House Legislative Analysis Section

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MEDICARE SUPPLEMENTAL POLICIES

House Bill 4185 (Substitute H-3)
Sponsor: Rep. Lloyd F. Weeks

House Bill 4779 (Substitute H-3)
House Bill 4780 (Substitute H-2)
Sponsor: Rep. Perry Bullard

Committee: Insurance
First Analysis (2-13-90)

THE APPARENT PROBLEM:

Earlier this session, the legislature made changes in the Insurance Code's regulations covering Medicare supplemental insurance policies, in part to take into account passage at the federal level of the Medicare Catastrophic Coverage Act of 1988, which expanded the federal Medicare health insurance program. Congress repealed the act in 1989, however, in response to angry opposition by intended beneficiaries to the method of financing the expansion. This means that state laws governing Medicare supplemental policies must once again be altered so as to conform to federal law. At the same time, insurance specialists say, the federal government is requiring states to adopt certain Medicare supplemental marketing standards developed by the National Association of Insurance Commissioners aimed at preventing abuses in the sale of such policies to older Americans. An additional problem also needs to be addressed. There have been reports of checks for Medicare supplemental coverage being made out to insurance agents and then not passed on to the companies providing the coverage; it has been recommended that checks for such policies be payable to the company providing coverage.

THE CONTENT OF THE BILL:

The bills would, generally speaking, change Medicare supplemental insurance regulations in the following ways:

- The outline of coverage that must be provided to all applicants for a supplemental policy, which explains benefit gaps in Medicare, would be revised to reflect changes in the federal Medicare program resulting from the repeal of the Medicare Catastrophic Coverage Act of 1988.
- New federally-required marketing standards (reportedly drafted by the National Association of Insurance Commissioners) would be adopted. These provisions, among other things, require the fair and accurate comparison of policies for customers, require that any existing coverage be identified before new coverage is sold, prohibit the sale of excessive and duplicative coverage, and require that when one supplemental policy replaces another, the new policy waive all waiting periods and similar restrictions. A form notifying applicants for replacement coverage of their protections and advising them on how to evaluate their coverage would be mandated. The standards also specifically prohibit "twisting" (convincing a person to switch from one policy to another by misrepresentation), high pressure tactics, and cold lead advertising (a method of marketing that fails to disclose that its purpose is to sell insurance and that contact will later be made by an agent or company). Advertisements for supplemental policies would have to be filed with the Insurance Bureau at least 45 days before use.
- An insurance agent would be prohibited from accepting checks and money orders as payment of a premium for supplemental coverage if they were made out to the agent instead of the insurer. An agent would be required to immediately provide a written receipt to the insured upon receiving payment of a premium for a supplemental policy.
- Medicare supplemental requirements that apply to commercial insurance companies and to Blue Cross and Blue Shield of Michigan would be extended to health maintenance organizations (HMOs), which can (but are not required to) offer such coverage.

House Bill 4185 would amend the HMO act (MCL 333.21054c et al.) within the Public Health Code. House Bill 4779 would amend the Insurance Code (MCL 500.1207 et al.). House Bill 4780 would amend the Nonprofit Health Care Corporation Reform Act (MCL 550.1412 et al.), which regulates Blue Cross and Blue Shield of Michigan.

FISCAL IMPLICATIONS:

The Insurance Bureau reports that the bills have no revenue or budgetary implications. (2-6-90)

ARGUMENTS:

For:

With one exception, according to insurance specialists, these bills put into state statutes regulations for Medicare supplemental policies required by the federal government. The bills reflect the recent repeal of the 1988 expansion of Medicare to cover certain "catastrophic" expenses by modifying the outline of coverage that must be provided to policy applicants, and reflect the requirement that Medicare supplemental marketing standards of the National Association of Insurance Commissioners (NAIC) be adopted by the states. Furthermore, one bill would apply Medicare supplemental regulations to health maintenance organizations (HMOs). Insurance regulators note that until recently HMOs provided this coverage only through risk contracts with the federal Health Care Financing Administration, but have lately begun to issue supplemental contracts similar to those offered by insurance companies and Blue Cross-Blue Shield. They must be similarly regulated. One bill additionally would require insurance agents only to accept checks or money orders as payment for Medicare supplemental coverage if they were made payable to the company providing

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coverage and would require the agent to provide a written receipt to the customer. This would prevent the recurrence of cases in which checks made out to agents were not passed on to insurers with resulting hardships for the customers.

Against:

Insurance regulators have recommended that health maintenance organizations (HMOs) be required to offer Medicare supplemental coverage to their customers when those customers become eligible for Medicare. Commercial insurance companies and Blue Cross-Blue Shield are required to offer this coverage but HMOs are not. This does not appear to be equal treatment. While some HMOs offer this coverage, others do not. A person insured through an HMO that does not offer Medicare supplemental contracts must seek coverage elsewhere upon becoming eligible for Medicare, which may mean changing physicians and other providers and facing waiting periods for treatment of some conditions to be covered. HMOs would be free to charge an appropriate price for such coverage so there would not appear to be any financial risk.

POSITIONS:

The Insurance Bureau supports the bills. (2-6-90)

Blue Cross and Blue Shield of Michigan supports House Bill 4780. (2-6-90)

The Association of HMOs supports House Bill 4185 as reported from committee. (2-6-90)

The Health Insurance Association of America (HIAA) supports the bills. (1-31-89)