

STATE OF COLORADO

DEPARTMENT OF REGULATORY AGENCIES

DIVISION OF INSURANCE

1560 Broadway, Suite 850
Denver, Colorado 80202



Bulletin No. B-4.4

Concerning Commission Structures for Individual and Small Group Health Coverages

I. Background and Purpose

Since the advent of guaranteed issue in the small group health market and limited guaranteed issue for eligible individuals in the individual health market, some carriers have attempted to avoid risk by utilizing commission structures and other compensation arrangements which discourage producers from actively marketing to certain groups or individuals.

The purpose of this bulletin is to emphasize that Colorado's Fair Marketing Standards, as specified in Section §10-16-108.5, C.R.S., prohibit carriers from, directly or indirectly, discouraging a person or group from applying for health coverage. The Commissioner wants to make it very clear to carriers in Colorado that **commission structures, bonus, or other incentive programs that are designed to avoid risk or have the effect of discouraging producers from marketing to any small group or individual will be considered a violation of §10-16-108.5, C.R.S.** For example, paying an 8% commission for groups of 10 or more employees, but only paying a 4% commission for groups of fewer than 10 employees would be a non-complying commission structure. Likewise paying lower commissions for non-underwritten individuals than for regularly underwritten individuals would be prohibited.

II. Applicability and Scope

This bulletin applies to all individual or small employer carriers authorized to issue health plans in the State of Colorado.

III. Division Position

Small group and individual carriers should review their commission structures, bonus, and other incentive programs, to ensure that they do not conflict with Colorado's Fair Marketing Standards. The Division of Insurance will take appropriate enforcement action when confronted with carrier actions determined to be in violation of laws relating to the marketing of health coverage. Non-compliance with fair marketing standards constitutes an unfair trade practice pursuant to §10-3-1104(1)(f) and (v), C.R.S., and subjects the carrier to penalties as specified in §10-3-1108, C.R.S.

IV. Additional Division Resources

For More Information

Colorado Division of Insurance
1560 Broadway, Suite 850
Denver, CO 80202
Tel. 303-894-7499
Internet: <http://www.dora.state.co.us/insurance>

V. History

- Originally issued as bulletin 5-98, September 14, 1998.
- Reissued May 8, 2007.