

[First Reprint]

SENATE, No. 3651

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED MAY 13, 2019

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District 35 (Bergen and Passaic)

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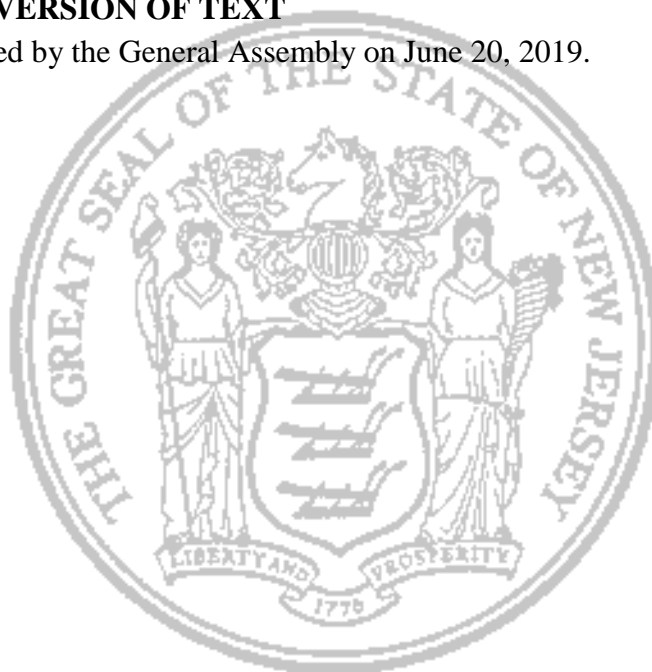
Assemblywoman Quijano

SYNOPSIS

Revises law concerning Medicare supplement insurance coverage.

CURRENT VERSION OF TEXT

As amended by the General Assembly on June 20, 2019.



(Sponsorship Updated As Of: 6/21/2019)

1 AN ACT concerning Medicare supplement coverage and amending
 2 P.L.1995, c.229.

3
 4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 5 *of New Jersey:*

6
 7 1. Section 1 of P.L.1995, c.229 (C.17B:26A-12) is amended to
 8 read as follows:

9 1. The Legislature finds and declares that:

10 a. As of April 1, 1995, individuals in the State of New Jersey
 11 under age 65 who became eligible for Medicare benefits due to a
 12 disability or because they suffer from the end stage of renal disease
 13 do not have access to Medicare supplement insurance, otherwise
 14 known as "Medigap" insurance.

15 b. Prior to that date only one health insurance carrier in New
 16 Jersey offered Medicare supplement insurance contracts to the
 17 under 65 population. Unsustainable losses, caused in part by the
 18 fact that this carrier was the only carrier providing such coverage,
 19 led to the carrier's withdrawal from the Medicare supplement
 20 insurance market for the under 65 population on March 31, 1995.

21 c. Because Medicare supplement insurance pays for many of
 22 the health care expenses not covered by Medicare, the absence of
 23 Medicare supplement insurance will eventually leave thousands of
 24 blind, AIDS, disabled and dialysis patients in New Jersey without
 25 any means of secondary insurance to supplement their Medicare
 26 coverage. For many of these people with serious illnesses, the 20
 27 percent co-payments and deductibles charged by Medicare will
 28 cause financial hardship and emotional distress. If no action is
 29 taken, Medicare recipients under 65 years old will be forced to
 30 deplete their personal assets and may eventually be forced to resort
 31 to Medicaid to supplement their health care needs.

32 d. Subsequent to the enactment of P.L.1995, c. 229
 33 (C.17B:26A-12 et seq.), section 401 of the Medicare Access and
 34 CHIP Reauthorization Act of 2015, Pub. L. 114-10, amended
 35 section 1882 of the Social Security Act (42 U.S.C. s.1395ss),
 36 prohibiting the issue of Medicare supplement policies that provide
 37 coverage of the Medicare Part B deductible to an individual who, on
 38 or after January 1, 2020, is a newly eligible Medicare beneficiary,
 39 and further specifying that ¹, with respect to newly eligible
 40 Medicare beneficiaries,¹ reference to a Medicare supplement policy
 41 which has a benefit package classified as Medicare ¹**[Part]**
 42 Supplement Plan¹ C shall be deemed, as of January 1, 2020, to be a
 43 reference to a Medicare supplement policy which has a benefit
 44 package classified as Medicare ¹**[Part]** Supplement Plan¹ D, unless

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly floor amendments adopted June 20, 2019.

1 the Secretary of the United States Department of Health and Human
 2 Services provides otherwise.

