

**CHAPTER 26.1-36.1**  
**MEDICARE SUPPLEMENT POLICIES**

**26.1-36.1-01. Medicare supplement policies - Definitions.**

For purposes of this chapter:

1. "Applicant" means:
  - a. In the case of an individual medicare supplement policy or subscriber contract, the person who seeks to contract for insurance benefits.
  - b. In the case of a group medicare supplement policy or subscriber contract, the proposed certificate holder.
2. "Certificate" means any certificate issued under a group medicare supplement policy which has been delivered or issued for delivery in this state.
3. "Medicare" means the Health Insurance for the Aged and Disabled Act, title XVIII of the Social Security Act of 1965 [Pub. L. 92-603; 86 Stat. 1370 et seq.], as amended.
4. "Medicare supplement policy" means a group or individual accident and health insurance policy or a subscriber contract of a health service corporation or a health care plan of a health maintenance organization or preferred provider organization, other than a policy issued pursuant to a contract under section 1876 of the federal Social Security Act [42 U.S.C. 1395 et seq.] or an issued policy under a demonstration project specified in 42 U.S.C. 1395ss(g)(1), which is advertised, marketed, or designed primarily as a supplement to reimbursements under medicare for the hospital, medical, or surgical expenses of persons eligible for medicare. The term does not include a policy or contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organizations.

**26.1-36.1-02. Standards for medicare supplement policies.**

1. The commissioner shall adopt reasonable rules to establish specific standards for provisions of medicare supplement policies. The standards are in addition to and in accordance with applicable laws of this state, and may include coverage of:
  - a. Terms of renewability.
  - b. Initial and subsequent conditions of eligibility.
  - c. Nonduplication of coverage.
  - d. Probationary periods.
  - e. Benefit limitations, exceptions, and reductions.
  - f. Elimination periods.
  - g. Requirements for replacement.
  - h. Recurrent conditions.
  - i. Definition of terms.
2. The commissioner may adopt rules that specify prohibited medicare supplement policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under a medicare supplement policy or certificate.
3. Notwithstanding any other law, a medicare supplement policy or certificate may not deny a claim for losses incurred for more than six months from the effective date of coverage for a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.
4. No medicare supplement insurance policy, contract, or certificate in force in the state may contain benefits that duplicate benefits provided by medicare.

#### **26.1-36.1-03. Rulemaking authority.**

The commissioner may adopt rules to establish standards for benefits, standard policies and optional benefit riders, claims payments, abusive marketing practices and compensation arrangements, and reporting practices for medicare supplement policies.

#### **26.1-36.1-04. Medicare supplement policy loss ratio standards.**

Medicare supplement policies must return benefits to individual policyholders in the aggregate of not less than sixty-five percent of premium received. The commissioner shall adopt rules to establish minimum standards for medicare supplement policy loss ratios on the basis of incurred claims experience and earned premiums for the entire period for which rates are computed to provide coverage and in accordance with accepted actuarial principles and practices.

#### **26.1-36.1-05. Medicare supplement policy disclosure standards.**

1. To provide for full and fair disclosure in the sale of medicare supplement policies, no medicare supplement policy or certificate may be delivered or issued for delivery in this state unless an outline of coverage is delivered to the applicant at the time application is made.
2. The commissioner shall prescribe the format and content of the outline of coverage required by subsection 1. For purposes of this section, "format" means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. The outline of coverage must include:
  - a. A description of the principal benefits and coverage provided in the policy.
  - b. A statement of the exceptions, reductions, and limitations contained in the policy.
  - c. A statement of the renewal provisions, including any reservation by the insurer of a right to change premiums.
  - d. A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.
3. The commissioner may prescribe by rule a standard form and the contents of an informational brochure for persons eligible for medicare which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of medicare. Except in the case of direct response insurance policies, the commissioner may require by rule that the information brochure be provided to any prospective insureds eligible for medicare concurrently with the delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by rule that the prescribed brochure be provided upon request to any prospective insureds eligible for medicare, but in no event later than the time of policy delivery.
4. The commissioner may adopt rules for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not medicare supplement coverages, for all accident and health insurance policies sold to persons eligible for medicare, other than:
  - a. Medicare supplement policies; or
  - b. Disability income policies.
5. The commissioner may also adopt rules to govern the full and fair disclosure of the information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for medicare.

#### **26.1-36.1-06. Medicare supplement policies - Notice of free examination.**

Medicare supplement policies or certificates must have a notice prominently printed on or attached to the first page of the policy stating in substance that the applicant may return the policy or certificate within thirty days of its delivery and have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason.

**26.1-36.1-07. Filing requirements for advertising.**

Every insurer, health care service plan, or other entity providing medicare supplement insurance or benefits in this state shall provide a copy of any medicare supplement advertisement within ten days after its first use in this state whether through written, radio, or television medium for review or approval by the commissioner to the extent required or authorized by state law.

**26.1-36.1-08. Effect of policy not conforming to chapter.**

A policy delivered or issued for delivery to any person in this state in violation of this chapter is valid but must be construed as provided in this chapter. When any provision in a policy subject to this chapter is in conflict with this chapter, the rights, duties, and obligations of the insurer, the insured, and the beneficiary are governed by this chapter.

**26.1-36.1-09. General penalty - License suspension or revocation.**

Any person willfully violating any provision of this chapter or order of the commissioner made in accordance with this chapter is guilty of a class A misdemeanor. The commissioner may also suspend or revoke the license of an insurer or insurance producer for any such willful violation.