

1 **SENATE FLOOR VERSION**

2 April 11, 2022

3 ENGROSSED HOUSE
4 BILL NO. 3040

By: Boles and Fugate of the
House

5 and

6 Garvin of the Senate

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8
9 An Act relating to Medicare; amending 36 O.S. 2021,
10 Section 3611.1, which relates to Medicare supplement
11 policies; modifying provisions related to notice of
12 premium rate increase; restricting frequency of
13 implementation; eliminating exemption from filing
14 requirements; and providing an effective date.

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

16 SECTION 1. AMENDATORY 36 O.S. 2021, Section 3611.1, is
17 amended to read as follows:

18 Section 3611.1 A. As used in this section:

19 1. "Commissioner" means the Commissioner of Insurance;

20 2. "Medicare supplement policy" means a group or individual
21 policy of accident and health insurance, or a subscriber contract of
22 a nonprofit hospital service and medical indemnity corporation or a
23 health maintenance organization which is advertised, marketed or
24 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~~
24 ~~later than October 30 of each year~~ at least forty-five (45) days

1 prior to the effective date of a premium rate increase. Such
2 premium increases shall be ~~effective January 1 of the following year~~
3 implemented no more than once per year. ~~This subsection shall not~~
4 ~~apply to insurers with five thousand or fewer policyholders.~~

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

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

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

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

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

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

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

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- a. requiring refunds or credits if the policies or certificates do not meet loss ratio requirements,
- b. establishing a uniform methodology for calculating and reporting loss ratios,
- c. assuring public access to policies, premiums and loss ratio information of issuers of Medicare supplement insurance, and
- d. establishing a policy for holding public hearings prior to approval of premium increases.

G. Medicare supplement policies or certificates shall have a notice prominently printed on the first page of the policy or certificate, or attached thereto, stating that the applicant shall have the right to return the policy or certificate within thirty (30) days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. A direct response policy issued to persons eligible for Medicare shall have a notice prominently printed on the first page, or attached thereto, stating that the applicant shall have the right to return the policy or certificate within thirty (30) days of its delivery and to have the premium refunded if, after examination, the applicant is not satisfied for any reason.

H. The Insurance Commissioner shall have the authority to employ actuaries, statisticians, accountants, auditors,

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

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

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

18 SECTION 2. This act shall become effective November 1, 2022.

19 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE
20 April 11, 2022 - DO PASS
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