

4123-6-05.3 Employer access to the HPP; certain solicitation practices by MCOs prohibited.

(A) In soliciting employers as provided under rule 4123-6-05 of the Administrative Code, an MCO, or any parent, subsidiary, affiliated, or related entity, or any agent or person acting on behalf of an MCO or for the benefit of an MCO, shall not:

(1) Pay, allow, or give, or offer to pay, allow, or give, to any prospective employer or to any other person, firm, or corporation not an employee or agent of the MCO, either directly or indirectly, as an inducement to or in return for an employer's selection of the MCO for its employees' coverage under the HPP, any rebate, premium, or kickback, or any special favor or advantage, or any other valuable consideration or inducement not provided for under Chapter 4123-6 of the Administrative Code.

(2) Pay, allow, or give, or offer to pay, allow, or give any commission, consideration, money, or other thing of value to any person, firm, or corporation not an employee or agent of the MCO for soliciting, negotiating, procuring, placing, writing, renewing, forwarding, or transmitting to the bureau an employer's selection of the MCO for its employees' coverage under the HPP.

(3) Pay, allow, or give, or offer to pay, allow, or give lead fees to any person, firm, or corporation other than an employee or agent of the MCO. For purposes of this rule, "lead fees" are defined as payments by an MCO to any person, firm, or corporation other than an employee or agent of the MCO for referrals of prospective employers where such payments are:

(a) Conditioned on the prospective employer selecting the MCO for its employees' coverage under the HPP; and/or

(b) Not reasonably related to actual expense reimbursement by the MCO to the person, firm or corporation referring the prospective employer.

(B) Notwithstanding paragraph (A) of this rule, once an employer has selected an MCO under the HPP, the MCO may reimburse to a trade or business association certain expenses as provided in this paragraph of this rule.

(1) The trade or business association shall meet the requirements for being a sponsoring organization for group rating under section 4123.29 of the Revised Code and rules 4123-17-61 to 4123-17-68 of the Administrative Code.

(2) The MCO may reimburse to the trade or business association only the actual and reasonable expenses incurred by the trade or business association in marketing to or educating its member employers on the HPP and the MCO selection process.

(3) The reimbursement of a trade or business association's actual and reasonable expenses during a calendar year shall not exceed sixteen one-hundredths of one per cent (.16%) of the premium of those employers which are members of the trade or business association and which have selected the MCO. The premium used in calculating allowable reimbursement under this rule shall be the premium used by the bureau to calculate payments to the MCO under the payment provisions of the MCO contract.

(4) The MCO and the trade or business association shall keep accurate records of all marketing and education services provided to its member employers for a period of two years from the date of performance of any such service. The MCO and the trade association shall provide the bureau with access to such records within a reasonable time after a request for audit of such records by the bureau.

(C) Except as provided in paragraph (B) of this rule, no person, firm, or corporation not an employee or agent of the MCO shall knowingly receive any payment, commission, lead fee, rebate, premium or kickback, or any other valuable consideration or thing of value prohibited under paragraph (A) of this rule.

(D) An MCO that violates this rule may be subject to decertification or termination of its contract pursuant to the rules of this chapter of the Administrative Code.

Effective: 2/14/05

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