



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB1525

Introduced 2/10/2005, by Rep. Linda Chapa LaVia - Marlow H. Colvin - Michael P. McAuliffe - Jack McGuire - Elaine Nekritz

SYNOPSIS AS INTRODUCED:

815 ILCS 505/2B.3

Amends the Consumer Fraud and Deceptive Business Practices Act. Provides that it is an unlawful practice if an entity which sells health-related cash discount cards fails to register as an administrator of a preferred provider organization with the Illinois Division of Insurance. Prohibits a health-related discount card organization from engaging in specific activities. Provides that it is an unlawful practice if certain disclosures are not made in writing to a prospective member before purchase. Provides that it is an unlawful practice if the health-related cash discount card organization does not provide the customer a right to cancel, with full reimbursement of all membership and enrollment fees, within 30 days after the date of purchase. Provides that it is an unlawful practice if a health-related cash discount card does not safeguard protected health information.

LRB094 07965 RXD 38146 b

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Consumer Fraud and Deceptive Business
5 Practices Act is amended by changing Section 2B.3 as follows:

6 (815 ILCS 505/2B.3)

7 Sec. 2B.3. Health-related cash discount cards.

8 (a) Deceptive sale or promotion of health-related cash
9 discount cards. It is an unlawful practice for any person to
10 sell, market, promote, advertise, or otherwise distribute any
11 card or other purchasing mechanism or device that purports to
12 offer discounts or access to discounts from health care
13 providers in health related purchases if:

14 (1) the card or other purchasing mechanism or device
15 does not expressly provide in bold and prominent type that
16 the discounts are not insurance;

17 (2) the discounts are not specifically authorized by a
18 contract with each health care provider listed in
19 conjunction with the card or other purchasing mechanism or
20 device as outlined in subsection (e) of this Section; or

21 (3) the discounts or access to discounts offered or the
22 range of discounts or access to the range of discounts
23 offered are misleading, deceptive or fraudulent,
24 regardless of the literal wording used.

25 (b) Registration. It is an unlawful practice if an entity
26 which sells health-related cash discount cards fails to
27 register as an administrator of a preferred provider
28 organization with the Illinois Division of Insurance as
29 required by Article XX 1/2 of the Illinois Insurance Code.

30 (c) Prohibited activities of a health-related cash
31 discount card organization.

32 (1) It is unlawful practice for a health-related cash

1 discount card organization to:

2 (A) Use in its advertisements, marketing material,
3 brochures, and discount cards the term "insurance"
4 except as otherwise provided in this Section;

5 (B) Use in its advertisements, marketing material,
6 brochures, and discount cards the terms "health plan",
7 "coverage", "copay", "copayments", "preexisting
8 conditions", "guaranteed issue", "premium",
9 "enrollment", "PPO", "preferred provider
10 organization", or other terms that could reasonably
11 mislead a person into believing the health-related
12 cash discount card was health insurance;

13 (C) Have restrictions on free access to plan
14 providers, including, but not limited to, waiting
15 periods and notification periods; or

16 (D) Pay providers any fees for medical services.

17 (2) It is an unlawful practice for a health-related
18 cash discount card organization to collect or accept money
19 from a member for payment to a provider for specific
20 medical services furnished or to be furnished to the
21 member.

22 (3) It is an unlawful practice if a health-related cash
23 discount card organization offers for sale a type of
24 service without having a provider available within a
25 prospective customer's service area (area defined by
26 consumer's zip code, or within 50 miles thereof) that is
27 contractually bound to honor the discount card.

28 (d) Prepayment disclosures.

29 (1) It is an unlawful practice if the following
30 disclosures are not made in writing to any prospective
31 member before purchase and are not on the first page of any
32 advertisements, marketing materials, or brochures relating
33 to a health-related cash discount card:

34 (A) That the plan provides discounts at certain
35 health care providers for medical services.

36 (B) That the plan does not make payments directly

1 to the providers of medical services.

2 (C) That the plan member is obligated to pay for
3 all health care services but will receive a discount
4 from those health care providers who have contracted
5 with the discount plan organization.

6 (D) The corporate name, locations, and toll-free
7 customer service number of the licensed health-related
8 cash discount card organization.

9 The disclosures must be printed in not less than 12-point
10 font or no smaller than the largest font on the page if larger
11 than 12-point font.

12 (2) It is an unlawful practice if a health-related cash
13 discount card organization does not provide each
14 prospective customer before purchase:

15 (A) A written list for each type of service offered
16 in conjunction with the health-related cash discount
17 card containing the name, address, and phone number of
18 the closest 25 health care providers in the prospective
19 customer's service area (area defined by consumer's
20 zip code, or within 50 miles thereof) that are
21 contractually bound to honor the discount card. The
22 written list of providers may be provided
23 electronically if requested in that format by the
24 prospective customer.

