

Legislative Analysis



MEDICARE SUPPLEMENT INSURANCE

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 6359 (Substitute H-1)

Sponsor: Rep. Richard Ball

Committee: Health Policy

First Analysis (9-12-06)

BRIEF SUMMARY: The bill would adopt NAIC model legislation to conform the state's Medicare supplement statute with recent changes to the federal Medicare program.

FISCAL IMPACT: There is no fiscal impact to either the State or local units of government by this bill.

THE APPARENT PROBLEM:

In 2003, a new prescription drug benefit was added to the federal Medicare program, and several other changes to the Medigap statute were adopted. Federal law requires states to adopt standards for Medigap policies (also known as supplemental insurance) that are at least as stringent as the federal standards. To do otherwise hampers a state's regulatory agency from enforcing provisions of the Medicare supplement law and prosecuting violators. The Centers for Medicare and Medicaid Services (CMS), within the federal Department of Health and Human Services, advised states over a year ago to adopt complementary changes to their own statutes before the new prescription drug benefit went into effect. Legislation has been offered to make the necessary changes to the state's Medicare statutes.

THE CONTENT OF THE BILL:

Recent changes to Medicare supplement policies brought about by the federal Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA), which created a new prescription drug benefit program, necessitates complementary changes in Michigan law.

House Bill 6359 would amend Chapter 38 of the state Insurance Code, entitled "Medicare Supplement Policies," to adopt revisions needed to comply with or incorporate recent changes to the federal Medicare program. Some of the changes are as follows:

- Replace references to the Medicare + Choice program with language pertaining to Medicare Advantage, the new Medicare program for seniors who are enrolled in the nontraditional Medicare program.
- Add language pertaining to the new standardized Medicare Supplement Benefit Plans K and L to the group of Medicare Supplement policies that can be offered to Michigan residents.

- Remove the options for prescription drug benefits on policies that will renew after January 1, 2006 and prohibit the outpatient drug benefit from inclusion in a Medicare supplement policy sold after December 31, 2005. However, a supplement policy with benefits for outpatient prescription drugs in existence prior to January 1, 2006 would have to be renewed for current policyholders who chose to not enroll in Part D.
- Apply Chapter 38 to supplement policies offered by Blue Cross Blue Shield of Michigan.
- In the definition of "Medicare supplement policy," specify that Medicare supplement policy does not include Medicare Advantage plans established under Medicare Part C, outpatient prescription drug plans established under Medicare Part D, or any health care prepayment plan that provided benefits pursuant to an agreement under Section 1833(a)(1)(A) of the federal Social Security Act.
- Supplement policies may include benefits in addition to what is required in the basic core package, i.e., a preventive medical care benefit for services not covered by Medicare. Currently, any one or a combination of listed procedures and tests can be ordered if considered medically appropriate. The bill would delete the list of procedures and tests and instead specify that preventive screening tests or preventive services could be included in a supplement policy, the selection and frequency of which is determined to be medically appropriate by the attending physician.
- Require insurers to comply with any notice requirements of the MMA.
- Include information on the high deductible plan option for Plans F and J and the cost-sharing aspects of Plans K and L that differ from Plans A-J.
- Specify that to the extent specified in the policy or certificate, expenses incurred when using out-of-network providers do not count toward the out-of-pocket annual limit contained in Plans K and L.
- Require, in certain provisions, that Medicare supplement policies that have been modified to eliminate an outpatient prescription drug benefit, so as to conform with changes brought about by the MMA, be considered to satisfy the guaranteed renewal requirements.
- Prohibit an insurer from issuing a Medicare supplement policy or certificate to an individual enrolled in Medicare Advantage unless the effective date of the coverage was after the termination date of the individual's Medicare Advantage coverage.
- Update amounts for various deductibles, co-pays, and amounts that Medicare or supplemental policies and certificates will pay for a covered benefit.

MCL 500.3801 et al.

ARGUMENTS:

For:

The bill is largely technical in nature — adopting changes contained in the National Association of Insurance Commissioners (NAIC) model regulation for bringing states into compliance with provisions of the federal Medicare Prescription Drug, Improvement

and Modernization Act of 2003. For example, the MMA created two new plans, K and L, but, in order for those plans to be marketed to state residents, the standardized language establishing those plans and setting forth their benefits must be adopted into state law. Also, according to an analysis prepared by the Office of Financial and Insurance Services, without the state law being amended, OFIS could not take direct action against any company who violated the federal standards unless the same standards were in Michigan's statutes; therefore, the bill is needed "to assure that Michigan maintains control over those entities that market and sell Medicare Supplement policies in Michigan."

POSITIONS:

The Office of Financial and Insurance Services supports the bill. (9-12-06)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Steve Stauff

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.