



# OFFICE OF MANAGEMENT & BUDGET

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## MEMORANDUM

To: The Honorable Marvin L. Abney  
Chairman, House Finance Committee

The Honorable William J. Conley, R.  
Chairman, Senate Finance Committee

From: Thomas A. Mullaney *Thomas A. Mullaney*  
Executive Director/State Budget Officer

Date: November 2, 2020

Subject: New Article – Relating to Medicare Supplement Insurance Policies (20-H-7171)

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The Governor requests that a new article, entitled “Relating to Medicare Supplement Insurance Policies” be included in the FY 2021 Appropriations Act. This article would require insurance carriers to offer a Medicare Supplement Plan (“Medi-gap”) to Medicare beneficiaries who are eligible because of disability, versus age. Currently, insurers can exclude coverage based on pre-existing conditions and for some insurers to not offer coverage to disabled persons. Rhode Island is currently the only state in New England which does not require Medicare Supplement plans to be offered to any person eligible for Medicare, regardless of disability. RI has more than 51,000 persons purchasing Medicare Supplement products who will benefit from this budget amendment.

Blue Cross and Blue Shield of Rhode Island (“BCBSRI”) is the only plan in Rhode Island that offers “Plan A”, which is designed specifically and exclusively for disabled Medicare persons under age 65. The Office of the Health Insurance Commissioner (“OHIC”) has required BCBSRI to offer this product as the only Supplement available to disabled Rhode Islanders who are on Medicare but are not eligible for Medicaid. The rates for this product have escalated in recent years, increasing an average of 25% from 2020 to 2021.

During the COVID-19 pandemic, many of the individuals enrolled in this product have suffered financially, and struggle to maintain their health coverage. The provisions of this amendment will allow for increased access to a choice of products and the assurance that no one will be denied due to a pre-existing condition. Passage of this amendment now will impact products offered during Open Enrollment at this time next year.

### Summary of Legislative Changes Contained in this Article:

- **§ 27-18.2-1(d)**- changes director to the health insurance commissioner as it relates to the current jurisdiction to enforce these provisions.
- **§ 27-18.2-12**- the additions under this section address OHIC’s concerns as it relates to:
  - a. **Persons Provided Continuity of Coverage:** allows that anyone eligible for Medicare, regardless of the reason/disability, to seek a new Medicare Supplement policy with less or similar benefits,

if that person has had credible coverage for longer than 90 days. This provision also applies to members seeking coverage from a different carrier.

- b. **Prohibition Against Discontinuity:** there shall be no medical underwriting for Persons Provided Continuity of Coverage as stated above.
- c. **Determination of Benefits:** Issuers of the prior plan as described above, shall furnish any necessary information to the succeeding insurer as it relates to the verification of the benefits available when determination of benefits under the prior policy is required.
- **§ 27-18.2-13. Coverage of persons with disabilities:** This provision would require all Medicare Supplement carriers in the State of Rhode Island to offer their Plan A to all individuals who are entitled to Medicare, regardless of age or disability status. This provision also contains protections surrounding guaranteed issue and open enrollment. This addition addresses the immediate concerns of the state as they relate to the lack of Medicare Supplement options and protections for Rhode Island residents who are eligible for Medicare by reason of disability.
- **§ 27-18.2-14. Annual guaranteed issue period:** Requires that all carriers have a guaranteed issue period of at least one month per calendar year. This open enrollment period would require that all carriers offer their Plan A to all applicants, and cannot deny coverage to individual or group based on health status, claims experience, etc.
- **Effective on January 1, 2022.** If this bill is passed in 2020, health insurers (“issuers”) will develop and submit proposed plans to sell to Medicare beneficiaries in conformance with these provisions beginning in April of 2021. These plans and rates will be reviewed and approved for sale in the October-December 2021 Medicare Open Enrollment Period, with coverage effective on January 1, 2022.

After January 1, 2022, all issuers must be in compliance with the law, necessitating plans to be submitted to and approved by OHIC by summer of 2021, to be marketed to subscribers late in 2021.

