

S
HB 4470

FILED

2006 MAR 30 A 10: 02

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2006



ENROLLED

House Bill No. 4470

(By Delegates H. K. White, Beach, Houston,
Marshall, Kominar, Ron Thompson,
laquinta and G. White)



Passed March 10, 2006

In Effect Ninety Days from Passage

FILED

2006 MAR 30 A 10: 02

OFFICE WEST VIRGINIA
SECRETARY OF STATE

E N R O L L E D

H. B. 4470

(BY DELEGATES H. K. WHITE, BEACH, HOUSTON,
MARSHALL, KOMINAR, RON THOMPSON,
IAQUINTA AND G. WHITE)

[Passed March 10, 2006; in effect ninety days from passage.]

AN ACT to amend and reenact §33-16-3d of the Code of West Virginia, 1931, as amended, relating to group accident and sickness insurance; and updating the definition of medicare supplement policy.

Be it enacted by the Legislature of West Virginia:

That §33-16-3d of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

§33-16-3d. Medicare supplement insurance.

1 (a) *Definitions.* —

2 (1) “Applicant” means, in the case of a group medicare
3 supplement policy or subscriber contract, the proposed certifi-
4 cate holder.

5 (2) "Certificate" means, for the purposes of this section,
6 any certificate issued under a group medicare supplement
7 policy, which policy has been delivered or issued for delivery
8 in this state.

9 (3) "Medicare supplement policy" means a group or
10 individual policy of accident and sickness insurance or a
11 subscriber contract of hospital and medical service corporations
12 or health maintenance organizations, other than a policy issued
13 pursuant to a contract under Section 1876 of the federal Social
14 Security Act (42 U.S.C. §1395, et seq.) or an issued policy
15 under a demonstration project specified pursuant to amend-
16 ments to the federal Social Security Act in 42 U.S.C.
17 §1395ss(g)(1), which is advertised, marketed or designed
18 primarily as a supplement to reimbursements under medicare
19 for the hospital, medical or surgical expenses of persons
20 eligible for medicare. Such term does not include:

21 (A) A policy or contract of one or more employers or labor
22 organizations, or of the trustees of a fund established by one or
23 more employers or labor organizations, or a combination
24 thereof, for employees or former employees, or combination
25 thereof, or for members or former members, or combination
26 thereof, of the labor organizations;

27 (B) Medicare advantage plans established under medicare
28 part C, outpatient prescription drug plans established under
29 medicare part D, or any health care prepayment plan (HCPP)
30 that provides benefits pursuant to an agreement under Section
31 1833(a)(1)(A) of the Social Security Act.

32 (4) "Medicare" means the Health Insurance for the Aged
33 Act, Title XVIII of the Social Security Amendments of 1965,
34 as then constituted or later amended.

35 (b) *Standards for policy provisions.* —

36 (1) The commissioner shall issue reasonable rules to
37 establish specific standards for policy provisions of medicare
38 supplement policies. Such standards shall be in addition to and
39 in accordance with the applicable laws of this state and may
40 cover, but shall not be limited to:

41 (A) Terms of renewability;

42 (B) Initial and subsequent conditions of eligibility;

43 (C) Nonduplication of coverage;

44 (D) Probationary period;

45 (E) Benefit limitations, exceptions and reductions;

46 (F) Elimination period;

47 (G) Requirements for replacement;

48 (H) Recurrent conditions; and

49 (I) Definitions of terms.

50 (2) The commissioner may issue reasonable rules that
51 specify prohibited policy provisions not otherwise specifically
52 authorized by statute which, in the opinion of the commis-
53 sioner, are unjust, unfair or unfairly discriminatory to any
54 person insured or proposed for coverage under a medicare
55 supplement policy.

56 (3) Notwithstanding any other provisions of the law, a
57 medicare supplement policy may not deny a claim for losses
58 incurred more than six months from the effective date of
59 coverage for a preexisting condition. The policy may not define
60 a preexisting condition more restrictively than a condition for
61 which medical advice was given or treatment was recom-

62 mended by or received from a physician within six months
63 before the effective date of coverage.

64 (c) *Minimum standards for benefits.* — The commissioner
65 shall issue reasonable rules to establish minimum standards for
66 benefits under medicare supplement policies.

