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BULLETIN NO. 07-02

TO: All Insurers, Brokers, and Producers Selling Medicare Related Products

FROM: James J. Donelon, Commissioner

RE: Unlawful Marketing and/or Sales Practices of Medicare Related Products

DATE: March 15, 2007

It has been brought to my attention that some insurers, brokers, and/or producers may be using unlawful and/or deceptive sales practices in the solicitation, selling, and marketing of Medicare related products including, but not limited to, Medicare Advantage (formerly Medicare+Choice), Medicare Prescription Drug Coverage, and Medicare Supplement Insurance. Bulletin 07-02 directs all insurers, brokers, and/or producers engaged in such fraudulent activity to refrain from such activity and instructs all insurers to monitor their own activities and the activities of their brokers and/or producers regarding the solicitation, selling, and marketing of Medicare related products.

Medicare is a complex system, and consumers are entitled to be fully informed of how it affects their health care options. Often, brokers and/or producers are the first point of contact for consumers with regard to Medicare and Medicare related products. As such, consumers rely on brokers and/or producers to provide them with a thorough and accurate representation of Medicare and Medicare related products. Due to abusive marketing and sales practices, some consumers are being misled and are not making informed decisions with respect to Medicare related products.

Some insurers, brokers, and/or producers are using overly aggressive sales tactics, such as steering, misrepresentation related to coverage and treatment, inducements and false promises, to market Medicare related products with little or no concern for the needs of the potential consumer. These tactics lead consumers to choose a Medicare related product that they may not need or one that is not suitable for their health insurance (or health care) needs. In some instances, insurers, brokers, and/or producers are enticing potential consumers to purchase a Medicare related product that is not only unsuitable but also generates higher commissions for producers and more revenues for insurers.

Pursuant to LSA-R.S. 22:2, I am charged with the duty to regulate the insurance industry in all its phases. Bulletin 07-02 is issued to protect the citizens of this state from the unlawful and/or deceptive marketing of Medicare related products by insurers, brokers, and/or producers regulated by the Department of Insurance. Insurers are responsible for overseeing all company activities, including those of their brokers and/or producers and ensuring that brokers and/or producers marketing Medicare related products are properly educated, trained, and supervised to sell such Medicare related products. Further, under LSA-R.S. 22:1148(H), insurers, brokers, or producers are prohibited from accepting or processing a Medicare Advantage plan application unless the following requirements are met:

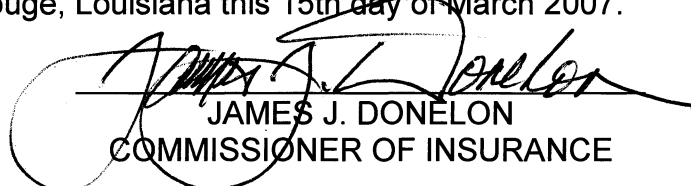
- (a) The Medicare enrollee or his authorized representative has signed an application for coverage.
- (b) The Medicare enrollee is provided a written notice upon transfer from one approved Medicare Advantage plan to another stating his coverage is being transferred. Such notice must explain what impact the change in coverage will have on the Medicare enrollee's access to health care providers, including specifying any known change in health care providers available to provide care.
- (c) The Medicare enrollee is provided written notice upon plan cancellation of his current Medicare Advantage coverage that clearly states the date his coverage ends.
- (d) The Medicare enrollee is notified of any known change in health care providers that may reasonably result from the action of the producer or broker.

Any insurer, broker, and/or producer found to be using fraudulent marketing activities and/or engaging in unlawful and/or deceptive marketing and sales practices contrary to the Louisiana Insurance Code set forth in Title 22 of the Louisiana Revised Statutes of 1950 may be subject to sanctions and/or legal action. This enforcement power, under LSA-R.S. 22:7, also extends to anyone who intentionally aids, abets, counsels, or procures another person to intentionally violate any provision found in the Louisiana Insurance Code. I also reserve the right to refer this matter to federal and other state authorities as appropriate.

All insurers, brokers, and producers are directed to conduct themselves accordingly and to bring their practices into immediate compliance with the provisions of the Louisiana Insurance Code and the unequivocal purpose and intent of Bulletin 07-02.

Questions regarding Bulletin 07-02 or its application should be directed to Alan Heumann, Director of SHIP, Office of Health Insurance at (225)-342-6334 or by e-mail at aheumann@ldi.state.la.us.

Baton Rouge, Louisiana this 15th day of March 2007.


JAMES J. DONELON
COMMISSIONER OF INSURANCE