Discount Health Plan Proposed Regulations
2nd Comment Period

	Comment Received	Comment Response
1	Section 1300.49.1.7(b) Suggest bifurcating this rule. Ancillary discount products such as dental, vision, etc. run the risk of a member signing up only to receive the discount necessary for certain treatment/product and once achieved, they resign from the plan and pick the plan back up when services are needed again. Suggest that for ancillary discount products an annual commitment from the member is allowed with the first 30 days being a full money back guarantee minus the activation/administration fee.	Reject: This section was not amended in the 2nd comment period.
2	Section 1300.49.1.12 Suggest that contracts include specific terms to how a provider can terminate a contract and the obligation of the plan to remove the provider from their network and directory in a timely manner. Recommended language: (4) Specific terms as to how a medical provider can terminate the contract. Should the medical provider notify the discount health plan of their desire to terminate their contract, the discount health plan shall be required to remove the medical provider from their network and directory within 30 days of receiving the termination notice.	Reject: This section was not amended in the 2nd comment period.
3	Section 1300.49.1.1(b) Clarify the language in the definition of "discount health plan" and "discount health product." As currently written, it will include PPO networks since PPO networks contract with health care providers to create networks, the discounted access to network providers are then provided to insurers, self-insured employers, or other payors, not directly to individuals. This is defined as a "contracting Agent" under California Labor Code Section 4609 and we must file application as Medical Provider Network Plans pursuant to Labor Code Section 4616 e t seq. Suggest adding the following sentence at the end of the "discount health plan" definition: A contracting agent, as defined in California Labor Code Section 4609, is not a discount plan.	Reject: The definition of a discount health product and discount health plan is clear as currently written. A PPO network does not generally arrange for discounts on health care services where the enrollee retains the obligation to pay the full discounted provider bill; thus, a PPO would not fall within the definition of a discount plan, without anything more. If the commenter is aware of a specific situation where this occurs, the commenter may request an Interpretive Opinion from the Director.

4a	A regulation should be added to require the Discount Plan to maintain deposits in cash at an amount equivalent to the anticipated refunds and also maintain the appropriate liability on its financial statements.	Reject: The requested change is not necessary because Section 1300.49.1.9 requires discount health plans to demonstrate financial viability for the nature of their operations.
4b	Exhibit GG reference to HH sections states to maintain net worth of $150,000 this seems to contradict the other part of the regulation stating the financial administration will be the same as a specialized plan. Specialized plans are required to maintain a minimum of $50,000 TNE.	Reject: This section was not amended in the 2nd comment period.
5a	DMHC should not regulate discount plans which do not provide health care services but only profit from selling lists of physicians, who supposedly offer discounts to which many have not agreed.	Reject: This comment does not address any revisions made to the regulation. Please see the responses to comments #s 3, 4, and 18 from the 1st comment period.
5b	DMHC has not authority to regulate discount health plans.	Reject: Please see the response to 5a.
5c	These discount plans are inherently "deceptive" as they falsely imply that they are "health plans" via a letter to DMHC dated August 4, 2010.	Reject: Please see the response to 5a.
6a	The Department has proposed to prohibit practices that are likely to mislead consumers by their very nature such as health plans using well-recognized brand names to market discount plans.	Accept.
6b	No consumer should ever be in doubt that a discount product does not count as health insurance for purposes of meeting the individual mandate obligation.	Reject: The Discount Plan must clearly disclose that it is not a health insurance plan.
6c	Troubled by the various provisions exempting entire entities from regulation as discount products: Costco and the Automobile Association.	Reject: The proposed regulation is necessary to clarify that certain free programs are exempt from the regulations as long as certain requirements are met.
6d	Troubled that a stand-alone product offered free of charge create a loophole in which the offerer could build the cost of administration into the overhead of the allegedly discounted health services or into the cost of the coverage to the purchaser.	Reject: The commenter has not suggested way to verify this allegation; the Department can only verify that there has been no additional charge specifically for the discount program.

6e	We oppose "a free of charge adjunct to a non-discount health plan's licensed product" unless the free of charge adjunct is actually free of charge to the purchaser of the health plan and does not increase premium or cost sharing or substitute for benefits otherwise offered.	Reject: see comment #6d
6f	Suggest adding a statement that effective January 1, 2014, the discount health product will not constitute coverage for the purposes of complying with state and federal law.	Reject: The Discount Plan must clearly disclose that it is not a health insurance plan.
6g	Strongly supports the proposed ban on marketing of discount products concurrently with coverage.	Accept.
6h	Adverse selection is a persistent problem with insurance products and pseudo-insurance products like discount plans. If minimizing adverse selection requires pricing discount products so that they are competitive with coverage, then perhaps the discount products should not be offered in the marketplace.	Reject: The comment is not related to proposed changes to the text.
6i	20% off a generic drug that costs $20 a month is not unreasonable. Also troubled that a discount might be offered on the prescription but not on the dispensing fee.	Reject: The comment is not related to proposed changes to the text.
6j	Health Access would support a greater penalty than requiring the discount plan to pay the difference between the discounted payment and the payment made to the provider. This would be a modest penalty, less than a $100 per violation.	Reject: The comment is not related to proposed changes to the text.
6k	Encourages the Department to protect consumers by imposing sanctions sufficient to deter bad behavior, particularly egregious instances or patterns of bad behavior.	Reject: The comment is not related to proposed changes to the text.
6l	The proposed regulations do not apply the entire Knox-Keene Act but only some segments of it, the proposed regulations may lack clarity of whether the Department can impose civil monetary penalties.	Reject: The comment is not related to proposed changes to the text.

7a	Consumer advocacy groups have long opposed legitimizing discount health care products. Discount health products are already unlawful under California Health & Safety Code Section 445, which prohibits medical referrals for profit. We believe that the proposed regulations do not go far enough in protecting consumers.	Reject: The comment is not related to proposed changes to the text.
7b	Section 1300.49.1.1 Definitions of "discount health plan" and "discount health product" – the definition of the "plan" uses the term person, although most of the plans of which are aware are sold by corporations and other entities, not "persons". Recommend using the term "discount health product" as consistently as possible because the term "health plan" is colloquially used in connection with bona fide Knox-Keene approved health plans and may confuse consumers who may think they are purchasing an actual Knox-Keene regulated plan.	Accept: Changes have been made to clarify the use of the terms discount health plan and discount health product.
7c	Section 1300.49.1.3(f) Recommend assign the term "health plan" to the list of prohibited terms. The term "discount health product" should be incorporated throughout the document and even in the title of the regulations.	Reject: The comment is not related to proposed changes to the text.
7d	Section 1300.49.1.3 The DMHC should require discount health products to inform individual subscribers of the availability of Medi-Cal or Healthy Families when the family's income and size fall within the eligibility limits of these government run programs. DMHC should advocate for a per se violation of the regulations, without requiring proof of harm, when a discount health products is sold to a consumer who is eligible for Medi-Cal or Healthy Families.	Reject: The comment is not related to proposed changes to the text.
7e	1300.49.1.4 DMHC must require that hospitals participating in the Discount Health Product comply with the Hospital Fair Pricing Act (California Health & Safety Code Section 127400 et. Seq.) by offering a discount that is generally equivalent to the Medi-Cal, rather than the Medicare rate schedule.	Reject: The comment is not related to proposed changes to the text.

7d	1300.49.1.4(b)(B)(i) and (ii) Concerned that using the 20% discount test may mean that discounts remain illusory. Providers frequently have multiple tiers of costs for similar care and services, depending upon who is paying for care. Setting billed charging rates is entirely within the discretion of the billing provider. Typically, this practice results in those who can least afford it, the uninsured and under-insured, being billed at the highest rates. We urge the Department to base the discount level on contract rates rather than billed charges.	Reject: The comment is not related to proposed changes to the text.
7e	1300.49.1.4(d) provides a mechanism for a consumer to be paid the difference between the promised discount rate and the amount actually billed when a provider fails to provide the promised discount. It is unlikely the discount product's grievance mechanism will adequately address the refund issue. There is nothing that directs or requires the health product company to discipline or remove the provider from the list of providers available to consumers.	Reject: The comment is not related to proposed changes to the text.
7f	1300.49.4.4(e) Discount companies must report to the DMHC on discounts and on complaints and grievances but there is nothing in the proposed regulations that indicates the penalty for failure to submit reports and/or what action, if any DMHC intends to take if the reports demonstrate that the discounts are not bona fide or that, based upon complaints and grievances, a product is not abiding by the regulatory scheme.	Reject: The comment is not related to proposed changes to the text.
7g	For complaints and grievances, companies selling discount health products must be told to inform consumers that DMHC is available to resolve complaints that are not resolved at the plan level. The lack of any mention in the proposed regulations that DMHC is willing to penalize or revoke licensure for discount health product business is particularly disturbing.	Reject: The comment is not related to proposed changes to the text.

