



The State of New Hampshire Insurance Department

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David J. Bettencourt
Commissioner

Keith E. Nyhan
Deputy Commissioner

BULLETIN **Docket #INS 25-082-AB**

TO: Health Insurance Carriers and Producers Operating in New Hampshire
FROM: Commissioner David J. Bettencourt
DATE: November 6, 2025
RE: Unfair Trade Practices in Marketing Medicare Products in New Hampshire

A handwritten signature in blue ink, appearing to read "D.J. Bettencourt", is written over the "FROM" and "RE" lines of the header.

The New Hampshire Insurance Department ("Department") has become aware of conduct by certain insurers offering Medicare Advantage ("MA") and Medicare Supplement ("MS") products in this state which, if verified, may violate New Hampshire law. Reports indicate that some carriers have removed enrollment applications from public access, discouraged producers from marketing particular products, or altered producer compensation during the plan year.

Such measures, if used to impede consumer access to approved products or to manipulate producer behavior in a way that disadvantages eligible beneficiaries, raise serious concerns under New Hampshire law.

I. Governing Law:

For Medicare Supplement products, the federal government has left primary regulatory authority to the states. RSA 415-F:3, IV authorizes the Department to adopt rules governing compensation for such policies. Insurance Rule Ins 1905.18 sets forth the permissible structure of compensation arrangements and, in particular, provides that commissions or other compensation "shall be the same as that provided in the second year or period and shall be provided for no fewer than five renewal years." The rule prohibits mid-term modification of agreed-upon commissions and caps first-year compensation at not more than 200 percent of the renewal-year amount.

Medicare Advantage plans, though federally administered, remain subject to the general prohibitions of RSA 417 against unfair methods of competition and unfair or deceptive acts in the business of insurance, insofar as those provisions do not

conflict with federal law. See also 42 C.F.R. § 422.2274 (governing MA agent and broker compensation).

II. Fair Competition and Consumer Access:

It is an unfair insurance trade practice under RSA 417 for a carrier to:

1. Withhold or obscure access to enrollment materials for any MA or MS product that remains for sale in New Hampshire;
2. Reduce or eliminate producer compensation for an approved product mid-year, except as expressly permitted under its filed and approved compensation schedule; or
3. Create artificial disincentives that deter producers from marketing otherwise available products or that mislead consumers regarding their lawful choices.

This bulletin does not compel a carrier to continue selling a product that it has lawfully withdrawn from the market in accordance with applicable federal and state procedures. However, as long as a plan remains approved and offered in New Hampshire, the carrier must make enrollment reasonably available through customary channels, online, by mail, and through duly appointed producers, and must honor the compensation structure reflected in its approved filings.

III. Duty of Good Faith and Producer Obligations:

All carriers and producers participating in the Medicare market are reminded of their duty of good faith under New Hampshire law. Producers must act in the best interest of the consumer and assist the applicant in identifying the plan most suited to the consumer's medical and financial circumstances, taking into account provider access, prescription coverage, cost, and affordability.

IV. Enforcement:

The Department will monitor compliance and will take enforcement action where warranted. Violations may result in administrative penalties, license suspension, or revocation pursuant to RSA 417, RSA 400-A:15, and other applicable statutes.

Questions concerning this bulletin may be directed to the Department's Enforcement Division at enforcement@ins.nh.gov.