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February 25, 2019

COMMITTEE SUBSTITUTE  
FOR

SENATE BILL NO. 990

By: Scott

An Act relating to health insurance; amending 36 O.S. 2011, Section 3611.1, which relates to Medicare supplement policies; requiring Medicare supplement policy premium rate filings be filed with and approved by Insurance Commissioner; requiring notification of certain filings to policyholders; establishing effective date of certain premium increases; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 36 O.S. 2011, Section 3611.1, is amended to read as follows:

Section 3611.1. A. As used in this section:

1. "Commissioner" means the Commissioner of Insurance;

2. "Medicare supplement policy" means a group or individual policy of accident and health insurance, or a subscriber contract of a nonprofit hospital service and medical indemnity corporation or a health maintenance organization which is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare

1 for the hospital, medical or surgical expenses of persons eligible  
2 for Medicare. Such term does not include:

3 a. a policy or contract of one or more employers or labor  
4 organizations, or of the trustees of a fund  
5 established by one or more employers or labor  
6 organizations, or combination thereof, for employees  
7 or former employees, or combination thereof, or for  
8 members or former members, or combination thereof, of  
9 the labor organizations, or

10 b. a policy or contract of any professional, trade or  
11 occupational association for its members or former or  
12 retired members, or combination thereof, if such  
13 association:

14 (1) is composed of individuals all of whom are  
15 actively engaged in the same profession, trade or  
16 occupation,

17 (2) has been maintained in good faith for purposes  
18 other than obtaining insurance, and

19 (3) has been in existence for at least two (2) years  
20 prior to the date of its initial offering of such  
21 policy or plan to its members, or

22 c. individual policies or contracts issued pursuant to a  
23 conversion privilege under a policy or contract of  
24 group or individual insurance; and

1        3. "Direct response Medicare supplement policy" means a policy  
2 of insurance which is advertised, marketed or designed primarily as  
3 a supplement to reimbursements under Medicare for the hospital,  
4 medical or surgical expenses of persons eligible for Medicare issued  
5 as a result of solicitation of individual insureds by mail or by  
6 mass media advertising.

7        B. The Commissioner shall issue reasonable regulations to  
8 establish minimum standards for benefit claims payment, marketing  
9 practices, compensation arrangements, and reporting practices for  
10 Medicare supplement policies. The Commissioner shall issue  
11 reasonable regulations to provide for an open enrollment period for  
12 those persons who qualify as disabled pursuant to federal Medicare  
13 guidelines.

14        C. A Medicare supplement policy may not deny a claim for losses  
15 incurred more than six (6) months from the effective date of  
16 coverage for a preexisting condition. The policy may not define a  
17 preexisting condition more restrictively than "a condition for which  
18 medical advice was given or treatment was recommended by or received  
19 from a physician within six (6) months before the effective date of  
20 coverage".

21        D. Any premium rate filing for a Medicare supplement policy  
22 shall be filed with and approved by the Insurance Commissioner and  
23 communicated to the policyholder on or after September 1 but no  
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1 later than October 30 of each year. Such premium increases shall be  
2 effective January 1 of the following year.

3 E. A Medicare supplement policy shall be expected to return to  
4 the policyholder benefits which are reasonable in relation to the  
5 premium charged. The Commissioner shall issue regulations to  
6 establish minimum standards for loss ratios of Medicare supplement  
7 policies on the basis of incurred claims experience, or incurred  
8 health care expenses where coverage is provided by a health  
9 maintenance organization on a service rather than reimbursement  
10 basis, and earned premiums for the period of coverage for which  
11 rates are computed and in accordance with accepted actuarial  
12 principles and practices.

13 ~~E.~~ F. 1. No Medicare supplement policy or certificate issued  
14 pursuant to a group Medicare supplement policy shall be delivered or  
15 issued for delivery in this state unless an outline of coverage is  
16 provided to the applicant at the time application is made.

