

ASSEMBLY BILL NO. 127—ASSEMBLYWOMAN JAUREGUI

FEBRUARY 9, 2023

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing Medicare supplemental policies. (BDR 57-467)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to insurance; prohibiting an insurer from treating Medicare supplemental policies differently for certain purposes relating to the payment of commissions; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing federal law establishes the Medicare program, which is a public health
2 insurance program for persons 65 years of age and older and specified persons with
3 disabilities who are under 65 years of age. (42 U.S.C. §§ 1395 et seq.) Existing
4 federal regulations define the term “Medicare supplemental policy” to mean a
5 policy offered by a private insurer that is primarily designed to pay expenses not
6 reimbursed under Medicare because of certain limitations under Medicare. (42
7 C.F.R. § 403.205) Existing law requires an insurer offering a Medicare
8 supplemental policy or the Public Employees’ Benefits Program or any local
9 government that provides a similar policy for public employees to offer an open
10 enrollment period for persons covered by such policies, during which the insurer or
11 governmental entity is prohibited from placing certain restrictions on the issuance
12 of such a policy. (NRS 287.010, 287.04335, 687B.352, 695B.320) Existing federal
13 law requires the issuance of a Medicare supplemental policy under certain
14 circumstances, under which such a policy is considered to be guaranteed issue. (42
15 U.S.C. § 1395ss) This bill prohibits an insurer or other person or entity from
16 varying the commission associated with the purchase of Medicare supplemental
17 policies during the open enrollment period, paying differential commissions
18 associated with the purchase of Medicare supplemental policies during the open
19 enrollment period or otherwise treating Medicare supplemental policies purchased
20 during the open enrollment period differently for the purposes of commission for
21 any reason, including: (1) because the Medicare supplemental policy is issued
22 during the open enrollment period or classified as guaranteed issue; or (2) because
23 of the health status, claims experience, receipt of health care or medical condition
24 of the insured. This bill additionally requires an insurer or other person or entity to
25 treat the purchase of a Medicare supplemental policy during the open enrollment



26 period in the same manner as the renewal of a Medicare supplemental policy for
27 purposes relating to the payment of a commission.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 687B.352 is hereby amended to read as
2 follows:

3 687B.352 1. An insurer that issues a Medicare supplemental
4 policy shall offer to a person currently insured under any such
5 policy an annual open enrollment period commencing with the first
6 day of the birthday month of the person and remaining open for at
7 least 60 days thereafter, during which the person may purchase any
8 Medicare supplemental policy made available by the insurer in this
9 State that includes the same or lesser benefits. Innovative benefits,
10 as described in 42 U.S.C. § 1395ss(p)(4)(B), must not be considered
11 when determining whether a Medicare supplemental policy includes
12 the same benefits as or lesser benefits than another such policy.

13 2. During the open enrollment period offered pursuant to
14 subsection 1, an insurer shall not deny or condition the issuance or
15 effectiveness, or discriminate in the price of coverage, of a Medicare
16 supplemental policy based on the health status, claims experience,
17 receipt of health care or medical condition of a person described in
18 subsection 1.

19 3. At least 30 days before the beginning of the open enrollment
20 period offered pursuant to subsection 1 but not more than 60 days
21 before the beginning of that period, an insurer that issues a Medicare
22 supplemental policy shall notify each person to whom the open
23 enrollment period applies of:

24 (a) The dates on which the open enrollment period begins and
25 ends and the rights of the person established by the provisions of
26 this section; and

27 (b) Any modification to the benefits provided by the policy
28 under which the person is currently insured or adjustment to the
29 premiums charged for that policy.

30 4. *An insurer or other person or entity shall not vary the*
31 *commission associated with the purchase of Medicare*
32 *supplemental policies during the open enrollment period offered*
33 *pursuant to subsection 1, pay differential commissions associated*
34 *with the purchase of Medicare supplemental policies during that*
35 *open enrollment period or otherwise treat Medicare supplemental*
36 *policies purchased during that open enrollment period differently*
37 *for the purposes of commission for any reason, including, without*
38 *limitation:*



1 (a) *Because the Medicare supplemental policy was purchased*
2 *during the open enrollment period offered pursuant to*
3 *subsection 1;*

4 (b) *Because the Medicare supplemental policy is classified as*
5 *guaranteed issue under 42 U.S.C. § 1395ss or any other applicable*
6 *federal or state law or regulations; or*

7 (c) *Because of the health status, claims experience, receipt of*
8 *health care or medical condition of the insured.*

9 5. *An insurer or other person or entity must treat the*
10 *purchase of a Medicare supplemental policy during the open*
11 *enrollment period offered pursuant to subsection 1 in the same*
12 *manner as the renewal of a Medicare supplemental policy for all*
13 *purposes relating to the payment of a commission.*

14 6. As used in this section, “Medicare supplemental policy” has
15 the meaning ascribed to it in 42 C.F.R. § 403.205 and additionally
16 includes policies offered by public entities that otherwise meet the
17 requirements of that section.

18 **Sec. 2.** This act becomes effective on July 1, 2023.

