Medical Care Discount Card
Application Procedures for Certificate of Registration

Certificate of Registration

A medical care discount card supplier may not market, promote, sell, or distribute a medical care discount card in this state unless the supplier holds a Certificate of Registration as a supplier issued by the Commissioner.

Requirements for Certificate of Registration

1. Completed application form reviewed and approved by the Commissioner. (The application form is included with this document.)
3. Listing of authorized enrollers provided to the Commissioner.

Exceptions

A medical care discount card supplier that is a health insurance issuer authorized to do business in Montana is not required to obtain a Certificate of Registration. The exemption is not extended to medical care discount card suppliers who are affiliates of health insurers.

An administrator that is authorized to do business in this state and provides medical care discount cards only to Montana residents who are members of self-funded group health plans administered by the administrator is not required to obtain a Certificate of Registration.

Waiver

In accordance with 33-38-107, MCA (2005), the Commissioner may waive the registration and financial responsibility requirements for certain preferred provider organizations. The factors taken into account in granting the waiver include but are not limited to whether the company:

1. Has contracts in place with health care providers residing in this state;
2. Has contracts in place with users and purchasers of health care services residing in this state who use the medical care discount card in conjunction with a self-funded or fully insured health plan;
3. Is primarily in the preferred provider organization business or primarily in the medical care discount card supplier business; and
4. Was in business in this state prior to October 1, 2005.
For preferred provider organizations acting as medical care discount card suppliers on October 1, 2005, requests for waiver were required in writing by October 1, 2005.

For preferred provider organizations acting as medical care discount card suppliers that commence operation after October 1, 2005, requests for waiver must be submitted at least 30 days before commencing business as a supplier.

**Filing Time Frames**

*(A person acting as a medical care discount card supplier on October 1, 2005, was required to file an application for a Certificate of Registration with the Commissioner by October 1, 2005.)*

For suppliers commencing operation after October 1, 2005, the application for a Certificate of Registration must be submitted at least 30 days before commencing business as a supplier. *The supplier may not market, promote, sell, or distribute a medical care discount card in this state until the Commissioner issues the certificate of registration.*

**Filing Fees**

There is a non-refundable filing fee of $100 for the application for Certificate of Registration. Additionally, there is $100 annual filing fee (due by December 31) associated with annual renewal of the Certificate of Registration.

There is a $250 non-refundable filing fee for the establishment of financial responsibility. Additionally, there is a $250 filing fee associated with the annual certification of financial responsibility.

All fees should be submitted at the time of the applicable filing.

**Biographical Affidavit Forms**


**Bond Form**

The bond form is provided with the application for Certification of Registration.
Application for Certificate of Registration

1. Name of applicant (card supplier): ________________________________

2. List all names under which Medical Care Discount Cards will be marketed in Montana:

3. Owner and/or controlling entity of Medical Care Discount Card Supplier:

4. List all Officers and Directors of the Medical Care Discount Card Supplier (a completed NAIC biographical affidavit form should be provided for each Officer and each Director):

5. Manager/Point of Contact for Montana Business (please attach completed NAIC biographical affidavit):

   Name: ________________________________

   Street Address: ________________________________

   Mailing Address: ________________________________

   Phone: ________________________________

   Email: ________________________________

Changes must be reported promptly
6. Principal Administrative Office Address and contact information:

Street Address:  

Mailing Address:  

Phone:  

Fax:  

Email:  

Changes must be reported promptly

7. Has card supplier and/or affiliate had a previous application for certificate of registration denied, revoked, suspended, or terminated for cause or is under investigation for or has been found in violation of a statute or regulation in another jurisdiction with the previous 5 years.  Yes        No  

If yes, please discuss in detail:

___________________________________________________________________

___________________________________________________________________

___________________________________________________________________

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8. Provide a description of the supplier’s expertise and/or experience in operating a medical care discount card business. Please attach supporting documentation, if applicable:

___________________________________________________________________

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___________________________________________________________________
9. Describe how the Medical Care Discount Card will be advertised and/or promoted. Additionally, please provide samples of the advertising and promotional materials to be used in Montana, a sample card to be issued, and a sample of the purchase agreement. Advertising/promotional materials must comply with Sections 33-38-103 and 104, MCA (2005).

10. List all health care providers (please include addresses and phone numbers) currently under contract or supply evidence that you have a contract with an established provider network. Additionally, please include information describing or illustrating how users can access a listing of all providers who participate in the network and/or honor your discount.