7h	Section 1300.49.1.5(a) Timely access to care is an essential component in meeting the health care needs of individuals who purchase a discount health product. It is also inconsistent to impose geographic accessibility standards while removing timely access to care standards. Both standards are a reflection on the ability of the network to meet enrollee's needs and both should be a part of DMHC's requirements for discount health products.	Reject: The implementation of most of the timely access standards are impractical and would create a overly burdensome cost on the plans because of the limited structure of the discount plan.
7i	Section 1300.49.1.5(a) changes the call center answering time standard from five to ten minutes. Is there a reason? We believe that many consumers will not wait the full ten minutes for a live person to respond to a phone call, and we highly recommend reverting back to the five minute standard.	Reject: The regulation is necessary to be consistent with the wait time requirements for all health care service plans.
7j	Section 1300.49.1.8 We recommend that the list of vital documents be expanded to reflect the vital document recognized pursuant to Section 1367.04(b)(1)(B), as well as a provision for translations upon request. Additional documents that should be translated are: applications; notices pertaining to the denial, reduction, or modification of membership; and the determinations of grievances or appeals. The DMHC should require the translation of notices advising limited-English-proficient persons of the availability of free language assistance and other outreach materials that are provided to consumers purchasing discount health products.	Reject: The proposed changes are not supportable by the discount plan business model. Free interpretation services are available through the plan's call center for grievance procedures.
7k	Section 1300.49.18(d) This section must also require informing consumers about the availability of translated written materials.	Reject: The translated documents are available to any consumer on the plan's website.
7l	Section 1300.49.1.8 In order to make the free interpretation services a meaningful benefit, there needs to be a timeliness to the interpretation available to medical providers. Any contracts between the discount product and medical providers should include a statement informing providers of the availability of free interpretation for patient care purposes. This requirement can be added to Section 1300.49.1.12.	Reject: The comment is not related to proposed changes to the text.

7m	Discount health products will not satisfy the minimum coverage provisions under the Affordable Care Act. DMHC should require companies selling discount health products to disclose the requirement and that the discount product does not meet the requirement. We recommend a disclosure statement about the Affordable Care Act and inability of the discount health product to satisfy the individual mandate required under federal law. Beginning in 2013, the disclosure statement should be added to all marketing and contractual materials distributed by discount companies in the health product business.	Reject: Please see the response to comment 6b
7n	The proposed regulation are completely silent on enforcement, either by licensing restrictions or by DMHC pursuing alternative enforcement strategies. DMHC has failed to propose any fines or licensing restrictions or revocations for various violations.	Reject: The comment is not related to proposed changes to the text.
7o	According to the AG, companies who for a membership fee provide a list of doctors who allegedly will provide a discount are prohibited from doing so under Health & Safety Code section 445. The AG has not brought a single action against a discount plan. With this poor enforcement history and the state's current budget crisis, we are concerned that even well-intentioned regulations will be worthless to the growing percent of Californians without insurance and fodder for unscrupulous companies marketing and selling discount health products. The DMHC must provide consumers with self help tools to allow consumers to protect their interests. Providing for a private right of enforcement of the proposed regulations is essential to empower consumer who cannot get the State to pay attention to their complaints against discount health products to take steps to bring recalcitrant plans before the courts.	Reject: The comment is not related to proposed changes to the text.

7p	DMHC should send a clear message that it will not allow discount health product businesses to prey upon uninsured California consumers. California should lead the nation by creating not only a regulatory system, but an enforcement mechanism to prevent and discourage this illusory solution to the problem of the lack of affordable health care coverage for California residents.	Reject: The comment is not related to proposed changes to the text.
8a	If discount health plans are to be permitted to conduct business in California, these plans should: adhere to standard rules and regulations in their operation; formalize the relationship between themselves, their subscribers, and the providers in their networks; observe defined rights of both subscribers and providers in relation to the plans; adhere to a reasonable definition of "discounts," and that the discounts be real and verifiable; be prohibited from marketing themselves as "insurance"; and have a licensing process that is relevant to the design of the plans.	Reject: The comment is not related to proposed changes to the text.
8b	Section 1300.49.1.1(c) exempts from the rules "a discount plan that is offered free of charge as a stand-alone product, or as a free of charge adjunct to a non-discount health plan's licensed product." Our position is that such a discount plan should be required to contract with the members of its provider network. One of the abuses of unlicensed discount health plans is that providers have occasionally discovered that they are on a plan's provider network, and yet never signed an agreement that they would accept the discounted frees offered through the plan.	Reject: A discount plan that is offered free of charge does not meet the definition of "health care service plan" and therefore is not within the Department's jurisdiction.

8c	Section 1300.49.1.1(c) AB 2275 which goes into effect on Jan. 1. 2011 prohibits dental plans from capping fees that a contracted dentist may charge for procedures that are not covered benefits of the dental plan. The department should note that if a dental plan desires to offer an adjunct schedule of discounted procedures it does not cover, the dentist agree to accept those discounted fees by means of a specific contract with the dental plan. This arrangement would not violate AB 2275. The Department's discount health plan regulations would be consistent with the intent of AB 2275 by assuring that all discount health plans, whether a stand alone or an adjunct to a plan's non-discounted product – establish a separate contract with providers through which the providers agree to observe those discounted fees. .	Reject: This issue is addressed in proposed section 1300.49.1.12.
8d	1330.49.1.1(b) Consistency in the definition of "discount health plan" assumes that discount health plans are stand-alone plans. However, Section 1300.49.1.3 includes "as an optional rider to adjunctive benefit to, an insurance product" this section appears to both prohibit a mixed insurance/discount plan "hybrid" product, and allow such if a discount health product is written as a rider to insurance. This section needs clarification on this point. We urge the DMHC to clarify and strengthen the rule such that health care service plans themselves cannot design hybrid products that lock discounted benefits into a schedule of procedures that are coverage, except as provided in Section 1300.49.1.1(c) where such an adjunct discount product to standard insurance is offered free of charge. Allowing this type of hybrid mix within a single plan package constructed by the insurer could eventually result in an erosion of enrollees' covered benefits should a plan move actual benefits to the discounted benefits side of the plan.	Reject: The comment is not related to proposed changes to the text.

8e	Section 1300.49.1.4 Definition of "discount." Suggests that the regulations protect the confidentiality of the fees charged by providers, as a practice's fees are proprietary, and also clarify that the mechanism used by a discount plan to verify a provider's discount simply confirm to the enrollee that the discount is real without the necessity of divulging actual provider fee information. It is also important to keep providers' fees confidential in light of federal anti-trust laws which prohibit providers from sharing individual fee information with each other.	Reject: The comment is not related to proposed changes to the text.
8f	Section 1300.49.1.12(a) Many health plans, when they contract with providers, require providers to become part of all the plan's lines of business. Providers should not be required by contract or plan policy to participate in a discount plan as a condition of participating in another plan. There should be a separate contract that a plan establishes with providers to participate in a discount health product.	Reject: The comment is not related to proposed changes to the text.
8g	Section 1300.49.12(a)(1) allows the plan to enter into contracts with providers either directly with individual providers or indirectly through established provider networks, or with providers in other discount plan networks that may be, we assume, leased from another discount plan. This indirect means of establishing contracts with providers contradicts the implied requirement that each provider be presented with the proposed discounts and individually agree to accept those discounts.	Reject: The comment is not related to proposed changes to the text.
9a	Discount health plans are illegal within the meaning of Health & Safety Code section 445 based on an AG opinion (84Ops.Cal.Atty.Gen. 113 (2001)).	Reject: The comment is not related to proposed changes to the text.
9b	DMHC has no authority to regulate discount health plans under the provisions of the Knox-Keene Act.	Reject: The comment is not related to proposed changes to the text.
9c	DMHC has no authority to regulate discount health plans based on legislative history.	Reject: The comment is not related to proposed changes to the text.

