

Medicare Supplement

The following Advisory Opinion is to advise the reader of the current position of the Kentucky Office of Insurance (“the Office”) on the specified issue.

COMMONWEALTH OF KENTUCKY

Environmental and Public Protection Cabinet

Department of Public Protection

Kentucky Office of Insurance

Advisory Opinion 2004-04

IN RE: The Requirements of 806 KAR 17:400, Section 8 regarding Filing Requirements for Advertising of Medicare Supplement Policies and 806 KAR 17:400, Section 10 regarding Standard of Marketing Medicare Supplement Policies

The Kentucky Office of Insurance is aware that some issuers or agents have contracted with marketing companies to solicit Medicare Supplement policies through direct mail advertising or “leads” and that these advertising methods may not be in compliance with 806 KAR 17:400, Sections 8 and Section 10.

The Office of Insurance’s Position with Regard to 806 KAR 17:400:

806 KAR 17:400, Section 8(1) requires all issuers, as defined in 806 KAR 17:400, Section 1 (12), to file all advertisement with the Executive Director of the Office of Insurance prior to use. Although the Executive Director does not have to approve the advertisement before use by the issuer, the issuer shall not use the advertisement if it has been disapproved by the Executive Director.

806 KAR 17:400, Section 8(2) prohibits all issuers and agents from using “the names and addresses of persons purchased as ‘leads’ unless the solicitation material used to obtain the names and addresses of the ‘lead’ are filed as advertisements.” The regulation also prohibits issuers and agents from using “leads” if the solicitation materials have been disapproved by the Executive Director.

806 KAR 17:400, Section 10(2)(c) prohibits the use of “cold lead advertising” unless the advertising clearly discloses that the “purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.” (emphasis added).

The Kentucky Office of Insurance may take administrative action against an agent or issuer for failing to comply with the above-referenced regulations.

Questions regarding this Advisory Opinion may be directed to Elizabeth A. Johnson, Counsel, Office of Legal Services, Insurance Legal Division, at 502-564-6032.

/s/ Martin J. Koettters

Martin J. Koettters
Executive Director

10/09/2004
Date