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WASHINGTON SQUARE, SUITE 1100 • 1050 CONNECTICUT AVENUE, N.W. • WASHINGTON, D.C. 20036 • (202) 861-1500
FAX (202) 861-1783 • TELEX 2357276
WRITER'S DIRECT DIAL NUMBER (202) 861-1541

April 2, 1992

VIA COURIER

Mr. Thomas A. Scully
Associate Director for Human Resources,
Veterans and Labor
Office of Management and Budget
Room 262
Old Executive Office Building
Washington, DC 20503

File w/ Hauser Stuff

Re: **HINS Proposal**

Dear Tom:

Enclosed are revised attachments which should be substituted for those at Tabs A and B to my letter to you dated March 25, 1992. The changes are minor and simply intended to clarify a few earlier points concerning the Florida situation. Upon review, we felt the changes should be made in the event the materials were shared with Florida officials.

We believe the approach outlined in my earlier letter for initiating the HINS program should be explored, and we would like to work with you towards that goal.

Sincerely,

Dick

Richard A. Hauser

Enclosures
cc: Richard Porter w/ enclosure
William E. Mayville w/ enclosure

April 2, 1992

PROFILE OF

FLORIDA COMMERCIAL TRUST ("FCT")

1. Established in 1981 - Miami, Florida

2. Sponsored by Florida Commercial Association

3. <u>Coverage Information</u>

   A. Member employers - excess of 300

   B. Covered Insured Employees - approximately 6,000

   C. Covered Dependents - approximately 2,500

   D. FCT presently has a 54% market share of the MEWA industry in Florida.

   E. FCT selected in 1991 by the Employers Purchasing Alliance in Tampa, Florida as their insurance carrier for corporations with 3 - 100 employees; did not proceed due to state limitations on MEWA membership.

4. <u>Financial Information</u>

   A. Reserves - 2.4 million - (In excess of 3 month claim run out).

   B. Net worth - 1.1 million

   C. Reserves on deposit with Florida Department of Insurance 500,000 (maximum required by State statute).

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5. Board of Trustees Bonding and E & O coverage
   A. Fidelity Bond - 1,000,000
   B. E & O Policy - 250,000
6. Reinsurance Coverage
   A. Specific deductible - 30,000
   B. Aggregate - 1,000,000

7. Purchasing Power - Florida Commercial Trust participates in five Preferred Provider Organization (PPO) programs throughout the state of Florida. These programs range in size from 20,000 to over 100,000 employees who are insured through insurance companies, self funded plans and MEWAs. Participation in these programs enables the Trust to achieve economies of scale in its purchasing power for health care services until it achieves significant size in specific areas of the state that the Trust can negotiate its own discounts without the aide of a PPO.

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Multiple Employer Welfare Arrangements (MEWAs) in Florida: An Endangered Species and the Implications for HINs.

- The Florida Department of Insurance has been engaged in an aggressive enforcement/regulatory program to curtail MEWAs in the State.

- This action is in response to a large number of MEWAs which became insolvent either through poor management or fraudulent conduct of Plan fiduciaries. There were 30 MEWAs licensed in Florida; today only 5 remain, of which 3 are financially solvent.

- The Department of Insurance through prior rulemaking has made it extremely difficult, if not impossible, for a MEWA to be formed in the State. New rules, attached at Tab C and effective April 1, 1992, would dramatically restrict participation in an existing MEWA based on the sponsoring association's membership eligibility criteria. This restriction is compounded further by the limit placed on agents selling the plan for an association. (The relevant portion of the rules have been highlighted for your convenience). The net result is that:

  - a MEWA will not be able to achieve economies of scale necessary to obtain bulk purchasing power;

  - the rules force the Balkanization of medical risks.

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This is a recipe for certain failure.

- As an alternative, the Department of Insurance has proposed to existing MEWAs that plan assets could be converted to a newly created state regulated insurance entity called an Assessable Mutual Insurance Company. Conversion of MEWAs, however, to this new entity creates an equally unattractive set of problems:

  - premiums collected will be taxed by the State.

  - net income may be taxed by federal government.

  - plan benefits will no longer be protected by ERISA and thus would become hostage to the state legislature and demands of special interest groups for mandated benefits.

  - the plan will also lose its legal protections from ERISA and would be subjected to frivolous law suits in state courts. The bottom line is that plan participants will end up paying more premium for an inferior product.

- Given the current regulatory course in Florida, MEWAs will be extinct before the HIN proposal can be implemented.

- To prepare the stage for HINs, the Department of Labor and State regulators should jointly develop a pilot program to preserve good MEWAs and assessable mutual insurers. This would require:

- the State to designate MEWAs and assessable mutual insurers, meeting certain criteria, (i.e., such as Florida Commercial Trust, which already have many characteristics of a HIN and also the capacity to achieve significant market share); and

- the Department of Labor to exempt this new class of MEWAs under Section 514(b)(6)(B) of ERISA and dedicate resources to promote and monitor their development: States should enact legislation facilitating growth of assessable mutual insurers qualifying as HINS.

- This program could then be replicated in other states.