

# SENATE BILL No. 992

June 12, 2014, Introduced by Senators MARLEAU, JONES, GREEN, KAHN, BOOHER and NOFS and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 3801 and 3833 (MCL 500.3801 and 500.3833), section 3801 as amended by 2009 PA 220 and section 3833 as added by 1992 PA 84.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 3801. As used in this chapter:

2       (a) "Applicant" means:

3       (i) For an individual medicare supplement policy, the person  
4 who seeks to contract for benefits.

5       (ii) For a group medicare supplement policy or certificate, the  
6 proposed certificate holder.

1 (b) "Bankruptcy" means ~~when~~ **THAT** a medicare advantage  
2 organization that is not an insurer has filed, or has had filed  
3 against it, a petition for declaration of bankruptcy and has ceased  
4 doing business in this state.

5 (c) "Certificate" means any certificate delivered or issued  
6 for delivery in this state under a group medicare supplement  
7 policy.

8 (d) "Certificate form" means the form on which the certificate  
9 is delivered or issued for delivery by the insurer.

10 (e) "Continuous period of creditable coverage" means the  
11 period during which an individual was covered by creditable  
12 coverage, if during the period of the coverage the individual had  
13 no breaks in coverage greater than 63 days.

14 (f) "Creditable coverage" means coverage of an individual  
15 provided under any of the following:

16 (i) A group health plan.

17 (ii) Health insurance coverage.

18 (iii) Part A or part B of medicare.

19 (iv) Medicaid other than coverage consisting solely of benefits  
20 under ~~section 1928 of medicaid,~~ 42 USC 1396s.

21 (v) ~~Chapter 55 of title 10 of the United States Code,~~ **MEDICAL**  
22 **AND DENTAL CARE UNDER** 10 USC 1071 to ~~1110-1110B.~~

23 (vi) A medical care program of the Indian health service or of  
24 a tribal organization.

25 (vii) A state health benefits risk pool.

26 (viii) A health plan offered under ~~chapter 89 of title 5 of the~~  
27 ~~United States Code,~~ 5 USC 8901 to 8914.

1 (ix) A public health plan as defined in federal regulation.

2 (x) Health care under ~~section 5(e) of title I of the peace~~  
3 ~~corps act,~~ 22 USC 2504.

4 (xi) **MEDICARE ADVANTAGE.**

5 (g) "Direct response solicitation" means solicitation in which  
6 an insurer representative does not contact the applicant in person  
7 and explain the coverage available, such as, but not limited to,  
8 solicitation through direct mail or through advertisements in  
9 periodicals and other media.

10 (h) "Employee welfare benefit plan" means ~~a plan, fund, or~~  
11 ~~program of employee benefits~~ **THAT TERM** as defined in ~~section 3 of~~  
12 ~~subtitle A of title I of the employee retirement income security~~  
13 ~~act of 1974,~~ 29 USC 1002.

14 (i) "Insolvency" means ~~when~~ **THAT** an insurer licensed to  
15 transact the business of insurance in this state has had a final  
16 order of liquidation entered against it with a finding of  
17 insolvency by a court of competent jurisdiction in the insurer's  
18 state of domicile.

19 (j) "Insurer" includes any entity ~~, including a health care~~  
20 ~~corporation operating pursuant to the nonprofit health care~~  
21 ~~corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704,~~  
22 delivering or issuing for delivery in this state medicare  
23 supplement policies.

24 (k) "Medicaid" means title XIX of the social security act, 42  
25 USC 1396 to ~~1396v.~~ **1396W-5.**

26 (l) "Medicare" means title XVIII of the social security act, 42  
27 USC 1395 to ~~1395hhh.~~ **1395KKK.**

1 (m) "Medicare advantage" means a plan of coverage for health  
2 benefits under medicare part C as ~~defined~~**DESCRIBED** in ~~section 12-~~  
3 ~~2859 of part C of medicare,~~ 42 USC 1395w-28, and includes any of  
4 the following:

5 (i) Coordinated care plans that provide health care services,  
6 including, but not limited to, health maintenance organization  
7 plans with or without a point-of-service option, plans offered by  
8 provider-sponsored organizations, and preferred provider  
9 organization plans.

