2026 SUPPLEMENTAL HEALTH, DI AND LTC CONFERENCE

Navigating Change

Holy Schlichter! Excessive Fees, ERISA, and Supplemental Health: What’s at Stake?

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Why Now?

- December 2025 - Schlichter Bogard LLC files four (4) class action lawsuits against employers offering supplemental health benefits and their third-party benefit advisors
- April 2026 – Schlichter Bogard LLC files a class action lawsuit against Banner Health with the same core allegations
- “Me too” suits have been filed from other firms

ERISA Fiduciary Duties

- What is a Fiduciary Duty?
  - Duty of Loyalty

    Act only in the interests of the plan participants, avoid conflicts of interest
  - Duty of Prudence

    Administer the plan with care, skill, and diligence of a prudent person
  - Duty to Monitor

    Oversee service providers and ensure reasonable fees and appropriate product selection
  - Duty of Disclosure

    Provide accurate and complete information about plan benefits

Allegations

- ## Allegations Generally:

  The Plan Sponsors failed to act in the best interests of plan participants by neglecting to monitor the administration of plan benefits.

  ## Allegations vs Plan Sponsors:

  Supp Health is Prima Facie violative of ERISA Fiduciary Duties

  Failure to know, seek to know, fees associated with SH premiums

  ## Allegations vs Brokers:

  Imputation of ERISA FDs onto brokers

  Failure to act in best in interests of beneficiaries

Specific Allegations

- Endorsing or facilitating suboptimal or overpriced supplemental products
- Failing to diligently select and monitor insurance vendors
- Omitting material information or making misleading statements about coverage and costs
- Receiving undisclosed compensation at the expense of plan participants
- Undermining the integrity of supplemental benefits offered that resulted in financial loss to employees

What About ERISA Safe Harbor?

- Safe Harbor
  1. No Employer contributions
  2. Participation is completely voluntary
  3. No endorsement by the employer/limited role of the employer
  4. The employer does not receive any profit or compensation from the program.
- Safe Harbor probably doesn't apply
- Careful what you wish for…

Where Does MLR Come Into Play? Why Does It Matter?

- MLR = Medical Loss Ratio (how much the plan pays in claims vs. premiums collected)
- Plaintiffs allege a breach of fiduciary duty of plan administrators because the plans have low MLRs (e.g. – they are a bad value for beneficiaries)
- State-mandated MLRs?

What Should Employers Be Thinking About?

- Captives?
- Plan for selecting, benchmarking, and monitoring programs
- Plan to demand transparency

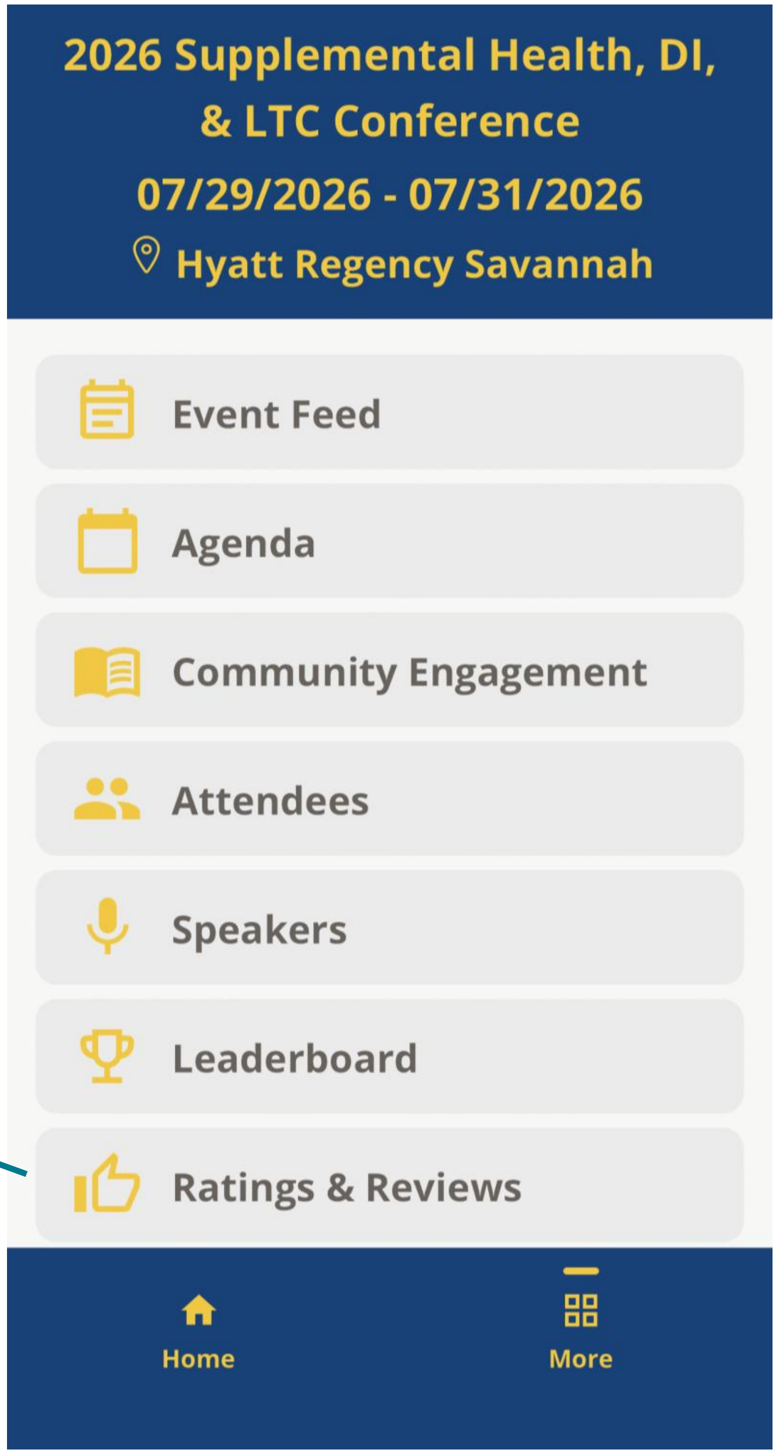
What Should Carriers Be Thinking About?

