




**BOB RILEY**  
GOVERNOR

**STATE OF ALABAMA**  
**DEPARTMENT OF INSURANCE**  
201 MONROE STREET, SUITE 1700  
POST OFFICE BOX 303351  
MONTGOMERY, ALABAMA 36130-3351  
TELEPHONE: (334) 269-3550  
FACSIMILE: (334) 241-4192  
INTERNET: [www.aldoi.gov](http://www.aldoi.gov)

**WALTER A. BELL**  
COMMISSIONER  
ASSISTANT COMMISSIONER  
RAGAN INGRAM  
DEPUTY COMMISSIONER  
D. DAVID PARSONS  
CHIEF EXAMINER  
RICHARD L. FORD  
STATE FIRE MARSHAL  
RICHARD MONTGOMERY  
GENERAL COUNSEL  
REYN NORMAN  
RECEIVER  
DENISE B. AZAR  
LICENSING MANAGER  
JIMMY W. GUNN

**BULLETIN**

TO: All Insurers Licensed in Alabama  
FROM: Walter A. Bell, Commissioner of Insurance   
DATE: February 16, 2006  
RE: Medicare Part D Marketing

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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 this state to the Alabama Department of Insurance. This bulletin reminds licensed 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.

We 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 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 this office. Any proven misconduct will be prosecuted under the laws of this state relating to producer licensing.

WAB/EB/bc