

§ 1361. New or revised advertisements; Filing

(a) Except as provided in subdivision (b), no plan shall publish or distribute, or allow to be published or distributed on its behalf, any advertisement not subject to Section 1352.1 unless (1) a true copy thereof has first been filed with the director, at least 30 days prior to any such use, or any shorter period as the director by rule or order may allow, and (2) the director by notice has not found the advertisement, wholly or in part, to be untrue, misleading, deceptive, or otherwise not in compliance with this chapter or the rules thereunder, and specified the deficiencies, within the 30 days or any shorter time as the director by rule or order may allow.

(b) Except as provided in subdivision (c), a licensed plan which has been continuously licensed under this chapter for the preceding 18 months may publish or distribute or allow to be published or distributed on its behalf an advertisement not subject to Section 1352.1 without having filed the same for the director's prior approval, if the plan and the material comply with each of the following conditions:

(1) The advertisement or a material provision thereof has not been previously disapproved by the director by written notice to the plan and the plan reasonably believes that the advertisement does not violate any requirement of this chapter or the rules thereunder.

(2) The plan files a true copy of each new or materially revised advertisement, used by it or by any person acting on behalf of the plan, with the director not later than 10 business days after publication or distribution of the advertisement or within such additional period as the director may allow by rule or order.

(c) If the director finds that any advertisement of a plan has materially failed to comply with this chapter or the rules thereunder, the director may, by order, require the plan to publish in the same or similar medium, an approved correction or retraction of any untrue, misleading, or deceptive statement contained in the advertising, and may prohibit the plan from publishing or distributing, or allowing to be published or distributed on its behalf the advertisement or any new materially revised advertisement without first having filed a copy thereof with the director, 30 days prior to the publication or distribution thereof, or any shorter period specified in the order. An order issued under this subdivision shall be effective for 12 months from its issuance, and may be renewed by order if the advertisements submitted under this subdivision indicate difficulties of voluntary compliance with the applicable provisions of this chapter and the rules thereunder.

(d) A licensed plan or other person regulated under this chapter may, within 30 days after receipt of any notice or order under this section, file a written request for a hearing with the director.

(e) The director by rule or order may classify plans and advertisements and exempt certain classes, wholly or in part, either unconditionally or upon specified terms and conditions or for specified periods, from the application of subdivisions (a) and (b).

HISTORY:

Added Stats 1981 ch 662 § 4. Amended Stats 1986 ch 718 § 2; Stats 1999 ch 525 § 87 (AB 78),

effective January 1, 2000, operative July 1, 2000.

§ 1361.1. Purchase of health care coverage products; Specified methods prohibited

(a) It is an unfair business practice for a solicitor, solicitor firm, or representative of a health care service plan to sell, solicit, or negotiate the purchase of health care coverage products by any of the following methods:

(1) The use of a marketing technique known as cold lead advertising when marketing a Medicare product. As used in this section, “cold lead advertising” means making use directly or indirectly of a method of marketing that fails to disclose in a conspicuous manner that a purpose of the marketing is health care service plan sales solicitation and that contact will be made by a solicitor, solicitor firm, or representative of a health care service plan.

(2) The use of an appointment that was made to discuss a particular Medicare product or to solicit the sale of a particular Medicare product in order to solicit the sale of another Medicare product or other health care coverage products, unless the consumer specifically agrees in advance of the appointment to discuss that other Medicare product or other types of health care coverage products during the same appointment.

(b) As used in this section, “Medicare product” includes Medicare Parts A, B, C, and D, and Medicare supplement plans.

HISTORY:

Added Stats 2008 ch 744 § 1 (AB 2842), effective January 1, 2009. Amended Stats 2009

ch 140 § 97 (AB 1164), effective January 1, 2010.

