

Remarks before the Senate Committee on Aging

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Georgia Insurance and Safety Fire Commissioner John Oxendine
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I want to thank the Committee for inviting me to speak. My name is Sherry Mowell, and I have been employed by Georgia Insurance and Safety Fire Commissioner John Oxendine as a criminal investigator since 1994. My duties include the investigation of complaints of insurance fraud.

The Office of the Commissioner of Insurance licenses insurance companies and insurance agents operating in the State of Georgia and enforces Georgia law. However, with regard to the sale of Medicare Advantage products, the States retain jurisdiction over the insurance companies only as to “solvency and licensing” issues; once a license is granted, the state cannot take action against the insurer unless it faces solvency issues.

(We are in the process of taking action against one insurer who has fallen below our minimum surplus standards.) As for agents, the states license agents who sell insurance products, including Medicare Advantage products, and retains authority over their actions.

In the past year, the Office of the Commissioner of Insurance has received numerous complaints related to the Medicare Advantage product. These complaints have come from both consumers, CMS, and other related government agencies. Based on complaints received, we have investigated numerous agents acting in our state as well as one insurer. Our investigations have found numerous instances where consumers have been taken advantage of.

Specifically, we have found the following:

- Georgia licensed insurance agents contracted with various Medicare Advantage Program Providers to market their products during open enrollment periods in 2006. These insurance agents receive on average a commission of \$200 to \$250 for each enrollee they signed up. Some agents began soliciting enrollees before the open enrollment period. This violated federal guidelines.
- Agents allowed untrained sub-agents to sell the Medicare Advantage product. This is problematic because the sub-agents have not been through the required training. (Further, by using these untrained sub-agents, the agent can later disclaim knowledge of wrongdoing by the sub-agent.)
- Agents obtained personal identifying information from the agency they are affiliated with, which had the information on record from previous Medicare Part D sales. This personal information was transferred to Medicare Advantage Plan

applications which clients unwittingly signed. Here's how it worked -- agents asked potential clients to sign a form, stating that the form was to prove to the agent's boss that the agent had been to visit with the client -- however, the client was unaware that they were signing the back page of a contract to purchase a Medicare Advantage product. This is fraudulent.

- Similarly, agents told prospective enrollees that they were visiting them to verify that they were covered under Medicare Part D. The agents had the prospective enrollee sign a form that they said would show that they had verified their choice of Medicare Part D, when, in fact, the form was a Medicare Advantage enrollment form. This was fraudulent.
- Agents, without prior appointments, solicited individuals that had not requested any information on the Medicare Advantage program. Agents solicited door-to-door in areas with a high elderly population. This violated federal guidelines.
- Agents told potential customers that Medicare is “closing down” and “running out of money,” and if the customers do not sign up for Medicare Advantage, they will lose all healthcare benefits. Some agents have told potential customers that Medicare Advantage coverage will not go into effect until Medicare “closes down.” Of course, this is a false statement.
- Agents did not clearly and concisely explain the benefits of the Medicare Advantage Program. Agents misled prospective enrollees by telling them they would receive “free eye care and dental care” for signing up and that enrolling in Medicare Advantage would not change their Medicare benefits. This is not true.
- Individuals misrepresented that they were insurance agents; they told prospective enrollees that they were “from Medicare,” or that they were “sent by the Georgia Department of Family and Children Services.” This was untrue.
- Agents signed up deceased individuals prior to the enrollment period using the deceased individual's personal identification information which the agent had retrieved from insurance agency databases or Medicare Part D applications.
- Agents called on patients in personal care homes without prior approval of the patients or their guardians. Agents misrepresented their identity and affiliation to the staff in the personal care homes -- they told staff that they were from Medicare. On one occasion, two agents called on a personal care facility after normal hours of operation. This violates federal regulations.
- Agents asked staff of healthcare facilities to visit patients in their rooms rather than in common areas; the agents did not want staff members to accompany them to the rooms.

- Consumers were signed up under a Medicare Advantage program even though they had never met an agent and discussed signing up for the program. We showed these elderly victims applications which purported to contain their signature, and the victims denied ever signing the applications or meeting with anyone concerning the Medicare Advantage program.
- One agent, who had previously signed up individuals for Medicare Part D at a facility for the mentally disabled, switched those mentally challenged patients to a Medicare Advantage plan without the knowledge of the patient or their guardians.
- Agents have signed up individuals for Medicare Advantage who are dual eligible -- that is, they are already eligible for both Medicaid and Medicare. Under Medicare Advantage, they are charged co-payments that they would not be responsible for under their dual status. (Thus, for example, individuals whose income is \$400 a month end up with \$30.00 to \$40.00 co-pay for each doctor visit -- charges that would have been covered for them by Medicaid and Medicare.)
- Agents, on numerous occasions, have claimed that they were trained by the company to solicit customers in the manner in which they were operating or were approved to conduct business in this manner by their field management office.

Since January 2006, this office has received over three hundred (300) written complaints from the public concerning Medicare Advantage enrollment issues. This number does not include the hundreds of telephone calls that our office has received concerning problems with the Medicare Advantage program.

Also, this office has received numerous complaints on the companies that offer the Medicare Advantage Plan which allege the companies are not paying claims or are not processing their cancellations of the plan. Our Office has worked hand-in-hand with Centers for Medicare & Medicaid Services trying to get the individuals the help they need. Our Office has found, in some instances, the companies that have been contracted by Medicare to provide the coverage are not adequately prepared to handle the flow of business that has been written by the company. The state regulator does not have the authority to regulate the company or the product. This results in consumer frustration and dissatisfaction.

Commissioner Oxendine's staff has arrested two agents for fraudulent acts related to their sales of Medicare Advantage product as of the date these comments were submitted. We're working hard to investigate and prosecute insurance fraud in our state. Thank you.