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INSURANCE COMMISSIONER
OKLAHOMA

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF OKLAHOMA

IN RE:	TEMPORARY LICENSING – MEDICARE PRESCRIPTION DRUG PLAN ENROLLMENT	)) Case No. 05-1417-PRJ)

GENERAL ORDER

COMES NOW the State of Oklahoma, ex rel. Kim Holland, Insurance Commissioner, and issues her order based upon the following findings and conclusions of law, to-wit:

JURISDICTION

Kim Holland is the Insurance Commissioner of the State of Oklahoma and as such is charged with the duty of administering and enforcing all provisions of the Oklahoma Insurance Code, 36 O.S. §§ 101-6951, including the Oklahoma Producer Licensing Act, 36 O.S. § 1435.1, et seq.

FINDINGS OF FACT

1. Oklahoma's Senior Health Insurance Counseling Program (SHICP) is a federally funded program. Through volunteer counselors, SHICP and other partner organizations provide accurate and objective counseling and assistance regarding benefits related to Medicare, Medicaid, Medicare Supplements, Medicare Advantage, Medicare Savings Programs, Long-Term Care and other related health plans for Medicare beneficiaries, their representatives, or persons soon to be eligible for Medicare. These volunteer counselors do not currently assist in enrollment of Medicare beneficiaries in insurance plans.

2. The Center for Medicare and Medicaid Services of the Department of Health and Human Services (CMS) is currently encouraging SHICP and other CMS partner organizations to organize volunteer counselors (CMS volunteer counselors) to assist Medicare beneficiaries with enrollment in a Medicare Prescription Drug Plan (Part D of Medicare). Enrollment is

accomplished by the Medicare beneficiary applying for benefits with a CMS approved commercial insurance product or health plan.

3. The Oklahoma Insurance Commissioner recognizes the importance of facilitating the achievement of the goals of CMS in promoting the enrollment of Medicare beneficiaries in a Medicare Part D Prescription Drug Plan.

4. The Oklahoma Insurance Code requires licensure of all persons who sell, solicit, or negotiate insurance contracts in this state. See 36 O.S. § 1435.4.

5. . The public interest will best be served by the issuance of a temporary license to CMS volunteer counselors to facilitate the enrollment of Medicare beneficiaries in a Medicare Part D Prescription Drug Plan, and said temporary license should not be subject to appointment provisions of the Oklahoma Insurance Code including 36 O.S. § 1435.15.

6. The Insurance Commissioner deems it necessary to grant temporary licenses to CMS volunteers pursuant to 36 O.S. § 1435.12, subject to the following requirements and limitations:

a. CMS volunteer counselors shall have received CMS training or other similar training acceptable to the Insurance Commissioner on enrollment of Medicare beneficiaries in Medicare Part D prior to obtaining a temporary license pursuant to this order;

b. Each CMS Partner organization shall register with the Department by submission of a list of CMS volunteer counselors who intend to enroll Medicare beneficiaries in Medicare Part D, which shall include the address and phone number of each volunteer;

c. The list of CMS volunteer counselors provided by CMS Partner organizations shall be accompanied by a description of the training received by each CMS volunteer counselor, along with the signature of each volunteer acknowledging the following: "I have received and read the Medicare Part D Prescription Drug Plan training materials and

understand that the authority granted by a temporary license issued to me by the Insurance Commissioner of Oklahoma is strictly limited to my service as a CMS volunteer counselor enrolling Medicare beneficiaries in Medicare Part D Prescription Drug Plans."

d. CMS Partner organizations and volunteer counselors shall not receive commissions or other valuable consideration of any kind whatsoever from insurance entities or health plans or enrollees for the enrollment of Medicare beneficiaries in Medicare Part D.

e. The authority granted by said temporary licenses is limited to providing enrollment assistance to Medicare beneficiaries through the following process:

(1) Ask essential questions about a person's specific situation. If Medicare beneficiaries are enrolled in a Medicare Advantage Prescription Drug plan (MA-PD), a Medigap policy with drug coverage, TRICARE, VA or FEHBP, the CMS volunteer counselor refers the Medicare beneficiaries to the insurer, health plan or other proper organization that provides the MA-PD, Medigap policy with drug coverage, TRICARE, VA or FEHBP.

