

**§ 1357.514. Disclosures in connection with offering**

In connection with the offering for sale of a small employer health care service plan contract subject to this article, each plan shall make a reasonable disclosure, as part of its solicitation and sales materials, of the following:

(a) The provisions concerning the plan's right to change premium rates and the factors other than provision of services experience that affect changes in premium rates. The plan shall disclose that claims experience cannot be used.

(b) Provisions relating to the guaranteed issue and renewal of contracts.

(c) A statement that no preexisting condition provisions shall be allowed.

(d) Provisions relating to the small employer's right to apply for any small employer health care service plan contract written, issued, or administered by the plan at the time of application for a new health care service plan contract, or at the time of renewal of a health care service plan contract, consistent with the requirements of PPACA.

(e) The availability, upon request, of a listing of all the plan's contracts and benefit plan designs offered, both inside and outside the Exchange, to small employers, including the rates for each contract.

(f) At the time it offers a contract to a small employer, each plan shall provide the small employer with a statement of all of its small employer health care service plan contracts, including the rates for each plan contract, in the service area in which the employer's employees and eligible depen-

dents who are to be covered by the plan contract work or reside. For purposes of this subdivision, plans that are affiliated plans or that are eligible to file a consolidated income tax return shall be treated as one health plan.

(g) Each plan shall do all of the following:

(1) Prepare a brochure that summarizes all of its plan contracts offered to small employers and to make this summary available to any small employer and to solicitors upon request. The summary shall include for each contract information on benefits provided, a generic description of the manner in which services are provided, such as how access to providers is limited, benefit limitations, required copayments and deductibles, and a telephone number that can be called for more detailed benefit information. Plans are required to keep the information contained in the brochure accurate and up to date and, upon updating the brochure, send copies to solicitors and solicitor firms with whom the plan contracts to solicit enrollments or subscriptions.

(2) For each contract, prepare a more detailed evidence of coverage and make it available to small employers, solicitors, and solicitor firms upon request. The evidence of coverage shall contain all information that a prudent buyer would need to be aware of in making contract selections.

(3) Provide copies of the current summary brochure to all solicitors and solicitor firms contracting with the plan to solicit enrollments or subscriptions from small employers.

For purposes of this subdivision, plans that are affiliated plans or that are eligible to file a consolidated income tax return shall be treated as one health plan.

(h) Every solicitor or solicitor firm contracting with one or more plans to solicit enrollments or subscriptions from small employers shall do all of the following:

(1) When providing information on contracts to a small employer but making no specific recommendations on particular plan contracts:

(A) Advise the small employer of the plan's obligation to sell to any small employer any small employer health care service plan contract, consistent with PPACA, and provide the small employer, upon request, with the actual rates that would be charged to that employer for a given contract.

(B) Notify the small employer that the solicitor or solicitor firm will procure rate and benefit information for the small employer on any plan contract offered by a plan whose contract the solicitor sells.

(C) Notify the small employer that upon request the solicitor or solicitor firm will provide the small employer with the summary brochure required under paragraph (1) of subdivision (g) for any plan contract offered by a plan with which the solicitor or solicitor firm has contracted to solicit enrollments or subscriptions.

(D) Notify the small employer of the availability of coverage and the availability of tax credits for certain employers consistent with PPACA and state law, including any rules, regulations, or guidance issued in connection therewith.

(2) When recommending a particular benefit plan design or designs, advise the small employer that, upon request, the agent will provide the

small employer with the brochure required by paragraph (1) of subdivision (g) containing the benefit plan design or designs being recommended by the agent or broker.

(3) Prior to filing an application for a small employer for a particular contract:

(A) For each of the plan contracts offered by the plan whose contract the solicitor or solicitor firm is offering, provide the small employer with the benefit summary required in paragraph (1) of subdivision (g) and the premium for that particular employer.

(B) Notify the small employer that, upon request, the solicitor or solicitor firm will provide the small employer with an evidence of coverage brochure for each contract the plan offers.

(C) Obtain a signed statement from the small employer acknowledging that the small employer has received the disclosures required by this section.

**HISTORY:**

Added Stats 2012 ch 852 § 3 (AB 1083), effective January 1, 2013. Amended Stats 2014 ch 195 § 5 (SB 1034), effective January 1, 2015.