The purpose of this document is to clarify the anti-dumping provisions in the Pre-Existing Condition Insurance Plan (PCIP) statute, and to provide guidance on whether specific activities that a health insurer may undertake in advising consumers on the availability of PCIP would constitute “dumping.”

To the extent an insurer provides information about PCIP to a prospective enrollee, is that insurer in violation of the anti-dumping provisions in 45 (CFR) 152.28?

No. This provision pertains exclusively to existing enrollees who have been discouraged by a health insurance issuer or group health plan from remaining enrolled in coverage offered by such issuer or health plan based on the individual’s health status. For purposes of this provision, a prospective enrollee is not considered to be enrolled.