



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
MARGARET M. O'NEILL BUILDING
410 FEDERAL STREET, SUITE 1
DOVER, DE 19901

VOICE: (302) 739-3620
TTY/TDD: (302) 739-3699
FAX: (302) 739-6704

MEMORANDUM

DATE: April 30, 2013

TO: All Members of the Delaware State Senate
and House of Representatives

FROM: Ms. Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

RE: S.B. 42 [Medicare Supplemental Insurance]

The State Council for Persons with Disabilities (SCPD) has reviewed S.B. 42 which ensures that individuals who are eligible for the Federal Medicare program due to disability are able to purchase the same Medicare supplement policies available to individuals eligible for Medicare due to age. This bill also ensures that the rates for Medicare supplement insurance purchased by persons who receive Medicare for reasons unrelated to disability are not affected by this bill. SCPD endorses the concept of the proposed legislation because persons with disabilities that are Medicare eligible in Delaware need to be able to purchase affordable supplemental insurance.

As background and consistent with the attached memorandum, "Guaranteed Issue" is a term used in health insurance to describe a situation where policies are offered to all eligible applicants regardless of health status. While the 2010 Affordable Healthcare Act (ACA) requires Guarantee Issue for all group plans and new plans on the individual market as of 2014, it does not affect those that are Medicare eligible due to disability. As it pertains to Medicare supplemental insurance, this proposed legislation would prohibit insurance companies offering "Medigap" policies from denying coverage to patients under 65 who qualify for Medicare because of disability.

There are currently thirty (30) Guaranteed Issue states including Maryland, New Jersey, New York, Pennsylvania and Massachusetts. Delaware is not currently a Guaranteed Issue state. In 2008, legislation was passed to make Delaware a Guaranteed Issue state (H.B. 267) but was amended to only cover those with End Stage Renal Disease (ESRD). However, H.B. 267 contained a sunset provision and is no longer in effect.

SCPD recommends amending S.B. 42 to either include a requirement to offer Plans A&F at the average premium for those over 65 or to create a pool and charge the same premium for all beneficiaries under 65. Insurance companies would not be able to use medical underwriting to change premiums based on type of disability. Both options have been adopted in many other states and found to be effective in reducing premiums for the disabled while not raising rates for seniors. Indeed, the attached memorandum indicates that including a Medigap plan in Maryland has resulted in a “win-win” for both people with disabilities and the insurance companies.

Thank you for your consideration and please contact SCPD if you have any questions regarding our observations or position on the proposed legislation.

cc: Mr. Brian Hartman, Esq.
Ms. Heather Block
Governor’s Advisory Council for Exceptional Citizens
Developmental Disabilities Council

sb 42 medicare supp ins 4-30-13

Memorandum

To: Rep. B. Short, Sen. Bushweller
CC: Blaine Breeding
From: Saran Singh
Date: 4/16/13
Re: Medicare Supplemental Insurance

You requested some information on Medicare Supplemental Insurance regarding what measures states in the region have in place concerning Medicare Supplemental insurance policies for persons under 65 with a disability.ⁱ Specifically, this memo addresses the two main components of this draft legislation: guaranteed issue Medigap insurance and premium rate affordability.ⁱⁱ

Guaranteed Issue

“Guaranteed Issue” is a term used in health insurance to describe a situation where policies are offered to all eligible applicants regardless of health status. While the 2010 Affordable Healthcare Act (ACA) requires guarantee issue for all group plans and new plans on the individual market as of 2014, it does not affect those that are Medicare eligible due to disability.

As it pertains to Medicare supplemental insurance, this proposed legislation would prohibit insurance companies offering Medigap policies from denying coverage to patients under 65 who qualify for Medicare because of disability.

- 30 states are currently “Guaranteed Issue” states, meaning that they require insurance providers to offer at least one supplemental policy to persons under 65 who qualify for Medicare through disability or end-stage renal disease.ⁱⁱⁱ
- Maryland, New Jersey^{iv}, New York, Pennsylvania and Massachusetts are guaranteed issue states.
- Delaware is not currently a guaranteed issue state. In 2008, legislation was proposed to make Delaware a guaranteed issue state (House Bill 267) but was amended to only cover those with End Stage Renal Disease (ESRD). HB 267 contained a sunset provision, and is no longer in effect.
- Federal law requires insurance companies to provide a six-month open enrollment period for Medicare beneficiaries when they turn 65. There is no federal law requiring open enrollment for those under 65. Of the 30 states with guaranteed issue, 28 states require an open enrollment period that varies in scope and may require certain plan types to be open.

*under 65/disability hereafter refers to those individuals who qualify for Medicare because of disability despite being younger than the qualifying age of 65 years

Premium Affordability

States that guarantee supplemental (Medigap) insurance for those under 65/disability ensure affordability by either: ^v

- Combining under- and over-65 pools so that premium rates are standardized (14 states, including Pennsylvania, New York, and Massachusetts)
 - Massachusetts is unique in that all Medicare-eligible persons are charged the same premium rates for Medigap insurance regardless of age or health status (community rated premiums).
- Requiring that premiums charged to under 65/disability cannot exceed the weighted average premium paid by the over-65 pool (Maryland, Missouri)^{vi} or,
- Requiring that premiums charged to under 65/disability cannot exceed the maximum paid by the over-65 pool (Illinois) or,
- 22 states require insurance companies to charge the same premium for all beneficiaries under 65, companies cannot use medical underwriting to change premiums based on type of disability.

