

SB 332

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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996



# ENROLLED

SENATE BILL NO. 332

(By Senators HELMICK & ROSS)



PASSED MARCH 8, 1996

In Effect NINETY DAYS FROM Passage

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### Senate Bill No. 332

(BY SENATORS HELMICK AND ROSS)

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[Passed March 8, 1996; in effect ninety days from passage.]

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AN ACT to amend and reenact section five-b, article twenty-eight, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to medicare supplement insurance.

*Be it enacted by the Legislature of West Virginia:*

That section five-b, article twenty-eight, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 28. INDIVIDUAL ACCIDENT AND SICKNESS INSURANCE  
MINIMUM STANDARDS.**

**§33-28-5b. Medicare supplement insurance.**

- 1 (a) *Definitions.* —
- 2 (1) “Applicant” means, in the case of an individual
- 3 medicare supplement policy or subscriber contract, the
- 4 person who seeks to contract for insurance benefits.

5 (2) "Medicare supplement policy" means an individual  
6 policy of accident and sickness insurance or a subscriber  
7 contract (of hospital and medical service corporations or  
8 health maintenance organizations), other than a policy  
9 issued pursuant to a contract under Section 1876 of the  
10 federal Social Security Act (42 U.S.C. Section 1395 et  
11 seq.), or an issued policy under a demonstration project  
12 specified in 42 U.S.C. §1395ss(g)(1), which is advertised,  
13 marketed or designed primarily as a supplement to  
14 reimbursements under medicare for the hospital, medical  
15 or surgical expenses of persons eligible for medicare.  
16 Such term does not include:

17 (A) A policy or contract of one or more employers or  
18 labor organizations, or of the trustees of a fund estab-  
19 lished by one or more employers or labor organizations,  
20 or a combination thereof, for employees or former  
21 employees, or combination thereof, or for members or  
22 former members, or combination thereof, of the labor  
23 organizations; or

24 (B) A policy or contract of any professional, trade or  
25 occupational association for its members or former or  
26 retired members, or combination thereof, if such associa-  
27 tion is composed of individuals all of whom are actively  
28 engaged in the same profession, trade or occupation; has  
29 been maintained in good faith for purposes other than  
30 obtaining insurance; and has been in existence for at  
31 least two years prior to the date of its initial offering of  
32 such policy or plan to its members; or

33 (C) Individual policies or contracts issued pursuant to  
34 a conversion privilege under a policy or contract of  
35 group or individual insurance when such group or  
36 individual policy or contract includes provisions which  
37 are inconsistent with the requirements of this section.

38 (3) "Medicare" means the Health Insurance for the  
39 Aged Act, Title XVIII of the Social Security Amend-  
40 ments of 1965, as then constituted or later amended.

41 (b) *Standards for policy provisions.* —

42 (1) The commissioner shall issue reasonable rules to  
43 establish specific standards for policy provisions of  
44 medicare supplement policies. Such standards shall be  
45 in addition to and in accordance with the applicable  
46 laws of this state and may cover, but shall not be limited  
47 to:

- 48 (A) Terms of renewability;
- 49 (B) Initial and subsequent conditions of eligibility;
- 50 (C) Nonduplication of coverage;
- 51 (D) Probationary period;
- 52 (E) Benefit limitations, exceptions and reductions;
- 53 (F) Elimination period;
- 54 (G) Requirements for replacement;
- 55 (H) Recurrent conditions; and
- 56 (I) Definitions of terms.

57 (2) The commissioner may issue reasonable rules that  
58 specify prohibited policy provisions not otherwise  
59 specifically authorized by statute which, in the opinion  
60 of the commissioner, are unjust, unfair or unfairly  
61 discriminatory to any person insured or proposed for  
62 coverage under a medicare supplement policy.

63 (3) Notwithstanding any other provisions of the law, a  
64 medicare supplement policy may not deny a claim for  
65 losses incurred more than six months from the effective  
66 date of coverage for a preexisting condition. The policy  
67 may not define a preexisting condition more restrictively  
68 than a condition for which medical advice was given or  
69 treatment was recommended by or received from a  
70 physician within six months before the effective date of  
71 coverage.

72 (c) *Minimum standards for benefits.* — The commis-  
73 sioner shall issue reasonable rules to establish minimum  
74 standards for benefits under medicare supplement  
75 policies.

76 (d) *Loss ratio standards.* — Medicare supplement  
77 policies shall be expected to return to policyholders  
78 benefits which are reasonable in relation to the premium  
79 charge. The commissioner shall issue reasonable rules to  
80 establish minimum standards for loss ratios for medicare  
81 supplement policies on the basis of incurred claims  
82 experience and earned premiums for the entire period  
83 for which rates are computed to provide coverage and in  
84 accordance with accepted actuarial principles and  
85 practices. For purposes of rules issued pursuant to this  
86 subsection, medicare supplement policies issued as a  
87 result of solicitations of individuals through the mail or  
88 mass media advertising, including both print and broad-  
89 cast advertising, shall be treated as individual policies.

