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National Council of Insurance Legislators (NCOIL)

Rebate Reform Model Act

**Sponsored by Rep. Matt Lehman (IN)*

**Discussion Draft as of November 11th, 2019. To be discussed during the NCOIL Financial Services & Multi-Lines Issues Committee on December 11, 2019*

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Section 1. Title

This Act shall be known as the [State] Rebate Reform Model Act.

Section 2. Purpose

The purpose of this Act is to modernize state anti-rebate statutes and regulations so that they recognize new products being offered by the insurance industry and maintain necessary consumer protections.

Section 3. Permissible Gifts and Prizes

Notwithstanding any other provision in the insurance code of [this state], an insurer, an employee of an insurer or a producer may:

- (A) offer to give gifts in connection with marketing for the sale or retention of contracts of insurance, as long as the cost does not exceed [~~\$250~~100] per year per person; and

(B) conduct raffles or drawings, as long as there is no participation cost to entrants and as long as the prizes are not valued in excess of [~~\$500~~100].

Pursuant to this section, gifts and prizes given may not be in the form of cash.

Drafting Note: States may wish to alter the financial limitations set forth in this section depending upon each state's economic environment.

Section 4. Permissible Value-Added Service or Activity

An insurer, by or through its employees, affiliates, insurance producers or third-party representatives, may offer or provide products or services that relate to, or in conjunction with, a policy of insurance for free or at a discounted price that are ~~exclusively~~ intended to educate about, assess, monitor, control, mitigate or prevent risk of loss to persons, their lives, health or property; or that have a nexus to or enhance the value of the insurance benefits. The offer or provision of products or services in this subsection are not subject to policy form or other filing requirements, and are exempt from the prohibitions set forth in [insert applicable citation]. This section does not apply to the payments made by an insurer of implementation credits to offset expenses incurred by a group policyholder in the initiation, change or administration of new or existing group coverage if the payment is not built into the premium. Such Implementation Credits must be disclosed in the group policy.

Section 5. Services for Free or for Less than Market Value

This ~~section-Act~~ does not prohibit a person from offering or providing services that do not otherwise qualify as permissible value added services or activities under Section 4, as long as the services are at least tangentially related to ~~an insurance contract~~ or the administration thereof, for free or for less than fair market value as long as the receipt of the services is not contingent upon the purchase of insurance and the services are offered on the same terms to all potential insurance customers. A person that offers or provides services under this subsection for free or for less than fair market value shall disclose conspicuously in writing to the recipient ~~before the purchase of insurance, receipt of a quote of insurance for insurance or designation of an agent of record~~ that receipt of the services is not contingent on the purchase of insurance.

Section 6. Rules

The commissioner may adopt rules as necessary to make reasonable modifications to the standards in this Act. Additionally, the commissioner is expressly authorized to increase, by rule, the explicit financial limitations set forth in Section 3 so as to keep those limits relevant consistent with changing economic times.

Drafting Note: "Commissioner" may be replaced with the title of the state's chief insurance regulatory officer.

Section 7. Effective Date

This Act is effective immediately.

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