

**DATE:** November 17th, 2011  
**TO:** All American Equity NMO's and Utah Agents  
**FROM:** Dave Milligan, Assistant Vice President - Regulatory Compliance  
**RE:** Utah Bulletin 2011-6 Inducements In Connection With An Insurance Contract

**IMPORTANT INFORMATION... PLEASE READ CAREFULLY**

The Utah Bulletin referenced above gives clarification to statues and rules regarding rebates and inducements. A copy is attached for your review and we strongly suggest you familiarize yourself with this bulletin and the rules it encompasses.

If you have any questions please see the contact information given in the bulletin or feel free to contact our Compliance Department.

[Click Here For the Utah Bulletin](#)

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11/17/11 - UT Inducements

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# ACLI Advance Regulation Service

## UTAH Bulletin 2011-6

### Inducements In Connection With The Sale, Continuation, Or Termination Of An Insurance Contract

Dated November 9, 2011

**Summary:** The bulletin clarifies the Insurance Department's interpretation of recent legislation increasing promotional items, gifts or social courtesies to not more than \$25 from \$3, and lists the activities or services that are permitted or forbidden to producers or licensees.

**Keywords:** producer regulation  
unfair trade practices

**This document updates the following Compliance Service(s):** Market Conduct

**Source:** Utah Department of Insurance website

**ACLI Doc ID:** 11UT09

Text of bulletin follows:



# Insurance Department

State of Utah

GARY R. HERBERT  
Governor

GREG BELL  
Lieutenant Governor

NEAL T. GOOCH  
Commissioner

## BULLETIN 2011-6

**To:** Agencies, Producers, Consultants, and other Individual Licensees  
**From:** Neal T. Gooch, Utah Insurance Commissioner  
**Date:** November 9, 2011  
**Subject:** **Inducements in Connection with the Sale, Continuation, or Termination of an Insurance Contract**

The intent of this Bulletin is to provide producers clarification of the Utah Insurance Department's (Department) interpretation of Utah Code Annotated (U.C.A.) §31A-23a-402.5 and Utah Administrative Code (U.A.C.) R590-154-11. U.C.A. §31A-23a-402.5(6), which was added in the 2011 Legislative Session, states: "*A de minimis gift or meal not to exceed \$25 for each individual receiving the gift or meal is presumed to be a social courtesy not conditioned on the purchase of a particular insurance product for the purposes of Subsection (4)(a).*" That law supersedes U.A.C. R590-154-11, which limited the value of promotional items or gifts to \$3.00.

Consequently, the market value of a promotional item, gift or social courtesy, which includes a meal, for each individual, may not exceed \$25.00. It is unlawful for an insurer, agency, producer, consultant or other licensee under the Insurance Code to condition the receipt of such a promotional item, gift or social courtesy on the purchase or retention of a particular insurance product. The Department notes that gifts or prizes offered or received through games of chance, such as a drawing or lottery, are prohibited and may be viewed as gambling per Utah Criminal Code §§76-10-1101 thru 1109.

This Bulletin does not apply to title producers, title agencies or title insurance companies.

**The following activities or services, provided such activities or services are directly related to servicing an insurance product purchased from a licensee, are permitted:**

- Answering human resource questions about employee benefits, employment practices liability, governmental compliance and providing limited human resource compliance training to explain insurance issues (U.C.A. 31A-23a-402.5(4)(d) and (e))
- Preparing or assisting with forms, including proof of coverage requests or benefit enrollment guidelines and employee communication materials and notifications (U.C.A. 31A-23a-402.5(4)(f), (g), (j), (t) and (u))
- Enrollment and billing assistance, including product benefit statements, new hire insurance benefit packages and technology services, such as an electronic enrollment platform or application system (U.C.A. 31A-23a-402.5(4)(h))

- Claims management and resolution, to the extent permitted under the licensee's license (U.C.A. 31A-23a-402.5(4)(k))
- Underwriting or actuarial analysis (U.C.A. 31A-23a-402.5(4)(l))
- Providing a health fair or assistance in a wellness program or preparing and providing documents directly related to a flexible spending account, but not payment for or directly providing ongoing administration for a wellness program or flexible spending account (U.C.A. 31A-23a-402.5(4)(g) and (o))
- Providing COBRA or mini-COBRA administration and providing information or services for ERISA and HIPAA compliance in relation to accident and health insurance products (U.C.A. 31A-23a-402.5(p), (r), and (s))
- Assisting with summary plan description or facilitating risk management services, as allowed by applicable licensure (U.C.A. 31A-23a-402.5(4)(q) and (v))

**The following are prohibited at all times (U.C.A. 31A-23a-402.5(5)):**

- Providing a premium or commission rebate (U.C.A. 31A-23a-402.5(5)(a)(i))
- Paying or contributing to the salary of an employee of a person who purchases an insurance product from the licensee; or, if the licensee is an insurer or a third party administrator that contracts with an insurer, that licensee may not pay or contribute to the salary of an on-site staff member to perform an act prohibited or required to be charged a fair market value for providing, as further outlined below (U.C.A. 31A-23a-402.5(5)(a)(ii) and (iii))

**The following are permitted only if the service or activity is paid for by the insured at, or a reasonable amount above, fair market value and directly related to an insurance product purchased from the licensee (U.C.A. 31A-21a-402.5(5), (7) and 31A-23a-501(2)):**

- Performing background checks of prospective employees (U.C.A. 31A-23a-402.5(5)(b)(i))
- Providing legal services by a person licensed to practice law (U.C.A. 31A-23a-402.5(5)(b)(ii))
- Performing drug testing (U.C.A. 31A-23a-402.5(5)(b)(iii))
- Preparing employer or employee handbooks, however, a licensee may provide information for a medical benefit section of an employee handbook or the section of an employee handbook directly related to employment practices (U.C.A. 31A-23a-402.5(5)(b)(iv))
- Providing job descriptions, postings or applications for a person (U.C.A. 31A-23a-402.5(5)(b)(v))
- Providing payroll services, performance reviews or performance review training, union advice and accounting services (U.C.A. 31A-23a-402.5(5)(b)(vi), (vii) and (viii))
- Administering health reimbursement accounts or health savings accounts (U.C.A. 31A-23a-402.5(5)(b)(xi))
- Providing data analysis information, technology programs or a Web site, except for an electronic enrollment platform or an application system (U.C.A. 31A-23a-402.5(5)(b)(x))

DATED this 9th Day of November 2011,




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NEAL T. GOOCH  
COMMISSIONER OF INSURANCE