WEST VIRGINIA CODE: §33-26A-19

§33-26A-19. Prohibited advertisement of insurance guaranty association act in insurance sales; notice to policyholders.

(a) A person, including a member insurer, agent, or affiliate of a member insurer, shall not make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in any newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station or television station, or in any other way, any advertisement, announcement, or statement, written or oral, which uses the existence of the insurance guaranty association of this state for the purpose of sales, solicitation, or inducement to purchase any form of insurance or other coverage covered by the West Virginia Life and Health Insurance Guaranty Association Act: Provided, That this section shall not apply to the association or any other entity which does not sell or solicit insurance or coverage by a health maintenance organization.

(b) Within 180 days of the effective date of this article, the association shall prepare a summary document describing the general purposes and current limitations of the act and complying with §33-26A-19(c) of this code. This document shall be submitted to the commissioner for approval. Sixty days after receiving such approval, no member insurer may deliver a policy or contract described in §33-26A-3(b)(1) of this code to a policy owner, contract owner, certificate holder, or enrollee unless the summary document is delivered to the policy owner, contract owner, certificate holder, or enrollee prior to or at the time of delivery of the policy or contract. The document shall also be available upon request by a policy owner, contract owner, certificate holder, or enrollee. The distribution, delivery, or contents or interpretation of this document shall not guarantee that either the policy or the contract or the policy owner, contract owner, certificate holder, or enrollee is covered in the event of the impairment or insolvency of a member insurer. The description document shall be revised by the association as amendments to the article may require. Failure to receive this document does not give the policy owner, contract owner, certificate holder, enrollee, or insured any greater rights than those stated in this article.

(c) The document prepared under §33-26A-19(b) of this code shall contain a clear and conspicuous disclaimer on its face. The commissioner shall establish the form and content of the disclaimer. The disclaimer shall:

(1) State the name and address of the association and insurance department;

(2) Prominently warn the policy owner, contract owner, certificate holder, or enrollee that the association may not cover the policy or contract or, if coverage is available, it will be subject to substantial limitations and exclusions and conditioned on continued residence in the state;

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(3) State the types of policies or contracts for which guaranty funds will provide coverage;

(4) State that the member insurer and its agents are prohibited by law from using the existence of the association for the purpose of sales, solicitation, or inducement to purchase any form of insurance or health maintenance organization coverage;

(5) Emphasize that the policy owner, contract owner, certificate holder, or enrollee should not rely on coverage under the association when selecting an insurer or health maintenance organization;

(6) Explain rights available and procedures for filing a complaint to allege a violation of any provisions of this article; and

(7) Provide other information as directed by the commissioner.

(d) A member insurer shall retain evidence of compliance with §33-26A-19(b) of this code for so long as the policy or contract for which the notice is given remains in effect.

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