

§ 1358.20. Duties of issuer as to marketing procedures; Prohibited acts

(a) An issuer, directly or through solicitors or other representatives, shall do each of the following:

(1) Establish marketing procedures to ensure that any comparison of Medicare supplement coverage by its solicitors or other representatives will be fair and accurate.

(2) Establish marketing procedures to ensure that excessive coverage is not sold or issued.

(3) Display prominently by type, stamp, or other appropriate means, on the first page of the outline of coverage and contract, the following:

“Notice to buyer: This Medicare supplement contract may not cover all of your medical expenses.”

(4) Inquire and otherwise make every reasonable effort to identify whether a prospective applicant for a Medicare supplement contract already has health care coverage and the types and amounts of that coverage.

(5) Provide, on the application form for Medicare supplement contracts, a statement that reads as follows: “A rate guide is available that compares the policies sold by different insurers. You can obtain a copy of this rate guide by calling the Department of Managed Health Care’s consumer toll-free telephone number (1-888-466-2219), by calling the Health Insurance Counseling and Advocacy Program (HICAP) toll-free telephone number (1-800-434-0222), or by accessing the Department of Managed Health Care’s internet website (www.dmhca.ca.gov).”

(6) Establish auditable procedures for verifying compliance with this subdivision.

(b) In addition to the practices prohibited by this code or any other law, the following acts and practices are prohibited:

(1) Twisting, which means knowingly making any misleading represen-

tation or incomplete or fraudulent comparison of any coverages or issuers for the purpose of inducing or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert any coverage or to take out coverage with another plan or insurer.

(2) High pressure tactics, which means employing any method of marketing having the effect of or tending to induce the purchase of coverage through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of coverage.

(3) Cold lead advertising, which means making use directly or indirectly of any method of marketing that fails to disclose in a conspicuous manner that a purpose of the method of marketing is the solicitation of coverage and that contact will be made by a health care service plan or its representative.

(c) The terms “Medicare supplement,” “Medigap,” “Medicare Wrap-Around” and words of similar import shall not be used unless the contract is issued in compliance with this article.

HISTORY:

Added Stats 2000 ch 706 § 2 (SB 764).
Amended Stats 2005 ch 206 § 15 (SB 375); Stats

2009 ch 10 § 12 (AB 1543), effective July 2,
2009; Stats 2019 ch 113 § 1 (AB 1802), effective
January 1, 2020.

§ 1358.21. Appropriateness of recommended purchase or replacement; Multiple contracts; Issuance to individual enrolled in Part C

(a) In recommending the purchase or replacement of any Medicare supplement coverage, an issuer or its representative shall make reasonable efforts to determine the appropriateness of a recommended purchase or replacement.

(b) Any sale of a Medicare supplement contract that will provide an individual more than one Medicare supplement policy or certificate, or contract, is prohibited.

(c) An issuer shall not issue a Medicare supplement contract to an individual enrolled in Medicare Part C unless the effective date of the coverage is after the termination date of the individual’s coverage under Medicare Part C.

HISTORY:

Added Stats 2000 ch 706 § 2 (SB 764).

Amended Stats 2005 ch 206 § 16 (SB 375),
effective January 1, 2006.