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COMMISSIONER OF INSURANCE

PATTY JUDGE
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BULLETIN 08-13

TO: Insurance Carriers and Licensed Producers
FROM: Iowa Insurance Commissioner Susan E. Voss
RE: Iowa Code section 507B.4, subsection 8
DATE: August 21, 2008

This Bulletin serves three purposes.

First, it rescinds Bulletin 08-11, which found that “**any** goods or services offered to a policyholder or prospective policyholder which are not specifically incorporated as part of the policy contract and made a part of the pricing of the policy are rebates and therefore are prohibited under Iowa law.”

Second, it supersedes paragraph H of Bulletin 97-05, relating to rebates.

Third, it establishes new guidelines for permissible advertising and gifts that will not constitute a prohibited rebate under Iowa Code 507B. A general discussion of the issues is included here, and specific examples may be found on the Division’s Web site, www.iid.state.ia.us.

General guidelines:

A producer, agency or company may give inexpensive gifts to prospective or existing customers so long as such gifts are provided on a nondiscriminatory basis and so long as the giving of the gift is not conditioned upon the purchase of a policy of insurance. The value of a gift shall not be so significant as to constitute an “inducement” to purchase insurance. A gift to an existing customer shall not be so significant as to constitute an inducement to renew insurance or to buy additional insurance. For the purpose of this Bulletin, an “inducement” is a consideration that leads one to action or to additional actions¹, in this case, the purchase or renewal of insurance.

¹ Adapted from “inducement”. (2008). In Merriam-Webster Online Dictionary. Retrieved August 15, 2008, from <http://www.merriam-webster.com/dictionary/inducement>

Although the Division reserves the right to evaluate any given circumstance independently to determine whether the offer of something of value would constitute an inducement, generally, the Division will presume that a producer, agency or company that acts within the following guidelines will be presumed to be in compliance with the rebate law:

- Any item given to any person that has a value of \$5.00 or less, regardless of the producer's, agency's or company's relationship to the person to whom the item is given.
- Any item that has on it the name of an insurance producer, insurance agency or insurance company, if such an item has no intrinsic value (newsletters to existing customers, so long as no gift cards or similar items of value are included), or if it has a minimal value (under \$10.00 or less), it will not be considered a rebate.
- An educational event, such as a seminar or training on estate planning, that is open to everyone. The event could include a meal free to the attendees, if the value of the meal is not more than \$25.00 per person. Door prizes or drawings for prizes could be offered if the values of the items given away are appropriate in scope and not excessive. These would not be considered prohibited practices if all of the items given away or the options to win prizes are offered to all attendees, if the producer, agency or company makes clear that it is in the business of insurance, and if no insurance products are sold at the event.
- An event is held for existing clients as a customer appreciation event, or is held for a specific group of prospective clients, the cost of the event divided by the number of persons attending must be appropriate in scope and not excessive. The Division would presume that a per-person amount of \$25.00 or less would not be excessive.
- Some value-added services. For example, risk management services offered to a customer to promote safety. Again, the services offered must be appropriate in scope, related to the type of insurance product involved, and not excessive.

The law prohibits the offering of anything of value as inducement to purchase, change or renew an insurance policy if not specified in the contract. The Division has observed a trend whereby companies are including items other than insurance in new filings of insurance contracts. The Division is concerned that this trend is an attempt to circumvent the spirit of the law, and at this point, the Division will be disapproving such contracts if

the added items do not appear to be related to the insurance product. Examples are provided on the Division's Web site.

Future plans:

Because discussions continue regarding what constitutes a rebate under Iowa law, and because the Division continues to receive questions and complaints regarding services, products and memberships that are being offered in conjunction with an insurance policy, the Division will begin drafting regulations immediately to identify specific prohibited practices. The examples on the Web site of what the Division would or would not consider rebates will continue to be expanded as they are brought to the attention of the Division. The Division will continue to bring all interested parties together to discuss these issues.