17 2. The Commissioner shall prescribe by regulation the contents  
18 and a standard form of an informational brochure for persons  
19 eligible for Medicare which is intended to improve the buyer's  
20 ability to select the most appropriate coverage and improve the  
21 buyer's understanding of Medicare. The Commissioner may require by  
22 regulation that the informational brochure be provided with the  
23 outline of coverage to any prospective insureds eligible for  
24 Medicare. With respect to direct response policies, the

1 Commissioner may require that the prescribed brochure and outline of  
2 coverage be provided upon request to any prospective insureds  
3 eligible for Medicare, but in no event later than the time of policy  
4 delivery.

5 3. The Commissioner may require notice provisions, designed to  
6 inform prospective insureds that particular insurance coverages are  
7 not Medicare supplement coverages, for all accident and health  
8 insurance policies sold to persons eligible for Medicare by reason  
9 of age, other than:

- 10 a. Medicare supplement policies,
- 11 b. disability income policies,
- 12 c. basic, catastrophic, or major medical expense  
13 policies,
- 14 d. single premium, nonrenewable policies, or
- 15 e. other policies defined by regulation of the  
16 Commissioner.

17 4. The Commissioner may adopt from time to time, such  
18 reasonable regulations as are necessary to conform Medicare  
19 supplement policies and certificates to the requirements of federal  
20 law and regulations promulgated thereunder, including but not  
21 limited to:

- 22 a. requiring refunds or credits if the policies or  
23 certificates do not meet loss ratio requirements,

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- 1           b.     establishing a uniform methodology for calculating and  
2                 reporting loss ratios,  
3           c.     assuring public access to policies, premiums and loss  
4                 ratio information of issuers of Medicare supplement  
5                 insurance, and  
6           d.     establishing a policy for holding public hearings  
7                 prior to approval of premium increases.

8       ~~F.~~ G. Medicare supplement policies or certificates shall have a  
9 notice prominently printed on the first page of the policy or  
10 certificate, or attached thereto, stating that the applicant shall  
11 have the right to return the policy or certificate within thirty  
12 (30) days of its delivery and to have the premium refunded if, after  
13 examination of the policy or certificate, the applicant is not  
14 satisfied for any reason. A direct response policy issued to  
15 persons eligible for Medicare shall have a notice prominently  
16 printed on the first page, or attached thereto, stating that the  
17 applicant shall have the right to return the policy or certificate  
18 within thirty (30) days of its delivery and to have the premium  
19 refunded if, after examination, the applicant is not satisfied for  
20 any reason.

21       ~~G.~~ H. The Insurance Commissioner shall have the authority to  
22 employ actuaries, statisticians, accountants, auditors,  
23 investigators, or any other technicians as the Insurance  
24 Commissioner may deem necessary or beneficial to examine any

1 Medicare supplement filings made by insurers or rating organizations  
2 and to examine such records of the insurers or rating organizations  
3 as may be deemed appropriate in conjunction with the Medicare  
4 supplement filing in order to determine that the rates or other  
5 filings are consistent with the terms, conditions, requirements and  
6 purposes of the Insurance Code, and to verify, validate and  
7 investigate the information upon which the insurer or rating  
8 organization relies to support such filing.

9       1. The Commissioner shall maintain a list of technicians who  
10 are proficient in the line of Medicare supplement insurance. If the  
11 Commissioner determines that it is necessary to utilize the services  
12 of such a technician, the Commissioner shall employ the next  
13 available technician in rotation on the list.

14       2. All reasonable expenses incurred in such filing review shall  
15 be paid by the insurer or rating organization making the filing.

16       SECTION 2. This act shall become effective July 1, 2019.

17       SECTION 3. It being immediately necessary for the preservation  
18 of the public peace, health or safety, an emergency is hereby  
19 declared to exist, by reason whereof this act shall take effect and  
20 be in full force from and after its passage and approval.

21 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE  
22 February 25, 2019 - DO PASS AS AMENDED  
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