9d	DMHC's proposed discount health plan regulation is inconsistent with Health & Safety Code section 445.	Reject: The comment is not related to proposed changes to the text.
9e	DMHC has no authority to set rates.	Reject: The comment is not related to proposed changes to the text.
9f	Indirect contracting provision exacerbates silent PPOs. The proposed regulation further perpetuates the silent PPO issue because it allows discount health plans to enter into contracts with providers indirectly. Indirect contracting is a fundamental problem because it allows a particular payor or network to pass on physician discounts to other parties without direct agreement with physicians. Strongly urge DMHC to delete the indirect contracting provision.	Reject: The comment is not related to proposed changes to the text.
9g	Legitimizing discount health plans contravenes sound public policy. They offer no real benefits to patients other than a list to go see a physician; they discourage individuals from obtaining health care coverage that adequately covers them; they undermine the health insurance system, since they take healthy patients away from the insurance risk pools; they may render many patients bankrupt to the extent patients incur medical expenses they cannot afford; and they are inherently "deceptive" as they falsely imply that they are "plans" for "health" as the DMHC's own regulations label them.	Reject: The comment is not related to proposed changes to the text.
10	It would be beneficial to have clarification of the significant difference between PPOs and discount health plans. Proposed adding "A contracting agent as defined in California Labor Code section 4609, is not a discount plan" to the end of 1300.49.1.1(b).	Reject: The comment is not related to proposed changes to the text.

11a	Section 1300.49.1.1(a) defines the term "bona fide discount." Proposed Rule 1300.49.1.4 also is written o define the same term. While the definitions are similar, they are not the same. A regulation that defines a term should be a stand-alone regulation and should not be either contradicted or further defined by a different regulation. Rule 1300.49.1.1(a) should be a stand-alone definition. To the extent the definition requires clarification or further specifications that are included in proposed rule 1300.49.1.4, the two proposed rules should either be combined or at least cross referenced.	Reject: The comment is not related to proposed changes to the text.
11b	Section 1300.49.1.1(b) This definition is an unauthorized departure from the clear language of KKA section 1345 which limits the Department's authority to a person who "undertakes to arrange for discounts on health care services." A person who arranges for a discount does not, by necessity, also arrange for the provision of health care services. There is no corresponding statutory authority upon which this proposed regulation is based. The Department does not have the authority to add definitions not set forth in statute.	Reject: The comment is not related to proposed changes to the text.
11c	Section 1300.49.1.2 It is unclear why "motor clubs" are exempt while travel clubs, boat clubs, or any number of similar pay-per-month membership clubs are not exempt, and why the exemption is limited only to pharmacy services. Since the Department, by drafting the "motor club" exemption, explicitly recognizes that the proposed regulations have a scope in excess of the intended targets of regulations and licensing, the cure is not to continue to craft exemptions each time the excess theoretical scope of the proposed regulations creates an unintended result. Instead, the solution is to craft a clearly defined definition of the meaning of the term, "undertakes to arrange". The proposed regulations should be withdrawn and re-drafted.	Reject: The regulation is necessary to clarify that a specific type of product, offered free of charge and subject to the required conditions, is not subject to the regulation.

11d	Section 1300.49.1.1(c) attempts to clarify that a "discount health product that is offered free of charge as a stand-alone product, or as a free of charge adjunct to a non-discount health plan's licensed product, is not subject to these regulations." This is ambiguous. This provides that a licensed non-discount health plan may offer an unlicensed discount plan "free of charge", not subject to the proposed regulation. It is unclear if this only applies to plans licensed by DMHC or covers health insurance products licensed by CDI or licensed in other states.	Reject: The regulation is necessary to clarify that a specific type of product, offered free of charge and subject to the required conditions, is not subject to the regulation.
11e	Section 1349.1.1(c) The proposed regulation does not define "stand-alone" product.	Reject: The term is used in the common meaning of the words.
11f	Section 1349.1.1(c) The "motor club" exemption and Rule 1349.1.1(c) exemption create the specter of unfair competition between licensed and unlicensed discount plans.	Reject: The regulation is necessary to clarify that a specific type of product, offered free of charge and subject to the required conditions, is not subject to the regulation.
11g	Section 1300.49.1.3 Objection: the type of service, and the documents served, upon an enrollee should not be contingent upon the method of enrollment.	Reject: The difference is necessary to permit telephone enrollment, which would not be possible if documents had to be required at the time of enrollment.
11h	Section 1300.49.1.4 If a provider refuses to accept the discounted payment as full payment for covered services, the discount health plan shall pay the enrollee the difference between the amount billed and the amount that would have been billed had the discount been applied. The proposed rule then states that the enrollee shall be reimbursed no later than 30 days following the submittal of a claim. This is ambiguous, and unconstitutional. It is an unjustified and unconstitutional interference in the right of parties to contract.	Reject: The regulation is necessary to ensure that the plan takes responsibility for its contractual obligation to the enrollee, that is, to provide the discount that the plan has promised, in exchange for the fees paid by the enrollee.

11i	Section 1300.49.1.4 The proposed regulation would require the discount t health plan to pay the enrollee the difference between the amount billed and the amount that would have been billed had the discount been applied. As written, payment to the enrollee would be required even if the enrollee has not paid the non-discounted billed amount, and requires payment within 30 days of the submittal of a claim, without regard as to whether the claim has been fully processed and verified.	Reject: The obligation of the enrollee to pay the physician is a contractual matter between the enrollee and the provider and is beyond the scope of this regulation. The regulation is necessary to ensure that the enrollee is made whole when the discount plan fails to ensure that the discount that has been promised.
11j	The proposed regulations are not limited by requiring compliance by the member with rules of the discount health plan or the terms of the provider.	Reject: The comment is not related to proposed changes to the text.
11k	The proposed regulations should minimally incorporate certain conditions to avoid good faith misunderstandings between enrollees and provider, including the obligation for members to comply with the rules of the discount plan and the terms of service of the provider as a condition precedent to filing a claim for a dishonored discount benefit.	Reject: The comment is not related to proposed changes to the text.
11l	Section 1300.49.1.5 Objection – The current rule (1300.67.2.1) is written for indemnified products. Where enrollees are able to verify the providers by zip code before enrolling in the discount health plan, the enrollee may make his or her own decision as to whether the discount health plan offers the accessibility desired by the enrollee. The proposed regulation substitute the Department's judgment for the judgment of the enrollee. If a discount health plan does not meet the Department's accessibility standards, the net result will be that consumers in the subject geographic area will be denied access to discount products.	Reject: The regulation is necessary to ensure that enrollees have access to providers in their area.
11m	Objection to the Application process. The application is insufficient in specificity, and is subject to subjective and unequal application to discount health plan applicants. Previous comments are incorporated by reference.	Reject: The comment is not related to proposed changes to the text.

12	Section 1300.49.1.3(c)(4) extend the three business days to five business days.	Reject: The requirement is necessary because consumers only have 30 days in which to decide whether to cancel without risk, and that time starts to run from the date of enrollment. In addition, the three business day requirement is comparable to the Insurance Code section 762(c)(3) where consumers are paying for the product from the first day.
12b	Encourages the Department to reconsider Family Care's first comment letter. At great expense, Family Care re-negotiated their contracts with California providers and the proposed regulations may require re-negotiation.	Reject: The comment is not related to proposed changes to the text.
13a	Requiring recognized carriers to rebrand their discount product under an unaffiliated name is dishonest to the consumer and not a fair business practice to the carrier.	Reject: The comment is not related to proposed changes to the text.
13b	Discount plans are able to provide a low cost product because risk, claims, underwriting, and other similar tasks are not required. To insert burdensome regulations that do not offer additional consumer protections adds expenses discount plans would no longer be able to meet.	Reject: The comment is not related to proposed changes to the text.
13c	Discount products should be able to be offered in conjunction with other types of health coverage. Consumers and employers may want to purchase a discount product as an add-on benefit and there should be no reason to deter this option; any consumer confusion will be negated by the marketing restrictions all plans must abide by.	Reject: The comment is not related to proposed changes to the text.
13d	The Department should allow California licensed insurance and managed care carriers to follow the same procedures they currently use to offer an insurance product when applying to offer a new discount product. Otherwise, both the state and the carrier will be duplicating their efforts and expenses.	Reject: The comment is not related to proposed changes to the text.

