STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE

SUPERINTENDENT OF INSURANCE
Alice T. Kane

DEPUTY SUPERINTENDENT
Timothy Vigil

BULLETIN 2025-012

October 30, 2025

TO: ALL INSURERS AND PRODUCERS AUTHORIZED TO SELL EXCEPTED BENEFIT PLANS

RE: DECEPTIVE MARKETING AND ADVERTISING PRACTICES

This bulletin repeals and replaces Bulletin 2020-013.

The New Mexico Office of Superintendent of Insurance (OSI) is charged with protecting New Mexicans from misleading and deceptive practices connected to the marketing and advertising of excepted health benefit plans, i.e., limited benefit plans that do not offer the full coverage required by the Affordable Care Act (ACA).

Any marketing or advertising practice that suggests excepted benefit products are comparable or are major medical plans is deceptive, misleading and, thus, prohibited by Sections 59A-16-4, 59A-16-5 and 59A-16-20 NMSA 1978.

This bulletin identifies some specific deceptive and misleading marketing and advertising practices of which OSI has become aware of in the past and will take action against. These include:

- Representing that an excepted benefit plan provides benefits that it does not.
- Selling, or offering to sell, bundled accident-only, specified disease, hospital indemnity and non-subject worker plans to an individual in a single transaction, which is prohibited under 13.10.34.20(B) NMAC.
- Selling, or offering to sell, bundled accident-only, specified disease, hospital indemnity, and non-subject worker plans to an employer, association or cooperative group in a single transaction without including the disclosures required under 13.10.34.20(B) NMAC.

- Using terms such as "bronze," "silver," "gold," "platinum" or "essential health benefits" to describe the coverage or benefits included in an excepted benefit plan that are associated with an ACA-compliant plan.
- Using terms to describe the coverage or benefits included in an excepted benefit plan that are associated with comprehensive major medical coverage, such as "PPO," "network," "copay," "coinsurance," "direct pay to providers," or "dollar first plan."
- Selling an excepted benefit plan through an association or group, unless the group plan is in compliance with Sections 59A-23-3, 59A-23-8, 59A-23-9, 59A-23G-2(A) and 59A-23G-7 NMSA 1978 and approved by OSI, or selling association or group memberships in conjunction with the sale of excepted benefit products, which is prohibited under 13.10.34.20(B) NMAC.
- Failing to explain to a prospective purchaser the difference between a comprehensive major plan as defined in 13.10.29.7(M)(1) and the limited coverage provided by an excepted benefit plan.
- "Spoofing" phone numbers on a call recipient's caller ID display to pose as another caller to market insurance, especially if the number spoofed appears to be from another carrier, healthcare provider, or government agency.
- Providing a false name or National Producer Number (NPN).
- Soliciting sales of excepted benefit products through a website, printed advertisement, text message, or phone call without identifying the producer.
- Using printed advertising media that has not been approved by OSI.

Any producer who contacts a prospective purchaser of any health insurance or excepted benefit product shall disclose the producer's name and NPN number at the start of the contact. A producer who contacts a prospective purchaser by phone, but fails to connect with that contact, shall leave a voice message, if that option is available, that includes the producer's name and NPN.

Insurers have a duty to ensure that the advertising and marketing of their excepted benefit plans are not deceptive or misleading. OSI deems all unapproved forms to be deceptive and misleading and will hold plan issuers responsible for both direct marketing and indirect marketing through producers of such forms as well as misrepresentation of the coverage and benefits provided under approved forms. The marketing or sale of any plan using deceptive practice,

subjects both the producer and issuer to fines and penalties, including the revocation of a producer license or certificate of authority.

If you have questions regarding this bulletin, please contact the Life and Health Product Filing Bureau at life.health@osi.nm.gov.

ISSUED this 30th day of October 2025.

ALICE T. KANE
Superintendent of Insurance

SANTA FE LOCATION (MAIN OFFICE)
(OVERNIGHT/SECOND DAY MAIL ONLY)
1120 Paseo De Peralta, 4th Floor
Santa Fe, New Mexico 87501

(USPS MAIL ONLY)
P O Box 1689
Santa Fe, New Mexico 87504

Main Phone: (505) 827-4601 | Toll Free: (855) 4 - ASK - OSI
www.osi.state.nm.us