

COMMISSIONER OF SECURITIES & INSURANCE

MONICA J. LINDEEN
COMMISSIONER



OFFICE OF THE MONTANA
STATE AUDITOR

ADVISORY MEMORANDUM

To: All Health Insurance Producers and Major Medical Health Insurers

From: MONICA J. LINDEEN, Montana State Auditor
Commissioner of Securities and Insurance

Date: September 15, 2016

A handwritten signature in blue ink that reads "Monica J. Lindeen".

EARLY RENEWAL TO AVOID 2017 RATE INCREASES IN THE SMALL GROUP MARKET

The Office of the Commissioner of Insurance and Securities (CSI) has received reports, inquiries, and complaints concerning "early renewal" marketing practices in the small employer group market that appear to be an attempt to circumvent 2017 rate increases implemented by certain health insurers.

Please refer to the advisory memorandum issued by this agency on July 24, 2013, for additional guidance. An insurer may not increase the premium on an individual or group health insurance policy more frequently than once every 12 months. Mont. Code Ann. § 33-22-107(1). As a result, any insurer implementing an early renewal may not charge a higher premium on a renewal policy with substantially similar benefits and cost sharing as the pre-renewal policy. An insurer may charge a higher premium for significant changes to the benefits or cost sharing associated with the plans. The 12-month rate guarantee is a statutory requirement and it cannot be "waived" by the employer, unless the employer is making a decision to substantially change the benefit design (i.e. switches from a gold plan to a bronze plan for financial reasons). 2017 plan designs are not approved for sale until January 1, 2017.

Only an employer can choose to change the dates of their plan year. This request should come from the employer and should not be instigated by the producer or insurer. An insurer may not encourage this course of action in order to retain more business or to avoid a large volume of renewals on a certain date. Insurance producers who encourage their clients to renew early in order to maintain higher commissions or bonuses for the producer, or to avoid a paperwork backlog may not be acting in the best interests of their clients.

Unfair discrimination may result if an insurer or producer is seeking out groups for the purposes of encouraging early renewal. The CSI will take action if it appears that discrimination has occurred. Insurers and producers may not discriminate “between individuals of the same class and essentially the same hazard” when issuing insurance. This would include discrimination based on group size. Mont. Code Ann. § 33-19-206(2). Health status discrimination is also prohibited by Mont. Code Ann. §§ 33-22-526 and 33-22-1811.

The CSI has published 2017 rates and its findings relating to those rates. The rates and the plan design descriptions can be found in charts posted on www.montanahealthanswers.com . As always, all Montanans should shop for the best plans and rates for 2017. There is a wide variety of rates and plans available.

If you have any questions regarding this advisory memorandum, please call the CSI Legal Bureau at 406-444-2040.