

AGENT ALERT

MEDICARE SUPPLEMENT ENFORCEMENT – IMPLEMENTING MACRA AMENDMENTS

The Medicare Access and CHIP Reauthorization Act of 2015 (“MACRA”) was signed into law on April 16, 2015. MACRA prohibits the sale of Medigap policies that cover Part B deductibles to “newly eligible” Medicare beneficiaries defined as those individuals who: (a) have attained age 65 on or after January 1, 2020; or (b) first become eligible for Medicare due to age, disability or end-stage renal disease, on or after January 1, 2020. Because of the enactment of MACRA, states were required to amend their Medicare supplement insurance laws to conform to the federal law.

MACRA is unique from previous modifications to the Medicare Supplement law in that MACRA does not close the previous blocks of business. MACRA states that for ‘newly eligible’ **ONLY**, “C or F shall be deemed, as of January 1, 2020, to be a reference to a Medicare Supplemental policy which has a benefit package classified as D or G, respectively.” MACRA does not state that all plans will have a new effective date as of January 1, 2020. Therefore, MACRA does **not** close any blocks of plans.

Those individuals who become eligible for Medicare prior to January 1, 2020, and who have coverage as defined in Plans C or F and F High Deductible, may keep the coverage under those plans. Medicare supplement coverage is guaranteed renewable and coverage cannot be cancelled, so long as the policyholder pays the premium. In addition, those individuals who become eligible for Medicare prior to January 1, 2020, may purchase Plans C or F and F High Deductible after December 31, 2019. Finally, those individuals who become eligible for Medicare prior to January 1, 2020, are also able to purchase Plans D or G or G High Deductible on or after January 1, 2020.

Apparently, some parties mistakenly think that standardized Plans C and F are discontinued or may be discontinued by a company. MACRA did not change federal law regarding the required offer of Plans C or F for individuals who are Medicare eligible before January 1, 2020. As noted, for the “newly eligible,” those who became eligible for Medicare on or after January 1, 2020, the required offer is Plans D or G and cannot be Plans C or F because they provide coverage for the Part B deductible which is prohibited for the “newly eligible.”

Some Medicare supplement insurance policyholders may be getting misleading information. For example, some insurance agents are telling their policyholders that Plans C and F will no longer be available after December 31, 2019 and must therefore purchase new coverage in order to not lose their Medicare supplement coverage. **This is a false statement.**

Section 1882 (o)(5) of the Social Security Act requires that if an issuer offers a Medigap plan other than the Plan A core benefits then the issuer must also offer Plans C or F. The NAIC Model Regulation – also a federal minimum standard - requires at section 9.1.A.(2) that an issuer shall make available the Medigap core benefits and, if any other plans, at least either Plans C or F.

Some agents are telling their policyholders that premiums for coverage under Plans C or F will be increasing to such an extent that they should purchase other coverage. These are **misleading statements** to induce policyholders to improperly switch coverage using marketing and sales techniques that are in clear violation of the Medicare supplement insurance laws and a states’ unfair trade practices laws. **If a state finds such activity, the state can take appropriate administrative action.**

For more detailed information and references, please refer to the MACRA FAQ at https://www.naic.org/documents/cmte_b_senior_issues_2019_macra_faq.pdf.

Any questions concerning this alert may be directed to a state department of insurance or a state health insurance assistance program office (SHIP).