STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
Nashville, Tennessee

BULLETIN

TO: All Medicare Supplement Insurers and All Licensed Life, Accident, and Health Agents

FROM: Julie Mix McPeak, Commissioner *Julie Mix McPeak*

RE: Medicare Supplement Open Enrollment and Guaranteed Issue Violations

DATE: July 29, 2013

The Tennessee Department of Commerce and Insurance ("Department") has been informed of certain actions taken by Medicare supplement issuers that are contrary to the intent of the open enrollment and/or guaranteed issue requirements of Tennessee Rule Chapter 0780-01-58 (Sections .13 and .14, respectively) and the Omnibus Budget Reconciliation Act of 1990 (Pub. L. No. 101-508). The purpose of this Bulletin is to clarify that the Department will consider actions enumerated below as violations of Tennessee State law and regulations.

Medicare supplement issuer actions that the Department will consider violations of our laws and regulations include:

1. During the open enrollment and/or guaranteed issue period:
    a. Creating a disincentive to sell Medicare supplement policies by establishing compensation arrangements that result in producers receiving substantially lower or no compensation for policies sold pursuant to the open enrollment and/or guaranteed issue provision.
    b. Engaging in premium rating practices which result in higher premiums solely for those policies issued pursuant to the open enrollment and/or guaranteed issue provision.

2. During the open enrollment period, applying longer pre-existing condition limitation waiting periods to those policies issued pursuant to the open enrollment provision.

The Omnibus Budget Reconciliation Act of 1990 contains substantial criminal and civil penalties for insurers and agents who violate the Act's requirements. Furthermore, failure to comply with Tennessee insurance laws and regulations will result in fines and/or penalties.

Chapter 0780-01-58 also prohibits payment of commissions on replacement policies that are greater than what the replacing insurer would pay on renewal policies. Offering optional commission scales to circumvent this provision will not be permitted.

Any questions about the intent of this Bulletin should be directed to the Insurance Division, 7th Floor, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee, 37243, and/or telephone number (615) 741-2176.