14	Section 1300.49.1.1(c) This subsection was modified to exclude those provided free of charge as a stand-alone product, or as a free of charge adjunct to a non-discount health plan's licensed product. This is problematic to specialized plans: Full service plans are offering the discount on health services provided by licensed professionals and listing them as "wellness programs"; specialized plans can ill afford to offer discounts free of charge, are unable to offer similar types of incentives on other medical services for enrollment to consumers; and discounts on medical services, whether free or not, are not like gym memberships; they are part of the non-discount plan's benefit package and marketing, and they should be verifiable, bona fide discounts. We see no reason to exempt these non-basic health services from the proposed rule's reach where discounted prices are offered at no additional cost to the enrollees.	Reject: See comment #11d
15	Discount health plans are illegal under California law – Business and Professions Code section 650 and Health and Safety Code section 445.	Reject: The comment is not related to proposed changes to the text.
15b	Selecting a physician can be a matter of life and death. This selection process must be based only on the patients' best interests, without respect to other third-party interests such as whether a particular physician has or has not in some manner "paid" to be included on a referral panel or list.	Reject: The comment is not related to proposed changes to the text.
15c	Referral lists may lead consumers to believe that the physician included on the lists must somehow possess superior training and expertise.	Reject: The comment is not related to proposed changes to the text.
15d	The perceived primary benefit of Discount Health plan which is a promise to reduce consumer costs of health care is typically illusory.	Reject: The comment is not related to proposed changes to the text.
16a	Section 1300.49.1.2(i) proposes alternative language that would provide better clarification to alleviate concerns about their ability to operate their non-discount program in the future.	Accept/Reject in part: The Department accepted some of the suggested language and rejected some of the suggest language but did modify the language for clarity.

16b	Section 1300.49.1.2(i) Clarify that the motor club exemption applies to AAA, the Auto Club and CSAA, add in language that would include affiliated motor clubs to the exemption language.	Accept/Reject in part: The Department accepted some of the suggested language and rejected some of the suggest language but did modify the language for clarity.
16c	As currently drafted, the exemption requires that the Program "must maintain an adequate network of contracted pharmacies consistent with subsection 1300.49.1.5." There is no definition of "adequate" and no way to be sure that we meet this requirement. The objective standard could be based on the number of participating pharmacies.	Accept/Reject in part: The Department accepted some of the suggested language and rejected some of the suggest language but did modify the language for clarity.
16d	Section 1300.49.1.5(a)(4) Clarify the requirement regarding the operation of the call center. Because of the placement of the words "in California", the sentence requiring a call center to be open and available to answer enrollee calls during normal business hours could also be interpreted as requiring the call center to be physically located in California.	Accept/Reject in part: The Department accepted some of the suggested language and rejected some of the suggest language but did modify the language for clarity.
16e	Clarify the exemption's customer service staffing requirements. As currently drafted, the exemption requires that a pharmacist and customer service staff available at each network pharmacy during the pharmacy's regular hours of operation. Request that this be amended to allow the customer service staff to be available through a toll-fee telephone line.	Accept/Reject in part: The Department accepted some of the suggested language and rejected some of the suggest language but did modify the language for clarity.
17	The proposed rules violate the APA because the DMHC has not adopted or proposed a rule that interprets the statutory definition of "health care service plan" to apply to discount health care plans.	Reject: The comment is not related to proposed changes to the text.
17b	The proposed rules violate the APA because they fail to meet the standards of Government Code section 11349.1. The proposed rules do not meet the authority and reference standards. The DMHC has failed to establish that the rulemaking is necessary. The proposed rules do not meet the clarity standard.	Reject: The comment is not related to proposed changes to the text.
17c	The DMHC failed to explain why the NAIC Model Act does not provide a less burdensome alternative.	Reject: The comment is not related to proposed changes to the text.

17d	The DMHC failed to properly assess the economic impact of the proposed rules.	Reject: The comment is not related to proposed changes to the text.
17e	Section 1300.49.1(a) provides a definition for "bona fide discount" that requires the discount to be "amenable" to documentation, verification and enforcement and to not be subject to terms and conditions which render it "illusory." These terms are vague and do not meet the clarify standard of Government Code section 11349(c). The definition is also unnecessary given that section 1300.49.1.3(j) of the proposed rule already incorporates Health & Safety Code section 1395(a). Suggests that the definition for "bona fide discount" be deleted.	Reject: The comment is not related to proposed changes to the text.
17f	Section 1300.49.1(e) states that discount health plans only have to comply with the KKA and Title 28 regulations to the extent they are set forth in the proposed discount plan rule and application. However, subsection (f) then confuses the issue by stating that discount plans are "subject to the full scope of the Department's powers and processes, including but not limited to licensing review, medical surveys,..." Plans should not have to guess at what other requirements of the KKA or Title 28 might apply to them. We suggest that the rules clearly reference any section of the KKA or Title 28 that is meant to apply to discount plans and that discount plans be subject only to the referenced sections.	Reject: The comment is not related to proposed changes to the text.
17g	The definition for "discount health plan" is too broad: It leaves open the possibility for many solicitors to qualify as discount health plans just by selling the programs.	Reject: The comment is not related to proposed changes to the text.
17h	Section 1300.49.1(g) the exemption will have an uneven and unfair effect. It will exempt a program offered by a large pharmacy chain, while forcing the same program offered by an independent pharmacy that has to contract with PBM to get licensed. It will also force a discount plan that offers a competing low-cost pharmacy program to get licensed. Subsection (g) should be deleted or substantially amended to make it fair.	Reject: The comment is not related to proposed changes to the text.
17i	Section 1300.49.1(h) and (i) should be deleted because they are unnecessary and unfair. There is no readily apparent basis for exempting a pharmacy plan offered by AAA while simultaneously regulating the same pharmacy plan offered by a trade association. These exemptions are unnecessary given that they apply only if a wholesale membership club or AAA member is not charge a separate fee for the pharmacy plan. The revision to Section 1300.49.1.1(c) already exempts discount health products that are offered as a free of charge adjunct to a non-discount health product.	Reject: The regulation is necessary to clarify that a specific type of product, offered free of charge and subject to the required conditions, is not subject to the regulation.

17j	Section 1300.49.1.3(a) no longer includes a requirement that discount health plans review and approve marketing materials used by solicitors. We suggest that this requirement be reinserted, it protects consumers and should not be deleted. Subsection (a) requires that all advertisements and marketing materials be filed with the DMHC at least 30 days prior to use is burdensome and unnecessary. The DMHC already has the authority to obtain advertisements and marketing materials in appropriate circumstances. Suggests that discount plans be required to retain ads and marketing materials for two years. Subsection (a) has reference to the "plan" and the "contract that needs to be replaced with the appropriate defined term "discount health product". Suggested language was included.	Reject: The comment is not related to proposed changes to the text.
17k	Section 1300.49.1.3(b) "written individual subscriber contract for examination or sale" the plan must also provide a disclosure form and a directory of providers in the subscriber's preferred geographic area is vague, ambiguous and unnecessary. It is unclear what the means by "examination or sale" To better reflect the standard enrollment practice, the rule should be clarified to require that enrollment forms include the standard disclosures referenced in subsection (a). Suggest that the rules not required plans to send written provider lists to every prospective enrollee. Instead the rules should require that plan advertising and enrollment forms include a reference to the plan's website, along with the statement that written provider lists are available upon request. Providing membership kits (i.e. DOS/DFS) is burdensome and unnecessary. Consumers are protected as long as (1) the enrollment form or attached marketing materials contain the basic disclosures found in subsection, and directs the prospective enrollee to a website where a list of participating providers can be accessed, the plan promptly sends a new enrollee the required contract with the full terms and conditions, and the new enrollee has 30 days to cancel the plan and receive a full refund.	Reject: The comment is not related to proposed changes to the text.
17l	Maintaining audio recordings for 5 years conflicts with state and federal laws: This section is also vague and unclear whether the entire call needs to be recorded or just the verbal disclosures and confirmation of purchase.	Reject: The comment is not related to proposed changes to the text.
17m	Audio recording subsection (c) contains irrelevant rule: This section contains a reference to rule 1300.85.1 which does not appear to be relevant. We suggest removing subparagraph (c)(3) to avoid any unnecessary duplication and confusion.	Reject: The comment is not related to proposed changes to the text.