90 (e) *Disclosure standards.* —

91 (1) In order to provide for full and fair disclosure in the  
92 sale of accident and sickness policies, to persons eligible  
93 for medicare, the commissioner may require by rule that  
94 no policy of accident and sickness insurance may be  
95 issued for delivery in this state and no certificate may be  
96 delivered pursuant to such a policy unless an outline of  
97 coverage is delivered to the applicant at the time appli-  
98 cation is made.

99 (2) The commissioner shall prescribe the format and  
100 content of the outline of coverage required by subdivi-  
101 sion (1) of this subsection above. For purposes of this  
102 subdivision, "format" means style, arrangements and  
103 overall appearance, including such items as size, color  
104 and prominence of type and the arrangement of text and  
105 captions. Such outline of coverage shall include:

106 (A) A description of the principal benefits and cover-  
107 age provided in the policy;

108 (B) A statement of the exceptions, reductions and  
109 limitations contained in the policy;

110 (C) A statement of the renewal provisions including  
111 any reservation by the insurer of the right to change  
112 premiums and disclosure of the existence of any auto-

113 matic renewal premium increases based on the policy-  
114 holder's age;

115 (D) A statement that the outline of coverage is a  
116 summary of the policy issued or applied for and that the  
117 policy should be consulted to determine governing  
118 contractual provisions.

119 (3) The commissioner may prescribe by rule a standard  
120 form and the contents of an informational brochure for  
121 persons eligible for medicare, which is intended to  
122 improve the buyer's ability to select the most appropri-  
123 ate coverage and improve the buyer's understanding of  
124 medicare. Except in the case of direct response insur-  
125 ance policies, the commissioner may require by rule that  
126 the information brochure be provided to any prospective  
127 insureds eligible for medicare concurrently with delivery  
128 of the outline of coverage. With respect to direct re-  
129 sponse insurance policies, the commissioner may require  
130 by rule that the prescribed brochure be provided upon  
131 request to any prospective insureds eligible for medicare,  
132 but in no event later than the time of policy delivery.

133 (4) The commissioner may further promulgate reason-  
134 able rules to govern the full and fair disclosure of the  
135 information in connection with the replacement of  
136 accident and sickness policies, subscriber contracts or  
137 certificates by persons eligible for medicare.

138 (f) *Notice of free examination.* — Medicare supplement  
139 policies or certificates, other than those issued pursuant  
140 to direct response solicitation, shall have a notice  
141 prominently printed on the first page of the policy or  
142 attached thereto stating in substance that the applicant  
143 shall have the right to return the policy or certificate  
144 within thirty days from its delivery and have the pre-  
145 mium refunded if, after examination of the policy or  
146 certificate, the applicant is not satisfied for any reason.  
147 Any refund made pursuant to this section shall be paid  
148 directly to the applicant by the issuer in a timely man-  
149 ner. Medicare supplement policies or certificates issued  
150 pursuant to a direct response solicitation to persons

151 eligible for medicare shall have a notice prominently  
152 printed on the first page or attached thereto stating in  
153 substance that the applicant shall have the right to  
154 return the policy or certificate within thirty days of its  
155 delivery and to have the premium refunded if, after  
156 examination, the applicant is not satisfied for any  
157 reason. Any refund made pursuant to this section shall  
158 be paid directly to the applicant by the issuer in a timely  
159 manner.

160 (g) *Administrative procedures.* — Rules promulgated  
161 pursuant to this section shall be subject to the provisions  
162 of chapter twenty-nine-a (the West Virginia Administra-  
163 tive Procedures Act) of this code.

164 (h) *Severability.* — If any provision of this section or  
165 the application thereof to any person or circumstance is  
166 for any reason held to be invalid, the remainder of the  
167 section and the application of such provision to other  
168 persons or circumstances shall not be affected thereby.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Randy Shauman*  
.....  
Chairman Senate Committee

*Randy Seavert*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Barrett Ellis*  
.....  
Clerk of the Senate

*Gregory M. Berg*  
.....  
Clerk of the House of Delegates

*Carl Ray Tomblin*  
.....  
President of the Senate

*Bill Caber*  
.....  
Speaker House of Delegates

The within *is approved* this the *28th*  
day of *March*, 1996.

*Gaston Caperton*  
.....  
Governor



PRESENTED TO THE

GOVERNOR

Date 3/22/96

Time 3:10 pm