WEST VIRGINIA CODE: §16-62-3

§16-62-3. Exceptions.

This article does not apply to the following payment practices:

(1) Any discount, payment, waiver of payment, or payment practice expressly authorized by 42 U.S.C. §1320a-7b(b)(3) or regulations adopted thereunder;

(2) Any payment, compensation, or financial arrangement within a group practice provided the payment, compensation, or arrangement is not to or from persons who are not members of the group practice;

(3) Payments to a health care provider or health care facility for professional consultation services;

(4) Commissions, fees, or other remuneration lawfully paid to insurance agents;

(5) Payments by a health insurer who reimburses, provides, offers to provide, or administers health, mental health, or substance abuse goods or services under a health benefit plan;

(6) Payments to or by a health care provider or health care facility, or a health care provider network entity, that has contracted with a health insurer, a health care purchasing group, or the Medicare or Medicaid program to provide health, mental health, or substance abuse goods or services under a health benefit plan when the payments are for goods or services under the plan;

(7) Insurance advertising and promotional gifts;

(8) Commissions or fees paid to a person or entity providing a referral service to nurses which provide health care services;

(9) Payments by a health care provider or health care facility to a health, mental health, or substance abuse information service that provides information upon request and without charge to consumers about providers of health care goods or services to enable consumers to select appropriate providers or facilities, provided that the information service:

(A) Does not attempt through its standard questions for solicitation of consumer criteria or through any other means to steer or lead a consumer to select or consider selection of a particular health care provider or health care facility;

(B) Does not provide or represent itself as providing diagnostic or counseling services or assessments of illness or injury and does not make any promises of cure or guarantees of treatment;

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(C) Does not provide or arrange for transportation of a consumer to or from the location of a health care provider or health care facility; and

(D) Charges and collects fees from a health care provider or health care facility participating in its services that are set in advance, are consistent with the fair market value for those information services, and are not based on the potential value of a patient or patients to a health care provider or health care facility or of the goods or services provided by the health care provider or health care facility.

(10) Payments made by an assisted living facility to an individual employed by the assisted living facility, or with whom the facility contracts to provide marketing services for the facility, if the individual clearly indicates that he or she works with or for the facility; and

(11) Payments made to a resident of an assisted living facility who refers a friend, family members, or other individuals with whom the resident has a personal relationship to the assisted living facility, in which case the assisted living facility may provide a monetary reward to the resident for making the referral.

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