67 (d) *Loss ratio standards.* — Medicare supplement policies
68 shall be expected to return to policyholders benefits which are
69 reasonable in relation to the premium charge. The commis-
70 sioner shall issue reasonable rules to establish minimum
71 standards for loss ratios and for medicare supplement policies
72 on the basis of incurred claims experience and earned premiums
73 for the entire period for which rates are computed to provide
74 coverage and in accordance with accepted actuarial principles
75 and practices. For purposes of rules issued pursuant to this
76 subsection, medicare supplement policies issued as a result of
77 solicitations of individuals through the mail or mass media
78 advertising, including both print and broadcast advertising,
79 shall be treated as individual policies.

80 (e) *Disclosure standards.* —

81 (1) In order to provide for full and fair disclosure in the sale
82 of accident and sickness policies, to persons eligible for
83 medicare, the commissioner may require by rule that no policy
84 of accident and sickness insurance may be issued for delivery
85 in this state and no certificate may be delivered pursuant to such
86 a policy unless an outline of coverage is delivered to the
87 applicant at the time application is made.

88 (2) The commissioner shall prescribe the format and
89 content of the outline of coverage required by subdivision (1)
90 above. For purposes of this subdivision, “format” means style,
91 arrangements and overall appearance, including such items as

92 size, color and prominence of type and the arrangement of text
93 and captions. Such outline of coverage shall include:

94 (A) A description of the principal benefits and coverage
95 provided in the policy;

96 (B) A statement of the exceptions, reductions and limita-
97 tions contained in the policy;

98 (C) A statement of the renewal provisions including any
99 reservation by the insurer of the right to change premiums and
100 disclosure of the existence of any automatic renewal premium
101 increases based on the policyholder's age;

102 (D) A statement that the outline of coverage is a summary
103 of the policy issued or applied for and that the policy should be
104 consulted to determine governing contractual provisions.

105 (3) The commissioner may prescribe by rule a standard
106 form and the contents of an informational brochure for persons
107 eligible for medicare, which is intended to improve the buyer's
108 ability to select the most appropriate coverage and improve the
109 buyer's understanding of medicare. Except in the case of direct
110 response insurance policies, the commissioner may require by
111 rule that the information brochure be provided to any prospec-
112 tive insureds eligible for medicare concurrently with delivery
113 of the outline of coverage. With respect to direct response
114 insurance policies, the commissioner may require by rule that
115 the prescribed brochure be provided upon request to any
116 prospective insureds eligible for medicare, but in no event later
117 than the time of policy delivery.

118 (4) The commissioner may further promulgate reasonable
119 rules to govern the full and fair disclosure of the information in
120 connection with the replacement of accident and sickness
121 policies, subscriber contracts or certificates by persons eligible
122 for medicare.

123 (f) *Notice of free examination.* — Medicare supplement
124 policies or certificates, other than those issued pursuant to
125 direct response solicitation, shall have a notice prominently
126 printed on the first page of the policy or attached thereto stating
127 in substance that the applicant shall have the right to return the
128 policy or certificate within thirty days from its delivery and
129 have the premium refunded if, after examination of the policy
130 or certificate, the applicant is not satisfied for any reason. Any
131 refund made pursuant to this section shall be paid directly to the
132 applicant by the issuer in a timely manner. Medicare supple-
133 ment policies or certificates issued pursuant to a direct response
134 solicitation to persons eligible for medicare shall have a notice
135 prominently printed on the first page or attached thereto stating
136 in substance that the applicant shall have the right to return the
137 policy or certificate within thirty days of its delivery and to
138 have the premium refunded if, after examination, the applicant
139 is not satisfied for any reason. Any refund made pursuant to this
140 section shall be paid directly to the applicant by the issuer in a
141 timely manner.

142 (g) *Administrative procedures.* — Rules promulgated
143 pursuant to this section shall be subject to the provisions of
144 chapter twenty-nine-a (the West Virginia Administrative
145 Procedures Act) of this code.

146 (h) *Severability.* — If any provision of this section or the
147 application thereof to any person or circumstance is for any
148 reason held to be invalid, the remainder of the section and the
149 application of such provision to other persons or circumstances
150 shall not be affected thereby.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chandy White
Chairman Senate Committee

[Signature]
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker of the House of Delegates

The within *is approved* this the *29th*
day of *March*, 2006.

[Signature]
Governor

PRESENTED TO THE
GOVERNOR

MAR 23 2006

Time 3:25p