

**Government of the District of Columbia**  
**Department of Insurance, Securities and Banking**



**Thomas E. Hampton**  
**Acting Commissioner**

**BULLETIN**  
**05-PPI-003 10/20**

**TO:** ALL PRODUCERS

**FROM:** ACTING COMMISSIONER THOMAS E. HAMPTON 

**RE:** PRODUCER ACTIVITY AND MEDICARE PRESCRIPTION  
DRUG PLANS

**DATE:** OCTOBER 20, 2005

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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 complaints about alleged misconduct by licensed producers with regard to Medicare Part D marketing. CMS will refer complaints it receives about producers licensed in the District of Columbia to the D.C. Department of Insurance, Securities and Banking. This bulletin reminds licensed producers that they are subject to all laws and regulations of this jurisdiction, 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.

The department views 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 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 the District of Columbia relating to producer licensing and business practices.