

# Q&A

## AB 2589—California broker compensation disclosure reporting for public agencies

Effective January 2009, California AB 2589 requires health plans and insurers to disclose broker compensation information to public agency employer groups. This Q&A will answer some of your questions about the law.

**Q: What is AB 2589?**

**A:** AB 2589 is recent California legislation that requires health plans and insurers to annually disclose broker compensation information to the governing boards of public agency employer groups. The law specifically requires that the health plan and insurer disclose to the governing board of the public agency that has a group contract with Kaiser Permanente the name and address of, and amount paid to, any agent, broker, or individual to whom the plan paid fees or commissions related to the public agency's group contract.

**Q: Why am I receiving this report?**

**A:** The law went into effect in 2009, with the first Broker Compensation Disclosure Reports being distributed in 2010. You're receiving the report because you were identified as the governing board representative for a public agency (or the representative of a public agency without a governing board) that we have a contract with (or you're the broker of record for such an agency).

California Broker Compensation Disclosure Reports will be sent to the governing boards of Kaiser Permanente's California public agency employer groups, regardless of the size of the group.

**Q: What types of employers are considered public agencies?**

**A:** Public agencies are defined in the California Government Code (§6500) as follows:

*"Public Agency" includes, but is not limited to, the federal government or any federal department or agency, this state, another state or any state department or agency, a county, county board of education, county superintendent of schools, city, public corporation, public district, regional transportation commission of this state or another state, or any joint powers authority formed pursuant to this article by any of these agencies.*

**Q: What types of compensation are included in this report?**

**A:** In addition to monetary fees or commissions related to the public agency's group contract, Kaiser Permanente must report the value of any other gifts or prizes awarded to the agent, broker, or individual if those items were based on placement or

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retention of business related to that group. Examples of non-monetary compensation include sporting event or concert tickets, trips, gift cards, and any other non-cash items of tangible value.

**Q: If the law went into effect in 2009, why am I receiving my first report in 2010?**

**A:** The law requires that the reports be distributed annually. So that each report has a full year of information, they're generated at the end of each group's contract year. The first reports will be mailed in the first quarter of 2010 and include information from January 2009 through December 2009 (for groups with a contract year beginning in January 2009).

**Q: When will I receive this report?**

**A:** You can expect to receive the report annually, within approximately 60 days of the end of the contract year. For example, if our contract with your public agency is on a January–December schedule, you can expect the Broker Compensation Disclosure Report in late February for the preceding year. If your contract year is July–June, you can expect the report in late August each year.

**Q: Is this the same as an ERISA 5500 Schedule A Disclosure Report?**

**A:** Federal law requires certain employer groups to receive an annual report known as an ERISA 5500 Schedule A Disclosure Report, which contains the same type of information that's required for the California Broker Compensation Disclosure Report. However, unlike the 5500 Disclosure Report, the California Broker Compensation Disclosure Report is informational only, and public agencies aren't required to submit the information to the Department of Labor or to any other state or federal agency.

Although public agencies have been exempt from the federal reporting requirements under ERISA 5500 guidelines, some public agencies have requested to receive the 5500 Disclosure Report from Kaiser Permanente. The information contained in that report is identical to what will be included in the new California Broker Compensation Disclosure Report. So, if you received a federal 5500 Disclosure Report in the past, and you're a California public agency, you'll now receive the California report instead.

**Q: We don't have a broker. Why are we getting this report?**

**A:** The law requires all health plans or health insurers to disclose all monetary and non-monetary

compensation that's paid to any agent, broker, or individual if it's related to your public agency's contract with us. That includes consultants and other individuals who may not be referred to as a broker, but who have a compensation arrangement based on placement or retention of business with us.

**Q: Will I get a copy if there's no compensation to report?**

**A:** Yes. To ensure compliance, a report will be sent to any California public agency with whom we're contracted, even if the amounts being reported are zero.

**Q: Why does our broker get a copy of the report?**

**A:** As a courtesy, we provide a copy to the broker(s) who are listed on the report for reference and reconciliation against their own records.

**Q: Why don't the numbers on the report match my records?**

**A:** The reported compensation and commissions are based on what was actually paid to and received by us during the contract year, regardless of what was due. For example, if your December premium is paid in January, it will show up on the following year's report (if you're on a January–December contract). Membership numbers on the report may also be different from your records. They're based on the number of members enrolled at the end of the last calendar month of the contract.

**Q: What should I do with this report?**

**A:** This report is considered informational, and you are not required to take any action. You may choose to keep this report as part of your files, but you are not required by the legislation to do so.

**Q: If we don't keep our copy of the report, can we get a copy from you if we need it?**

**A:** We'll electronically store copies of all Broker Compensation Disclosure Reports for a minimum of six years. However, we can't guarantee we'll be able to provide you with a hard copy if you request it after six years, so you should keep a copy in your files.

**Q: Who should I contact for more information?**

**A:** You can contact the Kaiser Permanente Broker Compensation Reporting Team at (858) 637-2572 or [nicholas.r.bambico@kp.org](mailto:nicholas.r.bambico@kp.org).