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DEPARTMENT OF INSURANCE

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BULLETIN NO. 11-03
(Replaces Bulletin No. 09-14)

DATE: June 8, 2011

TO: Insurers and Insurance Producers Doing Business in Idaho

FROM: William W. Deal, Director

SUBJECT: Rebates/Inducements – Value-Added Services

This Bulletin 11-03 replaces Bulletin 09-14 with updates pertinent to the recent passage of House Bill 283, which amends Idaho Code Section 41-1314 effective July 1, 2011. The stated purpose of House Bill 283 is to:

- replace the terms agent, solicitor or broker with the current term producer in Idaho Code Sections 41-1314(1) and 41-1314(2);
- add disability insurer and producer marketing disability insurance (health insurance) to the identified providers in Idaho Code Section 41-1314(3); and
- clarify and change the aggregate value of the exception in Idaho Code Section 41-1314(3) to a maximum of two hundred dollars (\$200) in a calendar year.

Bulletin 09-14 was issued in December 2009 when the Idaho Department of Insurance became aware that some insurance producers were offering extra services outside of the insurance contract at no cost to their clients or potential clients. Examples of such value-added services include administration of a buy-down program for an employer as a method of reducing the cost of the health insurance plan, COBRA administration, "premium holidays" that are not specified in the insurance contract, and human resource/employee benefit consulting.

Idaho Code Section 41-1314(1) prohibits any person from directly or indirectly offering or giving as an inducement to purchase insurance "**anything of value whatsoever**" that is not plainly specified in the insurance contract. The statute indicates that, for a violation to occur, the valuable consideration must be offered or provided as a rebate or inducement to insurance. In other words, some connection to an actual or prospective sale of insurance must exist.

If goods or services not specified in the insurance contract are offered or provided as an inducement to purchase or renew insurance, a reasonable charge must be imposed to avoid a violation of Section 41-1314(1). The charge should reflect the actual value of the good or service provided and should not be less than the cost of providing the good or service. Services that fall within the traditional notion of “customer service” for which one would not normally expect an additional charge are not considered by the Department to be a rebate or inducement in violation of Section 41-1314. Examples of traditional customer services that are not viewed as rebates or illegal inducements include offering a 24-hour hotline for claims, responding to questions or providing advice regarding coverage or benefits, maintaining loss runs, and issuing insurance cards.

Effective July 1, 2011, Idaho Code Section 41-1314(3) is amended to permit producers and insurers of life, disability (health), property and casualty insurance the ability to offer to an actual or prospective policyholder goods (but not services) so long as the aggregate value of the goods does not exceed \$200 in a calendar year. Note that the \$200 exception to the rebate law only applies to goods, not services.

All insurers and producers doing business in Idaho should carefully review their policies and marketing efforts involving any goods or services offered without reasonable charge to their customers or prospective customers. The Department will actively investigate complaints concerning violations of Idaho Code Section 41-1314 and will take administrative action to assure compliance when appropriate.

Persons with questions concerning this bulletin should contact the Department’s Consumer Affairs Section at 208-334-4250.