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NAIC Executive Committee Updates UTPA Rebate Language

The National Association of Insurance Commissioners' Executive Committee adopted an amendment to the NAIC Unfair Trade Practices Act that would liberalize the existing restrictions contained in the Model Act's anti-rebating provisions.

The adopted language allows insurers or producers to "offer or give non-cash gifts, items, or services, including meals to or charitable donations on behalf of a customer, in connection with the marketing, sale, purchase, or retention of contracts of insurance." The revised language provides that offering or providing products or services that will help mitigate risk or loss will not be considered impermissible rebates.

NAIFA commented on the revisions to the UTPA in a letter sent in July to the NAIC's Innovation and Technology (EX) Task Force.

NAIFA commended the NAIC for undertaking a review of the current UTPA provisions that deal with rebating, with an eye towards modernizing the model in recognition of technological and risk/loss mitigation advances that have occurred in recent years.

"Basically, recent technology advances generally referred to as 'insuretech' have resulted in the development of products that will aid in risk and loss mitigation," said Gary Sanders, NAIFA's Counsel and VP. "Things such as Fitbits and monitors that will tell you that your water heat is leaking, etc. can help reduce risks for consumers and losses for insurers."

In general, NAIFA supports the approach taken in the draft as well as the scope of the proposed expansion of the types of practices, products and/or services that would not be considered an impermissible rebate.

The amendments also allow each state commissioner to impose a cap on the dollar amount of gift, meals and similar items that can be provided without running afoul of the anti-rebate laws.

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