3 e. Therefore, the Legislature declares that it is in the public
 4 interest:

5 (1) to ensure that Medicare supplement insurance is available to
 6 the individuals under 65 years of age who become eligible for
 7 Medicare benefits;

8 (2) to require all health insurance carriers who currently sell
 9 Medicare supplement insurance to the '**over**' age 65 'and over'
 10 population to also offer, at a minimum, Medicare Supplement Plan
 11 C coverage to the under age 65 population who become eligible for
 12 Medicare prior to January 1, 2020;

13 (3) to require all health insurance carriers that currently sell
 14 Medicare supplement insurance to the '**over**' age 65 'and over'
 15 population to also offer, at a minimum, Medicare Supplement Plan
 16 D coverage to the under age 65 population who become newly
 17 eligible on or after January 1, 2020;

18 (4) to establish a mechanism that will: allow the premiums on
 19 those Medicare supplement insurance policies and contracts to
 20 remain affordable; encourage insurance carriers to continue to serve
 21 or enter this market; and provide for the equitable sharing of any
 22 losses;

23 **[(4)] (5)** to ensure that premiums for the more than 200,000
 24 New Jersey residents who have purchased Medicare supplement
 25 insurance remain affordable and do not become subject to excessive
 26 rate increases; and

27 **[(5)] (6)** that regulations necessary to effectuate the purposes
 28 of this act be promulgated by the Commissioner of Banking and
 29 Insurance expeditiously due to the urgency of the situation.

30 (cf: P.L.1995, c.229, s.1)

31

32 2. Section 2 of P.L.1995, c.229 (C.17B:26A-13) is amended to
 33 read as follows:

34 2. a. **[No later than 60 days after the effective date of this act]**
 35 Except as otherwise provided in subsection d. of this section, every
 36 carrier issuing or renewing Medicare supplement insurance policies
 37 or contracts shall, as a condition of issuing or renewing health
 38 benefits plans in this State **[,]** :

39 (1) offer and renew, at a minimum, Medicare Supplement Plan C
 40 policies or contracts to persons in this State 50 years of age or older
 41 who are entitled to Medicare benefits due to disability **[, except as**
 42 **otherwise provided in subsection d. of this section]** prior to January
 43 1, 2020;

44 (2) offer and renew, at a minimum, Medicare Supplement Plan
 45 D policies or contracts to persons in this State 50 years of age or
 46 older who are newly eligible Medicare beneficiaries on or after
 47 January 1, 2020; and

1 (3) offer and renew Medicare Supplement Plan D policies or
2 contracts to persons in this State 50 years of age or older who are
3 entitled to Medicare benefits due to disability prior to January 1,
4 2020 if such a person applies for Medicare Supplement Plan D on
5 or after January 1, 2020 but during the six-month period beginning
6 with the first of the month in which the individual is enrolled in
7 Medicare Part B, and the individual is not covered by any other
8 Medicare Supplement Plan.

9 b. No carrier shall deny or condition the issuance or renewal of
10 a Medicare supplement insurance policy or contract available for
11 sale in this State pursuant to subsection a. of this section nor
12 discriminate in the pricing of such policy or contract because of the
13 health status, claims experience, receipt of health care or medical
14 condition of an applicant if an application for **the policy or**
15 **contract** Medicare 'Supplement' Plan C is submitted during the
16 six-month period beginning with the first month in which an
17 individual is enrolled for benefits under Medicare Part B or if the
18 application for **the policy or contract** Medicare 'Supplement'
19 Plan D is submitted within **six** 12 months after the effective date
20 of this act beginning with the first month in which an individual is
21 enrolled for benefits under Medicare Part B if the individual is a
22 newly eligible Medicare beneficiary on or after January 1, 2020.

23 c. Subsections a. and b. of this section shall not be construed as
24 preventing the exclusion of benefits under a policy or contract
25 during the first three months, based on a preexisting condition for
26 which the insured received treatment or was otherwise diagnosed
27 during the six months before the policy or contract became
28 effective, except that the limitation shall not apply to an individual
29 who has, under a prior health benefits policy or contract, with no
30 intervening lapse in coverage, been treated or diagnosed by a
31 physician for a condition under that policy or contract or satisfied a
32 three-month preexisting condition limitation.

33 d. (1) Notwithstanding the provisions of subsection a. of this
34 section to the contrary, a carrier that does not currently issue or
35 renew individual Medicare supplement insurance policies or
36 contracts and does issue and renew Medicare supplement insurance
37 policies or contracts for groups whose membership in the group is
38 not based on health status, claims experience, receipt of health care
39 or medical condition, shall not be required to provide coverage to
40 persons eligible for Medicare supplement insurance coverage
41 pursuant to subsection a. of this section, other than to members of
42 the group.

43 (2) No group to which the provisions of paragraph (1) of this
44 subsection apply shall institute an age requirement for participation
45 in the group after June 1, 1995.

46 e. (1) Rates for Medicare supplement insurance policies or
47 contracts issued pursuant to this section shall be no greater than the

lowest rate charged by a carrier for the same type of policies or contracts issued to persons 65 years of age and over and shall be formulated in accordance with the provisions of section 6 of P.L.1982, c.95 (C.17:35C-6) or section 6 of P.L.1982, c.94 (C.17B:26A-6), as appropriate, and any rules or regulations promulgated pursuant thereto.

