

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-1

ADMINISTRATIVE PROCEDURES

Emergency Regulation 08-E-7

STANDARD COMPENSATION DISCLOSURE FOR HEALTH INSURANCE PRODUCERS

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Section 1 Authority

This regulation is promulgated under the authority of §10-1-109, C.R.S

Section 2 Scope and Purpose

- A. Pursuant to § 10-16-133(5), C.R.S., effective January 1, 2009, insurance producers, who solicit or negotiate an application for health care insurance shall disclose to the person purchasing the plan that the insurance producer will receive a commission.
- B. This regulation establishes the required disclosure of the standard compensation schedule of the producer to the consumer. Any change to the insurance producer's compensation from the initial disclosure to time of purchase shall be disclosed at or before the time of sale.

Section 3 Applicability

The requirements and provisions of this regulation apply to all producers who sell health care insurance with the exception of sales under the Medicare Advantage (also known as Medicare Part C) or Medicare Part D Prescription Drug Benefit Programs.

Section 4 Definitions

- A. For purposes of this regulation, and unless the context requires otherwise:
- B. "Standard Compensation" is the set amount or percentage commission the insurance company pays the insurance producer for selling their insurance policy.

- C. "Health Care Insurance" shall have the same meaning as "health coverage plan", as defined in §10-16-102(22.5).
- D. "Contingent Compensation" is the incentive commission for insurance producers to meet pre-established goals for profitability, retention and/or growth standards across all of the policies they place with an insurance company for a specific year.
- E. "Additional Compensation" is where the producer provides additional services on behalf of an insurance company. For example, the producer may perform some underwriting or administrative services, such as policy issuance, for which additional compensation beyond standard compensation or contingent commission is appropriate. These services are not originally contemplated in an insurance company's standard or contingent commission payments.

Section 5 Rule

- A. Effective January 1, 2009 all producers who solicit or negotiate health care insurance shall disclose their standard compensation. The standard compensation can be disclosed as a percentage or fixed amount, depending on how the commission is paid.
- B. The standard compensation shall be disclosed when the health producer negotiates or solicits an application for health care insurance.
- C. Any change to the standard compensation shall be disclosed before or at the time of sale.
- D. The producer disclosure requirements only apply to a new policy. After the initial disclosure is made, no disclosure needs to be made at renewal unless the information previously disclosed has substantially changed.
- E. The disclosure shall be made in writing. A written disclosure signed by the customer, is required for a producer to show that the disclosure was actually made. The Division will not approve any form for disclosure.
- F. In some instances, a producer may sell a product for an insurer but will not be compensated by that insurer. The compensation may come from the insurer's parent or other affiliate, or from a third party. The source of the producer's standard compensation must be disclosed.
- G. Contingent or additional compensation is not considered standard compensation and therefore, does need not be disclosed.

Section 6 Severability

If any provision of this Regulation or the application thereof to any person or circumstances is for any reason held to be invalid, the remainder of the regulation shall not be affected thereby.

Section 7 Enforcement

Noncompliance with this Regulation may result, after proper notice and hearing, in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance or other laws which include the imposition of fines, issuance of cease and desist orders, and/or suspensions or revocations of licenses. Among others, the penalties provided for in § 10-3-1108, C.R.S. may be applied.

Section 8 Further Information And Submittals

Any submittals or questions should be directed to:

Producer Licensing Section
Colorado Division of Insurance
1560 Broadway, Suite 850
Denver, Colorado 80202
303-894-7499

Section 9 Effective Date

This emergency regulation shall become effective January 1, 2009

Section 10 History

Emergency Regulation 08-E-7 shall become effective January 1, 2009