

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Center for Consumer Information and Insurance Oversight
200 Independence Avenue SW
Washington, DC 20201

OFFICE OF INSURANCE PROGRAMS

Date: May 31, 2011

To: Commercial Health Insurers

Subject: Question and Answer Regarding Anti-Dumping Provisions Related to the Pre-Existing Condition Insurance Plan Program (Policy Letter #7)

From: Richard Popper, Director of Insurance Programs

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.