A handwritten signature in black ink that reads "Susan E. Voss". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

Susan E. Voss
Iowa Insurance Division

PLEASE NOTE: THE BULLETIN REFERS TO EXAMPLES TO BE POSTED TO THE INSURANCE DIVISION'S WEB SITE. FOR READER CONVENIENCE, THOSE EXAMPLES CAN BE FOUND IN THE PAGES FOLLOWING THIS PAGE OF THE BULLETIN. THE EXAMPLES ARE SEPARATE INFORMATION FROM THE BULLETIN AND MAY BE UPDATED OR AMENDED FROM TIME TO TIME.

REBATE EXAMPLES AND GUIDELINES

What follows is a list of examples of items of value that might be given by producers, agencies, or companies to clients or prospective clients. The list is not intended to be all-inclusive, and examples will be added from time to time. If a producer, agency or company is contemplating a scenario that falls wholly or partly outside of these examples, it should consider the particular circumstances in light of Bulletin 08-13 and Iowa Code section 507B.4(8). These examples are provided to give direction and guidance, but the Division reserves the right to take action against a situation that violates Iowa Code section 507B.4(8).

For prospective clients

Example of activity	Is it allowed?
Gift of candy, pens, pencils, temporary tattoos, key rings, post-it notes, fans, letter openers, rules, can coolers, caps, tee shirts, maps, atlases, wall calendars, pocket calendars	Yes, if either: a. the value of the item is \$5.00 or under; or b. the name of a producer, agency or company is on the item, and the value of the item is \$10.00 or under.
Buying lunch	Yes, if no insurance solicitation or sale was attempted, or if the lunch was \$5.00 or less.
Buying a round of golf	Yes, if no insurance solicitation or sale was attempted, or if the golf was \$5.00 or less.
An offer to receive informational materials about an issue (retirement, social security, etc.) if one returns a post card with name and phone number or if one calls a producer or agency	Probably, if the value of the materials is appropriate in scope and not excessive. The offer also should advise the person who receives it that, if the post card is returned or if the phone call is made, a producer may call to solicit insurance. It also must provide the name of the insurer issuing the products that will be offered.
An offer to receive a gift certificate or gift card to a store if one returns a post card with name and phone number or if one calls a producer or agency	Yes, if the gift certificate or gift card is \$5 or less and if the offer clearly states the producer, agency or company that sent it, and if the offer the person who receives it that, if the post card is returned or if the phone call is made, a producer may call to solicit insurance. It also must provide the name of the insurer issuing the products that will be offered.
Providing a discount drug card	Yes, if the total value is \$5.00 or less and it is offered to anyone regardless of whether insurance was purchased.
Newsletters	Yes, except if the newsletter contains coupons or gift cards totaling over \$5 in value.

Tickets to sporting events or cultural events	Yes, if the value is \$5.00 or less and it is offered to anyone regardless of whether insurance was purchased.
Free workshop or seminar on insurance-related topics (e.g., retirement, senior issues, loss prevention, workers compensation training)	Yes, if no insurance selling or solicitation occurs at the workshop or seminar.
Free meal with a workshop or seminar on insurance-related topics or with a presentation on crop performance, or for continuing legal education credit	Yes, if the total per person cost to the provider, agency or insurer is \$25.00 or less, and if no insurance selling or solicitation occurs at the workshop or seminar.
Free workshop or seminar on insurance-related topics where door prizes were given or a drawing for prizes was held	Probably, if the value of the items given away are appropriate in scope and not excessive. These would not be considered prohibited practices if all of the items given away or the options to win prizes are offered to all attendees, if the producer, agency or company makes clear that it is in the business of insurance, and if no insurance products are sold at the event.
Free software regarding a community service or a safety issue (such as what to do if your child goes missing and how to protect your child from that)	Yes, if it is offered to anyone regardless of whether insurance was purchased and if the software does not include solicitation.
Discounts on goods or merchandise	Yes, if the total value of all discounts offered if \$5.00 or less and it is offered to anyone regardless of whether insurance was purchased.

Value-added services

Example of activity	Is it allowed?
Offering to provide loss prevention information or services	Probably, if it is related to the type of insurance purchased because it is intended to reduce claims.
Loss control services	Probably, if it is related to the type of insurance purchased because it is intended to reduce claims.
Loss history software	Probably, if it is related to the type of insurance purchased.
Safety newsletters	Probably, if it is related to the type of insurance purchased because it is intended to reduce claims.

