



LOUISIANA DEPARTMENT OF INSURANCE  
JAMES J. DONELON  
COMMISSIONER

**BULLETIN 07-02  
(REVISED AND REISSUED)**

**TO: ALL INSURERS AND PRODUCERS SELLING MEDICARE RELATED PRODUCTS**

**FROM: JAMES J. DONELON, COMMISSIONER**

**RE: UNLAWFUL MARKETING AND/OR SALES PRACTICES OF MEDICARE-RELATED PRODUCTS**

**DATE: OCTOBER 5, 2020**

Bulletin 07-02, originally issued on March 15, 2007, is hereby revised and reissued to update references to sections of the Louisiana Insurance Code that were recodified and renumbered pursuant to Act 415 of the 2008 Regular Session of the Louisiana Legislature, to update Louisiana Department of Insurance ("LDI") contact information, and to conform with an amendment to La. R.S. 22:1562(H).

Some insurers 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 plans, Medicare Prescription Drug Coverage plans, and Medicare Supplement Insurance. Bulletin 07-02 (revised) directs all insurers 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 producers regarding the solicitation, sale, 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, producers are the first point of contact for consumers with regard to Medicare-related products. As such, consumers rely on producers to provide them with a thorough and accurate representation of 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 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 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 La. R.S. 22:2, I am charged with the duty to regulate the insurance industry in all its phases. Bulletin 07-02 has been issued to protect the citizens of this state from the unlawful and/or deceptive marketing of Medicare-related products by insurers and/or producers regulated by the LDI. Insurers are responsible for overseeing all company activities, including those of their producers and ensuring that producers marketing Medicare-related products are properly educated, trained, and supervised to sell such Medicare-related products. Further, under La. R.S. 22:1562(H), insurers or producers are prohibited from accepting or processing a Medicare Advantage or Medicare Prescription Drug Coverage plan application unless the following requirements are met:

- (a) The Medicare enrollee or their authorized representative has signed an application for coverage.
- (b) The Medicare enrollee is provided a written notice upon transfer from one approved Medicare Advantage or Medicare Prescription Drug Coverage plan to another stating that the 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 their current Medicare Advantage or Medicare Prescription Drug Coverage plan that clearly states the date that the 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 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 regulatory action. This enforcement power, under La. R.S. 22:13, 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 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.

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If there are any questions regarding this Bulletin, please contact the Deputy Commissioner for the Office of Consumer Advocacy and Diversity, electronically at [public@ldi.la.gov](mailto:public@ldi.la.gov).

Baton Rouge, Louisiana this 5<sup>th</sup> day of October, 2020.



JAMES J. DONELON  
COMMISSIONER OF INSURANCE