

To: Persons Interested in Medical Care and Pharmacy Discount Cards
From: John Morrison, Montana State Insurance Commissioner
Date: May 11, 2005; **Updated September 26, 2006**
Re: Advisory Memorandum
New Discount Card Legislation; **SB 380**
Codified at Title 33, Chapter 38, Montana Code Annotated

The 2005 Montana Legislature has enacted the Medical Care Discount Card and Pharmacy Discount Card Act, which gives the Montana Department of Insurance the authority to regulate pharmacy and medical care discount card suppliers. The new law goes into effect on October 1, 2005. "Medical care discount card supplier" is defined as a person engaged in selling or furnishing, either as a principal or agent, for consideration, medical care discount cards.

A medical care discount card supplier must:

- Not make misleading, deceptive, or fraudulent representations regarding the product;
- Not use terms commonly associated with insurance products;
- Provide access to provider lists and locations of providers to consumers before purchase and continuously thereafter;
- State prominently on all cards and advertisements that the product is not insurance;
- Ensure that providers on the list are contractually bound to provide the discount;
- Register with the commissioner by October 1, 2005 and re-register annually;
- File a list of enrollers with the commissioner and update it annually;
- Purchase and maintain a \$50,000 surety bond or maintain a surety account in the amount of \$50,000 and provide proof of the bond or account to the commissioner.

Consumers have the right to:

- Return and cancel any card agreement within 30 days of purchase;
- Receive a refund of fees paid, except nominal card processing fees.

Exemptions:

- Licensed health insurers do not have to meet bonding and registration requirements;
- Licensed third party administrators who provide medical care discount cards to self funded group health plans that they administer are exempt from bonding and registration requirements;

- Preferred provider organizations that also issue medical care discount cards and were in business prior to the effective date of this act may apply to the commissioner for a waiver of bonding and registration requirements.

Requirements for the marketing of pharmacy discount cards for consideration are:

- Similar to the requirements that apply to medical care discount card suppliers;
- Except that there are no bonding and registration requirements for those issuing pharmacy discount cards only;
- **Must provide the commissioner with contact information for a compliance officer pursuant to 33-38-108(1)(k), MCA no later than October 1, 2005.**

Violations of this Act may result in the following possible penalties:

- An action for insurance fraud pursuant to Title 33, Chapter 1, Part 13, MCA;
- A cease and desist order;
- A civil penalty not less than \$5000 or more than \$25,000 for failure to register as a medical care discount card provider. Each day may be considered a separate violation;
- Administrative fines up to \$25,000 per violation for any violation of this act.

Registration and waiver forms and other information – Please e-mail Chief Examiner Steve Matthews at smatthews@mt.gov for information on obtaining these forms.

The complete text of the bill may be obtained at <http://leg.mt.gov> [go to 2005 Bills, and look up SB 380].