

# WEST VIRGINIA CODE: §33-25D-15

## §33-25D-15. Prohibited practices.

(a) No prepaid limited health service organization, or representative thereof, 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 is considered approved. For purposes of this article:

(1) A statement or item of information is 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 prepaid limited health service organization;

(2) A statement or item of information is 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 prepaid limited health service organization, if the benefit or advantage or absence of limitation, exclusion or disadvantage does not in fact exist;

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

(4) The commissioner may further define practices which are untrue, misleading or deceptive.

(b)(1) No prepaid limited health service organization may cancel or fail to renew the coverage of an enrollee except for: (A) Failure to pay the charge for health care coverage;

(B) Termination of the prepaid limited health service organization;

(C) Termination of the group plan;

(D) Enrollee moving out of the area served;

(E) Enrollee moving out of an eligible group; or

(F) Other reasons established in rules promulgated by the commissioner.

(2) No prepaid limited health service organization may use any technique of rating or grouping to cancel or fail to renew the coverage of an enrollee. An enrollee shall be given thirty days' notice of any cancellation or nonrenewal and the notice shall include the reasons for the cancellation or nonrenewal: Provided, That each enrollee moving out of an eligible group shall be granted the opportunity to enroll in the prepaid limited health service organization on an individual basis. A prepaid limited health service organization may not disenroll an enrollee for nonpayment of copayments unless the enrollee has failed to make payment in at least three instances over any twelve-month period: Provided, however, That the enrollee may not be disenrolled if the disenrollment would constitute abandonment of a patient. Any enrollee wrongfully disenrolled shall be reenrolled.

(c)(1) No prepaid limited health service 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 prepaid limited health service organization has contracted with another insurer for any coverage permitted by this article, it may so state; and

(2) No person who has not been issued a certificate of authority under this article may use the words "prepaid limited health service organization" or the initials "PLHSO" in its name, contracts, logo or literature to imply, directly or indirectly, that it is a prepaid limited health service organization or hold itself out to be a prepaid limited health service organization.

(d) The providers of a prepaid limited health service organization who provide limited health services and the prepaid limited health service organization do not have recourse against enrollees for amounts above those specified in the evidence of coverage as the periodic prepayment or copayment for health care services.

(e) No prepaid limited health service organization may discriminate in enrollment policies or quality of services against any person on the basis of race, sex, age, religion, place of residence, health status or source of payment: Provided, That differences in rates based on valid actuarial distinctions, including distinctions relating to age and sex, are not considered discrimination in enrollment policies.

(f)(1) No agent of a prepaid limited health service organization or person selling enrollments in a prepaid limited health service organization may sell an enrollment in a prepaid limited health service organization unless the agent or person first discloses in writing to the prospective purchaser the following information using the following exact terms in bold print:

(A) "Services offered," including any exclusions or limitations;

(B) "Full cost," including copayments;

(C) "Facilities available and hours of services";

(D) "Transportation services";

(E) "Disenrollment rate"; and

(F) "Staff," including the names of all full-time staff physicians, consulting specialists and inpatient facilities, if any, associated with the prepaid limited health service organization.

(2) In any home solicitation, any three-day cooling-off period applicable to consumer transactions generally applies in the same manner as consumer transactions.

(3) The form disclosure statement may not be used in sales until it has been approved by the commissioner. Any person who fails to disclose the requisite information prior to the sale of an enrollment may be held liable in an amount equivalent to one year's subscription rate to the prepaid limited health service organization, plus costs and a reasonable attorney's fee.

(g) No contract with an enrollee may 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 prepaid limited health service organization.

(h) No contract with an enrollee may contain any provision purporting to make any portion of the articles of incorporation, charter, bylaws or other organizational document of the prepaid limited health service organization a part of the contract unless the provision is set forth in full in the contract.

(i) Any person who in connection with an enrollment violates any subsection 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.