

AHIP COMMENTS 8.11.23

Commissioner Navarro and Chair Swanson:

AHIP appreciates the opportunity to provide feedback on the fourth draft of the Improper Marketing of Health Insurance (D) Working Group's proposed amendments to Model #880, the Unfair Trade Practices Act. We reiterate our commitment to continuing to work in partnership with the Working Group and regulators across the country as you consider potential solutions to ensure consumer protection in the insurance market. Specific to the fourth draft, we offer the following recommendations in advance of the Working Group's meeting scheduled for Monday, August 14 at the NAIC Summer Meeting in Seattle.

1. **"Records" definition:** AHIP strongly recommends that proposed 2(L) be removed from the draft. This definition was neither discussed nor approved by the Working Group when it met on July 27, and the definition was not included in the amendments brought by representatives from the Missouri Department of Insurance. Further, the proposed definition's five-year record-keeping requirement both duplicates and conflicts with the requirement for insurers to keep marketing and performance records in existing 4(J), which requires insurers keep such records for the current year and the preceding two years. The proposed definition also introduces two new terms that are not defined: "Company" and "Sales Force". For all of these reasons, AHIP urges the Working Group to remove proposed 2(L) from the draft.
2. **"Lead Generating Device" definition:** AHIP recommends the Working Group amend the proposed definition of "Lead Generating" device at 2(F) to read as follows:

F. "Lead-generating device" means any communication directed to the public that, regardless of form, content, or stated purpose, is intended to result in the compilation or qualification of a list containing names and other personal information to be used to solicit residents of this State for the purchase of ~~{accident and sickness/Medicare supplement}~~ **what is or what purports to be a health insurance product or service.**

We believe that the bracket-enclosed language is an artifact originating from NAIC Models #40 and #660, which address marketing requirements for accident and sickness and Medicare supplement, respectively, and include the same language. Our recommended insertions align with the language of proposed 2(E)(1) to address the Working Group's charges to "address the use of lead generators for sales of health insurance products..."

3. **Editorial changes:** Finally, AHIP offers a few non-substantive editorial changes and corrections to proposed 2(E) and 4(C).

AHIP is happy to discuss our recommendations with the Working Group's leadership or during the Summer Meeting. We appreciate the efforts of the Working Group to engage stakeholders in this process and commit to continuing to partner with you as this important work continues.

Sincerely,

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