Glenn Pomeroy
Commissioner of Insurance

DEPARTMENT OF INSURANCE
STATE OF NORTH DAKOTA

BULLETIN 96-1

TO: All Individual and Group Health Carriers in North Dakota

FROM: Glenn Pomeroy, Commissioner

DATE: April 16, 1996

SUBJECT: Deceptive Policy Language

This bulletin pertains to all individual and group health carriers doing business in North Dakota. This bulletin does not apply to Medicare supplement or long-term care insurance. The purpose of the bulletin is to provide carriers information on a policy adopted several months ago by the Department relating to the use of the term "actual charges" in policy forms and advertising materials issued in this state.

The Insurance Department deems the use of the term "actual charges" to be deceptive and misleading to the public when used in policies or advertisements for the sale of policies in conjunction with a specific limitation on the dollar amount which the policy pays for a specific benefit. For example, it is unacceptable for a policy or advertisement to use language similar to either of the following:

> We will pay actual charges incurred up to $XXX per calendar year for each covered person for a cancer screening and wellness test.
>
> We will pay actual charges for the prosthesis benefit up to the amount shown in the benefit schedule.

The term "actual charges" may only be used where the policy does in fact pay the actual charge for a specific benefit without any limitation as to the dollar amount.

Several months ago, the Department began disapproving any forms which use the phrase "actual charges" in the manner described above. No policy form or advertising materials, including brochures or presentations, should include, refer to, or otherwise contain the phrase "actual charges" if the particular benefit in which the phrase appears contains a specific dollar limit under the terms of the policy.

All individual or group health carriers who are currently marketing or have available for sale policies which use the phrase "actual charges" in the aforementioned manner must modify and refile these policy forms. The phrase "actual charges" should be replaced with the term "charges" or substantially similar language which does not have the misleading or deceptive effect of the phrase "actual charges". All carriers have six months from the date of the issuance of this bulletin to implement these changes.

The phrase "actual charges" should likewise be removed from any advertising materials, presentation materials, or brochures where the particular benefit contains a specific dollar limit as to the amount payable under the terms of the policy. Use of the phrase "actual charges" in the aforementioned manner in any advertising materials, sales presentation, or brochure constitutes a misleading and deceptive act under North Dakota statutes and regulations and may subject the company to administrative action.

GP/njb