



STATE OF WEST VIRGINIA
Offices of the Insurance Commissioner

James A. Dodrill
Insurance Commissioner

September 2019

WEST VIRGINIA INFORMATIONAL LETTER

NO. 205

TO: All Insurance Companies, Insurance Trade Associations, Insurance Producers and Other Interested Persons

RE: Guidance on Rebating and Value-Added Products and Services

The purpose of this Informational Letter is to provide guidance from the West Virginia Offices of the Insurance Commissioner (WVOIC) to insurance producers, insurance companies and other related entities that wish to offer or provide products, services and/or programs to policyholders to identify, prevent or mitigate risk. Insurance companies desiring to provide innovative products, programs and/or services to their insureds have questioned whether providing these types of benefits is considered rebating in West Virginia. Of special interest are value-added services or products offered or provided without a fee or at a reduced fee. Examples may include, but are not limited to, connected technology devices or wearables, telematics, mobile apps, smart technology devices such as smart fire detectors, discounted wellness programs or gym memberships, or other items that relate to loss control or loss mitigation with respect to the risk covered under the policy, or risk assessments, risk control tools or claims assistance.

West Virginia law generally prohibits insurers from paying or giving, directly or indirectly, as an inducement to insurance or after insurance has been purchased, any valuable consideration not specified in the policy. *See* W. Va. § Code 33-11-4(8). This is commonly referred to as an “anti-rebating” law. Generally, rebates are thought of as “side deals” that are not included within the policy terms or the premium price and are not offered or available to all policyholders. The purpose of “anti-rebating” laws are to protect both insurance consumers and the insurance industry. A consumer’s choice to purchase insurance should not be influenced by inducements that could result in a consumer purchasing an unsuitable policy. Furthermore, anti-rebating laws protect insurer solvency and prevent predatory pricing.

However, the WVOIC believes that value-added products and services or programs may be offered to policyholders so long as they:

- a. Are clearly identified and included in the policy;
- b. Are directly related to, or in alignment with, the type of insurance policy offered; and
- c. Mitigate loss, provide loss control, assess and identify risk, or develop strategies for eliminating or reducing those risks.



An insurance company, by or through its producers or employees, may offer or provide products or services in conjunction with a policy of insurance for free or at a reduced price that are intended to educate, assess, monitor, control or prevent risk or loss. However, value-added products or services must comply with all other provisions of West Virginia law. The offering of these products must not threaten the solvency of an insurance company or unfairly discriminate. The primary focus of the insurance company should be on the quality of the product, not the inducement.

Innovative products and services are ever changing and evolving. Accordingly, the application of West Virginia's anti-rebating law to each situation will necessarily be fact specific and the WVOIC declines to officially sanction any specific value-added product or service. However, the WVOIC believes that providing a good product or service that **adds value** to the type of insurance offered is distinct from providing a policyholder with unrelated benefits or merchandise such as tickets to a concert or sporting event, televisions, coolers, BBQ grills or restaurant gift cards. This Informational Letter is not intended to modify or expand upon the definition of "nominal value" set forth in W.Va. Code R. § 114-70-3, which applies to such unrelated products or services that are not value-added. An insurance company or producer must still comply with two (2) requirements when giving or gifting benefits, products or services that do not add value to a policy, are not included in a policy, do not align with or relate to the type of insurance offered, and do not mitigate, control or assess risk. First, if the item gifted or given away is not a value-added product or service, it must cost \$25.00 or less. This applies on a per person, per year basis. Second, if the item gifted or given away is not a value-added product or service, it cannot be tied in any way to the purchase of insurance. For further questions on this issue, please see W.Va. Code R. § 114-70-1, *et seq.*

This guidance applies to insurance companies in the property and casualty, life, and health lines of insurance. Please e-mail any questions concerning this Informational Letter to: OICInformationalLetters@wv.gov or call (304) 558-0401.



James A. Dodrill
Insurance Commissioner