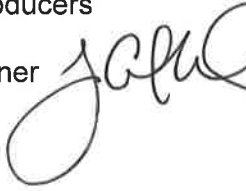




North Dakota Insurance Department

Jon Godfread, Commissioner

BULLETIN 2021-3

TO: Insurance Companies, Producers
FROM: Jon Godfread, Commissioner 
DATE: July 30, 2021
SUBJECT: North Dakota Value Added Services/Rebates

Effective August 1, 2021, insurers and producers will be able to offer value-added products or services for loss control or loss mitigation to policyholders. This is due to changes made to North Dakota Century Code §§ 26.1-04-03 (8) and 26.1-25-16 by the 67th Legislative Assembly in Senate Bill 2072.

The North Dakota Insurance Department (the Department) is issuing this bulletin for the purpose of clarifying changes as a result of this legislation and to outline the process that insurers and producers must follow if they wish to offer a value-added service or product.

With the changes in Senate Bill 2072, value-added products or services may be offered at no additional charge or at a discounted price, subject to the guidance in this bulletin without violation of the anti-rebating prohibition.

To qualify as a value-added product or service, the value-added product or service must educate, assess, monitor, control or otherwise mitigate risk of loss to persons or property. Value-added products or services are no longer required to be specified in the form or rate filings and the Department asks that they not be included as a part of any filing. However, the Department does require notification of what the value-added product or service will be.

The form on which this disclosure is required to be completed can be accessed at bit.ly/3BVqLNb.

Please note that rebates (i.e., non value-added products or services that are a promotional items with an aggregate retail value greater than \$100 per person per year or anything of value given as an inducement to purchase insurance) from insurance companies and producers is still prohibited and that disclosing an illegal rebate to the Department does not make the rebate legal.

Each value-added service or product is unique; however, the Department's expectation is that the value-added services or products will satisfy the following criteria:

1. Does the value-added product or service, taken as a whole, foster the solvency of the applicable insurer and protect consumers?
2. Is the value-added product or service, taken as a whole, offered in a manner that is not unfairly discriminatory to consumers?
3. Does the value-added product or service mitigate loss or provide loss control that aligns with the risks of the policy, or educate about, assess risk, monitor risk, identify sources of risk, or develop strategies for eliminating or reducing risks in alignment with the policy?

Value-added products or services must comply with all provisions of North Dakota law. For example, value-added products or services must not translate to excessive or inadequate policy rates or result in unfair discrimination, and the value of the value-added product or service must be proportional to the risk insured.

The Department may request additional information regarding any value-added product or service as it deems necessary. The Department retains consumer protection authority over all value-added products and services and will disallow any service or product deemed harmful or unfair to consumers.

Pursuant to Senate Bill 2072, an insurer, producer, or representative of an insurer or producer may not offer or provide insurance as an inducement to the purchase of another policy or otherwise use the terms of "free" or "no cost" in an advertisement.

A producer, and only a producer, still may give a gift, promotional article, logo merchandise, meal, or entertainment activity if the cost does not exceed an aggregate retail value of \$100 per person per year. Likewise, a producer may make a donation, in any amount, to a nonprofit organization that is exempt from federal taxation as long as the donation is not an inducement. Offering (including in advertisements) anything of value as an inducement to purchase or obligating a purchase of insurance remain prohibited practices.

Additionally, an insurance producer may conduct raffles or drawings, if there is no financial cost to an entrant to participate, the drawing or raffle does not obligate a participant to purchase insurance, the prizes are not valued in excess of a reasonable amount determined by the commissioner, and the drawing or raffle is open to the public.

If you have questions about this Bulletin, please contact the North Dakota Insurance Department at 701-328-2440 or at insurance@nd.gov.