

CHAPTER 22

(Senate Bill 84)

AN ACT concerning

~~Medicare Supplement Plan A Policies – Individuals with a Disability – Rates~~
**Health Insurance – Medicare Coverage and Continuation Coverage –
Provisions That Relate to Federal Laws and Programs**

FOR the purpose of requiring a carrier that issues health benefit plans to small employers in accordance with certain provisions of law to allow an individual an extended election period for certain continuation coverage under certain circumstances; requiring the extended election period to continue for a certain period of time under certain circumstances; providing for the beginning and end of the continuation coverage; altering the minimum benefits a Medicare supplement policy must provide; requiring a carrier, under certain circumstances, to make available a Medicare supplement policy plan A to an individual who is eligible for Medicare due to a disability; prohibiting a carrier from charging individuals who, regardless of age, are eligible for Medicare due to a disability a higher rate for a Medicare supplement policy plan A than the rate charged by the carrier to certain individuals who are eligible for Medicare due to age; prohibiting a carrier from taking certain actions relating to a Medicare supplement policy plan A for certain reasons if an individual applies for the policy plan within a certain time period; applying certain provisions of this Act to health maintenance organizations; defining certain terms; making this Act an emergency measure; and generally relating to Medicare supplement ~~plan A~~ policies and continuation coverage under health insurance.

BY adding to

Article – Health – General

Section 19-706(ttt)

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY adding to

Article – Insurance

Section 15-409.1

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Insurance

Section 15-906(a) and 15-909(b)

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health – General

19–706.

(TTT) THE PROVISIONS OF § 15–409.1 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

Article – Insurance

15–409.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “ACT” MEANS THE FEDERAL AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (P.L. 111–5).

(3) “CARRIER” MEANS:

(I) AN INSURER;

(II) A NONPROFIT HEALTH SERVICE PLAN; OR

(III) A HEALTH MAINTENANCE ORGANIZATION.

(4) “SMALL EMPLOYER” HAS THE MEANING STATED IN § 15–1201 OF THIS TITLE.

(B) THIS SECTION APPLIES TO A CARRIER THAT ISSUES HEALTH BENEFIT PLANS TO SMALL EMPLOYERS IN ACCORDANCE WITH SUBTITLE 12 OF THIS TITLE.

(C) A CARRIER SHALL ALLOW AN EXTENDED ELECTION PERIOD FOR CONTINUATION COVERAGE UNDER § 15–409 OF THIS SUBTITLE IF THE INDIVIDUAL:

(1) WAS INVOLUNTARILY TERMINATED FROM EMPLOYMENT BY A SMALL EMPLOYER BETWEEN SEPTEMBER 1, 2008, AND FEBRUARY 16, 2009, INCLUSIVE, AS DESCRIBED IN § 3001(A)(3)(C) OF THE ACT;

(2) IS AN ASSISTANCE ELIGIBLE INDIVIDUAL, AS DEFINED IN § 3001(A)(3) OF THE ACT, OR WOULD BE AN ASSISTANCE ELIGIBLE INDIVIDUAL IF AN ELECTION OF CONTINUATION COVERAGE UNDER § 15-409 OF THIS SUBTITLE WAS IN EFFECT ON THE DATE OF ENACTMENT OF THE ACT; AND

(3) WAS ELIGIBLE FOR CONTINUATION COVERAGE UNDER § 15-409 OF THIS SUBTITLE AT THE TIME OF THE INDIVIDUAL'S TERMINATION OF EMPLOYMENT.

(D) THE EXTENDED ELECTION PERIOD PROVIDED UNDER THIS SECTION SHALL CONTINUE UNTIL 60 DAYS AFTER PROVISION OF THE NOTIFICATION REQUIRED BY § 3001(A)(7)(C) OF THE ACT IF THE NOTIFICATION DESCRIBES THE EXTENDED ELECTION PERIOD REQUIRED UNDER THIS SECTION.

(E) ANY CONTINUATION COVERAGE ELECTED BY AN INDIVIDUAL DURING AN EXTENDED ELECTION PERIOD UNDER THIS SECTION:

(1) SHALL BEGIN DURING THE FIRST PERIOD OF COVERAGE BEGINNING ON OR AFTER THE INDIVIDUAL'S ELECTION OF CONTINUATION COVERAGE; AND

(2) MAY NOT EXTEND BEYOND THE PERIOD OF CONTINUATION COVERAGE THAT WOULD HAVE BEEN REQUIRED UNDER § 15-409 OF THIS SUBTITLE IF THE COVERAGE HAD BEEN ELECTED AS REQUIRED UNDER THAT SECTION.

15-906.

