



NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

April 23, 2018

**TO: All Accident and Health Insurers Authorized to Write Individual and Small Group Accident and Health Insurance in New York State, Article 43 Corporations and Health Maintenance Organizations (collectively “issuers”)**

**RE: DFS Review of Producer Commissions for Comprehensive Medical Expense Policies**

Under Insurance Law §§ 3231(e)(1) and 4308(c), the superintendent may modify or disapprove the rate adjustment filing or application if the superintendent finds that the premiums are unreasonable, excessive, inadequate or unfairly discriminatory.

For many years, the Department of Financial Services has reviewed producer commissions and other fees and variation among issuers' commission and fee structures. Although commissions and fees on the sale of health maintenance organization contracts are capped at 4% by regulation, commissions and fees on the sale of other health insurance policies and contracts are not similarly capped. The Department is aware that producer commissions and fees are an element of issuers' rate setting. Because New York's health insurance market is best served by fair competition among all issuers, commissions and other fees should not be structured to give issuers an unfair market advantage. Therefore, in order to ensure a level playing field and market stability, we hereby instruct issuers that producer commissions and fees for any individual or small group policy over 4% will be viewed as presumptively unreasonable for the purposes of rate development, and issuers should not include any amounts of producer commissions or fees over 4% as part of premiums.

Thank you for your anticipated cooperation.

Very truly yours,

Troy Oechsner  
Deputy Superintendent for Health