11. Provide the name and contact information for the Medical Care Discount Card Compliance Officer:

   Name:
   Street Address:  Mailing Address:
   Phone:  Fax:
   Email:

   Changes must be reported promptly
12. List all authorized enrollers for Montana. Please include current address, phone numbers, and social security numbers:


13. Please attach evidence of financial responsibility. (Section 33-38-106, MCA (2005))
STATE OF MONTANA
MEDICAL CARE DISCOUNT CARD SUPPLIER BOND

BOND No. ________________________  BOND AMOUNT ________________

KNOW ALL PERSONS BY THESE PRESENTS:

That we, ___________________________, as principal,
and ____________________________, a corporation duly organized authorized
and existing under the laws of the state of ________________, and authorized to do business in the state of
Montana, as SURETY, are held and firmly bound unto the state of Montana, in the penal sum of $50,000
lawful money of the United States for the payment of which sum, well and truly to be made, we bind
ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these
presents.

WHEREAS, the principal is subject to the provisions of the Montana Medical Care Discount Card Act and
shall faithfully comply with the provisions of the Act.

NOW, THEREFORE, THE CONDITIONS OF THIS OBLIGATION ARE SUCH, that if the above bonded
principal shall faithfully comply with the provisions of the Act and the orders legally made pursuant thereto,
then and in that event the forgoing obligation shall be void, otherwise to remain in full force and effect.

PROVIDED, HOWEVER, AND UPON THE FOLLOWING EXPRESS CONDITIONS: That any person or
the Montana Commissioner of Insurance claiming against the bond for violation of the Act occurring during
the time period during which this bond is in effect may maintain an action at law against the PRINCIPAL
and against the SURETY. The aggregate liability of the SURETY to all persons damaged by violations of
this Act may not exceed the amount of the surety bond.

PROVIDED FURTHER, that the Surety may terminate its liability hereunder as to future acts of the
Principal at any time by giving twenty one (21) days written notice of such termination to the Montana
Commissioner of Insurance.

This bond is for a definite term beginning ______________, and ending ______________, and may be
continued by a Continuation Certificate.

SIGNED, SEALED AND DATED THIS ________ DAY OF ______________, 20____.

__________________________________________
(Medical Care Discount Card)

By: ________________________________________
(Principal)

By: ________________________________________
(Surety)
33-38-101. Short title -- purpose. (1) This part may be cited as the "Montana Medical Care Discount Card and Pharmacy Discount Card Act".

(2) The purposes of this part are to regulate the promotion, offer, sale, and use of medical care discount cards and pharmacy discount cards and to facilitate the detection of and reduce the occurrence of medical care discount card and pharmacy discount card fraud.

History: En. Sec. 4, Ch. 456, L. 2005.

33-38-102. Definitions. As used in this part, unless the context indicates otherwise, the following definitions apply:

(1) "Administrator" has the meaning provided for in 33-17-102(3).

(2) "Enroller" means a person who:
   (a) solicits the purchase or renewal of a medical care discount card through that person;
   (b) transmits, for consideration, from a supplier to another person or from another person to a supplier a contract or application for a medical care discount card or the renewal of a medical care discount card; or
   (c) acts or aids in another manner in the delivery or negotiation of a medical care discount card or the renewal or continuance of a medical care discount card.

(3) "Health care provider" means:
   (a) an individual licensed by the department of labor and industry to practice or who holds a temporary permit to practice a branch of the healing arts;
   (b) a professional corporation organized pursuant to Title 35, chapter 4, by one or more individuals described in subsection (3)(a);
   (c) a Montana limited liability company organized pursuant to Title 35, chapter 8, for the purpose of rendering professional services by individuals described in subsection (3)(a);
   (d) a partnership of individuals described in subsection (3)(a);
   (e) a Montana nonprofit corporation organized pursuant to Title 35, chapter 2, for the purpose of rendering professional health care services by one or more individuals described in subsection (3)(a); or
   (f) a health care facility as defined in 50-5-101.

(4) "Health insurance issuer" means a health insurance issuer, as defined in 33-22-140, that is authorized to do business in this state and its affiliates, as defined in 33-2-1101.

(5) (a) "Medical care discount card" means a paper or plastic device or other mechanism, arrangement, account, or other device that does not constitute insurance, as defined in 33-1-201, that purports to grant, for consideration, a discount or access to a discount in a medical care-related purchase from a health care provider.
   (b) The term does not include a pharmacy discount card unless a pharmacy discount benefit is combined with another type of medical care discount.

(6) "Medical care discount card supplier" means a person engaged in selling or furnishing, either as principal or agent, for consideration, one or more medical care discount cards to another person or persons.