17n	If audio recording subsection (c)(3) not removed: We suggest amending subparagraph to read: Document each telephone transaction, including all required verbal disclosures, in an audio recording, and retain the audio recordings, pursuant to Rule 1300.85.1, for not less than ~~five~~ two years in a manner that enables the plan to retrieve a specific recording ~~by date or subscriber name~~ and to provide it to the Department not more than five days after request.	Reject: The comment is not related to proposed changes to the text.
17o	Subsection (c)(4) the reference to "evidence of coverage" should be deleted because this is an insurance term. Plans should not be required to send materials and cards via e-mail, since such transmission is not an industry standard or appropriate for cards that identify individual members. Requests that the time period be extended to 10 business days.	Accept in part: the reference to "evidence of coverage" has been removed. Reject in part: e-mail is only required upon request of the consumer, and many stakeholders have expressed that electronic communication is a preferred method of communication.
17p	1300.49.1.3(e) is vague, burdensome and unnecessary: It is unclear what a solicitor has to do to demonstrate "competent knowledge" as that term is undefined and there are no articulated standards for the training program. Ethical obligations is also undefined.	Reject: The comment is not related to proposed changes to the text.
17q	Individual solicitor to participate in formal training program is burdensome: To require an individual solicitor to participate in a formal training program is unnecessary especially when applied to a large marketer with hundreds of employees.	Reject: The comment is not related to proposed changes to the text.
17r	Undefined training program for solicitors: A another solution (1) Require a discount health plan to maintain written contracts with its solicitor firms that prohibit the firms and their employees from using any advertisements or marketing materials unless they are first approved in writing by the plan, and (2) hold a plan accountable for the acts of its solicitors.	Reject: The comment is not related to proposed changes to the text.
17s	Suggested revision for subsection (e): To be replaced with the following: (e) A discount health plan shall have written contracts with each solicitor firm that prohibits such solicitor firm and its employees from using any advertisements or marketing materials unless they are approved in writing by the plan. A solicitor shall not use any advertisements or marketing materials unless they are approved in writing by the discount health plan. A discount health plan shall be responsible for the acts of a solictor that are within the scope of its agency relationship.	Reject: The comment is not related to proposed changes to the text.
17t	The word "agent" in subsection (f) is inconsistent with subsection (g): We suggest that "agent" be removed from the list of prohibited words.	Reject: The comment is not related to proposed changes to the text.
17u	Subsection (g) rule is beyond the scope of DMHC's authority: It also conflicts with other parts of the rule that allow licensed HMOs to file a material modification in order to offer a discount plan. We suggest that subsection (g) be deleted.	Reject: The comment is not related to proposed changes to the text.

17v	Subsection (h) incorporates provisions of the KKA which are duplicative or should not be applied to discount health plans: We suggest that subsection (h) be amended to read: (h) All discount health plan marketing practices shall comply with the requirements of sections ~~1360, 1361,~~ 1363~~(d),~~ (f) and (g) ~~and 1395(a)~~ of the Act and sections 1300.51.01(c) (Exhibits Z and AA), ~~1300.59, 1300.61,~~ 1300.61.3, ~~1300.76.2,~~ and 1300.85.1 of Title 28, except the plan shall replace terms that apply to health care service plans with terms appropriate for the discount health plan's licensure and operation.	Reject: The comment is not related to proposed changes to the text.
17w	Subsection (i) not relevant to discount health plans: It is unclear how the rule protects consumers by prohibiting them from incentives, such as free month trial. We suggest subsection (i) be deleted.	Reject: The comment is not related to proposed changes to the text.
17x	Subsection (j) contains no standards for approval: If range of discounts require DMHC approval, the standards for approval should be set out in the rule so that all companies are treated equally.	Reject: The comment is not related to proposed changes to the text.
17y	Subsection (l) should only be required if plan markets towards non-English speaking community: We suggest that subsection (i) be amended to read: (1) A discount health plan, or any discount health plan solicitor or solicitor firm which solicits enrollment of subscribers or enrollees, must disclose, in all marketing materials and telephone calls, the telephone number for the plan's toll-free customer assistance call center~~and the availability of interpretation services at the customer assistance call center~~.	Reject: The comment is not related to proposed changes to the text.
17z	Section 1300.49.1.4 (a) The scope is unclear: Does the standard apply only to specific discounts listed in those materials? The language of this proposed rule leaves many unanswered questions.	Reject: The comment is not related to proposed changes to the text.
17aa	Usual and customary charge: It would be impractical for discount health plans to comply with this mandate in Section 1300.49.1.4(a). Discount plans do not have the leverage to force existing provider networks to renegotiate all of their individual provider agreements and provide 20% discount.	Reject: The comment is not related to proposed changes to the text.
17bb	20% discount for non-Medicare services: This is not based on any particular provision of the KKA and is misplaced. DMHC should not be setting prices for discounted health services.	Reject: The comment is not related to proposed changes to the text.
17cc	DMHC's attempt to prevent discount plans from advertising: It violates the plans' commercial free speech rights under the U.S. and California Constitutions.	Reject: The comment is not related to proposed changes to the text.
17dd	Proving alternative fee arrangement is "bona fide": These are completely undefined terms for a discount health plan to prove. The rules should provide clear standards not vague references.	Reject: The comment is not related to proposed changes to the text.
17ee	The term "promised discount": This term is vague and needs to be clarified.	Reject: The comment is not related to proposed changes to the text.

17ff	Annual reporting requirements in subsection (e): These rules are burdensome and unworkable. Discount plans do not track utilization. This requirement is not practical. We suggest that section 1300.49.1.4 be deleted in its entirety.	Reject: The comment is not related to proposed changes to the text.
17gg	Terms in Section 1300.49.1.5(a) are vague: Discount plans do not maintain this information and there is no practical way for a plan to meet this requirement.	Reject: The regulation is necessary to ensure that consumers have access to providers that are in their area.
17hh	Section 1300.49.1.5(a)(4) complying with geographic accessibility standards: These type of requirements maybe relevant to managed care plans but are overbroad and burdensome when applied to a discount health plan. We suggest subsection (a) be deleted.	Reject: see comment #17gg
17ii	Streamlined grievance process for discount health plans: Subsection (a) contains provisions more applicable to managed care plans. We suggest that a more streamlined process be created for discount health plans.	Reject: The comment is not related to proposed changes to the text.
17jj	The terms "complaints" and "grievances" in subsection (a): This is vague and overbroad that it requires a discount health plan to comply with all the procedures for a simple complaint that is quickly resolved. We suggest deleting the word "complaint."	Reject: The comment is not related to proposed changes to the text.
17kk	Filing quarterly reports on each "complaint and grievance": It is unclear what "complaint" means and it is too overbroad. No reason to require non-insurance discount plans to comply with the same level of reporting.	Reject: The comment is not related to proposed changes to the text.
17ll	Section 1300.49.1.7 Cancellation and Termination: This provision makes sense to an HMO plan but discount health plans have no incentive to drop subscribers. We suggest that subsection (a) be amended to read: (a) Discount health plans shall comply with the requirements of section 1365(a) and (c) of the Act and sections 1300.65(a), (b), (c)(1)-(3), (d) and (e) ~~and 1300.65.1~~ of Title 28.	Reject: The comment is not related to proposed changes to the text.
17mm	The provision that allows plans to retain only their 'actual administrative costs of enrolling the subscriber" is vague and difficult to implement: The discount plan's only costs are its administrative costs. To make the process simpler on plans and the DMHC, the rule should simply set a $30 limit for a one-time enrollment fee.	Reject: The comment is not related to proposed changes to the text.
17nn	Plans should not have to make a pro rata reimbursement if a subscriber cancels after 30 days: It is costly and burdensome to force a plan to refund a partial month	Reject: The comment is not related to proposed changes to the text.