10 (ii) Medical savings account plans coupled with a contribution  
11 into a medicare advantage medical savings account.

12 (iii) Medicare advantage private fee-for-service plans.

13 (n) "Medicare supplement buyer's guide" means the document  
14 entitled, "guide to health insurance for people with medicare",  
15 developed by the national association of insurance commissioners  
16 and the United States department of health and human services or a  
17 substantially similar document as approved by the commissioner.

18 (o) "Medicare supplement policy" means an individual,  
19 nongroup, or group policy or certificate that is advertised,  
20 marketed, or designed primarily as a supplement to reimbursements  
21 under medicare for the hospital, medical, or surgical expenses of  
22 persons eligible for medicare and medicare select policies and  
23 certificates under section 3817. Medicare supplement policy does  
24 not include a policy, certificate, or contract of 1 or more  
25 employers or labor organizations, or of the trustees of a fund  
26 established by 1 or more employers or labor organizations, or both,  
27 for employees or former employees, or both, or for members or

1 former members, or both, of the labor organizations. Medicare  
2 supplement policy does not include medicare advantage, ~~plans~~  
3 ~~established under medicare part C,~~ outpatient prescription drug  
4 plans established under medicare part D, or any health care  
5 prepayment plan that provides benefits pursuant to an agreement  
6 under section 1833(a)(1)(A) of the social security act, **42 USC**  
7 **1395L**.

8 (p) "PACE" means a program of all-inclusive care for the  
9 elderly as described in ~~the social security act.~~ **42 USC 1396U-4**.

10 (q) "Prestandardized medicare supplement benefit plan",  
11 "prestandardized benefit plan", or "prestandardized plan" means a  
12 group or individual policy of medicare supplement insurance issued  
13 ~~prior to~~ **BEFORE** June 2, 1992.

14 (r) "1990 standardized medicare supplement benefit plan",  
15 "1990 standardized benefit plan", or "1990 plan" means a group or  
16 individual policy of medicare supplement insurance issued on or  
17 after June 2, 1992 with an effective date for coverage ~~prior to~~  
18 **BEFORE** June 1, 2010 and includes medicare supplement insurance  
19 policies and certificates renewed on or after that date ~~which~~ **THAT**  
20 are not replaced by the issuer at the request of the insured.

21 (s) "2010 standardized medicare supplement benefit plan",  
22 "2010 standardized benefit plan", or "2010 plan" means a group or  
23 individual policy of medicare supplement insurance with an  
24 effective date for coverage on or after June 1, 2010.

25 (t) "Policy form" means the form on which the policy or  
26 certificate is delivered or issued for delivery by the insurer.

27 (u) "Secretary" means the secretary of the United States

1 department of health and human services.

2 (v) "Social security act" means the social security act, 42  
3 USC 301 to ~~1397jj~~.1397MM.

4 Sec. 3833. (1) If a medicare supplement policy ~~or certificate~~  
5 replaces another medicare supplement policy, ~~certificate, or~~  
6 ~~contract,~~ the replacing insurer shall waive any time periods  
7 applicable to preexisting conditions, waiting periods, elimination  
8 periods, and probationary periods in the new medicare supplement  
9 policy for similar benefits to the extent ~~such~~**THE** time was spent  
10 under the original coverage.

11 (2) IF A MEDICARE SUPPLEMENT POLICY REPLACES A MEDICARE  
12 ADVANTAGE POLICY, THE REPLACING INSURER SHALL WAIVE ANY TIME  
13 PERIODS APPLICABLE TO PREEXISTING CONDITIONS, WAITING PERIODS,  
14 ELIMINATION PERIODS, AND PROBATIONARY PERIODS IN THE NEW MEDICARE  
15 SUPPLEMENT POLICY FOR SIMILAR BENEFITS TO THE EXTENT THE TIME WAS  
16 SPENT UNDER THE COVERAGE PROVIDED BY THE MEDICARE ADVANTAGE POLICY.