
OLR Bill Analysis

HB 5388

AN ACT CONCERNING THE INSURANCE DEPARTMENT'S RECOMMENDATIONS REGARDING VALUE-ADDED PRODUCTS OR SERVICES AND PROHIBITED INSURANCE PRACTICES.

SUMMARY

This bill allows certain insurance providers (i.e., insurers, fraternal benefit societies, attorneys, insurance producers, and others) to provide, under certain conditions, value-added products or services to a customer (e.g., insured, certificate holder, or applicant) at no cost or a reduced cost even though the product or service is not specified in the customer's insurance policy. Although current law prohibits providing a customer with any consideration or inducement not specified in an insurance policy, Insurance Department Bulletin S-18 (December 18, 2019) already makes some allowance for value-added products or services.

Under the bill, the value-added products or services must (1) relate to the customer's insurance coverage; (2) be designed to provide loss control, reduce claim costs, or enhance health or financial wellness, among other things; and (3) be provided in a fair and nondiscriminatory way.

The bill also authorizes the insurance providers to offer or give a non-cash gift, item, or service to or on behalf of a customer in connection with an insurance contract under certain specified conditions (e.g., the offer must be at a reasonable cost and be fair and nondiscriminatory).

Additionally, the bill prohibits the insurance providers from (1) offering or providing insurance as an inducement to purchase another insurance policy or (2) using the words "free" or "no cost," or words with similar meaning, in any advertisement.

Violations of the bill's provisions are subject to certain existing

penalties.

Lastly, the bill authorizes the insurance commissioner to adopt related regulations.

EFFECTIVE DATE: October 1, 2022

VALUE-ADDED PRODUCTS OR SERVICES

Required Criteria

The bill allows insurance providers to provide, under certain conditions, value-added products or services to a customer at no cost or a reduced cost even though the product or service is not specified in the customer's insurance policy.

Under the bill, the product or service must relate to the customer's insurance coverage and be primarily designed to:

1. provide loss mitigation or control;
2. reduce claim costs or claim settlement costs;
3. educate about liability risks or risk of loss;
4. monitor or assess risk, identify sources of risk, or develop ways to reduce or eliminate risk;
5. enhance health or financial wellness;
6. provide post-loss services;
7. incentivize behavioral changes to improve health or reduce risk of death or disability; or
8. help in administering employee or retiree benefit insurance coverage.

The cost of the product or service to the insurance provider must be reasonable in comparison to the customer's insurance premium or coverage in the insurance commissioner's opinion. Additionally, the customer must receive contact information for help with questions

about the product or service.

The bill requires that the product or service be offered and provided in a way that is not unfairly discriminatory in the insurance commissioner's opinion. Its availability must be based on documented, objective criteria, which the insurance provider providing the product or service must maintain and provide to the commissioner upon request.

Pilot or Test Program

Under the bill, if insurance providers do not have evidence to demonstrate to the commissioner that a value-added product or service meets the above criteria but believe in good faith that it does, then they may offer and provide the product or service as part of a pilot or test program for up to one year.

In this case, the bill requires that the product or service be offered and provided in a way that is not unfairly discriminatory in the commissioner's opinion. The insurance provider also must give advance notice to the commissioner of the intention to begin a pilot or test program. The commissioner must notify them within 21 days after receiving notice if he determines that they cannot do so.

NON-CASH GIFT, ITEM, OR SERVICE

The bill authorizes insurance providers to offer or give a non-cash gift, item, or service to or on behalf of a customer in connection with the marketing, sale, purchase, or retention of an insurance contract if:

1. its cost does not exceed an amount the insurance commissioner deems reasonable per policy year per term;
2. the offer is not unfairly discriminatory in the commissioner's opinion; and
3. the customer does not have to purchase, continue to purchase, or renew an insurance policy in exchange for the gift, item, or service.

Similarly, the bill allows an insurance provider to offer or give a non-cash gift, item, or service to a commercial or institutional customer in connection with the marketing, purchase, or retention of an insurance contract if:

1. its cost is reasonable compared to the insurance contract's premium in the commissioner's opinion;
2. its cost is not included in an amount charged to another person;
3. the offer is not unfairly discriminatory in the commissioner's opinion; and
4. the customer does not have to purchase, continue to purchase, or renew an insurance policy in exchange for the gift, item, or service.

PENALTIES

An insurance company, attorney, producer, or other person who violates the bill's provisions commits a Connecticut Unfair Insurance Practices Act violation (CGS § 38a-816(9), see BACKGROUND).

A fraternal benefit society, agent, solicitor, or other party that willfully violates the bill's provisions, or neglects or refuses to comply with them, is subject to a fine of up to \$4,000 (CGS § 38a-626).

BACKGROUND

Connecticut Unfair Insurance Practices Act

The law prohibits engaging in unfair or deceptive acts or practices in the business of insurance. It authorizes the insurance commissioner to conduct investigations and hearings, issue cease and desist orders, impose fines, revoke or suspend licenses, and order restitution for per se violations (i.e., violations specifically listed in statute). The law also allows the commissioner to ask the attorney general to seek injunctive relief in Superior Court if he believes someone is engaging in other unfair or deceptive acts not specifically defined in statute.

Fines may be up to (1) \$5,000 per violation to a \$50,000 maximum or

(2) \$25,000 per violation to a \$250,000 maximum in any six-month period if the violation was knowingly committed. The law also imposes a fine of up to \$50,000, in addition to or in lieu of a license suspension or revocation, for violating a cease and desist order (CGS § 38a-815 et seq.).

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable

Yea 15 Nay 2 (03/22/2022)