



State of Utah

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Lieutenant Governor

NEAL T. GOOCH
Commissioner

Insurance Department

Bulletin 2010-7

To: All Insurers, Agencies, and Individual Licensees
From: Neal T. Gooch, Utah Insurance Commissioner
Date: November 10, 2010
Subject: Rebates and/or Inducements in connection with the Sale, Continuation or Termination of Insurance

The purpose of this bulletin is to provide insurers, agencies, and individual licensees with the department's interpretation of subsections (2)(a) and (2)(b) of Utah Code Ann. Sec. 31A-23a-402 with regard to the sale, continuation, or termination of an insurance contract.

The department's interpretation of these subsections is that, except as otherwise provided in the subsections, an insurer, agency, or individual licensee offering or providing a benefit that is not specified in the insurance contract to an insured or potential insured is a violation of state law. This includes offering a benefit not specified in the insurance contract at no cost or at a cost below fair market value, whether offered by the insurer, agency or individual licensee, or through an arrangement by the insurer, agency or individual licensee with a third party to provide the benefit at no cost or at a cost below fair market value.

The only exceptions are those set forth in Subsection 31A-23a-402(2)(a)(iii). The department emphasizes that the exception in Subsection 31A-23a-402(2)(a)(iii)(B) is available *only to insurers*; it is *not* available to agencies and individual licensees.

It has come to the department's attention that some insurers, agencies or individual licensees are offering or providing free or reduced cost benefits or services that are not specified in the insurance contract. These benefits or services, which constitute an inducement or rebate, include, but are not limited to, the following practices:


- Performing background checks of prospective employees
- Providing COBRA and mini COBRA administration
- Performing drug testing
- Preparing employee handbooks
- Preparing and conducting employee opinion surveys
- Preparing hiring guides

Providing human resource services
Providing job descriptions, postings and applications
Providing legal advice or wills
Providing payroll services
Providing performance review training
Providing union advice
Preparing and providing other miscellaneous forms
Providing other miscellaneous workshops/trainings
Providing other value added services not specified in the insurance contract

Enforcement on sections 31A-23a-402(a) and (b) will be included as an element in the department's market conduct examinations effective January 1, 2011.

If you have any questions regarding this bulletin, please contact Suzette Green-Wright, Market Conduct Director, by phone at 801-538-9674 or by email at sgreenwright@utah.gov.

Dated the 10th day of November, 2010



Neal T. Gooch
Insurance Commissioner