed above involve significant risk to the insured: i.e. retention of the financial risks associated with a loss or liability claim, the assumption of liability for the losses incurred by other organizations because of joint liability, the risks associated with a relatively small entity becoming insolvent as a result of losses. To mitigate the pitfalls, prudent healthcare executives, in these types of risk transfer arrangements, must commit their own valuable time and energy to manage or at least oversee these risky programs.

Surplus Lines: Notable Disadvantages

For California long-term care operators, the safest, most stable and least expensive option has been to secure liability coverage from a well-regarded, non-admitted (surplus lines) carrier. Non-admitted insurance has been an acceptable choice, but there are some notable disadvantages:

> *Although surplus line insurers must follow the Fair Claims Settlement Practices Regulations (regulations that govern how insurers handle claims), the CDI has limited jurisdiction over the operation of surplus line insurers. If the company becomes insolvent (goes bankrupt), your only course of action will be through the courts. The California Insurance Guarantee Association (CIGA), which protects claims with admitted insurers, does not apply to surplus line insurers.*
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> California Department of Insurance, Guide to Commercial Insurance, November 22, 2010

Financial Disadvantages of Surplus Lines Insurance

In addition to the solvency and lack-of-oversight issues mentioned by the California Department of Insurance, there are some financial disadvantages as well. For instance, California charges taxes and fees on surplus lines policies (currently 3.2% of the premium). In most cases surplus lines carriers demand higher premiums than admitted carriers and require payment in-full at the beginning of the policy term. A non-admitted policy will typically earn 25-35% (100% in some cases) of the premium at inception; meaning an insured forfeits unearned premium if that insured cancels the policy early. Lastly, surplus lines policies contain exclusions and provisions not allowed by state regulators for admitted policies.

Admitted Policies: Policy Language That Is Favorable to the Insured

Admitted policies must offer policy language that is favorable to the insured. State approved policies, for example, cannot cancel a policy after it has been in effect for 60 days unless the policy holder fails to pay the premium or commits fraud. A 60 day notice must be given prior to the expiration date of the policy if the policy will not be renewed or if the premium will be increased significantly. Surplus lines policies, on the other hand, can be cancelled by a carrier for many reasons with a mere 10 days' notice and have no renewal obligations.

Lower Premiums and Attractive Payment Options

An admitted policy typically offers lower premiums and attractive payment options. Facility operators also avoid paying the interest and fees associated with financing a premium though a premium financing company.

Clearly, for those that qualify, admitted insurance is the better choice. Why would anyone pass on coverage with favorable policy language, appealing payment terms, and lower premiums? Combining admitted "A" rated liability coverage with property, auto, EPLI and workers' compensation under an umbrella policy from a single carrier will reduce or eliminate redundancy and gaps.

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The information and advice provided in this article is forward looking and intended for general information only. No guarantee is intended regarding what will happen in the future and none should be taken.

About the Author

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