



**BlueCross BlueShield of Montana**

## **Consolidated Appropriations Act: Broker/Agent Compensation Disclosure Requirements**

**Applies to producers who sell Retail (under 65) plans and ERISA group plans.**

Review this list of questions related to our *proposed* Retail strategy and the *finalized* Group approach. Information will be updated as we receive additional regulatory guidance.

### **RETAIL (UNDER 65)**

#### **Q: Who is responsible for notifying members?**

**A:** Under the proposed retail guidance, health insurance carriers are responsible for commission disclosures to enrollees. Blue Cross and Blue Shield of Montana (BCBSMT) will release a disclosure starting in February to applicable members. See the [sample disclosure letter](#).

Producers must share similar commission information with new and prospective enrollees prior to finalizing a new sale.

#### **Q: Are Medicare members included in notification requirements?**

**A:** No, Medicare supplement, Medicare Advantage and Medicare Part D members are **not** in scope based on the regulations. Commission disclosures only apply to retail, under 65 medical members.

#### **Q: Should dental and vision commissions be shared?**

**A:** No, at this time proposed guidance limits disclosures to medical plans. Commissions related to retail dental or vision plans are not in scope.

#### **Q: Who receives the retail (under 65) notice?**

**A:** Proposed regulations around retail notification requirements are based on two questions:

1. Is the producer newly contracted with BCBSMT (as of Dec. 27, 2021, or later)? **AND** has the newly contracted producer sold a new retail plan, effective Jan. 1, 2022, or later?
  - If yes, a compensation disclosure is required.
  - If no, continue to question 2.
2. Has there been a “material change” made to existing BCBSMT retail producer contracts on or after Dec. 27, 2021?
  - If yes, a compensation disclosure is required for all new sales.
  - If no, no disclosure is required.

#### **Q: I was notified of a change to off-exchange Special Enrollment Training requirements – will this require a compensation disclosure to my clients?**

**A:** The definition for a “material change” is still pending further regulatory guidance, and BCBSMT is taking good faith efforts to comply with the new requirements while awaiting further guidance. For now, BCBSMT has determined the off-exchange Special Enrollment Training requirement change is not a material change that would trigger a disclosure notice.

**bcbsmt.com**

**Q: How are producers notified when there is a future contract change?**

**A:** If there are contract changes in the future, producers will receive a minimum of 30-day notice from BCBSMT.

**Q: What types of compensation is included in disclosures?**

**A:** The proposed retail guidance includes:

- **Direct** (paid by BCBSMT for the sale or renewal of retail plans)
- **Indirect** (such as service or consulting fees, awards, volume-based incentives or non-monetary forms of compensation, like concert tickets)

**Q: When must retail disclosures be provided?**

**A:** At this time, federal guidance does not specify an exact timeframe to release commission disclosures. BCBSMT will begin generating disclosure letters starting in February.

**Q: Where do I find my retail compensation schedule?**

**A:** The standard retail compensation schedule is available to contracted producers through Blue Access for Producers<sup>SM</sup> (BAP<sup>SM</sup>). First, log in to BAP. In the “PDFs & Related Information” section, click on “Compensation Schedule.”

**Q: Where can I find my BCBSMT commission statements for my existing retail book of business?**

**A:** Summary and detailed commission statements are delivered monthly to contracted producers via BAP. See the [Commissions Statement User Manual](#) if you have questions on how to read your statements.

**Q: Where can I find retail bonus program details?**

**A:** Review [details](#) on the latest retail bonus program. Bonus program details are also available through the Commission homepage of BAP.

**Q: Why must commission information be shared?**

**A:** The disclosure of producer commissions is part of new regulatory requirements found in the Consolidated Appropriations Act of 2021.

**Q: What does a “material change” to the contract mean?**

**A:** The definition for a “material change” is still pending further regulatory guidance, and BCBSMT is taking good faith efforts to comply with the new requirements while awaiting further guidance. For now, BCBSMT has determined that there is no current material change to the contracts, so the compensation disclosure will be limited to new producers (contracted with BCBSMT as of Dec. 27, 2021, and later) who have sold new policies.

## **GROUPS, ERISA-ELIGIBLE**

**Q: What groups should receive the producer commission disclosure?**

**A:** Any group that is ERISA eligible must receive a commission disclosure. This includes all new and renewing groups in all market segments, both fully insured and self-funded.

**Q: Are commission disclosures required for groups covered under a grandfathered or transitional plan?**

**A:** Yes, commission disclosures must be provided to all ERISA-eligible groups, regardless if the plan is grandfathered or a transitional plan.

**Q: Who is responsible for notifying group administrators of commissions?**

**A:** The producer is responsible for providing commission disclosures.

**Q: When must disclosures be provided?**

**A:** Federal guidance does not specify an exact timeframe to release commission disclosures.

**Q: Where can I find the group markets compensation schedule?**

**A:** The standard group markets compensation schedule is available to contracted producers through BAP. First, log in to BAP. In the “PDFs & Related Information” section, click on “Compensation Schedule.”

**Q: Where can I find my BCBSMT commission statements for my existing group book of business?**

**A:** Summary and detailed commission statements are delivered monthly to contracted producers via BAP. See the [Commissions Statement User Manual](#) if you have questions on how to read your statements.

**Q: Where can I find bonus program details for group sales?**

**A:** See the [BCBSMT Producer Incentive / Year-End Bonus](#) for details. Group bonus program details are also available on the Commissions homepage of BAP.

**Q: UPDATED: Should dental and vision commissions be included?**

**A:** Yes, based on recent regulatory guidance, dental and vision are in scope and commissions must be disclosed.

**Q: Can disclosures be sent electronically?**

**A:** Producers should consult with their legal counsel. BCBSMT is unable to provide guidance on distribution methods.

**Q: Why are we required to share this information?**

**A:** The disclosure of producer commissions is part of new regulatory requirements found in the Consolidated Appropriations Act of 2021.