



# Insurance Department

State of Utah

GARY R. HERBERT  
Governor

GREG BELL  
Lieutenant Governor

NEAL T. GOOCH  
Commissioner

## BULLETIN 2011-6

**To:** Agencies, Producers, Consultants, and other Individual Licensees  
**From:** Neal T. Gooch, Utah Insurance Commissioner  
**Date:** November 9, 2011  
**Subject:** **Inducements in Connection with the Sale, Continuation, or Termination of an Insurance Contract**

The intent of this Bulletin is to provide producers clarification of the Utah Insurance Department's (Department) interpretation of Utah Code Annotated (U.C.A.) §31A-23a-402.5 and Utah Administrative Code (U.A.C.) R590-154-11. U.C.A. §31A-23a-402.5(6), which was added in the 2011 Legislative Session, states: "*A de minimis gift or meal not to exceed \$25 for each individual receiving the gift or meal is presumed to be a social courtesy not conditioned on the purchase of a particular insurance product for the purposes of Subsection (4)(a).*" That law supersedes U.A.C. R590-154-11, which limited the value of promotional items or gifts to \$3.00.

Consequently, the market value of a promotional item, gift or social courtesy, which includes a meal, for each individual, may not exceed \$25.00. It is unlawful for an insurer, agency, producer, consultant or other licensee under the Insurance Code to condition the receipt of such a promotional item, gift or social courtesy on the purchase or retention of a particular insurance product. The Department notes that gifts or prizes offered or received through games of chance, such as a drawing or lottery, are prohibited and may be viewed as gambling per Utah Criminal Code §§76-10-1101 thru 1109.

This Bulletin does not apply to title producers, title agencies or title insurance companies.

**The following activities or services, provided such activities or services are directly related to servicing an insurance product purchased from a licensee, are permitted:**

- Answering human resource questions about employee benefits, employment practices liability, governmental compliance and providing limited human resource compliance training to explain insurance issues (U.C.A. 31A-23a-402.5(4)(d) and (e))
- Preparing or assisting with forms, including proof of coverage requests or benefit enrollment guidelines and employee communication materials and notifications (U.C.A. 31A-23a-402.5(4)(f), (g), (j), (t) and (u))
- Enrollment and billing assistance, including product benefit statements, new hire insurance benefit packages and technology services, such as an electronic enrollment platform or application system (U.C.A. 31A-23a-402.5(4)(h))

- Claims management and resolution, to the extent permitted under the licensee's license (U.C.A. 31A-23a-402.5(4)(k))
- Underwriting or actuarial analysis (U.C.A. 31A-23a-402.5(4)(l))
- Providing a health fair or assistance in a wellness program or preparing and providing documents directly related to a flexible spending account, but not payment for or directly providing ongoing administration for a wellness program or flexible spending account (U.C.A. 31A-23a-402.5(4)(g) and (o))
- Providing COBRA or mini-COBRA administration and providing information or services for ERISA and HIPAA compliance in relation to accident and health insurance products (U.C.A. 31A-23a-402.5(p), (r), and (s))
- Assisting with summary plan description or facilitating risk management services, as allowed by applicable licensure (U.C.A. 31A-23a-402.5(4)(q) and (v))

**The following are prohibited at all times (U.C.A. 31A-23a-402.5(5)):**

- Providing a premium or commission rebate (U.C.A. 31A-23a-402.5(5)(a)(i))
- Paying or contributing to the salary of an employee of a person who purchases an insurance product from the licensee; or, if the licensee is an insurer or a third party administrator that contracts with an insurer, that licensee may not pay or contribute to the salary of an on-site staff member to perform an act prohibited or required to be charged a fair market value for providing, as further outlined below (U.C.A. 31A-23a-402.5(5)(a)(ii) and (iii))

**The following are permitted only if the service or activity is paid for by the insured at, or a reasonable amount above, fair market value and directly related to an insurance product purchased from the licensee (U.C.A. 31A-21a-402.5(5), (7) and 31A-23a-501(2)):**

- Performing background checks of prospective employees (U.C.A. 31A-23a-402.5(5)(b)(i))
- Providing legal services by a person licensed to practice law (U.C.A. 31A-23a-402.5(5)(b)(ii))
- Performing drug testing (U.C.A. 31A-23a-402.5(5)(b)(iii))
- Preparing employer or employee handbooks, however, a licensee may provide information for a medical benefit section of an employee handbook or the section of an employee handbook directly related to employment practices (U.C.A. 31A-23a-402.5(5)(b)(iv))
- Providing job descriptions, postings or applications for a person (U.C.A. 31A-23a-402.5(5)(b)(v))
- Providing payroll services, performance reviews or performance review training, union advice and accounting services (U.C.A. 31A-23a-402.5(5)(b)(vi), (vii) and (viii))
- Administering health reimbursement accounts or health savings accounts (U.C.A. 31A-23a-402.5(5)(b)(xi))
- Providing data analysis information, technology programs or a Web site, except for an electronic enrollment platform or an application system (U.C.A. 31A-23a-402.5(5)(b)(x))

DATED this 9th Day of November 2011,




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NEAL T. GOOCH  
COMMISSIONER OF INSURANCE