



**OFFICE OF
INSURANCE COMMISSIONER**

Technical Assistance Advisory 2018-01¹

TO: All Insurers Transacting Business in the State of Washington

FROM: Insurance Commissioner, Mike Kreidler

DATE: April 18, 2018

**SUBJECT: Implementation Credits as Illegal
Inducement or Rebate**



Background

The Insurance Commissioner has become aware that requests for “implementation credits” are becoming increasingly common in the insurance industry. “Implementation credit” is an insurance industry term that includes the payment by an insurer² to an insured, typically a group policyholder, in order to offset expenses incurred by an employer or group customer in changing coverages from one insurer to another, or for otherwise implementing new insurance coverage.

Credit requests are especially common in Requests For Proposals (“RFPs”) issued by employers with many employees, in connection with soliciting bids for a variety of insurance coverages including life, dental, vision, and disability benefits. Some of these large or group employers may include state or local government entities.

Illegal Inducements or Rebates

However, an insurer paying, offering, promising or agreeing to pay implementation credits violates Washington insurance law as an illegal inducement or rebating. The specific Washington insurance law provision that prohibits implementation credits clearly indicates no insurer may pay, offer, promise, allow, give or set off to any insured any rebate, discount, or other benefit, or other valuable consideration that is not contained in the policy as an inducement to insurance, or after

¹ This advisory is an interpretive policy statement released to advise the public of the OIC’s current opinions, approaches, and likely courses of action. It is advisory only. RCW 34.05.230(1).

² “Insurer,” for purposes of RCW 48.30.140(1) and this TAA, includes but is not limited to insurers operating with a certificate of authority under Chapter 48.05 RCW, health care service contractors regulated under Chapter 48.44 RCW, and health maintenance organizations regulated under Chapter 48.46 RCW.

insurance has been effected.³ An inducement to insurance is any offer, gift, or promise of some benefit or value to a person in order to persuade that person to obtain insurance coverage.⁴

Implementation credits violate this Washington insurance law. The implementation credits are intended to induce a potential customer to obtain insurance with the offering insurer. Implementation credits are often very valuable, sometimes worth hundreds of thousands of dollars, and are a significant benefit to the recipient. The use of implementation credits constitutes an illegal inducement or rebate within the meaning of Washington law and is, therefore, prohibited.

Insurance Commissioner's Action

As the use of implementation credits by an insurer violates Washington law, offering, promising, allowing, giving or paying any such credits is prohibited in any insurance transaction. Further, such credits should not be requested by any customer, regardless of size or governmental status.

Any filings seeking the Insurance Commissioner's approval that include implementation credits have been or will be rejected.⁵

An insurer that offers, allows, sets off, gives or pays an implementation credit in Washington has committed an insurance law violation and will be subject to enforcement actions, which may include an order to cease and desist, a fine, or a combination of penalties.⁶

Please direct any questions about this advisory to Darryl E. Colman, Insurance Enforcement Specialist, at DarrylC@oic.wa.gov, or at 360-725-7118.

³ RCW 48.30.140(1).

⁴ OIC Final Order 16-0219, pages 9-10; RCW 48.30.140(1).

⁵ RCW 48.18.100.

⁶ RCW 48.05.185; RCW 48.44.166; RCW 48.46.135; RCW 48.02.080.