WEST VIRGINIA CODE: §33-25A-15

§33-25A-15. Agent licensing and appointment required; regulation of marketing.

(1) Health maintenance organizations are subject to the provisions of article twelve of this chapter.

(2) With respect to individual and group contracts covering fewer than twenty-five subscribers, after a subscriber signs a health maintenance organization enrollment application and before the health maintenance organization may process the application changing or initiating the subscriber coverage, each health maintenance organization must verify in writing, in a form prescribed by the commissioner, the intent and desire of the individual subscriber to join the health maintenance organization. The verification shall be conducted by someone outside the health maintenance organization marketing department and shall show that:

(a) The subscriber intends and desires to join the health maintenance organization;

(b) If the subscriber is a Medicare or Medicaid recipient, the subscriber understands that by joining the health maintenance organization he or she will be limited to the benefits provided by the health maintenance organization, and Medicare or Medicaid will pay the health maintenance organization for the subscriber coverage;

(c) The subscriber understands the applicable restrictions of health maintenance organizations especially that he or she must use the health maintenance organization providers and secure approval from the health maintenance organization to use health care providers outside the plan; and

(d) If the subscriber is a member of a health maintenance organization, the subscriber understands that he or she is transferring to another health maintenance organization.

(3) The health maintenance organization shall not pay a commission, fee, money or any other form of scheduled compensation to any health insurance agent until the subscriber's application has been processed and the health maintenance organization has confirmed the subscriber's enrollment by written notice in the form prescribed by the commissioner. The confirmation notice shall be accompanied by the evidence of coverage required by section eight of this article and shall confirm:

(a) The subscriber's transfer from his or her existing coverage (i.e. from Medicare, Medicaid, another health maintenance organization, etc.) to the new health maintenance organization; and

(b) The date enrollment begins and when benefits will be available.

(4) The enrollment process shall be considered complete seven days after the health

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maintenance organization mails the confirmation notice and evidence of coverage to the subscriber. Each health maintenance organization is directly responsible for enrollment abuses.

(5) The commissioner may, in his or her discretion, after notice and hearing, promulgate rules as are necessary to regulate marketing of health maintenance organizations by persons compensated directly or indirectly by the health maintenance organizations. When necessary the rules may prohibit door-to-door solicitations, may prohibit commission sales, and may provide for such other proscriptions and other rules as are required to effectuate the purposes of this article.

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