(a) [At a minimum, a] A Medicare supplement policy shall provide THE MINIMUM BENEFITS REQUIRED BY FEDERAL LAW. [:

(1) to the extent not covered by Medicare, coverage of Medicare Part A eligible expenses for hospitalization from the 61st day through the 90th day of a Medicare benefit period;

(2) to the extent not covered by Medicare, coverage of Medicare Part A eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days;

(3) after all Medicare hospital inpatient coverage is exhausted, including lifetime reserve days, subject to the lifetime maximum benefit of an additional 365 days, coverage of all Medicare Part A eligible expenses for hospitalization not covered by Medicare paid at the rate of the diagnostic related group

(DRG) day outlier per diem or, if applicable, the per diem approved by the Health Services Cost Review Commission;

(4) coverage for the coinsurance amount of Medicare eligible expenses under Medicare Part B regardless of hospital confinement;

(5) unless replaced in accordance with federal regulations or already paid for under Medicare Part B, coverage under Medicare Part A for the reasonable cost in a calendar year of the first 3 pints of blood or, as defined by federal regulations, equivalent quantities of packed red blood cells; and

(6) unless replaced in accordance with federal regulations or already paid for under Medicare Part A and subject to the Medicare Part B deductible amount, coverage under Medicare Part B for the reasonable cost in a calendar year of the first 3 pints of blood or, as defined by federal regulations, equivalent quantities of packed red blood cells.]

15-909.

(b) (1) If an application for a Medicare supplement policy or certificate is submitted during the 6-month period beginning with the first month in which an individual who is at least 65 years old first enrolls for benefits under Medicare Part B, a carrier:

(i) may not deny or condition the issuance or effectiveness of the Medicare supplement policy or certificate or discriminate in the pricing of the Medicare supplement policy or certificate because of the health status, claims experience, receipt of health care, or medical condition of the applicant; or

(ii) may not deny, reduce, or condition coverage or apply an increased premium rating to an applicant for a Medicare supplement policy because of the health status, claims experience, or medical condition of the applicant or the use of medical care by the applicant.

(2) Notwithstanding paragraph (1)(ii) of this subsection, a carrier may include in a Medicare supplement policy a provision that complies with subsection (d) of this section.

(3) (i) A carrier shall make available [both a Medicare supplement policy plan C and a Medicare supplement policy plan I] **MEDICARE SUPPLEMENT POLICY PLANS A, C, AND I** to an individual who is under the age of 65 years but is eligible for Medicare due to a disability, if an application for a Medicare supplement policy or certificate is submitted:

1. during the 6-month period following the applicant's enrollment in Part B of Medicare; or

2. for an individual terminated from the Maryland Health Insurance Plan as a result of enrollment in Part B of Medicare, during the 6-month period after the individual's termination.

(ii) For a Medicare supplement policy plan [C or a Medicare supplement policy plan I] **A, C, OR I** required to be made available under subparagraph (i) of this paragraph, a carrier:

1. may not deny or condition the issuance or effectiveness of a Medicare supplement policy plan [C or a Medicare supplement policy plan I] **A, C, OR I** because of the health status, claims experience, receipt of health care, or medical condition of the applicant; or

2. may not deny, reduce, or condition coverage to the applicant for a Medicare supplement policy plan [C or a Medicare supplement policy plan I] **A, C, OR I** because of the health status, claims experience, or medical condition of the applicant or the use of medical care by the applicant.

(III) FOR A MEDICARE SUPPLEMENT POLICY PLAN A REQUIRED TO BE MADE AVAILABLE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, A CARRIER MAY NOT CHARGE INDIVIDUALS WHO ARE UNDER THE AGE OF 65 YEARS, BUT ARE ELIGIBLE FOR MEDICARE DUE TO A DISABILITY, A RATE HIGHER THAN THE AVERAGE OF THE PREMIUMS PAID BY ALL POLICYHOLDERS AGE 65 AND OLDER IN THE STATE WHO ARE COVERED UNDER THAT PLAN A POLICY FORM.

(4) A carrier may elect to offer Medicare supplement policy plans to individuals who are under the age of 65 years, but eligible for Medicare due to a disability, in addition to the Medicare supplement policy [plan C and the Medicare supplement policy plan I] **PLANS A, C, AND I** that are required to be offered under paragraph (3)(i) of this subsection.

(5) Nothing in paragraph (3) of this subsection may be construed to require a carrier to offer a Medicare supplement policy plan to individuals who are under the age of 65 years, but are eligible for Medicare due to a disability, if the plan is not offered to individuals who are eligible for Medicare due to age.

SECTION 2. AND BE IT FURTHER ENACTED, That a carrier that did not make available a Medicare supplement policy plan A to an individual who is under the age of 65 years but was eligible for Medicare due to a disability, or charged an individual who is under the age of 65 years but was eligible for Medicare due to a disability, a rate higher than the average of the premiums paid by all policyholders age 65 and older in the State who are covered under that plan A policy form between July 1, 2008, and the effective date of this Act may not deny or condition the issuance

or effectiveness of a Medicare supplement policy plan A because of health status, claims experience, or medical condition of an individual who is under the age of 65 years but is eligible for Medicare due to a disability and is currently enrolled with that same carrier in a Medicare supplement policy plan C offered in the State, provided that the individual applies for a Medicare supplement policy plan A with that same carrier no later than 63 days after the policy plan C renewal date.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, April 14, 2009.