(2) Following the close of each carrier's accounting year, if the commissioner determines that a carrier's loss ratio for policies or contracts issued pursuant to section 2 or 3 of **【this act】** P.L.1995, c.229 (C.17B:26A-13 or 17B:26A-14) was less than 75% for group policies or contracts or less than 65% for individual policies or contracts for that calendar year, the carrier shall be required to refund to the holders of any policy or contract the difference between the amount of net earned premium it received that year and the amount that would have been necessary to achieve the 75% or 65% loss ratio, as appropriate.

(cf: P.L.1995, c.229, s.2)

3. Section 3 of P.L.1995, c.229 (C.17B:26A-14) is amended to read as follows:

3. a. The commissioner shall adopt rules and regulations establishing a plan to provide Medicare Supplement Plan C coverage of the standardized Medicare supplement plans to persons under 50 years of age in this State who are entitled to Medicare benefits due to disability **【no later than 120 days after the effective date of this act】** prior to January 1, 2020, and further, establishing a plan to provide Medicare Supplement Plan D coverage to persons in this State under 50 years of age who are entitled, on a newly eligible basis, to Medicare benefits due to disability on or after January 1, 2020.

b. The plan shall not deny or condition the issuance or renewal of a Medicare supplement insurance policy or contract available for sale in this State pursuant to subsection a. of this section nor discriminate in the pricing of such policy or contract because of the health status, claims experience, receipt of health care or medical condition of an applicant if an application for **【the】** a Medicare ¹Supplement¹ Plan C policy or contract is submitted during the six-month period beginning with the first month in which an individual is enrolled for benefits under Medicare Part B or if the application for **【the】** a Medicare ¹Supplement¹ Plan D policy or contract is submitted **【within six months after the effective date of this act】** during the 12-month period beginning with the first month in which an individual is enrolled for benefits under Medicare Part B, and a newly eligible Medicare beneficiary on or after January 1, 2020. The plan shall provide that an individual who becomes eligible for Medicare due to disability prior to January 1, 2020 has an opportunity to apply for Medicare ¹Supplement¹ Plan D if the

1 individual applies on or after January 1, 2020, but during the six-
2 month period beginning with the first of the month in which the
3 individual is enrolled for benefits under Medicare Part B, and the
4 individual is not covered by any other Medicare Supplement Plan.

5 c. Subsections a. and b. of this section shall not be construed as
6 preventing the exclusion of benefits under a policy or contract
7 during the first three months, based on a preexisting condition for
8 which the insured received treatment or was otherwise diagnosed
9 during the six months before the policy or contract became
10 effective.

11 d. The plan shall provide for the appointment of a contracting
12 carrier to provide the coverage specified in subsection a. of this
13 section. The carrier shall have experience in providing and
14 servicing standardized Medicare supplement insurance policies or
15 contracts to persons in this State.

16 e. The rates for the plan established pursuant to subsection a.
17 of this section shall be no greater than the lowest rate charged by
18 the contracting carrier for Medicare Supplement Plan C or Medicare
19 Supplement Plan D policies or contracts, as applicable, issued by
20 the contracting carrier to persons pursuant to subsection a. of
21 section 2 of **【this act】** P.L.1995, c.229 (C.17B:26A-13).

22 f. The plan shall provide for the appointment of a governing
23 board which shall be responsible for implementing the provisions of
24 **【this act】** P.L.1995, c.229 (C.17B:26A-12 et seq.) consistent with
25 the rules and regulations adopted pursuant to subsection a. of this
26 section. The governing board shall include representatives from,
27 among others, the carriers and health maintenance organizations
28 subject to the provisions of section 4 of **【this**
29 **act】** P.L.1995, c.229 (C.17B:26A-15).

30 (cf: P.L.1995, c.229, s.3)

31
32 4. Section 6 of P.L.1995, c.229 (C.17B:26A-17) is amended to
33 read as follows:

34 6. As used in this act:

35 "Carrier" means an insurance company or service corporation
36 authorized to issue health benefits plans in this State.

37 "Financially impaired" means a carrier or health maintenance
38 organization which, after the effective date of **【this act】** P.L.1995,
39 c.229 (C.17B:26A-12 et seq.), is not insolvent, but is deemed by the
40 commissioner to be potentially unable to fulfill its contractual
41 obligations, or a carrier or health maintenance organization which is
42 under an order of rehabilitation or conservation by a court of
43 competent jurisdiction.

44 "Health benefits plan" means a hospital and medical expense
45 insurance policy; hospital service corporation contract, medical service
46 corporation contract or health service corporation contract delivered or
47 issued for delivery in this State.

1 “Newly eligible” means first eligible for Medicare benefits by
2 reason of age or disability on or after January 1, 2020, in accordance
3 with 42 U.S.C. s.426 or 426-1.

4 (cf: P.L.1995, c.229, s.6)

5

6 5. This act shall take effect immediately.