(7) "Network of health care providers" means two or more health care providers who are contractually obligated to provide services in accordance with the terms and conditions applicable to a medical care discount card.

(8) "Pharmacy discount card" means a paper or plastic device or other mechanism, arrangement, account, or other device that does not constitute insurance, as defined in 33-1-201, that purports to grant, for consideration, a discount or access to a discount on one or more prescription drugs, and that is not combined with another type of medical care discount.

(9) "Pharmacy discount card supplier" means a person engaged in selling or furnishing, either as a principal or agent, for consideration, one or more pharmacy discount cards to another person or persons.

(10) "Preferred provider organization company" means a company that contracts with health care providers for lower fees than those customarily charged by the health care provider for services and contracts with health insurance issuers, administrators, or self-insured employers to provide access to those lower fees to a particular group of insureds, subscribers, participants, beneficiaries, members, or claimants.

(11) "Prescription drug provider" means a pharmacy or other business that is contractually bound to provide a discount on one or more prescription drugs in conjunction with the use of a pharmacy discount card.

(12) "Service area" means the area within a 60-mile radius of the home or place of business of a medical care discount card user or pharmacy discount card user.
33-38-103. Unlawful acts by medical care discount card suppliers or enrollers.  (1) A medical care discount card supplier or an enroller that markets, promotes, advertises, or distributes a medical care discount card in Montana:
   (a) may not make misleading, deceptive, or fraudulent representations regarding:
      (i) the discount or range of discounts offered by a medical care discount card;
      (ii) the access to any range of discounts offered by a medical care discount card; or
      (iii) another medical care service provided in connection with a medical care discount card;
   (b) may not use terms or phrases commonly associated with insurance products that could lead a prospective purchaser or user of a medical care discount card to believe that the card being offered is composed of one or more insurance products or is a substitute for insurance, despite disclaimers to the contrary by the medical care discount card supplier or enroller;
   (c) shall provide to a prospective purchaser or user, before purchase, access to a list of health care providers, including the name, city, state, and provider type and, optionally, the address and telephone number of each health care provider in the prospective purchaser's or user's service area; and
   (d) shall make continuously available to each medical care discount card user, through a toll-free telephone number, the internet, and in writing upon request, the name, address, telephone number, and provider type of all health care providers in the user's service area who are bound by contract to provide services in accordance with the terms and conditions applicable to the card.

   (2) A medical care discount card supplier that markets, promotes, advertises, or distributes a medical care discount card in Montana shall:
      (a) state, on all advertisements for medical care discount cards, in bold and prominent type of at least 14 points in size, and on all cards themselves in clear and conspicuous type, that the card is not insurance;
      (b) designate and provide the commissioner with the name, address, and telephone number of a medical care discount card compliance officer responsible for ensuring compliance with the provisions of this part applicable to medical care discount cards and medical care discount card suppliers and enrollers; and
      (c) ensure that if the medical care discount card supplier claims that a specific health care provider offers a discount in conjunction with the medical care discount card, that specific health care provider is contractually bound to provide that discount to the purchaser or user.

History: En. Sec. 6, Ch. 456, L. 2005.

33-38-104. Right to return or cancel medical care discount card or pharmacy discount card -- notice -- prohibited acts.  (1) A medical care discount card or pharmacy discount card issued for delivery in this state is returnable or cancelable, within 30 days of the date of delivery of the card or a longer period if provided in the purchase agreement, by the purchaser or user for any reason, and the user must receive a full refund of all fees, except nominal fees associated with enrollment costs, that were part of the cost of the card.

   (2) A medical care discount card supplier or pharmacy discount card supplier may not charge or collect a fee, including a cancellation fee, after a purchaser or user has returned a card to the supplier or given the supplier notice of the person's intention to return or cancel the card.

   (3) A medical care discount card supplier or pharmacy discount card supplier shall ensure that each purchaser or user receives with the card a notice stating the terms under which the medical care discount card or pharmacy discount card may be returned or canceled as provided in subsections (1) and (2). A medical care discount card or pharmacy discount card returned or cancelled in accordance with this section is void from the date of purchase.

History: En. Sec. 7, Ch. 456, L. 2005.

33-38-105. Sale of medical care discount card by unregistered supplier prohibited -- requirements for registration -- list of authorized enrollers required -- exceptions.  (1) A medical care discount card supplier may not market, promote, sell, or distribute a medical care discount card in this state unless the supplier holds a certificate of registration as a supplier issued by the commissioner.

