

## LEGISLATIVE BILL 983

Approved by the Governor March 13, 1990

Introduced by Banking, Commerce and Insurance  
Committee, Landis, 46, Chairperson;  
Schmit, 23; Weihing, 48; Lynch, 13;  
Abboud, 12; Wesely, 26

AN ACT relating to the Medicare Supplement Insurance Minimum Standards Act; to amend sections 44-3603 to 44-3606, Reissue Revised Statutes of Nebraska, 1943, and section 44-3602, Revised Statutes Supplement, 1989; to redefine a term; to change provisions relating to the applicability of the act; to change provisions relating to the contents of a medicare supplement policy, contract, or certificate; to change provisions relating to rules and regulations; to eliminate a provision relating to compensation; and to repeal the original sections.

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

Section 1. That section 44-3602, Revised Statutes Supplement, 1989, be amended to read as follows:

44-3602. For purposes of the Medicare Supplement Insurance Minimum Standards Act, unless the context otherwise requires:

(1) Applicant shall mean:

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

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

(2) Policy shall mean the entire contract between the insurer and the insured, including the policy riders, the endorsements, and the application, if attached, and shall also include subscriber contracts issued by health maintenance organizations;

(3) Certificate shall mean any certificate issued under a group medicare supplement policy or subscriber contract, which certificate has been delivered or issued for delivery in this state;

(4) Medicare shall mean the Health Insurance for the Aged Act, Title XVIII of the Social Security

Amendments of 1965, as then constituted or later amended;

(5) Medicare supplement policy shall mean a group or individual policy of sickness and accident insurance or a subscriber contract of health maintenance organizations 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 by reason of age; ~~except that such term shall not include a policy or contract of one or more employers or labor organizations or of the trustees of a fund established by one or more employers or labor organizations; or combination thereof; for employees or former employees; or combination thereof; or for members or former members; or combination thereof; of the labor organizations;~~

(6) Director shall mean the Director of Insurance; and

(7) Department shall mean the Department of Insurance.

Sec. 2. That section 44-3603, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3603. (1) Except as otherwise specifically provided in this section and sections 44-3606 and 44-3608.01, the Medicare Supplement Insurance Minimum Standards Act shall apply to:

(1) (a) All medicare supplement policies and subscriber contracts delivered or issued for delivery in this state on or after July 9, 1988; and

(2) (b) All certificates issued under group medicare supplement policies or subscriber contracts, which certificates have been delivered or issued for delivery in this state.

(2) The act shall not apply to a policy or contract of one or more employers or labor organizations or of the trustees of a fund established by one or more employers or labor organizations, or a combination thereof, for employees or former employees, or a combination thereof, or for members or former members, or a combination thereof, of the labor organizations.

(3) The act shall not be intended to prohibit or apply to insurance policies or health care benefit plans, including group conversion policies, provided to medicare eligible persons, which policies or plans are not marketed or held to be medicare supplement policies or benefit plans.

Sec. 3. That section 44-3604, Reissue Revised Statutes of Nebraska, 1943, be amended to read as

follows:

44-3604. (1) No medicare supplement policy, contract, or certificate in force in the state shall contain benefits which duplicate benefits provided by medicare.

(2) The director shall adopt and promulgate reasonable rules and regulations to establish specific standards for policy provisions of medicare supplement policies and certificates. Such standards shall be in addition to and in accordance with applicable laws of this state. No requirement of Chapter 44 relating to minimum required policy benefits, other than the minimum standards contained in the Medicare Supplement Insurance Minimum Standards Act, shall apply to medicare supplement policies. The standards may include, but shall not be limited to:

(a) Terms of renewability;  
 (b) Initial and subsequent conditions of eligibility;

(c) Nonduplication of coverage;  
 (d) Probationary periods;  
 (e) Benefit limitations, exceptions, and reductions;

(f) Elimination periods;  
 (g) Requirements for replacement;  
 (h) Recurrent conditions; and  
 (i) Definitions of terms.

~~(2)~~ (3) The director may adopt and promulgate reasonable rules and regulations which specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the director, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under a medicare supplement policy.

~~(3)~~ (4) Notwithstanding subdivision (2)(b) of section 44-710.03 or any other provision of law, a medicare supplement policy may not deny a claim for losses incurred more than six months from the effective date of coverage for a preexisting condition. The policy may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

Sec. 4. That section 44-3605, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3605. The director shall adopt and promulgate reasonable rules and regulations to establish

minimum standards for benefits, claim payments, marketing practices, compensation arrangements, and reporting practices for under medicare supplement policies.

Sec. 5. That section 44-3606, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3606. (1) Every insurer providing group medicare supplement insurance benefits to a resident of this state pursuant to section 44-3603 shall file a copy of the master policy and any certificate used in this state in accordance with the filing requirements and procedures applicable to group medicare supplement policies issued in this state, except that no insurer shall be required to make a filing earlier than thirty days after insurance was provided to a resident of this state under a master policy issued for delivery outside this state.

(2) Medicare supplement policies shall return to policyholders benefits which are reasonable in relation to the premium charged. The director shall adopt and promulgate reasonable rules and regulations to establish minimum standards for loss ratios of medicare supplement policies on the basis of incurred claims experience, incurred health care expenses when coverage is provided by a health maintenance organization on a service basis rather than a reimbursement basis, and earned premiums in accordance with accepted actuarial principles and practices. Every entity providing medicare supplement policies or certificates in this state shall file annually its rates, rating schedule, and supporting documentation demonstrating that it is in compliance with the applicable loss-ratio standards of this state. All filings of rates and rating schedules shall demonstrate that the actual and expected losses in relation to premiums comply with the requirements of the Medicare Supplement Insurance Minimum Standards Act.

(3) No entity shall provide compensation to its agents or other producers which is greater than the renewal compensation which would have been paid on an existing policy if the existing policy is replaced by another policy with the same company when the new policy benefits are substantially similar to the benefits under the old policy and the old policy was issued by the same insurer or insurer group.

Sec. 6. That original sections 44-3603 to 44-3606, Reissue Revised Statutes of Nebraska, 1943, and section 44-3602, Revised Statutes Supplement, 1989, are repealed.