

LEGISLATIVE BILL 852

Approved by the Governor April 15, 2024

Introduced by Jacobson, 42.

A BILL FOR AN ACT relating to the Medicare Supplement Insurance Minimum Standards Act; to amend sections 44-3601 and 44-3602, Reissue Revised Statutes of Nebraska; to define terms; to change provisions relating to durable medical equipment, prosthetics, orthotics, and supplies; to provide certain requirements relating to individuals who are under sixty-five years of age and qualify for medicare by reason of disability; to harmonize provisions; to provide operative dates; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 44-3601, Reissue Revised Statutes of Nebraska, is amended to read:

44-3601 Sections 44-3601 to 44-3610 and sections 3 to 5 of this act shall be known and may be cited as the Medicare Supplement Insurance Minimum Standards Act.

Sec. 2. Section 44-3602, Reissue Revised Statutes of Nebraska, is amended to read:

44-3602 For purposes of the Medicare Supplement Insurance Minimum Standards Act:

(1) Applicant ~~means shall mean~~:

(a) In the case of an individual medicare supplement policy, the person who seeks to contract for insurance benefits; and

(b) In the case of a group medicare supplement policy, the proposed certificate holder;

(2) ~~Balance bill means charging or collecting an amount in excess of the medicare-approved amount from a medicare beneficiary;~~

(3) ~~(2) Certificate means shall mean~~ any certificate delivered or issued for delivery in this state under a group medicare supplement policy;

(4) ~~(3) Certificate form means shall mean~~ the form on which the certificate is delivered or issued for delivery by the issuer;

(5) ~~(4) Director means shall mean~~ the Director of Insurance;

(6) ~~(5) Issuer means shall include~~ insurance companies, fraternal benefit societies, health care service plans, health maintenance organizations, and any other entities delivering or issuing for delivery in this state medicare supplement policies or certificates;

(7) ~~(6) Medicare means shall mean~~ the Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended;

(8) ~~Medicare-approved amount means the current payment rate listed in the applicable fee schedule established by the federal Centers for Medicare and Medicaid Services;~~

(9) ~~(7) Medicare supplement policy means shall mean~~ a group or individual policy of sickness and accident insurance or a subscriber contract of health maintenance organizations, other than a policy issued pursuant to a contract under section 1876 of the federal Social Security Act, 42 U.S.C. 1395 et seq., or an issued policy under a demonstration project specified in 42 U.S.C. 1395ss(g)(1), which is advertised, marketed, or designed primarily as a supplement to reimbursements under medicare for the hospital, medical, or surgical expenses of persons eligible for medicare; ~~and~~

(10) ~~(8) Policy form means shall mean~~ the form on which the policy is delivered or issued for delivery by the issuer; ~~and -~~

(11) ~~Supplier has the same meaning as defined in 42 C.F.R. 400.202, as such regulation existed on January 1, 2024, including an entity or individual that sells or rents Medicare Part B covered durable medical equipment, prosthetics, orthotics, and supplies to medicare beneficiaries.~~

Sec. 3. ~~A supplier that is a nonparticipating provider in the medicare program shall not balance bill a Nebraska medicare beneficiary for any durable medical equipment, prosthetic, orthotic, or supply for which the supplier has not accepted assignment, unless the beneficiary (1) agrees in writing prior to such billing to pay the additional amount and (2) pays the full amount prior to receipt of the durable medical equipment, prosthetic, orthotic, or supply. Such agreement shall provide notification to the beneficiary that medicare reimburses eighty percent of the medicare-approved amount and that an issuer of a medicare supplement policy or certificate shall not be required to reimburse the supplier or the beneficiary in an amount greater than one hundred fifteen percent of the medicare-approved amount for durable medical equipment, prosthetics, orthotics, or supplies as provided in section 4 of this act.~~

Sec. 4. ~~An issuer of a medicare supplement policy or certificate shall not be required to reimburse a supplier or beneficiary in an amount greater than one hundred fifteen percent of the medicare-approved amount for durable medical equipment, prosthetics, orthotics, or supplies. Nothing in this section shall be construed to prevent an issuer from negotiating the level and type of reimbursement with a supplier for covered durable medical equipment,~~

prosthetics, orthotics, or supplies.

Sec. 5. (1) An issuer that makes a medicare supplement policy or certificate available to an individual who is sixty-five years of age and eligible for medicare benefits as described in 42 U.S.C. 1395c(1), as such section existed on January 1, 2024, shall make at least one medicare supplement policy or certificate that meets the requirements of the Medicare Supplement Insurance Minimum Standards Act, available to an individual who is under sixty-five years of age and eligible for and enrolled in medicare by reason of disability as described in 42 U.S.C. 1395c(2), as such section existed on January 1, 2024.

(2) Premium rates for medicare supplement insurance policies or certificates may differ between an individual who qualifies for medicare who is sixty-five years of age or older and an individual who qualifies for medicare by reason of disability and who is under sixty-five years of age. Such differences in premiums shall not be excessive, inadequate, or unfairly discriminatory and shall be based on sound actuarial principles and be reasonable in relation to the benefits provided. The premium for an individual who is under sixty-five years of age shall not exceed one hundred fifty percent of the premium for a similarly situated individual who is sixty-five years of age.

(3) An individual who is under sixty-five years of age and is eligible for a medicare supplement policy or certificate by reason of disability as described in subsection (1) of this section shall be subject to the same open enrollment rules applicable to an individual who is sixty-five years of age and eligible for a medicare supplement policy or certificate as described in subsection (1) of this section beginning on the first day of the first month that the individual turns sixty-five years of age.

Sec. 6. Section 5 of this act becomes operative on January 1, 2025. The other sections of this act become operative on their effective date.

Sec. 7. Original sections 44-3601 and 44-3602, Reissue Revised Statutes of Nebraska, are repealed.