Jim Poolman
Commissioner of Insurance

DEPARTMENT OF INSURANCE
STATE OF NORTH DAKOTA

BULLETIN 2005-4

TO: North Dakota Resident Life/Health Insurance Producers

FROM: Jim Poolman, Commissioner

DATE: November 1, 2005

SUBJECT: Marketing of Medicare Part D

As you know, as of October 1, 2005, marketing activity for the new Medicare prescription drug benefit, Medicare Part D, is permissible.

According to the Centers for Medicare and Medicaid Services (CMS), only state-licensed insurance producers may engage in marketing activity. The Medicare Modernization Act does not preempt insurance producer licensing laws. Thus, state law and regulatory provisions regarding insurance producer activity apply to the marketing of Medicare Part D.

I understand that CMS has already received complaints about alleged misconduct by licensed insurance producers with regard to Medicare Part D marketing. CMS will refer complaints it receives about insurance producers licensed in this state to the North Dakota Insurance Department. I am issuing this bulletin to remind all licensed insurance 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.

I 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 may be confusing for the Medicare beneficiary. It would be unwise for you as an insurance producer to take advantage of the Part D lead to sell other insurance products to a Medicare beneficiary for which he or she may not be suited.

Allegations of misconduct related to Part D marketing will be thoroughly investigated by the Department. Any proven misconduct will be prosecuted under the laws of this state relating to insurance producer licensing.

JP/njb

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