17oo	Pro rata refund of the entire administrative fee if that subscriber cancels after initial period makes no sense: We suggest that subsection (b) be amended to read: (b) A discount health plan shall provide for refund of prepaid or periodic charges upon cancellation of a subscriber contract as follows: (1) A discount health plan shall provide a period of not less than 30 days following enrollment in which a subscriber may cancel the subscriber contract and obtain full reimbursement of the money paid to the plan less ~~an amount that represents the plan's actual administrative costs of enrolling the subscriber, such as printing and mailing required disclosures, but which shall not~~ a one-time processing fee not to exceed $30. (2) ~~Upon cancellation of a subscriber contract after the initial 30 days of enrollment, the plan shall, within 30 days, return to the subscriber the pro rata portion of the money paid to the plan which corresponds to any unexpired period for which payment has been received.~~ If a discount health plan cancels a membership for any reason other than nonpayment of charges by the member, the discount health plan shall make a pro rata reimbursement of all prepaid or periodic charges. ~~(3) For purposes of this section "money paid to the plan" shall include all fees paid to the plan in connection with enrollment, including but not limited to prepaid or periodic charges, enrollment fees, and administrative processing fees. If administrative fees or other fees are charged to subscribers or enrollees as a one time fee or as an annual fee, the pro rata refund shall be based on a twelve month contract term.~~	Reject: The comment is not related to proposed changes to the text.
17pp	Language Assistance (b) should be deleted: There is no standard for discount health plans to use in assessing the needs of their population. It is also burdensome to require them to conduct linguistic assessments akin to those required of large managed care plans.	Reject: The regulation provides examples in the language assessment requirements tailored to the business model of discount plans. The regulation is less burdensome than the requirements for non-discount health plans; however, some assessment is necessary to ensure that the language needs of enrollees are met. Please see Health and Safety code section 1367.04.

17qq	Availability of interpretation services only if they market in a non-English language: We suggest subsection (d) be amended to read: (d) ~~A~~ If a discount health plan directs marketing activities towards persons with limited English proficiency as defined in subsection (a), it must disclose the availability of interpretation services at the customer assistance call center in all marketing materials aimed at and telephone calls to potential subscribers or enrollees with limited English proficiency, all contracts with subscribers or enrollees with limited English proficiency, and all disclosure forms provided to subscribers or enrollees with limited English proficiency. Confirmation of compliance with this section shall be filed under Exhibits S, V, Y and/or Z, as appropriate.	Reject: The comment is not related to proposed changes to the text.
17rr	Financial and administrative requirements not fair or realistic: These fees are excessive for discount health plans. Unlijke HMOs that have billions of dollars in revenues but most discount health plans are small business and should not be treated like insured specialized plans for fee purposes. We suggest that subsection (a) be replaced with a licensing and annual fee that more reasonably reflects the nature of the discount industry.	Reject: The comment is not related to proposed changes to the text.
17ss	Demonstrating financial viability "for the nature of its operations" is a vague standard: We suggest the rule adopt the approach reflected in Exhibit HH of the proposed application. Subsection (b) should be amended to read: (b) Discount health plans shall demonstrate financial viability ~~for the nature of its operations. The clause in section 1375.1, subdivision (a)(2) that states "Assumed full financial risk on a prospective basis for the provision of covered health care services" shall not apply to discount health plans that are licensed by the Department and in full compliance with the requirements for such licensure~~ by demonstrating that they have a net worth of $150,000 or by obtaining a surety bond in the amount of $50,000.	Reject: The comment is not related to proposed changes to the text.
17tt	Subscriber and enrollee disclosure forms 1300.49.1.10 (a) is vague and unclear: It is unclear what the rule means by "description of discounted services" because if not clarified, it could apply to every piece of correspondence a plan sends to subscribers.	Reject: The comment is not related to proposed changes to the text.
17uu	Subscriber and enrollee disclosure forms 1300.49.1.10(a) is also overbroad and burdensome: This filing requirement could require companies to submit thousands of pages of duplicative materials. We suggest subsection (a) be deleted.	Reject: The comment is not related to proposed changes to the text.
17vv	Name of discount health plan on discount card should be clarified: The discount card should require the name of the discount plan or private label solicitor. If discount plan is sold by a private label solicitor, the name of that solicitor will be on the card.	Reject: The comment is not related to proposed changes to the text.

17ww	Requiring the disclosure of subsection (e)(4) will take away valuable space on card: We suggest that subsection (d) be amended to read: (d) Discount cards intended for presentation to health care providers as evidence of an enrollee's entitlement to discounts shall contain all of the following: (1) The name of the discount health plan or solicitor that attaches its own private label name and the telephone number for ~~its~~ the toll-free customer service call center; (2) A prominent statement that the discount health plan is not insurance ~~and the enrollee must pay the provider directly~~; and (3) Sufficient information to ensure that the network provider will recognize the discount plan~~;~~ ~~(4) If the discount card contains the name of a private label marketer, prominent statements equivalent to those required by subsection (d)~~.	Reject: The comment is not related to proposed changes to the text.
17xx	Subscriber contracts subsection (a) is vague and overbroad: It is not clear what qualifies as a "group" contract. This prohibition appears to apply to all groups, not just employers. We suggest this subsection (a) be deleted.	Reject: The comment is not related to proposed changes to the text.
17yy	Prohibiting discount plans from imposing any waiting periods: We do not oppose this concept; however, it should be amended to allow a 30-day waiting period for hospital stays. We suggest that subsection (c)(1) be amended to read: (1) Impose any waiting period (except for a 30-day waiting period for hospital discounts) or preexisting condition exclusion upon the provision of advertised discounted health care services.	Reject: The comment is not related to proposed changes to the text.
17zz	Providing written notice of a participating provider's termination is unworkable: Discount health plans do not have any involvement in the provider/patient relationship or keep track of what providers are utilized. We suggest that subsection (d) be amended to read: (d) A discount health plan's forms of subscriber contracts shall comply with the requirements of section 1300.51.01(c) (Exhibits P and Q) and 1300.67.4 (except subsection (a)(8) thereof) of Title 28, except that the plan shall replace terms that apply to health care service plans with terms appropriate for the discount health plan's licensure.	Reject: The comment is not related to proposed changes to the text.

17aaa	Provider contracts subsection (a)(1) is unclear and unnecessary: It is cost-prohibitive to require provider networks to affirmatively contact thousands of providers every time they lease their networks to a new entity. We suggest that subsection (a)(1) be amended to read: (1) The provider contract may be entered into directly with individual providers or indirectly through either one or more provider networks that maintain written contracts with individual providers, or other discount health plans that maintain written contracts with such networks. ~~The discount health plan shall document that each provider has been notified of, and agrees to, the terms of the discount product prior to inclusion in the provider directory. The provider contract shall require verification that all provider billing affiliates have also been notified of, and agree to bill according to, the terms of the discount product.~~	Reject: The comment is not related to proposed changes to the text.
17bbb	Reviewing the compliance of a discount plan provision is vague: We believe a discount health plan either has compliant provider contracts or it does not. We suggest that subsection (a)(2) be deleted.	Reject: The comment is not related to proposed changes to the text.
17ccc	Provider contracts to comply with the various KKA provision requires several changes: Section 1300.67.8(a) does not apply to discount health plans since they do not make any payments to providers.	Reject: The comment is not related to proposed changes to the text.
17ddd	Access to patient records does not apply to discount plans: Discount health plans are not involved in the provider/patient relationship so this requirement is also inappropriate.	Reject: The comment is not related to proposed changes to the text.
17eee	Subsection (c)(1) is vague and unnecessary and should be deleted: It is unclear what "terms and conditions" would allow discount health plans to satisfy this requirement.	Reject: The comment is not related to proposed changes to the text.
17fff	Discount health plans cannot "verify" that discounts are being provided: The subscriber receives the bill not the plan. Subsection (b)(1) should be deleted.	Reject: The comment is not related to proposed changes to the text.
17ggg	Subsection (c)(3) is burdensome and unnecessary and should be deleted: It is unclear what types of providers or services would be subject to this requirement.	Reject: The comment is not related to proposed changes to the text.

