

**Department of Insurance****State of Arizona**

Office of the Director

Telephone: (602) 912-8456

Facsimile: (602) 912-8452

JANET NAPOLITANO

Governor

2910 North 44th Street, Suite 210

Phoenix, Arizona 85018-7256

www.id.state.az.us**CHRISTINA URIAS**

Director of Insurance

REGULATORY BULLETIN 2005-6¹

To: All Licensed Insurance Producers, Insurance Trade Associations and Other Interested Parties

From: Christina Urias
Director of Insurance

Date: October 25, 2005

Re: **Medicare Part D Marketing Practices**

The Centers for Medicare & Medicaid Services (CMS) has permitted marketing activity for the new Medicare prescription drug benefit since October 1, 2005, for state-licensed insurance producers only. Because the Medicare Modernization Act (MMA) does not preempt producer licensing laws, state law and regulatory provisions regarding producer activity apply to Medicare Part D marketing.

Already, CMS has received complaints about alleged licensed producer misconduct with regard to Medicare Part D marketing and will refer complaints about Arizona licensed producers to the Arizona Department of Insurance (ADOI) for appropriate action. The purpose of this Regulatory Bulletin is to remind licensed producers that they are subject to all laws and regulations of this state, including those relating to the duty of good faith and fair dealing, the suitability of sale and the prohibitions against misrepresentation, churning and high pressure sales tactics.

Although not prohibited, ADOI will carefully scrutinize any producer's use of a lead relating to Part D marketing activity as an opportunity to cross-sell any other type of insurance product. By its very nature, the new Part D benefit is fundamentally confusing for the Medicare beneficiary and it is inappropriate to capitalize on that confusion with an offer or sale of other insurance products that may be unsuitable for that individual. ADOI will thoroughly and expeditiously investigate any allegations of misconduct related to Part D marketing and will prosecute any proven misconduct under the producer licensing laws of this state.

¹ This Substantive Policy Statement is advisory only. A Substantive Policy Statement does not include internal procedural documents that only affect the internal procedures of the Agency, and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this Substantive policy Statement does impose additional requirements or penalties on regulated parties, you may petition the agency under Arizona Revised Statutes Section 41-1033 for a review of the Statement.