Accident trending information	Probably, if it is related to the type of insurance purchased because it is intended to reduce claims.
Ergonomic assessments and training	Probably, if it is related to the type of insurance purchased because it is intended to reduce claims.
Educational insurance seminars	Probably, if it is related to the type of insurance purchased because it is intended to reduce claims.
Sprinkler plan reviews and fire protection evaluations	Probably, if it is related to the type of insurance purchased because it is intended to reduce claims.
Thermographic scans of electrical systems and machinery	Probably, if it is related to the type of insurance purchased because it is intended to reduce claims.
Personal lines risk mitigation services	Probably, if it is related to the type of insurance purchased because it is intended to reduce claims.
Offering a disaster benefit as part of a group policy sale	Probably no. This is a benefit not in the policy not related to reducing claims
Offering as part of a group policy sale to provide scholarships for children that are orphaned	Probably no. This is a benefit not in the policy not related to reducing claims.
“Concierge” services for auto claims and repair	Probably no. This is a benefit not in the policy not related to reducing claims.
Offering to provide advice at a reduced rate to farmers on how to market crops for farmers who purchase crop insurance from a particular producer	No. It is contingent on the sale, it is not closely tied to the purpose of the insurance, it is not related to reducing claims, and it limits the consumer’s choice of producer.

For existing clients

Example of activity	Is it allowed?
Gift of candy, pens, pencils, temporary tattoos, key rings, post-it notes, fans, letter openers, rules, can coolers, caps, tee shirts, maps, atlases, wall calendars, pocket calendars, birthday cards, holiday cards	Yes, if either: a. the value of the item is \$5.00 or under; or b. the name of a producer, agency or company is on the item, and the value of the item is \$10.00 or under.
Buying lunch or dinner	Yes, if the lunch was \$25.00 or less.
Buying a round of golf	Yes, if the golf was \$25.00 or less.
Providing a discount drug card	Yes, if the total value is \$25.00 or less.
Newsletters	Yes, if the newsletter does not contain coupons or gift cards totaling more than \$25 in value.

Tickets to sporting events or cultural events	Yes, if the value is \$25.00 or less.
Free workshop or seminar on insurance-related topics (e.g., retirement, senior issues, loss prevention, workers compensation training)	Yes, if no insurance selling or solicitation occurs at the workshop or seminar.
Free dinner (or lunch or breakfast) with a workshop or seminar on insurance-related topics or with a presentation on crop performance, or for continuing legal education credit	Yes, if the total value per person is \$25.00 or less and if no insurance selling or solicitation occurs at the workshop or seminar.
Free workshop or seminar on insurance-related topics where door prizes were given or a drawing for prizes was held	Probably, if the value of the items given away are appropriate in scope and not excessive, if all of the items given away or the options to win prizes are offered to all attendees, if the producer, agency or company makes clear that it is in the business of insurance, and if no insurance products are sold at the event.
Free software regarding a community service or a safety issue (such as what to do if your child goes missing and how to protect your child from that)	Yes, if it is offered to anyone regardless of whether insurance was purchased and if the software does not include solicitation.

Community services

Example of activity	Is it allowed?
Sponsoring a free concert	Yes, if open to everyone.
Sponsoring free admission to a county fair	Yes, if open to everyone.
Sponsoring free admission to a sporting event	Yes, if open to everyone.
Providing a contribution to a particular community program (such as helping to prevent children from dropping out of school)	Yes, if it is not tied to an individual or group sale.

Discounts based on administrative efficiencies

Example of activity	Is it allowed?
A company offers lower premium rates for people who buy directly from the company rather than through a producer	Yes, if these are in the contract, if they are offered to all with no discrimination, and if the rates have been approved.
A company offers lower premium rates for people who pay through automatic withdrawal or through an online service	Yes, if these are in the contract, if they are offered to all with no discrimination, and if the rates have been approved.

Prohibited tie-ins

Example of activity	Is it allowed?
A farmland owner declines to lease land to a farmer unless the farmer purchases crop insurance from a particular producer or company.	No. The owner cannot limit the client's choice of producer.
A homebuilder offers to purchase one year of insurance for a client but restricts the client to the use of one particular producer or agency.	No. The homebuilder cannot limit the client's choice of producer.