

STATE OF NEW YORK

9867

IN ASSEMBLY

February 20, 2020

Introduced by M. of A. HUNTER -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to establishing incentive and reward program inducement exceptions

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

27 (g) (1) Notwithstanding subsection (c) of this section, an insurer
28 licensed to write accident and health insurance in this state or a
29 corporation organized pursuant to article forty-three of this chapter or
30 a health maintenance organization certified pursuant to article forty-
31 four of the public health law may offer an incentive or reward program

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

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1 to support wellness, primary and preventive care, population health,
2 care coordination, case management, disease management, mental health
3 and substance use disorder treatment initiatives, evidenced-based treat-
4 ment, or quality and cost containment initiatives. With the exception of
5 incentives or rewards related to wellness programs governed by section
6 three thousand two hundred thirty-nine of this chapter, the total value
7 of such incentives shall not exceed an aggregate average value to the
8 insured of six hundred dollars per year.

9 (2) Wellness programs offered pursuant to section three thousand two
10 hundred thirty-nine of this chapter and incentive or reward programs
11 offered pursuant to this subsection may: (i) target populations based on
12 age, sex, or health status; (ii) be offered for a limited period or
13 duration that does not align with the policy or contract term and may
14 include a sweepstakes, raffle or contest; and (iii) offer rewards or
15 incentives that do not involve a tangible benefit to be available to all
16 enrollees or a direct benefit to the enrollee.

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

24 (2) Notwithstanding subsection (c) of this section, no insurer
25 licensed to write accident and health insurance in this state or corpo-
26 ration organized pursuant to article forty-three of this chapter, or
27 officer, agent, solicitor or representative thereof shall be considered
28 to be offering an impermissible inducement or rebate if it adjusts its
29 premiums to reflect payment of a commission within a range of commission
30 options filed with the superintendent in its premium rate or manual. Nor
31 shall a producer or any other person be considered to be in violation of
32 this section for accepting or paying a premium rate that reflects a
33 commission within a permissible range set forth in the premium rate or
34 rate manual filed with the superintendent.

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

48 (4) If a range of commission options is included in the premium rate
49 or rate manual filed with the superintendent for a policy or contract
50 that is subject to guaranteed issuance requirements set forth in
51 subsection (t) of section three thousand two hundred twenty-one and
52 subsection (n) of section four thousand three hundred five of this chap-
53 ter, then the full range of commission options included in the premium
54 rate or rate manual filed with the superintendent shall be made avail-
55 able to all similarly situated groups seeking to purchase the coverage.

56 § 2. This act shall take effect immediately.