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August 2, 2005

HEALTH POLICY MEMORANDUM NUMBER 05- 01

All Health and Accident Insurers

NOTICE REGARDING HEALTH DISCOUNT PLANS CONTAINING COMPONENTS OF ACCIDENT AND HEALTH INSURANCE COVERAGE

AUTHORITY

LSA-R.S. 22:620.A(1) and (2); LSA-R.S. 22:1133.A and B; LSA-R.S. 22:1144.A(1); and Regulation 78, § 10107.B and C.

BACKGROUND

Health discount plans are non-insurance programs designed as an alternative to the skyrocketing cost of health care that has made traditional health insurance increasingly unaffordable. These plans are offered by private companies to the public, insurance companies to subscribers, banks to customers, and non-profit organizations such as associations to members. These plans offer consumers direct access to health care services and products through contracted medical providers. These services and products often include medical, dental, pharmacy, vision, chiropractic and hearing aids. Legitimate discount companies have always made it clear that the access they provide to these services and products is not insurance. However, the Louisiana Department of Insurance has determined that the majority of these health discount plans contain components of accident and health insurance coverage including but not limited to accidental injury and accidental death and dismemberment insurance coverage.

The Department's investigation in this matter has revealed that these insurance products have not been approved for use in Louisiana. Further, it has been determined that representatives of these plans and insurers providing the coverage are under the misconception that because the insurance providing coverage to Louisiana residents is incidental to those residents' participation in the plan, this Department does not have jurisdiction.

OBLIGATIONS

LSA-R.S. 22:620, Approval of forms

§620.A(1). No basic insurance policy form, other than surety bond forms, or application form where written application is required and is to be attached to the policy, or be a part of the contract or printed life or health and accident rider or endorsement form shall be issued, delivered, or used unless it has been filed with and approved by the commissioner of insurance. (Emphasis added)

§620.A(2). For purposes of this Section, a basic insurance policy form shall include a certificate of coverage, any other evidence of coverage, or a subscriber agreement. (Emphasis added)

LSA-R.S. 22:1133, License required

§1133.A. No person shall act as or hold himself out to be an insurance producer unless licensed by the Department of Insurance.

§1133.B. No insurance producer shall sell, solicit, make an application for, procure, negotiate for, or place for others, any policies for any lines of insurance as to which he is not then qualified and duly licensed in this state.

LSA-R.S. 22:1144, Appointments

§1144.A(1). An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer . . .

REGULATORY COMPLIANCE

All accident and health insurers, inclusive of health maintenance organizations, that provide insurance coverage to residents of this state through the delivery of accident and health insurance products to health discount plans must comply with the above statutory requirements. Additionally, the insurer must submit a proper form filing pursuant to Regulation 78, and the selling, solicitation, negotiation and placement for others of their policy in this state must be done by a licensed insurance producer. It is the responsibility of the insurance company to determine if their product will ultimately be used to provide insurance coverage on residents in Louisiana. Existing policies covering Louisiana residents that are not in compliance with the aforementioned statutory requirements are deemed to be in violation of law and must be submitted in accordance with LSA-R.S. 22:620.A(1).

J. ROBERT WOOLEY
COMMISSIONER OF INSURANCE