WEST VIRGINIA CODE CHAPTER 33 ARTICLE 15F

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§33-15F-1. Medicare supplement policies.

(a) Definitions. – For purposes of this section:

"Medicare supplement policy" means a policy or certificate of health insurance issued pursuant to this chapter that is advertised, marketed, or designed to supplement Medicare.

“Accepted applications” means that an insurer has actively marketed and issued at least one Medicare supplement policy of the applicable standardized benefit type in this state within the preceding 12 months, and has not formally closed the policy form to new enrollment.

"Affiliated insurer" means an insurer that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with the insurer specified.

"Birthday" means the anniversary of an individual’s date of birth.

"Same or lesser benefits" means a Medicare supplement policy that provides benefits that are identical to, or a subset of, the standardized Medicare supplement benefits authorized under this chapter and applicable federal law.

(b) Annual guaranteed issue based on birthday. –

(1) Eligibility. – An individual who is enrolled in a Medicare supplement policy issued in this state shall have a guaranteed issue right, subject to the continuous coverage requirement in subdivision (2) of this subsection, once per calendar year to replace that policy.

(2) Continuous coverage requirement. – The guaranteed issue right under this subsection is available only if the individual’s existing Medicare supplement policy has been continuously in force for at least 24 months as of the effective date of the replacement policy. Each replacement policy issued pursuant to this subsection shall thereafter be subject to the same 24 month continuous coverage requirement before it may be replaced under this subsection. For purposes of this subsection, a policy is considered continuously in force if it has been reissued or assumed by the same insurer or an affiliated insurer without a lapse in coverage.

(3) Application period. – For purposes of this subsection, the birthday guaranteed issue application period begins on the first day of the month of the individual’s birthday and ends 60 days thereafter.

(4) Nature of application period. – The birthday guaranteed issue application period constitutes an application window only and does not require that the replacement policy become effective within the 60 day period.

(5) Scope of replacement coverage. – During the birthday guaranteed issue application period, the individual may purchase a Medicare supplement policy:

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(A) Issued by the same insurer that issued the existing policy or by an affiliated insurer; and

(B) That provides the same or lesser standardized Medicare supplement benefits as the policy being replaced.

(6) Exception when comparable coverage is unavailable. –

(A) If neither the issuing insurer nor any affiliated insurer of the individual's existing policy has accepted applications for a Medicare supplement policy providing the same or lesser standardized benefits for a period of at least 12 months, the individual may purchase a Medicare supplement policy providing the same or lesser standardized benefits from any insurer authorized to issue Medicare supplement policies in this state.

(B) This subdivision does not waive the continuous coverage requirement set forth in subdivision (2) of this subsection and does not permit the purchase of a policy with greater benefits than the policy being replaced.

(7) An insurer may not, with respect to a policy issued under this subsection:

(A) Deny issuance;

(B) Impose medical underwriting; or

(C) Impose a pre-existing condition exclusion or waiting period.

(8) An individual who is not enrolled in a Medicare supplement policy on the individual's birthday is not eligible for the guaranteed issue rights under this subsection.

(9) Nothing in this subsection shall be construed to:

(A) Require an insurer to offer a Medicare supplement policy not otherwise offered in this state;

(B) Permit the purchase of a Medicare supplement policy with greater benefits than the policy being replaced; or

(C) Alter lawful rating classifications otherwise permitted under this article.

(10) A Medicare supplement policy issued under this subsection shall not become effective earlier than the termination date of the policy being replaced and shall be coordinated to prevent duplication of coverage.

(11) Delayed effective date. – At the request of the applicant, the effective date of a replacement Medicare supplement policy issued under the birthday guaranteed issue application period may be delayed for a period not to exceed 90 days following the date of application for the purpose of coordinating termination of the existing policy and preventing

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overlapping premium obligations.

(c) Guaranteed issue upon loss of Medicaid eligibility. –

(1) An individual who is 65 years of age or older on the date the individual's Medicaid eligibility ends, is entitled to Medicare, and loses eligibility for medical assistance under Title XIX of the Social Security Act (Medicaid), including full or partial dual eligibility, shall have a guaranteed issue right to purchase a Medicare supplement policy.

(2) The guaranteed issue period under this subsection begins on the date Medicaid eligibility ends and continues for 63 days thereafter.

(3) During the guaranteed issue period, the individual may purchase any Medicare supplement policy that is actively offered for sale to new enrollees at the time of application by any insurer authorized to issue Medicare supplement policies in this state.

(4) An insurer may not, with respect to a policy issued under this subsection:

(A) Deny issuance;

(B) Impose medical underwriting; or

(C) Impose a pre-existing condition exclusion or waiting period.

(5) Guaranteed issue rights under this subsection apply regardless of whether the individual was previously enrolled in a Medicare supplement policy.

(6) Guaranteed issue rights under this subsection apply regardless of whether the individual was eligible for or enrolled in Medicaid at the time the individual first became entitled to Medicare.

(7) Guaranteed issue rights under this subsection do not arise solely due to disenrollment from a Medicare Advantage plan.

(d) Annual reporting by the Insurance Commissioner. –

(1) The Insurance Commissioner shall submit an annual written report to the Legislature on Medicare supplement policy premium trends in this state.

(2) The report shall be submitted on or before December 1 of each year and provided to:

(A) The President of the Senate;

(B) The Speaker of the House of Delegates; and

(C) The chairs and members of the committees with jurisdiction over insurance matters.

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(3) The report shall include, at a minimum:

(A) Year-over-year premium changes for Medicare supplement policies, broken out by insurer;

(B) Aggregate statewide premium changes for Medicare supplement policies;

(C) A summary of premium trends by standardized Medicare supplement plan type; and

(D) Any notable market-wide trends or patterns observed.

(4) The report shall be informational in nature and may not be construed to authorize premium regulation, rate setting, or modification of rating methodologies.

(e) Rulemaking authority. – The Insurance Commissioner may propose legislative rules for promulgation in accordance with the provisions of §29A-3-1 *et seq*. of this code solely for the purpose of administering this section, including verification of eligibility and coordination of effective dates, but may not expand eligibility, carrier access, benefit scope, rating requirements, or guaranteed issue periods beyond those expressly provided in this section.

(f) Construction. – Nothing in this section shall be construed to:

(1) Create an open enrollment period beyond those expressly provided;

(2) Limit or replace guaranteed issue rights otherwise provided under federal law;

(3) Require an insurer to offer a particular premium rate or rating classification not otherwise permitted under this article; or

(4) Apply to Medicare Advantage plans.

(g) Applicability. – The requirements of this section shall apply to all insurance policies issued by an insurer pursuant to this chapter that are delivered, issued for delivery, reissued, or extended in this state on and after June 1, 2026, or at any time thereafter when any term of the policy, contract, or plan is changed or any premium adjustment is made.

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