

Filing Memo

Subject: Value-added Programs

Applies to: All Health Lines

The Oregon Division of Financial Regulation (DFR) has seen an increase in advertisements that describe unfiled noninsurance “value-added” programs resulting in more objection letters, filing disapprovals, and filing withdrawals. To help insurers successfully file and offer value-added programs to Oregonians, DFR has prepared the following guidance.

### **Value-added programs**

Value-added programs include benefits and services used to solicit membership and enrollment in insurance products. Examples of value-added programs include reduced cost gym memberships, vision and dental discounts, chiropractic care services, and others. Under Oregon law value-added benefits and services are regulated under ORS 746.035 and ORS 746.045.

Oregon law requires value-added benefits and services be specified in the policy. General blanket statements in the policy or references to a carrier’s website do not fulfill the requirement. Oregon law does not permit insurers to advertise unfiled benefits, and insurers are responsible for the fair and accurate representation and administration of all benefits advertised.

Value-added programs that are not specified in the policy and only appear in advertisements will be subject to filing disapproval and potential enforcement action. If advertisements include information about value-added program(s), the information should match that filed with DFR in the underlying policy. If a third-party administrator, as defined under Oregon law, administers the value-added benefit or service, additional regulations related to third-party administrators from ORS Chapter 744 also apply.

## **What level of specificity should DFR see the policy to meet the “specified in the policy” standard?**

The benefit or service must be described so a consumer or DFR reviewer understands how it functions. Generally these questions must be answered in the policy to inform consumers who want to access the benefit:

- What is the benefit or service?
- Who administers each of the value-added program(s) offered, and what is their member contact information?
- Who is eligible for the benefit or service? Do all members have equal access to the same benefits and services?
- What is the member cost to access the benefit?
- Are there any limitations or exceptions to the benefit or service?
- Where or how can members access the benefit or service? If web access is required, explain how members without internet can gain access to the benefits?
- When is the benefit or service available?
- How will the member be notified if the benefit or service has been terminated?

## **Additional supporting documentation**

Besides ensuring that the policy meets the disclosure requirements to members, DFR needs to understand how the value-added program will be administered, including any cost incurred or savings received by the carrier for offering the program. These questions should be answered under the Supporting Documentation tab in SERFF:

1. Is the value-added program and any benefits included administered by a third party? If yes, please explain the relationship between the licensed insurer and the third-party administrator. When did or does the agreement begin, and when might it be expected to end? Under ORS 744.740, the licensed insurer is responsible for fair administration of benefits, even when the benefits are provided by a third party.
2. Will the company and third party exchange consumer information? If yes, what information is provided to the third party and how is this information protected? How and when are members notified that their information will be shared in order to participate in the program?
3. What is the per-member per-month (PMPM) cost or savings to the carrier for operating the value-added program? For programs with no cost to operate, please provide the savings or other benefit the carrier expects to receive from making the program available.

Carriers advertise the benefits of value-added noninsurance products and services to entice consumers to purchase their products. In doing so, carriers need to acknowledge their responsibility in bringing together a consumer with a partner entity with whom that person might not otherwise have been in contact. In associating with a third-party entity, carriers assume additional risk because a member's interaction with that other entity can influence their overall opinion of their relationship with the carrier.

DFR expects that carriers will contract only with those entities having proven histories of providing positive client interactions and protection of client information. If this turns out to not be the case, the carrier's reputation may suffer and enforcement action may be considered, in addition to whatever other market conduct work may result.