



**State of New Jersey**  
DEPARTMENT OF BANKING AND INSURANCE  
OFFICE OF THE COMMISSIONER

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RICHARD J. CODEY  
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**BULLETIN 05-26**

**TO: ALL LICENSED PRODUCERS AUTHORIZED TO BIND  
AND SELL ACCIDENT AND HEALTH OR SICKNESS  
INSURANCE PRODUCTS IN NEW JERSEY**

**FROM: DONALD BRYAN, ACTING COMMISSIONER**

**RE: STATE LAW AND REGULATIONS APPLICABLE TO THE  
MARKETING OF MEDICARE PART D**

Since Oct. 1, 2005, marketing activity for the new Medicare prescription drug benefit, Medicare Part D, has been permissible. According to the Centers for Medicare & Medicaid Services (CMS), only state-licensed insurance producers may engage in marketing activity. The Medicare Modernization Act does not preempt New Jersey producer licensing laws. Thus, state law and regulatory provisions regarding producer activity apply to the marketing of Medicare Part D.

CMS has received complaints about alleged misconduct by licensed producers with regard to Medicare Part D marketing. CMS will refer complaints it receives about producers licensed in this State to the Department of Banking and Insurance. This Bulletin reminds 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, pursuant to N.J.A.C. 11:4-17.1 et.seq., N.J.A.C. 11:1-11.1 et. seq., N.J.A.C. 11:17A-1.1 et.seq. and N.J.S.A. 17:22A-1 et.seq.

The new Part D benefit is extremely complex and frequently confusing for the typical Medicare beneficiary. All allegations of misconduct related to Part D marketing will be thoroughly investigated by this Department. The Department will particularly scrutinize the use of a lead relating to Part D marketing activity to cross-sell other insurance products of any type to a Medicare beneficiary for which he or she may not be suited. Any proven misconduct will be prosecuted under the laws of this state relating to producer conduct.

Questions regarding this Bulletin may be directed to:

Office of Consumer Protection Services  
New Jersey Department of Banking and Insurance  
20 West State Street  
PO Box 325  
Trenton, NJ 08625-0325  
or FAXED to: 609-292-5337  
or e-mailed to [commissioner@dobi.state.nj.us](mailto:commissioner@dobi.state.nj.us) with an indication that the subject of the e-mail is "MARKETING OF MEDICARE PART D".

12/8/05

Date

/s/ Donald Bryan

Donald Bryan  
Acting Commissioner

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