STATE OF NEW YORK

5929--A

2019-2020 Regular Sessions

IN SENATE

May 16, 2019

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:

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

(c) Except as permitted by section three thousand two hundred thirty-nine of this chapter or [~~subsection~~] **subsections** (f)**, (g) and (h)** of this section, no such life insurance company and no such savings and insurance bank and no officer, agent, solicitor or representative thereof and no such insurer doing in this state the business of accident and health insurance and no officer, agent, solicitor or representative thereof, and no licensed insurance broker and no employee or other representative of any such insurer, agent or broker, shall pay, allow or give, or offer to pay, allow or give, directly or indirectly, as an inducement to any person to insure, or shall give, sell or purchase, or offer to give, sell or purchase, as such inducement, or interdependent with any policy of life insurance or annuity contract or policy of accident and health insurance, any stocks, bonds, or other securities, or any dividends or profits accruing or to accrue thereon, or any valuable consideration or inducement whatever not specified in such policy or contract other than any valuable consideration, including but not limited to merchandise or periodical subscriptions, not exceeding twenty-five dollars in value; nor shall any person in this state knowingly receive 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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favor or advantage in the dividends or other benefits to accrue on any such policy or contract, or knowingly receive any paid employment or contract for services of any kind, or any valuable consideration or inducement whatever which is not specified in such policy or contract.

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

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

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

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

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

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

§ 2. This act shall take effect immediately.