



**DOMESTIC AND FOREIGN BULLETIN 162  
PRODUCER AND ADJUSTER BULLETIN NO. 39**

**TO: ALL CARRIERS AND PRODUCERS TRANSACTING INSURANCE WITH  
MEDICARE-ELIGIBLE RESIDENTS IN DELAWARE**

**RE: UNFAIR TRADE PRACTICES IN MARKETING INSURANCE  
PRODUCTS TO DELAWARE RESIDENTS ELIGIBLE FOR MEDICARE**

**DATED: October 31, 2025**

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This Bulletin supersedes Forms and Rates Bulletin No. 10, amended on April 15, 1992, and clarifies the Delaware Department of Insurance's (the Department) position on market conduct practices that may violate Title 18, Chapter 23 of the Delaware Insurance Code. Specifically, it addresses actions that manipulate the insurance market or restrict access to approved products for Medicare-eligible consumers, including practices related to producer compensation and plan availability.

This Bulletin also reinforces that such practices may violate federal guaranteed availability protections under the Medicare statutes, which require individuals to have access to coverage without discrimination or obstruction.

**Applicability**

This Bulletin applies to all carriers and producers offering Medicare Advantage and Medicare Supplement plans to Delaware residents.

Carriers are reminded that any attempt to restrict access to approved products, such as removing enrollment applications from public platforms, discouraging producers from selling specific plans, or altering or withholding producer compensation, is prohibited under 18 *Del. C.* § 2304. These actions constitute unfair trade practices and violate the principles of transparency, accessibility, and good faith access required in the marketing and sale of Medicare-related insurance products.

Additionally, such practices may conflict with federal guaranteed availability requirements under Medicare law (42 U.S.C. § 1395ss). The Centers for Medicare & Medicaid Services (CMS) has issued guidance clarifying that reducing or eliminating agent/broker compensation, particularly during Special Enrollment Periods (SEPs), may undermine these federal protections.

## **Prohibited Conduct**

The Department considers the following actions to be unfair methods of competition or deceptive acts under 18 *Del. C.* § 2304, even if not explicitly listed in the statute. Under 18 *Del. C.* § 2307, the Commissioner may determine that other practices not specifically enumerated also constitute violations if they are unfair, deceptive, or detrimental to the insurance-buying public:

- Failing to make enrollment applications readily available and easily accessible in all formats (e.g., printed, online, through appointed agents).
- Discouraging or dissuading producers from marketing or selling approved products.
- Modifying or eliminating producer compensation mid-year.
- Withholding compensation on products that were filed with compensation built into the rate structure.
- Creating internal policies or incentives that steer consumers away from certain approved products, regardless of suitability.
- Delaying or obstructing producer access to enrollment tools, training, or materials necessary to support sales.
- Retaliating against producers who raise concerns about compensation practices or consumer access barriers.

The Department emphasizes that compensation is not a discretionary tool to manage market performance or profitability. Discontinuing commissions on filed products, particularly when carriers have appointed agents, commissions were historically paid, or failed to provide advance notice of zero-commission status, undermines consumer access and violates Delaware law. These actions also adversely impact fair competition in the Medicare market.

## **Carrier and Producer Responsibilities**

All carriers and producers must act in good faith and in full compliance with Delaware and federal law. Products that have been filed and approved for sale must be marketed without artificial barriers, discriminatory practices, or disincentives.

If a product was filed with the expectation of producer compensation, carriers must honor that commitment. Only carriers that explicitly filed plans with a documented zero-commission structure may avoid paying commissions. Any other attempt to suppress compensation or manipulate sales incentives is considered unlawful.

Producers have a legal and ethical duty to prioritize the best interests of the consumer. They must assist individuals in selecting plans that best meet their needs, with consideration given to prescription drug coverage, provider access, overall cost, and affordability.

## **Compliance and Enforcement**

The Department will actively monitor market conduct to ensure compliance with both Delaware law and federal guaranteed availability protections under Medicare statutes.

Violations may result in enforcement actions, including but not limited to:

- Orders to cease and desist from unfair or deceptive practices.
- Suspension or revocation of licenses under 18 *Del. C.* §§ 520 and 1712.
- Administrative penalties under 18 *Del. C.* § 2308, including applicable fines.

Carriers and producers are strongly encouraged to review their compensation policies, marketing practices, and enrollment procedures to ensure full compliance.

Questions about this Bulletin should be emailed to [compliance@delaware.gov](mailto:compliance@delaware.gov).

This Bulletin shall be effective immediately and shall remain in effect unless withdrawn or superseded by subsequent law, regulation or bulletin.



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Trinidad Navarro

Delaware Insurance Commissioner

**Note:** This Bulletin is intended solely for informational purposes. It is not intended to set forth legal rights, duties, or privileges, nor is it intended to provide legal advice. Readers should consult applicable statutes and rules and contact the Delaware Department of Insurance if additional information is needed