



NEW MEXICO PUBLIC REGULATION COMMISSION • PO Box 1269 • Santa Fe,
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INSURANCE DIVISION

ERIC P. SERNA
Superintendent of Insurance

INSURANCE DIVISION BULLETIN No. 2005-005

December 22, 2005

TO: LICENSED INSURANCE AGENTS AND BROKERS

RE: MEDICARE PART D LICENSE REQUIREMENTS

THE FOLLOWING BULLETIN is issued pursuant to 13.1.2 NMAC:

Since October 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 producer licensing laws. Thus state law and regulatory provisions regarding producer activity apply to the marketing of Medicare Part D.

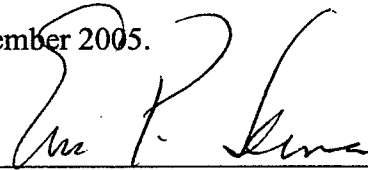
CMS has received numerous complaints about alleged misconduct by licensed producers with regard to Medicare Part D marketing. CMS will refer complaints it receives about producers licensed in this state to the New Mexico Superintendent of Insurance. This bulletin reminds licensed producers that they are subject to all laws and regulations of this state, including those related to the duty of good faith and fair dealing and the prohibitions against misrepresentation, churning, and high pressure sales tactics.

We view with a high degree of skepticism the use of a lead relating to Part D marketing activity to cross-sell other insurance products of any type. The new Part D benefit is fundamentally confusing for the Medicare beneficiary. It would be unwise for the producer to take advantage of the Part D lead to sell other insurance products to a Medicare beneficiary for which the beneficiary may not be suited.

Allegations of misconduct related to Part D marketing will be thoroughly investigated by the Insurance Division. Any proven misconduct will be prosecuted under New Mexico laws relating to producer licensing.

DEC 23 AM 8 55
NEW MEXICO
PUBLIC REGULATION
COMMISSION
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DONE AND ORDERED this 22nd day of December 2005.



ERIC P. SERNA
Superintendent of Insurance