- MLR
- Relationships with brokers – changes to comp structures?
- Increased Transparency- more disclosure/more questions

Questions?

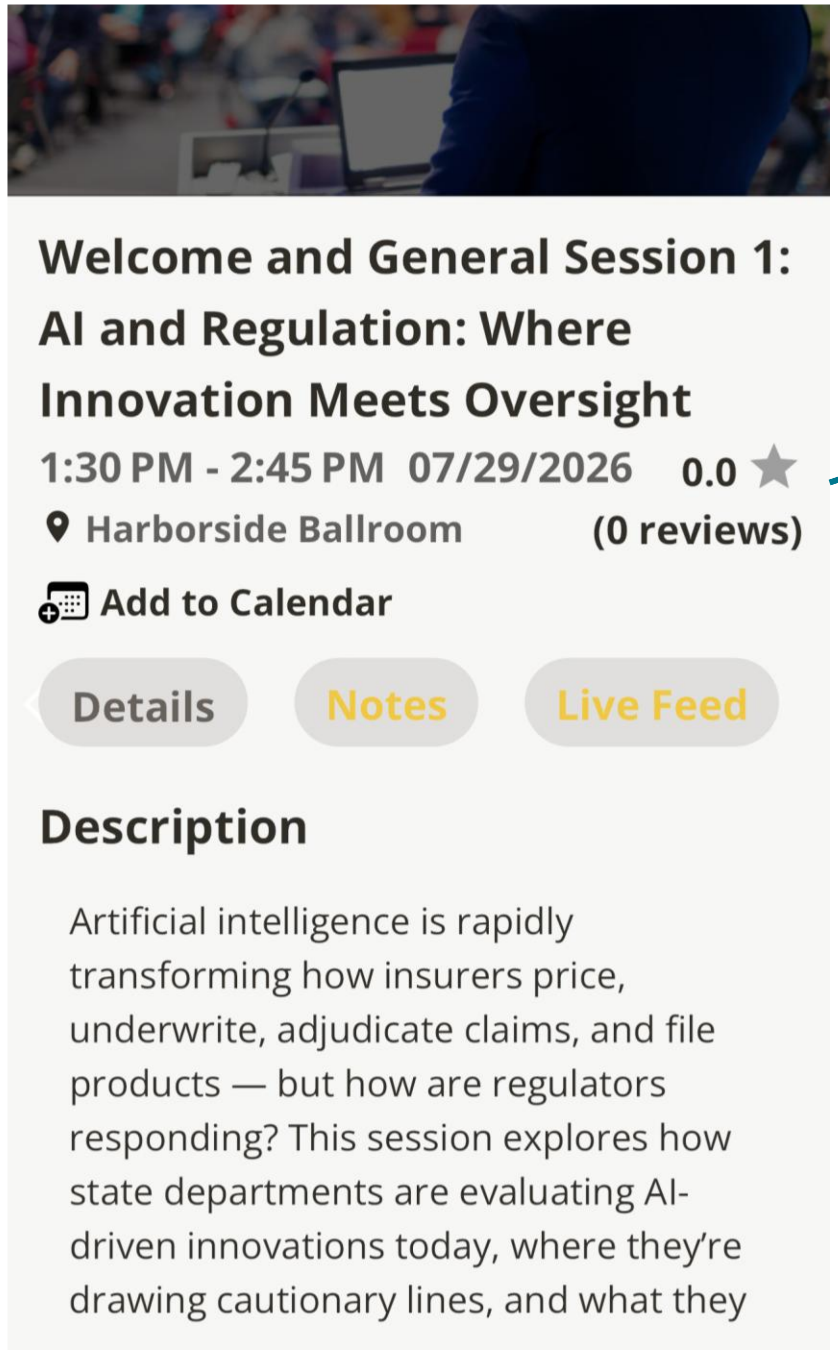
We Value Your Feedback — Share It in the Conference App

Module Option



Ratings & Reviews

Agenda Option



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