   (2) An application to the commissioner for a certificate of registration must be accompanied by a nonrefundable application fee of $100. The commissioner shall issue the certificate unless the commissioner determines that the medical care discount card supplier or an officer or manager is not financially responsible, does not have adequate expertise or experience to operate a medical care discount card business, or is not of good character or that the supplier or its affiliates or a business formerly owned or managed by the supplier or an officer or manager of the supplier has had a previous
application for a certificate of registration denied, revoked, suspended, or terminated for cause or is under investigation for or has been found in violation of a statute or regulation in any jurisdiction within the previous 5 years.

(3) A medical care discount card supplier shall renew its certificate of registration annually by December 31. The certificate is renewed upon payment by the supplier of a nonrefundable renewal fee of $100 and expires on the anniversary of its issuance if the renewal fee is not paid before that date. Once issued or renewed, the certificate continues in effect for 1 year unless suspended, revoked, or terminated. The commissioner shall deposit the fees required by this section with the state treasurer, to be credited to the general fund.

(4) A certificate of registration may be suspended or revoked if, after notice and hearing, the commissioner finds that the medical care discount card supplier has violated a provision of this part, that the supplier is not financially responsible or competent, or that the supplier or an affiliate or business formerly owned or managed by the supplier has had a certificate of registration denied or suspended for cause or has been found in violation of a statute or regulation in another jurisdiction.

(5) A medical care discount card supplier that violates the provisions of subsection (1) is subject to a civil penalty of not less than $5,000 or more than $25,000 for each violation. Each day of violation is considered to be a separate violation.

(6) A medical care discount card supplier that is a health insurance issuer is not required to obtain a certificate of registration in accordance with this section, except that affiliates, as defined in 33-2-1101, that are selling medical care discount cards in Montana shall obtain a certificate of registration.

(7) An administrator that is authorized to do business in this state and that provides medical care discount cards to Montana residents who are members of self-funded group health plans administered by that administrator is not required to obtain a certificate of registration pursuant to this section.

(8) A person commencing business as a medical care discount card supplier shall file a certificate of registration and its list of authorized enrollees with the commissioner at least 30 days before commencing business as a supplier. After the initial filing of a list of its enrollees with the commissioner, a supplier shall file an updated list annually by December 31.

(9) This section does not excuse a medical care discount card supplier that is also an insurer from full compliance with the Montana Insurance Code.

History: En. Sec. 8, Ch. 456, L. 2005; amd. Sec. 27, Ch. 399, L. 2007.

Compiler's Comments:

2007 Amendment: Chapter 399 in (2) near end of second sentence after "regulation in" substituted "any" for "another"; in (3) at end of first sentence inserted "by December 31"; in (8) deleted former first sentence that read: "A person acting as a medical care discount card supplier on October 1, 2005, shall file a certificate of registration and a list of its authorized enrollees with the commissioner by that date", in first sentence after "business as a" inserted "medical care discount card" and after "supplier" deleted "after October 1, 2005", and at end of second sentence inserted "by December 31"; and made minor changes in style. Amendment effective May 3, 2007.

33-38-106. Medical care discount card supplier financial responsibility requirements -- claims against bonds or accounts -- exemptions. (1) A person intending to act as a medical care discount card supplier may not market, promote, advertise, or distribute a medical care discount card in this state until the person has purchased a bond or established a surety account and filed with the commissioner a copy of a bond or a statement identifying a surety account depository as provided in this section.

(2) A person intending to act as a medical care discount card supplier shall:

(a) purchase and maintain a surety bond in the amount of $50,000 issued by a surety company authorized to do business in this state; or

(b) establish and maintain a surety account in the amount of $50,000 at a federally insured bank, savings and loan association, or federal savings bank located in this state.

(3) A person intending to act as a medical care discount card supplier shall provide the depository, trustee, and account number of the surety account to the commissioner and shall annually provide to the commissioner proof of renewal of the bond or maintenance of the surety account. The person shall pay a nonrefundable filing fee of $250 with the initial filing and with each subsequent filing.

(4) A medical care discount card supplier shall maintain the surety account or bond until 2 years after the date that the supplier ceases operations in the state. Money from a surety account may not be released to the supplier without the written consent of the commissioner.

(5) A surety on a medical care discount card company bond may not cancel a bond required by this section without giving at least 21 days' written notice of cancellation to the medical care discount card supplier and the commissioner. If
the commissioner receives notice of a surety's intention to cancel a supplier's bond, the commissioner shall notify the affected supplier that, unless the supplier files another $50,000 surety bond with the commissioner or establishes a $50,000 surety account on or before the date the bond is to be canceled, the supplier may no longer do business as a supplier in this state.