25 (B) For each provider disclosed in subparagraph
26 (A) of paragraph (2) of this subsection, the
27 health-related cash discount card organization must
28 provide the prospective member with the negotiated fee
29 schedule for the most common health care procedures,
30 and other comparable rate information which supports
31 the discount claims of the discount plan organization.
32 The fee schedules may be provided electronically if
33 requested in that format by the prospective customer.

34 (e) Right to cancel. It is an unlawful practice if the
35 health-related cash discount card organization does not
36 provide the customer a right to cancel, with full reimbursement

1 of all membership and enrollment fees, within 30 days after the
2 date of purchase.

3 (f) Provider agreements.

4 (1) The contract required in paragraph (2) of
5 subsection (a) of this Section may be entered into directly
6 by the provider or by a provider network to which the
7 provider belongs.

8 (2) It is an unlawful practice if a provider agreement
9 does not include the following:

10 (A) A list of the services and products to be
11 provided at a discount.

12 (B) The amount or amounts of the discounts or,
13 alternatively, a fee schedule which reflects the
14 provider's discounted rates.

15 (C) That the provider will not charge members more
16 than the discounted rates.

17 (3) It is an unlawful practice if a provider agreement
18 between a health-related cash discount card organization
19 and a provider network does not require that the provider
20 network have written agreements with its providers which:

21 (A) Contain the terms described in paragraph (2) of
22 this subsection.

23 (B) Authorize the provider network to contract
24 with the health-related cash discount card
25 organization on behalf of the provider.

26 (C) Require the network to maintain an up-to-date
27 list of its contracted providers and to provide that
28 list on a monthly basis to the health-related cash
29 discount card organization.

30 (4) It is an unlawful practice if the health-related
31 cash discount card organization does not maintain a copy of
32 each active provider agreement.

33 (g) Provider name listing. It is an unlawful practice if
34 each health-related cash discount card organization does not
35 maintain an up-to-date list of the names and addresses of the
36 providers with which it has contracted, available to consumers

1 by a toll-free customer service number and on an Internet
2 website page, and the web address and phone number shall be
3 prominently displayed on all its advertisements, marketing
4 materials, brochures, and discount cards. This subsection
5 applies to those providers with whom the health-related cash
6 discount card organization has contracted directly, as well as
7 those who are members of a provider network with which the
8 health-related cash discount card organization has contracted.

9 (h) Bundling health-related cash discount cards with other
10 products. It is an unlawful practice if a marketer or
11 health-related cash discount card organization sells a
12 health-related cash discount card together with any other
13 product and the fees for each individual product are not
14 provided in writing to the member and itemized. If any of the
15 additional products are insurance products, they must be
16 itemized as such.

17 (i) Protection of personal health information. It is an
18 unlawful practice if a health-related cash discount card does
19 not safeguard protected health information as defined in the
20 Health Insurance Portability and Accountability Act of 1996, in
21 a manner consistent with the intent of the rule with regard to
22 consent, authorization, notice, public policy, permissible
23 uses and disclosures, and by limiting disclosure to the minimum
24 necessary.

25 (j) Insurance products or services.

26 (1) It is an unlawful practice if a health-related cash
27 discount card organization provides a product or service
28 which would be classified as insurance under the Illinois
29 Insurance Code to its members and does not comply with all
30 applicable provisions under State law.

31 (2) It is an unlawful practice if a health-related cash
32 discount card organization provides an insurance product
33 or service as outlined in paragraph (1) of this subsection,
34 and the company does not disclose in writing to a
35 prospective member before purchase the name, address, and
36 toll-free customer service number of the insurance company

1 providing the insurance product or service.

2 (k) Discount claims. It is an unlawful practice if a
3 health-related cash discount card organization does not adhere
4 to all of the Retail Advertising provisions in Title 14, Part
5 470 of the Illinois Administrative Code. It is an unlawful
6 practice for a health-related discount card organization to
7 state or imply that any products or services are being offered
8 for sale at a range of prices or at a range of percentage or
9 fractional discounts unless the highest price or lowest
10 discount in the range is clearly and conspicuously disclosed in
11 the advertisement and a reasonable number of these products or
12 services in the advertisement are offered with at least the
13 largest advertised discount. If a discount card organization
14 advertises a range of discounts, at least one provider within a
15 prospective member's geographic area must provide services at
16 the highest end of the range advertised.

17 (l) Fiduciary and bonding requirements. It is an unlawful
18 practice for a licensed health-related cash discount card
19 organization not to: (1) establish and maintain a fiduciary
20 account, separate and apart from any and all other accounts,
21 for use in protecting plan members; or (2) post or cause to be
22 posted a bond of indemnity in an amount equal to not less than
23 \$50,000. If a bond of indemnity is posted, it shall be held by
24 the Director of Insurance for the benefit of plan members under
25 the programs subject to this Section. An administrator who
26 operates more than one such program may establish and maintain
27 a separate fiduciary account or bond of indemnity for each such
28 program or may operate and maintain a consolidated fiduciary
29 account or bond of indemnity for all such programs.

30 (Source: P.A. 92-296, eff. 1-1-02.)