

**40-2209m. Same; marketing of coverage; prohibited activities; agents and brokers; written denial of coverage; third-party administrators; treatment of affiliated carriers.** (a) Each small employer carrier shall actively market health benefit plan coverage to eligible small employers in the state.

(b) (1) Except as provided in paragraph (2), no small employer carrier, agent or broker shall, directly or indirectly, engage in the following activities:

(A) Encouraging or directing small employers to refrain from filing an application for coverage with the small employer carrier because of the health status, claims experience, industry, occupation or geographic location of the small employer;

(B) encouraging or directing small employers to seek coverage from another carrier because of the health status, claims experience, industry, occupation or geographic location of the small employer.

(2) The provisions of paragraph (1) shall not apply with respect to information provided by a small employer carrier or producer to a small employer regarding the established geographic service area or a restricted network provision of a small employer carrier.

(c) (1) Except as provided in paragraph (2), no small employer carrier shall, directly or indirectly, enter into any contract, agreement or arrangement with an agent or broker that provides for or results in the compensation paid to such person for the sale of a health benefit plan to be varied because of the health status, claims experience, industry, occupation or geographic location of the small employer.

(2) Paragraph (1) shall not apply with respect to a compensation arrangement that provides compensation to an agent or broker on the basis of percentage of premium, provided that the percentage shall not vary because of the health status, claims experience, industry, occupation or geographic area of the small employer.

(d) No small employer carrier shall terminate, fail to renew or limit its contract or agreement of representation with an agent or broker for any reason related to the health status, claims experience, occupation, or geographic location of the small employers placed by the agent or broker with the small employer carrier.

(e) No small employer carrier, agent or broker shall induce or otherwise encourage a small employer to separate or otherwise exclude an employee from health coverage or benefits provided in connection with the employee's employment.

(f) Denial by a small employer carrier of an application for coverage from a small employer shall be in writing and shall state the reason or reasons for the denial.

(g) The commissioner may adopt rules and regulations setting forth additional standards to provide for the fair marketing and broad availability of health benefit plans to small employers in this state.

(h) If a small employer carrier enters into a contract, agreement or other arrangement with a third-party administrator to provide administrative, marketing or other services related to the offering of health benefit plans to small employers in this state, the third-party administrator shall be subject to this section as if it were a small employer carrier.

(i) Except as provided in paragraph (l) [(j)], for the purposes of this act, carriers that are affiliated companies or that are eligible to file a consolidated tax return shall be treated as one carrier and any restrictions or limitations imposed by this act shall apply as if all health benefit plans issued to small employers in this state by such affiliated carriers were issued by one carrier.

(j) An affiliated carrier that is a health maintenance organization having a certificate of authority under K.S.A. 40-3201 et seq., and amendments thereto, may be considered to be a separate carrier for the purpose of this act.

**History:** L. 1992, ch. 200, § 12; L. 1998, ch. 174, § 10; L. 2000, ch. 34, § 3; July 1.