(6) A bond surety shall write a bond required by this section and a person intending to act as a medical care discount card supplier shall establish an account in favor of a person, and the commissioner for the benefit of a person, injured by a violation of this part. The bond surety shall also write the bond to cover any fines levied against the supplier, a supplier's enrollee, or both, for a violation of this part occurring during the time the supplier's bond is in effect.

(7) A person with a claim against a medical care discount card supplier's bond or surety account for a violation of a provision of this part may maintain an action against the supplier and against either the bond surety or the trustee of the surety account, as appropriate. The aggregate liability of the surety or trustee to a person injured by a violation of this part may not exceed the amount of the surety bond or account.

(8) A person acting as a medical care discount card supplier on October 1, 2005, shall file with the commissioner a copy of a surety bond or statement identifying a surety account depository on that date. A person commencing business as a supplier after October 1, 2005, shall file a copy of a bond or statement with the commissioner at least 30 days before commencing business as a supplier.

(9) A health insurance issuer that is also a medical care discount card supplier is exempt from the requirements of this section.

(10) An administrator that is authorized to do business in this state and that provides medical care discount cards to Montana residents who are members of self-funded group health plans administered by that administrator is exempt from the requirements of this section.

History: En. Sec. 9, Ch. 456, L. 2005.

33-38-107. Waiver of registration and bonding requirements. The commissioner may waive the requirements of 33-38-105 and 33-38-106 for any preferred provider organization company. The factors taken into account in granting a waiver include but are not limited to whether the company:

(1) has contracts in place with health care providers residing in this state;
(2) has contracts in place with users and purchasers of health care services residing in this state who use the medical care discount card in conjunction with a self-funded or fully insured health plan;
(3) is primarily in the preferred provider organization business or primarily in the medical care discount card supplier business; and
(4) was in business in this state prior to October 1, 2005.

History: En. Sec. 10, Ch. 456, L. 2005.

33-38-108. Pharmacy discount card supplier requirements. (1) A pharmacy discount card supplier that sells, markets, promotes, or distributes, for a consideration, a pharmacy discount card in Montana:

(a) shall clearly and conspicuously disclose on all advertising, marketing materials, and enrollment materials that discounts offered through the use of a pharmacy discount card are not insurance and are not intended as a substitute for insurance;
(b) shall clearly and conspicuously disclose on all pharmacy discount cards that discounts offered through the use of the pharmacy discount card are not insurance;
(c) shall disclose, when a pharmacy discount card is sold in combination with a group limited supplemental insurance policy, that discounts offered through the use of the pharmacy discount card are not insurance;
(d) may not, in the advertising or offering of the pharmacy discount card, use terms or phrases commonly associated only with insurance products that could lead a prospective purchaser or user of the card to believe that the pharmacy discount card is composed of insurance products or is a substitute for insurance, despite disclaimers to the contrary by the pharmacy discount card supplier;
(e) shall ensure that each prescription drug provider claimed by the pharmacy discount card supplier to offer a discount in conjunction with the pharmacy discount card is contractually bound to provide that discount to the purchaser or user;
(f) may not make misleading, deceptive, or fraudulent representations regarding a discount or range of discounts available through the use of a pharmacy discount card;
(g) shall provide to each prospective purchaser or user prior to purchase reasonable access to a list of the benefits and services provided through the use of a pharmacy discount card;
(h) shall provide a prospective purchaser or user prior to purchase access to a list of any prescription drug providers in
the prospective purchaser's or user's service area;

(i) shall disclose in all enrollment materials that a pharmacy discount card purchaser or user has 30 days to cancel a pharmacy discount card as provided in 33-38-104;

(j) shall make available to each pharmacy discount card user continuously after purchase of a pharmacy discount card, through a toll-free telephone number, the internet, and in writing upon request, the name, address, and telephone number of each prescription drug provider in the user's service area, including mail order prescription drug providers, that are bound by contract to offer prescription drugs in accordance with the terms and conditions of the pharmacy discount card; and

(k) shall designate and provide the commissioner with the name, address, and telephone number of a pharmacy discount card compliance officer responsible for ensuring compliance with the provisions of this part applicable to pharmacy discount cards and pharmacy discount card suppliers.

(2) A person violating the provisions of subsection (1) is subject to the fine provided for in 33-1-317.

History: En. Sec. 11, Ch. 456, L. 2005.