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October 15, 2026

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NABIP Seeks Injunctive Relief Against HHS and CMS Over Marketplace Moratorium Affecting Nearly 19,000 Agents and Brokers

Washington, D.C. — The National Association of Benefits and Insurance Professionals (NABIP) today filed suit against the Department of Health and Human Services (HHS) and the Centers for Medicare & Medicaid Services (CMS), challenging a new rule and policy that, together, prevent thousands of health insurance agents and brokers from participating in the federally facilitated Affordable Care Act (ACA) Marketplace during the Open Enrollment period beginning next month.

NABIP strongly supports the Administration's efforts to combat fraud, unauthorized enrollments and abuse in the Marketplace. For several years, NABIP has raised concerns about Marketplace fraud directly with CMS and urged the agency to strengthen consumer authorization, identity verification, and other safeguards to prevent fraudulent activity.

However, HHS's decision to adopt a rule allowing CMS to impose an immediate moratorium on agents and brokers seeking to register, and CMS's decision to impose such a moratorium on new agents just weeks before the start of Open Enrollment is wrong. HHS and CMS acted without giving the public an opportunity to comment or making individualized findings of wrongdoing. The moratorium threatens the livelihoods of thousands of legitimate, licensed professionals who have not been accused of fraud and limits consumers' access to professional assistance as they navigate Open Enrollment.

NABIP's lawsuit argues that HHS's rule authorizing moratoriums was adopted in violation of the Administrative Procedure Act and the Affordable Care Act. The lawsuit further argues that CMS's decision to impose the moratorium violates the Act because it is arbitrary, capricious, and unsupported by sufficient evidence. The moratorium prevents agents and brokers who did not obtain an exchange registration for Plan Year 2026 from registering for Plan Year 2027, effectively barring them from assisting consumers through the federal Marketplace during the Open Enrollment period.

"NABIP supports strong action against fraud, and we have been telling CMS for years that the federal Marketplace needs stronger safeguards. But banning thousands of agents and brokers who have done nothing wrong — many of whom have long and distinguished records helping consumers — is not targeted fraud prevention. It is an overbroad response that harms legitimate professionals and the consumers they serve," said NABIP President Mychal Walker. "CMS should be going after bad actors, not shutting out thousands of licensed agents and brokers because of a handful of bad agents and brokers."

CMS's own analysis estimates that nearly 19,000 agents and brokers will be prevented from registering because of the moratorium. These professionals are part of the critical network of licensed agents and brokers who help consumers understand their coverage options, determine eligibility, compare plans and enroll in health insurance.

"The existence of fraud is not in dispute. NABIP has raised these concerns with CMS repeatedly and has offered concrete solutions to address them. What is in dispute is whether the appropriate response is to exclude thousands of legitimate agents based solely on whether they registered last year, without any individualized evidence about them," added Walker. "There is a better approach: target fraud where it occurs, strengthen the system's security, and hold bad actors accountable while preserving consumers' access to trusted professionals."

NABIP is asking the court to vacate HHS's rule and CMS's moratorium and to compel CMS to conduct the new agent and broker training and registration that is necessary for those agents and brokers to participate in the federal Marketplace during Open Enrollment and beyond.



The action also reflects the principles outlined in [NABIP's Healthcare Consumer Bill of Rights](#), which calls for a healthcare system that protects consumer choice and ensures Americans have access to trusted professional guidance when making decisions about their health coverage.

NABIP will continue to support meaningful, targeted anti-fraud measures that protect consumers and the integrity of the Marketplace while defending the ability of legitimate, licensed agents and brokers to serve the millions of Americans who rely on them.

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[NABIP](#) is the preeminent organization for health insurance and employee benefits professionals, working diligently to ensure all Americans have access to high-quality, affordable healthcare and related benefits. NABIP represents and provides professional development opportunities for more than 100,000 licensed health insurance agents, brokers, general agents, consultants, and benefits professionals through more than 150 chapters across America.