WEST VIRGINIA CODE: §33-25A-14

§33-25A-14. Prohibited advertising practices.

(a) No health maintenance organization, or representative of a health maintenance organization, may cause or knowingly permit the use of advertising which is untrue or misleading, solicitation which is untrue or misleading, or any form of evidence of coverage which is deceptive. No advertising may be used until it has been approved by the Commissioner. Advertising which has not been disapproved by the Commissioner within sixty days of filing shall be considered approved. For purposes of this article:

(1) A statement or item of information shall be considered to be untrue if it does not conform to fact in any respect which is or may be significant to an enrollee of, or person considering enrollment in, a health maintenance organization;

(2) A statement or item of information shall be considered to be misleading, whether or not it may be literally untrue if, in the total context in which the statement is made or the item of information is communicated, the statement or item of information may be reasonably understood by a reasonable person, not possessing special knowledge regarding health care coverage, as indicating any benefit or advantage or the absence of any exclusion, limitation, or disadvantage of possible significance to an enrollee of, or person considering enrollment in, a health maintenance organization, if the benefit or advantage or absence of limitation, exclusion or disadvantage does not in fact exist;

(3) An evidence of coverage shall be considered to be deceptive if the evidence of coverage taken as a whole, and with consideration given to typography and format, as well as language, is such as to cause a reasonable person, not possessing special knowledge regarding health maintenance organizations, and evidences of coverage therefor, to expect benefits, services or other advantages which the evidence of coverage does not provide or which the health maintenance organization issuing the evidence of coverage does not regularly make available for enrollees covered under the evidence of coverage; and

(4) The Commissioner may propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code to further define practices which are untrue, misleading or deceptive.

(b)(1) No health maintenance organization may use in its name, contracts, logo or literature any of the words "insurance", "casualty", "surety", "mutual" or any other words which are descriptive of the insurance, casualty or surety business or deceptively similar to the name or description of any insurance or surety corporation doing business in this state: Provided, That when a health maintenance organization has contracted with an insurance company for any coverage permitted by this article, it may so state; and

(2) Only a person that has been issued a certificate of authority under this article may use

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the words "health maintenance organization" or the initials "HMO" in its name, contracts, logo or literature to imply, directly or indirectly, that it is a health maintenance organization or hold itself out to be a health maintenance organization.

(c)(1) No agent of a health maintenance organization or person selling enrollments in a health maintenance organization shall sell an enrollment in a health maintenance organization unless the agent or person shall first disclose in writing to the prospective purchaser the following information using the following exact terms in bold print: "Services offered", including any exclusions or limitations; "full cost", including copayments; "facilities available"; "transportation services"; "disenrollment rate"; and "staff", including the names of all full-time staff physicians, consulting specialists, hospitals and pharmacies associated with the health maintenance organization. In any home solicitation, any three-day cooling-off period applicable to consumer transactions generally applies in the same manner as consumer transactions.

(2) The form disclosure statement shall not be used in sales until it has been approved by the Commissioner or submitted to the Commissioner for sixty days without disapproval.

(d) No contract with an enrollee shall prohibit an enrollee from canceling his or her enrollment at any time for any reason except that the contract may require thirty days' notice to the health maintenance organization.

(e) Any person who, in connection with an enrollment, violates any provision of this section may be held liable for an amount equivalent to one year's subscription rate, plus costs and a reasonable attorney's fee.

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