(2) Use the answers to those questions to explain to the person his or her options for obtaining Medicare drug coverage, and any decisions the person must make;

(2) If the person with Medicare wishes to proceed with choosing a plan, explain how to compare plans;

(3) If the person chooses a plan and wishes to enroll, help the person fill out the necessary forms, or explain where to go for further assistance.

CONCLUSIONS OF LAW

1. Pursuant to 36 O.S. § 1435.12(A)(4), the Insurance Commissioner may issue a temporary license for a period not to exceed one hundred eighty (180) days without requiring an examination if the Insurance Commissioner deems that the temporary license is necessary for the servicing of an insurance business in any circumstance in which the Insurance Commissioner deems that the public interest will best be served by the issuance of the license.

2. Pursuant to 36 O.S. § 1435.12(B), the Insurance Commissioner may by order limit the authority of any temporary license in any way deemed necessary to protect insureds and the public.

3. Pursuant to 36 O.S. § 1435.12(E), no temporary licenses issued shall be effective for more than one hundred eighty (180) days unless renewed once upon proper application and for good cause.

ORDER

IT IS THEREFORE ORDERED by the Insurance Commissioner that temporary licenses shall be granted to CMS volunteer counselors subject to the following requirements and limitations:

1. CMS volunteer counselors shall have received CMS training or other similar training acceptable to the Insurance Commissioner on enrollment of Medicare beneficiaries in Medicare Part D prior to obtaining a temporary license pursuant to this order. Temporary licenses shall not be granted if training is not acceptable to the Insurance Commissioner;

2. Each CMS Partner organization shall register with the Oklahoma Insurance Department by submission of a list of CMS volunteer counselors who intend to enroll Medicare beneficiaries in Medicare Part D, which shall include the address and phone number of each volunteer;

3. The list of CMS volunteer counselors provided by CMS Partner organizations shall be accompanied by a description of the training received by each CMS volunteer counselor, along with the signature of each volunteer acknowledging the following: "I have received and read the Medicare Part D Prescription Drug Plan training materials and understand that the authority granted by a temporary license issued to me by the Insurance Commissioner of Oklahoma is strictly limited to my service as a CMS

volunteer counselor enrolling Medicare beneficiaries in Medicare Part D Prescription Drug Plans."

4. CMS Partner organizations and volunteer counselors shall not receive commissions or other valuable consideration of any kind from insurance entities, health plans or enrollees for the enrollment of Medicare beneficiaries in Medicare Part D.

5. The authority granted by said temporary licenses is limited to providing enrollment assistance to Medicare beneficiaries exclusively through the following process:

(a) Ask essential questions about a person's specific situation. If Medicare beneficiaries are enrolled in a Medicare Advantage Prescription Drug Plan (MA-PD), a Medigap policy with drug coverage, TRICARE, VA or FEHBP, the CMS volunteer counselor refers the Medicare beneficiaries to the insurer or health plan or other proper organization that provides the MA-PD, Medigap policy with drug coverage, TRICARE, VA or FEHBP.

(b) Use the answers to those questions to explain to the person his or her options for obtaining Medicare drug coverage, and any decisions the person must make;

(c) If the person with Medicare wishes to proceed with choosing a plan, explain how to compare plans;

(d) If the person chooses a plan and wishes to enroll, help the person fill out the necessary forms, or explain where to go for further assistance.

IT IS FURTHER ORDERED by the Insurance Commissioner that the temporary license issued pursuant to this order shall not be subject to appointment provisions of the Oklahoma Insurance Code including 36 O.S. § 1435.15.

IT IS FURTHER ORDERED by the Insurance Commissioner that the Agent Licensing Division of the Oklahoma Insurance Department shall maintain a list of all temporary licenses issued pursuant to this order.

IT IS FURTHER ORDERED by the Insurance Commissioner that any CMS volunteer counselor who agrees to receive or does receive commissions or other valuable consideration of

any kind whatsoever from insurance entities, health plans or enrollees in payment for enrolling Medicare beneficiaries in Medicare Part D shall first meet all licensing requirements of and obtain a license pursuant to the applicable provisions of the Oklahoma Insurance Code and Regulations.

WITNESS My Hand and Official Seal this 11 day of October, 2005.

KIM HOLLAND
Insurance Commissioner
State of Oklahoma Insurance Department