Carriers in Delaware

- The insurers in Delaware that would be affected are those who currently offer Medigap policies. Under this new legislation, these insurers would be prohibited from denying Medigap coverage to those under 65/disability.
- Companies that have Medigap policies approved for marketing in Delaware include Blue Cross Blue Shield, Colonial Penn, Combined Ins. Co. of America, Gerber Life Ins. Co, Globe Life and Accident, Government Personnel Mut. Life, Humana, Liberty National, Standard Life & Accident, State Farm, Sterling, TransAmerica, United American, United Healthcare, United World, USAA Life Ins. A complete list with contact info is attached.

Potential Effects

One concern states may raise is that requiring insurance carriers to offer policies to the under-65/disability pool would prompt companies to move out of state or stop offering these policies altogether. With many states now implementing these requirements, it seems that this has not been the case.

- Federal law requires carriers to offer standardized Medigap policies to the over-65/Medicare population. Because insurance carriers generate significant revenue from the sales of Medigap policies to this demographic (21% of seniors in Delaware purchase Medigap policies), it is unlikely that requiring the under-65/disability population to be included would create enough of a disincentive for carriers to stop offering these policies.
- Maryland found that requiring insurance carriers to offer supplemental policies to those under 65/disability did not cause companies to move out of state. Since this legislation has been implemented 3 new carriers have moved in-state.^{vii}

Another concern is that instituting these requirements would effectively raise premium rates across the board to compensate for the costs incurred by the under-65/disability pool.

- Based on 2010 rates, the average monthly premium for all states was \$177. The average monthly premium for guarantee issue states was \$179.41. Delaware's premium rate in 2010 was \$188 (note: Delaware's rate may seem high, but is comparable to other states in the region: the average premium for MD, PA, NY, and NJ in 2010 was \$193.50)
- This indicates that there is not a significant difference in premium rates between guaranteed issue and non-guaranteed issue states.
- Maryland studied the effects of requiring premium rates for disabled to be set at the average for the over 65 beneficiaries in plan A. Maryland found that premiums were significantly reduced for those under 65, and there is no evidence that premiums increased for those over 65 in plan A.

ⁱ <http://www.medicare.gov/pubs/pdf/02110.pdf>

ⁱⁱ <http://www.medicare.gov/medigap/under65.asp>

ⁱⁱⁱ <http://www.kff.org/medicare/upload/8412.pdf>

^{iv} http://www.state.nj.us/humanservices/doas/documents/J0509-J0510--50%20&%20older%20and%20Under65_2-20-13.pdf

^v <http://insurance.mo.gov/Contribute%20Documents/msmodis.pdf>

^{vi} <http://insurance.mo.gov/Contribute%20Documents/msmodis.pdf>

^{vii} <http://www.mdinsurance.state.md.us/sa/docs/documents/homec/reports/availabilityofmedicaresupplements12-07.pdf>

Memorandum

To: Senator Brian J. Bushweller

From: Rachel Linstead Goldsmith

Date: April 16, 2013

Re: Medigap Guarantee Issue and Premium Caps / Follow-up from Heather Block

Heather Block, a Delawarean cancer patient, visited with Senator Bushweller on April 2, seeking support for requiring guarantee issue of Medigap insurance plans to disabled Medicare beneficiaries, along with a premium caps for this population. Senator Bushweller asked Ms. Block three questions for follow-up, listed below with Ms. Block's research findings.

1. Does introducing a premium cap on Medigap plans result in insurers leaving the market?

After requiring Guarantee Issue for disabled Medicare beneficiaries under age 65 and capping premiums to the average for all seniors in the rate group, the State of Maryland produced a report on the impact of the new law (Section 15-909(b)(3)(iii)). This report stated that:

- The Maryland Insurance Administration has not seen any evidence of carriers withdrawing from the Medicare supplement market since the adoption of Section 15-909(b)(3)(iii).
- Since the law's enactment, three new carriers had actually entered the market.
- In 2007, there were 25 carriers selling Medicare supplement plans in the individual market and 6 carriers selling Medicare supplement plans in the group market.

Nationally, the Medigap market is growing: In February 2013, the Insurance & Financial Advisor (IFA) reported that Medigap coverage sales rose by 9% in 2012.

2. Does the inclusion of the disabled in Medigap plans raise premium rates for seniors?

In Maryland, the premium rates for seniors were not affected by capping premiums to the average for all seniors for disabled Medicare beneficiaries under age 65.

3. Are the insurers providing Medigap in MD the same insurers providing Medigap in DE?

- There are 16 insurance carriers offering Medigap plans in Delaware in 2013
- There were 21 insurance carriers offering Medigap plans in Maryland in 2011
- Based on the carrier lists above, 12 of the 16 insurance carriers offering Medigap plans in Delaware in 2013 were offering the plans in Maryland in 2011.