17hhh	Subsection (c) requirement is unnecessary and it would be difficult to renegotiate all of our contracts: Subsection (c) should be amended to read: (c) A discount health plan's forms of provider contract shall comply with the requirements of sections 1367(a), (b), and (c) of the Act and sections 1300-.51.01(c) (Exhibits K) and 1300.67.8~~(a),~~ (b)~~, (c)~~ and (d) of Title 28, except the plan shall replace terms that apply to health care service plans with terms appropriate for the discount health plan's licensure. Provider contracts shall also contain terms and conditions sufficient to enable the plans: ~~(1) To verify that network providers are delivering bona fide discounts to enrollees as advertised;~~ (2) ~~T~~to enforce the provision of discounts by the individual providers in its contracted networks~~; and~~ ~~(3) To require the provider to disclose, to the extent feasible for the nature of the services specific pricing information to plan enrollees upon request before the service is rendered.~~	Reject: The comment is not related to proposed changes to the text.
17iii	Discount plans should not be required to obtain executed copies of every contract: It should be clarified that only direct agreements be maintained. Subsection (e) should be amended to read: (e) The discount health plan shall maintain an executed copy of each active provider agreement into which it has directly entered into, and shall make the contracts available for the Department's inspection upon request.	Reject: The comment is not related to proposed changes to the text.
17jjj	Type of plan contract categories: Discount health plans should not be forced in the categories of "general" and "specialized". We suggest that (B)(1) and (2) be collapsed into one section.	Reject: The comment is not related to proposed changes to the text.
17kkk	Internal quality and compliance review system is vague and ambiguous: "Access" and "availability" are not defined. DMHC does not define what an "audit" should entail.	Reject: The comment is not related to proposed changes to the text.
17lll	Plans should not be required to submit a "narrative explanation" for "bona fide discounts" and provider "accessibility": We suggest that you further specify the requisite type of grievance system and give consideration to the existing practice and resources of the discount industry.	Reject: The comment is not related to proposed changes to the text.
17mmm	Contracts with providers comply with the Act provision does not apply to discount plans: This provision is inapplicable to discount health plans and the reference to section 1379 should be deleted from subsection (K).	Reject: The comment is not related to proposed changes to the text.
17nnn	Complying with Exhibit O requirement is antithetical to discount health plans: Discount plans do not make coverage decisions or pay for any medical services. Subsection (O) should be deleted.	Reject: The comment is not related to proposed changes to the text.
17ooo	Group and subscriber contracts should not apply to discount health plans: Discount plans have no financial incentive to cancel subscribers to avoid paying claims. We suggest that the reference to section 1365 be deleted.	Reject: The comment is not related to proposed changes to the text.

17ppp	Section 1300.67.4 does not apply to discount plans: Discount plans do not pay claims or do not keep track of what providers are utilized by subscribers. We suggest that the reference to section 1300.67.4 be amended to exclude subsection (a)(8).	Reject: The comment is not related to proposed changes to the text.
17qqq	Section 1300.67.4(a)(10) does not apply to discount health plans: Discount plans are not liable for any covered services. We suggest the reference to section 1300.67.4 also be amended to exclude subsection (a)(10).	Reject: The comment is not related to proposed changes to the text.
17rrr	Section 1300.49.1.11(a) does not apply to discount health plans: Plans should not be required to describe how they comply with that prohibition.	Reject: The comment is not related to proposed changes to the text.
17sss	Advertising provisions referencing the Act and the rule: It is unclear why these provisions have been referenced here and we suggest that they be removed.	Reject: The comment is not related to proposed changes to the text.
17ttt	Several enrollee/subscriber grievance procedures provisions do not apply: Several provisions of these laws do not apply to discount plans. Section 1368 (a)(2) is highly burdensome and unnecessary and discount health plans should not have to comply.	Reject: The comment is not related to proposed changes to the text.
17uuu	A written acknowledgement of a grievance is unnecessary for discount plans: Discount plans do not make coverage decisions and it does not make sense for a discount plan to comply. We suggest the reference be replaced with a requirement that discount plans send a written acknowledgment to any complainant whose grievance is still unresolved after five business days,	Reject: The comment is not related to proposed changes to the text.
17vvv	Marketing of group and individual contracts conflicts with section 1300.49.1.3 of proposed rule: The presentation is also burdensome and unnecessary when applied to discount plans. The reference to section 1365(d) should be deleted from subsections (Y) and (Z).	Reject: The comment is not related to proposed changes to the text.
17www	Discount health plans already comply with section 1300.76.2: Discount health plans are already required to maintain a $150,000 net worth. We suggest that the reference to section 1300.76.2 be deleted.	Reject: The comment is not related to proposed changes to the text.
17xxx	Solicitation contracts irrelevant to discount health plans: Discount health plans do not pay claims, the rate of compensation paid to a marketer is irrelevant. Discount health plans should not have to submit Exhibit BB-3.	Reject: The comment is not related to proposed changes to the text.
17yyy	Projected financial viability is for HMOs or insured plans: The only costs of a discount health plan are its administrative costs. Discount plans should not have to keep these costs below 15% or submit Exhibit HH-5.	Reject: The comment is not related to proposed changes to the text.
18	Supports the Department's efforts.	Accept.

19	"Discount health products" which are limited to prescription drugs should be regulated as a limited discount health plan. Certain provisions of the proposed regulations are not applicable to discount prescription drug products, in particular section 1300.49.1.4. (1) The method used by operators of prescription drug products to establish discounted pricing with participating pharmacies is not based on the billed charge of the pharmacy. It is based on the cost of the drug. (2) The negotiated discounts may differ from pharmacy to pharmacy. It is not possible to generate a fixed average discount across all drugs at all pharmacies within California.	Reject: The comment is not related to proposed changes to the text.
19b	Section 1300.49.1.1(c) Requests clarification that a dispensing fee/service fee paid by the member/cardholder at the point-of-sale in addition to the cost of the drug would not be considered a "charge" thus subjecting the plan to the regulations, as long as the member/cardholder may freely access discounted products without paying an enrollment or membership fee, or other consideration, in exchange for the right to access discounted products.	Reject: The comment is not related to proposed changes to the text. Because this issue is related to a specific product, the commenter may submit a request for an Interpretive Opinion pursuant to 28 CCR section 1005.
20a	Section 1300.49.1.1(b) joins in CAHP's comment and proposed revision that address the application of the discount regulations to health care services plans that are already licensed plans. Also suggest that when a health care service plan contracts with a licensed discount plan that the former need only file an amendment.	Reject: The regulation is necessary because a new product contract is a material change.
20b	Section 1300.49.1.2(c)-Clear identification of the discount health plan and product: the step of prohibiting plans from using established trade names is unnecessary and ill serves the public. We propose that subsections (A) and (B) be deleted.	Reject: The comment is not related to proposed changes to the text.
20c	In addition, and as an alternative to 1300.49.1.2 (c): it should be clarified that the regulation would permit a licensed non-discount plan to offer a discount product from a separate discount plan and still use its own brand name.	Reject: The comment is not related to proposed changes to the text.
20d	Section 1300.49.1.3(g) This regulation fails to recognize that employers and consumers often want these products as complements to each other – consumers want to purchase them as an add-on benefit and employers want to offer these products to their employees to show that they support oral health. From the standpoint of consumer transparency, it should make no difference whether the plan offers them together or whether the broker puts them side by side. Therefore, we urge the Department to delete this prohibition.	Reject: The comment is not related to proposed changes to the text.

20e	Section 1300.49.1.4 Continues to believe that the 20% discount as a requirement for each service offered by each provider is an unrealistic standard that is attempting to impose a one-size-fits-all appoint on the market. The Department should continue to accept alternative methodologies as permitted under section 1300.49.1.4(b)(1)(B)(iii) rather than requiring a fixed approach to calculating the discount under section (b)(1)(B)(i) and (ii). The Department should be amenable to alternative means of providing a discount so long as the plan make an accurate representation of how it achieves discounts, how they are calculated, and how they are explained to both the Department and to the consumer/purchaser of these products.	Reject: The comment is not related to proposed changes to the text.
20f	Section 1300.49.1.7(b)(2) A consumer can quickly dip in and out by accessing the network and then terminating immediately and receiving a refund of monies. This regulation creates the potential for enormous and perhaps unsustainable economic risk. Requests that after 30 days, the plan not be required to refund any portion of the premium for the un-expired payment period and that section 1300.49.1.7(b)(2) be deleted.	Reject: The comment is not related to proposed changes to the text.
21a	Suggest the following revision be made: Language clarifying that the regulations do not apply to health care service plans offering a discount health product to their membership at no additional charge, regardless of whether the product or service is offered as a stand-alone or as an adjunct to the plan's licensed product. While we appreciate the Department's inclusion of language in the second draft that states that discount products offered free of charge are not subject to the regulations, concerned that the language does not fully protect plans. Suggest revision make the applicably of the regulations very clear.	Reject: The proposed change is not consistent with the Department's responsibility to oversee these products.
21b	Suggest the following revision be made: Language clarifying the requirements for health care service plans offering discount health products for a charge in addition to the charge for the plan's licensed product. As health care service plans are already subject to the KKA and regulations, suggests limiting the scope of the proposed discount plan regulations to certain consumer protection requirements, as specified.	Reject: The proposed regulation is necessary so that all discount products, as defined in the regulation, are subject to the same rules.
21c	Suggest the following revision be made: Language clarifying that plans who are offering discount products through a licensed discount health plan are able to file an amendment to their license application, rather than a notice of material modification.	Reject: The regulation is necessary because a new product contract is a material change.

