STATE OF INDIANA
MITCHELL E. DANIELS, JR., Governor

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CAROL CUTTER, Commissioner

September 30, 2010

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Dear Roger and Steve:

After many years of discussion, debate, and input from the insurance industry, Bulletin 177, Rebating and Referral Fees, was issued by the Acting Commissioner on April 16, 2010. Since that time, some questions have been raised concerning application of the bulletin to certain hypothetical situations. While the Department does not intend to issue an amended bulletin, we believe it would be helpful to provide answers to the following frequently asked questions.

1. **Does the Bulletin preclude sponsorship of charitable activities or events including little league baseball teams for advertising purposes?**

   The Bulletin does not prohibit general advertising expenses and certainly is not intended to discourage participation in community-building activities. However, sponsorship payments that exceed those paid by similar sponsors or advertising fees that are above the normal cost or the fair market value of the advertising could be reviewed by the Department as a potential inducements to purchase or renew insurance.

2. **Can an insurer or agent offer tickets, food, or premium seating to employees, agents, customers, potential customers, and vendors at a sponsored sporting event where loss control and risk management material are also available?**

   The Department is not concerned about such offers made to the insurer's employees, agents, or vendors. Offering these items to customers or potential customers could be regarded as a gift and the restrictions on gift-giving in Bulletin 177 would apply. However, the Department is aware that reasonable expenses are incurred for client interaction during the policy period, where the purpose is to enhance the agent's working relationship with the insured or to gain a more thorough knowledge of the client's operations or insurance needs, and that not all of these interactions involve an inducement to, or a condition of, purchase or renewal of insurance. The Department will look at this issue on a case by case basis.

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3. **Does offering select customers or potential customers webinars on loss control, valued at $150, for free constitute rebating?**

   The Department considers this to fall under the loss control exception in Bulletin 177 and would not be prohibited.

4. **Will the Department agree to remove the word "meals" from the gift limitation in the bulletin?**

   While the Department recognizes that the cost of meals, especially dinners, often exceeds the bulletin's gift limitation, it is, however, concerned about any gift that may operate as an inducement to purchase or renew insurance. While the word "meals' will remain in the bulletin, the Department will look at this issue on a case by case basis.

5. **Is the Department willing to remove the bulletin's prohibition against referrals to third-party service providers that offer discounted rates contingent upon the purchase or renewal of insurance?**

   The Department declines to delete this portion of the bulletin. However, if the third-party service providers make the same discount available through all producers or agencies, the Department's position is that such a discount would cease to operate as an inducement to purchase or renew insurance and would not be prohibited.

6. **Does the Bulletin apply to insurance trade groups and organizations?**

   The purpose of Bulletin 177 is to provide guidance in understanding Indiana state law prohibiting rebating. The Department's concern is the relationship of producers, agencies, and insurers with the public. Since the public does not purchase or renew insurance directly from any trade group or organization, the Department does not anticipate that disciplinary action against such entities would be necessary.

Doug Webber
Chief Legal Counsel