



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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The Honorable John Carney
Governor

John A. McNeal
Director

MEMORANDUM

DATE: April 30, 2019

TO: Ms. Leslie Ledogar, Regulatory Specialist
Department of Insurance

FROM: 
J. Todd Webb – Chairperson
State Council for Persons with Disabilities

RE: 22 DE Reg. 846 [DOI Proposed Regulation on Medicare Supplement Insurance
Minimum Standards (April 1, 2019)]

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Insurance's (DOI) proposed regulation sets forth the minimum standards for Medicare Supplement Insurance in Delaware and implements the mandate of Chapter 34 of Title 18. The regulation was published as 22 DE Reg 846 in the April 1, 2019 issue of the Register of Regulations. SCPD has the following observations.

The main purpose of the regulation is to incorporate the changes contained in the Medicare Access and CHIP Reauthorization ACT (MACRA) as they relate to Medicare Supplement policies. By implementing these changes, the state retains regulatory authority over Medicare supplement products rather than have authority revert back to the federal government. The changes dictated by MACRA must be adopted by the states to be effective January 1, 2020 so this regulation will be timely. This regulation is comprehensive (38 pages long including the notice, charts, and disclosure statement but repetitive in most respects to the prior regulation) and applies to all Medicare supplement policies and all certificates issued under group Medicare supplement policies issued after the effective date of the regulation.

The changes implemented in the regulation are taken from the model regulation developed by the National Association of Insurance Commissioners (NAIC). Section 12 implements MACRA and only applies to individuals who become eligible for Medicare on or after January 1, 2020. To be a newly eligible Medicare beneficiary for purposes of this regulation, the individual must both

have turned 65 on or after January 1, 2020, and first become Medicare eligible on or after that date.

For these individuals, they will not be able to purchase Plan C and Plan F, plans that cover claims without the individuals paying any out of pocket expenses. The Medicare Part B deductible for 2019 is \$185.00 so these newly eligible individuals will be responsible for paying the deductible. Newly eligible individuals will be able to purchase Plans D and Plan G, which is identical to coverage offered by Plans C and Plan F, save for the deductible. Plan C is redesignated Plan D and Plan F is redesignated Plan G. However, these changes do not apply to employer group coverage.

The regulation also contains an updated chart for Plan F, a new chart for Plan G, and disclosure statements for health insurance policies that duplicate Medicare and are sold to Medicare beneficiaries.

This regulation was prompted by a change in the federal Medicare law and uses the model regulation developed by the NAIC. The crux of the regulation is that it makes individuals who become eligible for Medicare after January 1, 2020 (referred to as newly eligible) responsible for paying the Part B deductible (which is covered in Plan C and Plan F). Delaware needed to implement the changes necessitated by MACRA or it would lose the ability to regulate Medicare supplement insurance policies and they would by default be regulated by the federal government. Delaware has taken the necessary steps to keep authority by promulgating this regulation. This regulation is formulaic and uses the language contained in the model regulation. It was necessary to make these changes so that Delaware retains the ability to regulate Medicare supplement insurance policies issued in the state.

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

cc: The Honorable Christopher Coons
The Honorable Thomas R. Carper
The Honorable Lisa Blunt Rochester
The Honorable Trinidad Navarro
Ms. Laura Waterland, Esq.
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

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