21d	Suggest the following revision be made: Deletion of the term and definition of value added services. Believes the definition of value added services is confusing as it encompasses services that are not health care services. By definition, a discount health product is one that offers discounts on health care services. Discount on non-health care services would not be subject to these regulations.	Reject: The regulation is necessary for clarity.
21e	Suggest the following revision be made: Delayed implementation. Plans need time to comply with the proposed regulations. As such, proposing an effective date of January 1, 2012. This implementation period will give plans the time they need to prepare and see approval of the notice of material modification, as well as modify other internal processes.	Reject: The regulations are necessary now; applications are currently being processed and consumer complaints are received consistently regarding discount health plans, and these regulations are necessary to address both as soon as possible.

Discount Health Plans Regulation: Comments Received at October 5, 2010 Public Hearing

#	Comment Summary	Department Response
1b	Regarding "free" discount cards: It is not clear what is meant by the "fee" charged for the card. Is a "dispensing" fee charged by the pharmacy (shared by the pharmacy and the plan) a "fee?"	Reject: A free discount card would not have any cost to (or on behalf of) the enrollee in exchange for the arrangement of discounted health services. Please see Health and Safety Code section 1345(f). If further clarification is required, the commenter may submit an interpretive opinion request under Title 28, section 1005, of the California Code of Regulations regarding a particular product.
2b	The 20% discount requirement, if it is meant to be per item, does not work for pharmacy discount networks, who do not arrange discounts per drug.	Reject: this section was not amended during this comment period, and this issue has been addressed in prior comments.
3b	Pro rated refund requirement for cancellation puts the viability of the products at risk. Enrollees can cancel as soon as they have planned and received their dental services. Membership should be held to an annual requirement.	Reject: this section was not amended during this comment period, and this issue has been addressed in prior comments.
4b	The refund requirement adds to the administrative costs of the product, which increases the cost to the consumer.	Reject: this section was not amended during this comment period, and this issue has been addressed in prior comments.
5b	Changing of trade names incurs a significant expense, especially for nationwide products. Changing of trade names is not necessary for transparency; full disclosure is sufficient.	Reject: this section was not amended during this comment period, and this issue has been addressed in prior comments.
6b	The changes to healthcare in 2014 include a mandated children's dental insurance benefit, and plans should be allowed to market a discount dental product to parents in conjunction under the same offer. Consumers want all options open when they purchase coverage.	Reject: The Department has no way to know what products will be available to consumers in 2014; therefore such a requirement cannot be included in the regulation.
7b	Prohibiting the use of a trade name loses the value of the trust the valued company has earned.	Reject: this section was not amended during this comment period, and this issue has been addressed in prior comments.
8b	Enrollees must be required to commit to a full year of membership; consumers would use it for the first month then cancel. Pricing for these products is based on a 1 year commitment, so allowing "adverse selection" would raise the price of the product.	Reject: this section was not amended during this comment period.
9b	Discount plans are illegal; the Department does not have the authority to legitimize discount health plans. Sections 445 and 650 and several Attorney General Opinions, as well as the failure of legislation, demonstrate these plans are illegal.	Reject: this section was not amended during this comment period, and this issue has been addressed in prior comments.
10b	There is no quality control over the physicians in these discount programs. Marketing clarity will not help consumers understand that these products are not insurance; consumers should spend money on true insurance products instead.	Reject: this section was not amended during this comment period, and this issue has been addressed in prior comments.

11b	Many physicians are not aware that they have been listed as participating providers under these discount plans.	Reject: this section was not amended during this comment period, and this issue has been addressed in prior comments.
12b	Consumers have been injured by discount plans; some consumers go outside of the US for discounted services and may come back injured or dead. Quality control of physicians is not assured under these regulations.	Reject: The comment concerns issues beyond the scope of these regulations.
13b	The requirements regarding disclosure, marketing, solicitation, and the call center are good and helpful for dispelling the confusion to consumers, especially for limited English speakers.	Reject: this section was not amended during this comment period.
14b	The regulations should not use the term "discount health plan" at all; the use of the term is not consistent.	Reject: The changes made to these terms were made for consistency with the definitions in section 1300.49.1.1. The term "discount health plan" is consistent with the definition of health care service plan in health and safety code section 1345(f).
15b	The new exemption to the timely access standard is not good: Timely access standards should apply.	Reject: The proposed change is unsupportable by the business model of the discount health plan.
16b	It remains confusing which sections of the KKA should or should not apply.	Reject: The comment is not related to the sections amended during this comment period.
17b	The new wait time on the phone (10 minutes) is too long; consumers will give up.	Reject: The change was necessary for consistency with the wait time applicable for other types of health plans under the timely access requirements.
18b	The 30 day cancellation period is necessary and should remain.	Reject: The comment is not related to the sections amended during this comment period.
19b	The provision requiring discount plans to make up the difference where a discount is not honored is good and should remain.	Reject: The comment is not related to the sections amended during this comment period.
20b	There should be some other measurement standard besides billed charges for services not covered by Medicare, some other contracted rate.	Reject: The comment is not related to the sections amended during this comment period.
21b	The list of physicians should only include physicians who are currently accepting patients.	Reject: The comment is not related to the sections amended during this comment period.
22b	Telephone enrollment should be prohibited.	Reject: The comment is not related to the sections amended during this comment period.
23b	Discount plans are illegal according to the Attorney General; they mislead and harm patients and pull enrollees out of legitimate risk pools. Legitimizing discount plans is like legitimizing bank robberies.	Reject: The comment is not related to the sections amended during this comment period.
24b	Discount plans will not decrease the cost of health care; they siphon	Reject: The comment is not related to the sections amended during this

	money away from legitimate insurance. Issue should be handled by the Attorney General.	comment period.
25b	The provision prohibiting sales in conjunction with insurance should be preserved because consumers would be confused.	Reject: The comment is not related to the sections amended during this comment period.
25b	Known contracted rates should be used rather than "billed charges" in measuring the value of the discount	Reject: Some services do not have a contracted rate that is verifiable against a measurable benchmark. The commenter also does not specify which contracted rate should be the one that the discount is measured against
25b	The 30 cancellation period is necessary and should be preserved.	Reject: The comment is not related to the sections amended during this comment period.
26b	The increased language protections in the revised regulation are appreciated.	Accept.
27b	The new exemption for pharmacy discount plans is troubling.	Reject: The proposed change is necessary to clarify that a free pharmacy discount product is not subject to the regulation. Please see Health and Safety code section 1345(f).
28b	A new disclosure should be required that the discount plans do not meet the standard for the individual Federal mandate for health insurance.	Reject: Discount Plans are required to disclose to consumers that they are not health insurance. Please see sections 1300.49.1.3 and 1300.49.1.10 of the regulation.
29b	By 2014, most discount plans will not be offering basic health care services because of the Federal individual insurance mandate.	Noted; speaker did not specify the change requested to the regulations regarding this comment.
30b	DMHC does not have the authority to regulate discount health plans; litigation will follow the adoption of these regulations.	Reject: this section was not amended during this comment period, and this issue has been addressed in prior comments.
31b	The exemption for "free" benefits needs clarification regarding the licensing requirement.	Reject: The term "free" is used in the general meaning of the word. A program that is free would not fit into the definition of a health care services plan, Health and Safety Code section 1345(f) and is not under the Department's jurisdiction.
32b	Why does AAA have an exemption and not other groups such as AARP?	Reject: The commenter did not provide sufficient information on "other" groups to determine whether an exemption is appropriate. Such requests will be considered on a case-by-case basis.
33b	The new additional language requirements are overly burdensome.	Reject: The proposed regulations are necessary for consumer access and protection.
34b	The Department should adopt and follow the NAIC model rules for discount health plans.	Reject: The NAIC model code was one of the many documents considered by the Department during the development of this regulation. However, the model code conflicts with, or does not address, several

		issues and requirements of California law, and these regulations were developed to address both the issues raised by the NAIC model code and the specific legal requirements for California.