

STATE OF NEW YORK

3573

2021-2022 Regular Sessions

IN SENATE

January 30, 2021

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

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
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

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

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1 contract for services of any kind, or any valuable consideration or
2 inducement whatever which is not specified in such policy or contract.

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

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

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

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

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

55 (4) If a range of commission options is included in the premium rate
56 or rate manual filed with the superintendent for a policy or contract

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

7 § 2. This act shall take effect immediately.