

Arkansas Insurance Department

Mike Huckabee
Governor



Julie Benafield Bowman
Commissioner

DIRECTIVE: 1-2006

TO: ALL PRODUCERS AND INSURERS MARKETING MEDICARE ADVANTAGE, MEDICARE PART D, MEDICARE SUPPLEMENT, AND OTHER INTERESTED PARTIES

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: UNLAWFUL SALES PRACTICES PERTAINING TO MEDICARE PART D, PRESCRIPTION DRUG BENEFITS, MEDICARE ADVANTAGE, AND TO MEDICARE SUPPLEMENT CONTRACTS

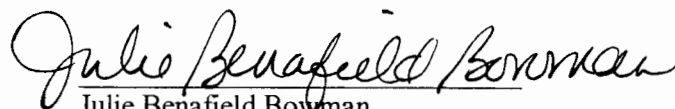
DATE: NOVEMBER 7, 2006

The Arkansas Insurance Department (“Department”) issues this Directive to advise all producers and insurers marketing Medicare Advantage, Medicare Part D, or Medicare Supplement coverage (“Medicare related products”) that the Department expects producers to fully comply with federal law and to document the application solicitation transaction to assure full compliance with Arkansas laws and Department Rules dealing with good faith and fair dealing, suitability of sale and prohibitions against misrepresentation, “churning” and deceptive advertising when marketing, soliciting, or selling Medicare related products. Such documentation shall include, at a minimum, the following:

- (a) A statement from the Medicare beneficiary purchasing the Medicare related product that such product does or does not replace or supplement another Medicare related product. Such statement may be part of the product application or on a separate document, but it must be signed by the Medicare beneficiary. Said signature can take many forms as technology allows including, but not limited to tele-signature and voice prints or digital signature.
- (b) A document outlining the benefits of the Medicare related product that the Medicare beneficiary is purchasing. Producers for insurers other than direct response insurers shall provide the Medicare beneficiary a copy of this document at the time of solicitation. Direct response insurers shall issue a copy of this document to the Medicare beneficiary at the time it delivers the policy, contract, or evidence of coverage describing the Medicare related product.
- (c) In those instances where the replacement of another Medicare related product is involved, the agent/producer shall identify the Medicare beneficiary’s current coverage and make a best effort to adequately inform said beneficiary of any substantial benefit differences between the product being solicited and the product being replaced. Additionally, the agent/producer should advise the insured to contact the issuer of the Medicare related product that is being replaced.
- (d) At the time of sale or shortly thereafter, the agent must in each case make, date and execute a written statement to be retained in his or her records that these criteria have been completed.

The Department is aware that open enrollment for the Medicare Advantage and Medicare Part D products commences on November 15 and will terminate on December 31, 2006. We are also aware insurers have likely completed training and provided solicitation materials to their producers who will solicit applications for Medicare related products. Nevertheless, if the Department receives a complaint from a Medicare beneficiary about the solicitation of or suitability of a Medicare related product, the Department will expect the producer who solicited the application of the Medicare related product to be able to provide documentation of the transaction in accordance with the terms of this Directive.

If you have questions or need additional information, contact the Arkansas Insurance Department, Legal Division, at 1200 West Third, Little Rock, Arkansas, or at (501)371-2820, or call toll free at 1-800-282-9134.



Julie Benafield Bowman
Arkansas Insurance Commissioner

November 7, 2006
Date