

## Bulletin 212

### Small group health insurance: commission scales

July 12, 1993

Title 24-A M.R.S.A., Section 2808-B, takes effect July 15, 1993. This bulletin will set forth the Bureau's interpretation of the provision of this law concerning commission scales. Bulletins 209, 210, and 211 addressed other aspects of the law.

Subsection 6, paragraph C, of the law states:

A carrier may not directly or indirectly enter into any contract, agreement or arrangement with a representative of the carrier that provides for or results in the compensation paid to the representative for the sale of a small group health plan to be varied because of the rating factors listed in subsection 2. A carrier may enter into a compensation arrangement that provides compensation to a representative of the carrier on the basis of percentage of premium, provided that the percentage does not vary because of the rating factors listed in subsection 2.

The "rating factors listed in subsection 2" are health status, claims experience, policy duration, age, gender, occupation or industry, geographic area, family status, smoking status, and group size.

When read together with the preceding two paragraphs of subsection 6, it is clear that paragraph C is intended to prohibit commission scales which encourage sales to certain types of groups and discourages sales to others. There are two common features of commission scales which do not have this effect and therefore are permissible:

1. A commission scale that pays a higher commission in the first year than in renewal years is permissible to reflect the greater time and effort expended in the initial sale and servicing of a policy.
2. A commission scale that pays a higher commission for smaller groups than for larger groups within the 1- 24 life category is permissible to reflect the greater time and effort required in relation to the amount of premium involved. However, a commission scale that pays a lower commission for smaller groups than for larger groups within the 1- 24 life category is not permissible.

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