Please contact Marie Ganim, Health Insurance Commissioner, at 462-9638 with any specific questions about this article.

Thank you.

Attachment

TAM: 21-Amend-18

Cc: Sharon Reynolds Ferland, House Fiscal Advisor  
Stephen Whitney, Senate Fiscal Advisor  
Marie Ganim, Health Insurance Commissioner



1 is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for  
2 the hospital, medical or surgical expenses of persons eligible for Medicare.

3 (h) "Policy form" means the form on which the policy is delivered or issued for delivery by the  
4 issuer.

5 SECTION 2. Chapter 27-18.2 of the General Laws entitled "Medicare Supplement Insurance  
6 Policies" is hereby amended by adding thereto the following sections:

7 **27-18.2-12. Continuity of coverage.**

8 (a) Persons Provided Continuity of Coverage. The issuer shall provide continuity of coverage  
9 for a person who has a Medicare supplement policy and seeks coverage under a new Medicare  
10 supplement policy with the same or lesser benefits if that person, including a person entitled to Medicare  
11 benefits due to disability, has been covered under a policy that supplemented benefits under Medicare  
12 with no gap in coverage greater than 90 days beginning with the person's open enrollment period. A  
13 policy supplementing benefits payable under Medicare may include an individual health policy, a group  
14 health plan, a Medicare supplement policy or other coverage issued by the same or a different carrier.

15 (b) Prohibition Against Discontinuity. The issuer shall, for any person described in subsection  
16 a, waive any medical underwriting or preexisting conditions exclusion to the extent that benefits would  
17 have been payable under the prior Medicare supplement policy and any earlier Medicare supplement  
18 policy if those policies were still in effect. This subsection does not require the succeeding issuer to pay  
19 any benefits that are not within the terms of coverage of the succeeding policy solely because they would  
20 have been paid by the prior policy.

21 (c) Determination of Benefits. When a determination of benefits under the prior policy is  
22 required, the issuer of the prior policy shall, at the request of the issuer of the succeeding policy, furnish  
23 a statement of benefits available or pertinent information sufficient to permit verification of the benefit  
24 determination or the determination itself by the issuer of the succeeding policy. For purposes of this  
25 section, benefits of the prior policy are determined in accordance with the definitions, conditions and

1 covered expense provisions of that policy rather than those of the succeeding policy. The benefit  
2 determination must be made as if coverage had not been replaced.

3 (d) Rulemaking. The director may adopt rules concerning guaranteed issuance and continuity  
4 of Medicare supplement policies for certain eligible persons.

5 **27-18.2-13. Coverage of the disabled**

6 An issuer offering coverage under a Medicare supplement policy in this state shall offer  
7 standardized Medicare Supplement Plan A coverage to all individuals, regardless of age, who are  
8 entitled to Medicare benefits due to disability, and are enrolled in Medicare Part B. An issuer shall offer  
9 such coverage during an individual's open enrollment period during the first six (6) months immediately  
10 following the applicant's enrollment in Medicare Part B. An issuer shall also offer standardized  
11 Medicare Supplement Plan A to persons entitled to Medicare benefits due to disability during the  
12 guaranteed issue period as set forth in section 27-18.2-14. An individual who is entitled to Medicare  
13 benefits due to disability must be provided continuity of coverage in accordance with section 27-18.2-  
14 12. Issuers shall give notice of Medicare supplement coverage to individuals enrolled in Medicare in  
15 advertising of Medicare supplement policies intended for use in this State. The director may establish  
16 rules to ensure that the notice of the availability of coverage for the disabled is sufficiently advertised.

17 **27-18.2-14. Annual guaranteed issue period.**

18 During a guaranteed issue period of at least one month each calendar year, as established by the  
19 issuer, every issuer shall offer standardized Medicare Supplement Plan A to all applicants on a basis  
20 that does not deny coverage to any individual or group based on health status, claims experience, receipt  
21 of health care, or medical condition.

22 **SECTION 3.** This Article shall take effect on January 1, 2022.