

# STATE OF NEW YORK

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5929--A

2019-2020 Regular Sessions

## IN SENATE

May 16, 2019

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Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- recommitted to the Committee on Insurance in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to the offering of reward or incentive programs to eligible members

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subsection (c) of section 4224 of the insurance law, as  
2 amended by chapter 496 of the laws of 2013, is amended and two new  
3 subsections (g) and (h) are added to read as follows:

4 (c) Except as permitted by section three thousand two hundred thirty-  
5 nine of this chapter or ~~subsection~~ subsections (f), (g) and (h) of  
6 this section, no such life insurance company and no such savings and  
7 insurance bank and no officer, agent, solicitor or representative there-  
8 of and no such insurer doing in this state the business of accident and  
9 health insurance and no officer, agent, solicitor or representative  
10 thereof, and no licensed insurance broker and no employee or other  
11 representative of any such insurer, agent or broker, shall pay, allow or  
12 give, or offer to pay, allow or give, directly or indirectly, as an  
13 inducement to any person to insure, or shall give, sell or purchase, or  
14 offer to give, sell or purchase, as such inducement, or interdependent  
15 with any policy of life insurance or annuity contract or policy of acci-  
16 dent and health insurance, any stocks, bonds, or other securities, or  
17 any dividends or profits accruing or to accrue thereon, or any valuable  
18 consideration or inducement whatever not specified in such policy or  
19 contract other than any valuable consideration, including but not limit-  
20 ed to merchandise or periodical subscriptions, not exceeding twenty-five  
21 dollars in value; nor shall any person in this state knowingly receive  
22 as such inducement, any rebate of premium or policy fee or any special

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 favor or advantage in the dividends or other benefits to accrue on any  
2 such policy or contract, or knowingly receive any paid employment or  
3 contract for services of any kind, or any valuable consideration or  
4 inducement whatever which is not specified in such policy or contract.

5 (g) (1) Notwithstanding subsection (c) of this section, an insurer  
6 licensed to write accident and health insurance in this state or a  
7 corporation organized pursuant to article forty-three of this chapter or  
8 a health maintenance organization certified pursuant to article forty-  
9 four of the public health law may offer an incentive or reward program  
10 to support wellness, primary and preventative care, population health,  
11 care coordination, case management, disease management, mental health  
12 and substance use disorder treatment initiatives, evidenced-based treat-  
13 ment, or quality and cost containment initiatives. With the exception  
14 of incentives or rewards related to wellness programs governed by  
15 section three thousand two hundred thirty-nine of this chapter, the  
16 total value of such incentives may not exceed an aggregate average value  
17 to the insured of six hundred dollars per year.

18 (2) Wellness programs offered pursuant to section three thousand two  
19 hundred thirty-nine of this chapter and incentive or reward programs  
20 offered pursuant to this subsection may (i) target populations deter-  
21 mined based on age, sex, or health status; (ii) be offered for a limited  
22 period or duration that does not align with the policy or contract term  
23 and may include a sweepstakes, raffle or contest; and (iii) offer  
24 rewards or incentives that do not involve a tangible benefit to be  
25 available to all enrollees or a direct benefit to the enrollee.

26 (h)(1) This subsection shall apply only with respect to a group acci-  
27 dent and health insurance policy issued by an insurer licensed to write  
28 accident and health insurance in this state or a group contract issued  
29 by a corporation organized pursuant to article forty-three of this chap-  
30 ter, excluding community-rated policies or contracts subject to the  
31 requirements of section three thousand two hundred thirty-one or four  
32 thousand three hundred seventeen of this chapter.

33 (2) Notwithstanding subsection (c) of this section, no insurer  
34 licensed to write accident and health insurance in this state or a  
35 corporation organized pursuant to article forty-three of this chapter,  
36 or officer, agent, solicitor or representative thereof shall be consid-  
37 ered to be offering an impermissible inducement or rebate if it adjusts  
38 its premiums to reflect payment of a commission within a range of  
39 commission options filed with the superintendent in its premium rate or  
40 rate manual. Nor shall a producer or any other person be considered to  
41 be in violation of this section for accepting or paying a premium rate  
42 that reflects a commission within a permissible range set forth in the  
43 premium rate or rate manual filed with the superintendent.

44 (3) An insurer or corporation may include a range of commission  
45 options in the premium rate or rate manual filed with the superintendent  
46 to permit adjustment of premiums to reflect the cost of commissions  
47 within the filed ranges. Within the filed range, the applicable commis-  
48 sion may reflect an amount agreed upon by and between a policy holder or  
49 contract holder and the insurer or corporation or producer engaged in  
50 the sale. The applicable commission may vary by group and a single-case  
51 filing may be submitted to the superintendent if needed to obtain  
52 approval of a distinct commission arrangement. The requirements set  
53 forth in section two thousand one hundred nineteen of this chapter shall  
54 not apply where the premium and commission is collected by the insurer  
55 or corporation and consistent with amounts set forth in the premium rate  
56 or rate manual approved by the superintendent.

1     (4) If a range of commission options is included in the premium rate  
2     or rate manual filed with the superintendent for a policy or contract  
3     that is subject to guaranteed issuance requirements set forth in  
4     subsection (t) of section three thousand two hundred twenty-one and  
5     subsection (n) of section four thousand three hundred five of this chap-  
6     ter, then the full range of commission options included in the premium  
7     rate or rate manual filed with the superintendent must be made available  
8     to all similarly situated groups seeking to purchase the coverage.

9     § 2. This act shall take effect immediately.