

### **304.17A-150 Unfair trade practices -- Penalties.**

- (1) On and after July 15, 1995, it is an unfair trade practice for an insurer, agent, broker, or any other person in the business of marketing and selling health plans, to commit or perform any of the following acts:
  - (a) Encourage individuals or groups to refrain from filing an application for coverage with the insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or
  - (b) Encourage or direct individuals or groups to seek coverage from another insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or
  - (c) Encourage an employer to exclude an employee from coverage.

The provisions of this subsection shall not apply to information provided regarding the established geographic service area of an insurer.

- (2) It is an unfair trade practice for an insurer to compensate an agent, broker, or any other person in the business of marketing and selling health plans on the basis of the health status, claims experience, industry, occupation, or geographic location of the insured or prospective insured, except as provided in KRS 304.17B-001 to 304.17B-031.
- (3) It shall constitute an unfair trade practice for any insurer, insurance agent, or third-party administrator to refer an individual to Kentucky Access, or to arrange for an individual to apply to Kentucky Access, for the purpose of separating an individual from group health insurance coverage.
- (4) It is an unfair trade practice for an insurer that offers multiple health benefit plans to require a health care provider, as a condition of participation in a health benefit plan of the insurer, to participate in any of the insurer's other health benefit plans. In addition to the proceedings and penalties provided in this chapter for violation of this provision, a contract provision violating this subsection is void.
- (5) It is an unfair trade practice for an insurer not to compute an insured's coinsurance or cost sharing on the basis of the amount actually received by a health-care provider from the insurer.
- (6) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any insurer that fails to pay an assessment under KRS 304.17B-021. As an alternative, the commissioner may levy a civil penalty on any member insurer that fails to pay the assessment when due. The civil penalty shall not exceed five percent (5%) of the unpaid assessment per month, but no civil penalty shall be less than one hundred dollars (\$100) per month.
- (7) The remedy provided by KRS 304.12-120 shall be available for conduct proscribed by this section.
- (8) It is an unfair claims settlement practice for any person to make claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which the payments are being made in instances in which the insured has a liability under the policy beyond his or her copayment or deductible.

- (9) It is an unfair trade practice to impose requirements in a provider contract or agreement with a doctor of chiropractic licensed pursuant to KRS Chapter 312 that restrict, reduce, or negate the benefits that are otherwise provided to a person covered under a health benefit plan. Nothing in this subsection shall be construed to prevent an insurer from performing a utilization review in accordance with KRS 304.17A-600 to 304.17A-633.

**Effective:** July 12, 2012

**History:** Amended 2012 Ky. Acts ch. 116, sec. 9, effective July 12, 2012. -- Amended 2010 Ky. Acts ch. 24, sec. 1216, effective July 15, 2010. -- Amended 2002 Ky. Acts ch. 351, sec. 4, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 468, sec. 1, effective July 14, 2000; ch. 476, sec. 20, effective January 1, 2001; and ch. 521, sec. 15, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 271, sec. 1, effective July 15, 1998; and ch. 496, sec. 44, effective April 10, 1998. -- Created 1994 Ky. Acts ch. 512, sec. 58, effective July 15, 1994.