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MISSISSIPPI INSURANCE DEPARTMENT BULLETIN 2023-5

TO: HEALTH INSURERS WRITING MEDICARE SUPPLEMENT
BUSINESS IN MISSISSIPPI

FROM: MIKE CHANEY
COMMISSIONER OF INSURANCE

DATE: MAY 11, 2023

SUBJECT: GUARANTEED ISSUE RIGHTS TO ALL APPLICANTS

I. PURPOSE

This bulletin provides guidance to carriers doing business in Mississippi that market and provide Medicare Supplement policies.

II. Medicaid Unwinding in Mississippi

Pursuant to federal Medicaid continuous coverage requirements during the public health emergency (“PHE”), Mississippi residents who were enrolled in Medicaid remained covered by Medicaid, regardless of eligibility changes. As of February 1, 2023, the Centers for Medicare & Medicaid Services (“CMS”) began allowing states to restart Medicaid eligibility reviews, a process known

as “Medicaid Unwinding.” The Mississippi Division of Medicaid began redetermination of members’ Medicaid health coverage on April 1, 2023.

The Mississippi Insurance Department (“MID”) finds that Mississippi residents who were temporarily eligible for Medicaid during the PHE and who enrolled in Medicare Part B more than six months before their Medicaid eligibility ends may have missed their opportunity under 19 Miss. Code Ann. Part 3, Chpt. 10, Rule 10.11 (“Rule 10.11) to purchase any Medicare supplement policy or certificate available.

Typically, persons who become eligible for Medicare receive a Medicare supplement open enrollment period of six (6) months. During this period, insurers are required to offer guaranteed issue rights to all applicants and are prohibited from discriminating in the pricing of Medicare supplement policies due to applicant health status. Insurers are prohibited from selling Medicare supplement policies to individuals on Medicaid under federal law. *See* 42 U.S.C. § 13925ss(d)(3)(B)(iii).

III. Mississippi Insurance Department Request

To ensure low and moderate income Mississippi seniors have access to affordable Medicare supplement policies or certificates they could have obtained if not for the PHE, MID is requesting that all health insurers writing Medicare supplement business in Mississippi offer guaranteed issue rights to applicants who have exhausted or nearly exhausted their initial open enrollment period as a result of their continued enrollment in Medicaid and who can show verification of a change in Mississippi Medicaid eligibility. Otherwise, applicable seniors would have to apply for Medicare supplement coverage outside of their specified open enrollment period, potentially resulting in these seniors not being issued a Medicare supplement policy at all, or resulting in significantly higher premiums to applicable seniors. Furthermore, failure to provide an open enrollment period increases the possibility that seniors who would otherwise purchase a Medicare supplement do not do so and then avoid medical treatment altogether as these seniors may be left to pay out-of-pocket cost for healthcare services that are vital to their physical and mental well-being.

Therefore, insurers should treat these applicants as “eligible persons” pursuant to 19 Miss. Code Ann. Part 3, Chpt. 10, Rule 10.12 (“Rule 10.12”) and extend guaranteed issue rights to allow applicants to enroll in any available Medicare supplement policy or certificate for the longer of: (i) 63 days starting on the date of the individual’s Medicaid disenrollment; or (ii) the end of the individual’s actual initial open enrollment period. Pursuant to Rule 10.11, insurers shall not discriminate in the pricing of such a policy because of the health status, claims experience, receipt of health care, or medical condition of an applicant, and preexisting condition exclusion periods should be credited for continuous periods of creditable coverage.

Because consumers were enrolled in both Medicaid and Medicare, this approach will most closely match the intent of Medicare supplement regulations related to other insurance coverage under 19 Miss. Admin. Code. Part 3 Chpt. 10. This approach also aligns with 42 CFR § 406.27, effective January 1, 2023, which creates a special Medicare enrollment period for individuals who missed a Medicare enrollment period due to exceptional conditions, including those individuals whose Medicaid eligibility is terminated.

Any questions concerning this Bulletin may be addressed to the Life and Health Actuarial Division at 601-359-2012.

Issued this the 11th day of May, 2023



Commissioner Mike Chaney