



CIBGNY Advocacy

What You Need to Know About Producer Compensation Disclosure Regulation

Overview of the Regulation

Regulation 194 will take effect January 1, 2011 unless our legal challenge stops it.

It will apply to all new insurance policies (personal, commercial, life, and health) as well as to renewal policies if the purchaser requests this information.

Records of the producer's disclosure actions must be kept for three years.

Definition of "Compensation"

"Compensation" means anything of value, including money, credits, loans, interest on premium, forgiveness of principal or interest, trips, prizes, or gifts, whether paid as commission or otherwise. Compensation does not mean tangible goods with the insurer name, logo or other advertisement and having an aggregate value of less than \$100 per year per insurer.

Regulation 194 2-Step Process:

❖ Step 1

Prior to or at the time of application, the producer must verbally disclose and then provide the following information in writing to the consumer:

- Discuss the role of the producer in the transaction
- A statement that the producer is being paid by the insurance company
- State that the compensation the producer receives can vary by company and line of business
- Disclose that the consumer can ask for additional information

❖ Step 2

If the consumer asks for additional information, the producer must provide in writing:

- The amount and nature of the compensation received... and who the producer receives it from
- If the amount is unknown because of contingency or profit-sharing, the producer must provide an estimate of the amount or value
- A description of any alternative quotes presented by the producer (coverage, premium, and compensation)
- Disclose if the producer has any ownership interest in the company or if the company has any ownership interest in the producer
- Describe the anti-rebating laws to ensure that the consumer knows they can not change any commissions being paid



CIB's Advocacy Efforts

CIB filed numerous letters of concern with the New York State Insurance Department over the past two years, outlining problems with the various versions of Drafts of Reg. 194, and actively participated in Departmental work groups to discuss the same, raising valid arguments:

* That existing laws, regulations and Circular Letters already require disclosure of broker compensation agreements in certain circumstances and that written disclosures must be made whenever a client agrees to pay a consulting fee to a broker, including disclosing that commissions may be earned in addition to such fee (see NY Ins. Law §2119 and Circular Letter 22 (1998)).

* That it is the practice of insurance producers to seek the best coverage and most competitive offers for their clients. While being the ethical approach, it is necessary to remain professionally viable in the highly competitive insurance marketplace.

* That disclosure of commissions earned by a specific broker or agent would not provide an insurance consumer with any valuable information, since they are included in the filed premium rates quoted that do not change. Moreover, disclosure of actual compensation rates to consumers may invite negotiation of commissions between insurance producers and consumers in violation of the anti-rebating law (see NY Ins. Law §2324).

CIB also worked with a broad "all-industry" coalition of stakeholders across all major lines of insurance (e.g., property/casualty, life and accident & health) to express their concerns.

CIB has also held ongoing discussions with the Senate and Assembly Insurance Committees, to seek a legislative remedy that may supersede Reg. 194 by statute.

Throughout all these discussions, CIB has maintained its strongly held belief that adequate statutory, regulatory and administrative safeguards already exist that require transparency and disclosure of compensation arrangements to insurance consumers, that additional mandates are unnecessary, and that there have been no consumer complaints regarding producer compensation.

After much discussion and debate, the CIB Board of Directors, on April 8, 2010, the CIB Board voted unanimously to hire litigation counsel to commence an Article 78 Proceeding to overturn Reg. 194 to protect its members' professionalism and livelihood.



What You Can Do

Your continued membership, support of CIBGNY advocacy efforts, and helping to spread the word to your fellow agents and brokers, insurance carriers and other industry groups will help CIBGNY in our commitment to fighting this burdensome and unnecessary regulation.

If you are not a member, now is the time to join.

Visit our web site at www.cibgny.com for a membership application.

Or call Michael Cracco, CIBGNY Membership Chair at 516-795-2642