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BILL ANALYSIS

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Senate Bill 309 (as enrolled)
Sponsor: Senator Doug Carl
Senate Committee: Commerce and Technology
House Committee: Insurance

PUBLIC ACT 176 of 1989

Date Completed: 8-30-89

RATIONALE

It has been suggested that amendments be made to the Insurance Code's provisions regulating policies that supplement the Federal Medicare program to take into account recent changes made in the Federal Medicare program, notably those made by the new Medicare Catastrophic Coverage Act of 1988, the Omnibus Reconciliation Act of 1987, and model Medicare legislation developed by the National Association of Insurance Commissioners. Among the changes made by the Federal legislation was the addition of requirements that greater detail concerning coverage for blood and home health services be specified in the Medicare supplemental coverage policy, that insurers file with the state certain information concerning premium adjustments and any riders or forms used to eliminate duplicative Medicare benefits, and that insurers offering Medicare supplemental certificates comply with certain provisions of the Federal Social Security Act concerning certification of Medicare supplemental policies, provider claims, and assignment of benefits. Reportedly, some of the changes that must be made to the State's Insurance Code to bring it into conformance with Federal law have to be made by September 1989 or Federal regulations will pre-empt State regulation of Medicare supplemental policies.

Further, the Federal legislation grants states the option of allowing Medicare supplemental policies to exclude coverage for prescription drug deductibles. Currently, Michigan insurers offering Type 1 Medicare supplemental policies are required by statute to cover all Medicare

deductibles: those deductibles, however, are not specified. With the recent addition of prescription drug coverage, some contend that the requirement that all deductibles be covered, which presumably includes drug deductibles, could increase the cost of policies enough to cause hardship for individuals wishing to purchase them. Therefore, it has been suggested that Michigan insurers be allowed to take advantage of the option to exclude coverage for drug deductibles.

Finally, some suggest that the language in the Medicare supplemental coverage outline specified in the Act should be amended to provide that persons must enroll in the Medicare program before purchasing supplemental coverage. Reportedly, some persons have been misled by the current language and have believed that enrollment in the Medicare program was not a prerequisite to purchasing supplemental coverage.

CONTENT

The bill would amend the Insurance Code to specify the deductibles that could or did not have to be excluded from coverage by Medicare supplemental packages; require annual reports from insurers; require insurers to notify certificate holders of changes in Medicare policies; require insurers to comply with certain Federal requirements; and add to the conditions under which riders and endorsements are exempted from the

requirement that they receive written acceptance from the insured.

Type 1 and Type 2 Medicare Packages

The bill specifies that a Type 1 Medicare supplemental package would have to cover at least the deductible and copayment requirements of part A and part B of the Federal Medicare program excluding outpatient prescription drug deductibles. Currently, the Type 1 package is required to cover at a minimum the deductible and coinsurance requirements of part A and part B of the Federal Medicare program and coverage of 90% of all Medicare part A eligible expenses for hospitalization not covered by Medicare, subject to a lifetime maximum benefit of an additional 365 days. Further, the bill provides that a Type 2 Medicare supplemental package would not have to exclude coverage for deductibles for blood. Currently, a Type 2 package must provide the same coverage as a Type 1 package but must exclude coverage for part A and part B dollar deductibles. In addition, the outline of coverage that must be provided to all applicants for a supplemental package would have to include coverage for blood, home health services, and out-of-pocket maximum expenses.

Annual Reports

The bill would require insurers to file annually with the Insurance Commissioner their rates, rating schedules, and supporting documentation including all claims for Medicare supplemental coverage. (Currently, insurers are specifically required to file only a report of their Medicare supplemental claims experience and to do so at the request of the Commissioner.) The filings and schedules would have to demonstrate that the actual and expected losses in relation to premiums would be in compliance with the applicable loss ratio standards of Michigan.

Notification of Medicare Changes

The bill specifies that as soon as practicable, but no later than 30 days before the annual effective date of any Medicare benefit changes, an insurer providing Medicare supplemental policies or certificates delivered or issued for delivery in Michigan would be required to notify each covered policyholder and certificate holder of modifications made to its Medicare

supplemental policies or certificates in a format acceptable to the Commissioner. The notice would have to be in outline form, contain clear and simple language, include a description of revisions to the Medicare program and of each modification made to coverage provided under the Medicare supplemental policy, and indicate whether a premium adjustment was due to changes in Medicare. The notice could not contain or be accompanied by any solicitation.

Further, no later than 45 days after the effective date of any Medicare changes, an insurer would be required to file with the Insurance Commissioner both of the following:

- Any appropriate premium adjustments necessary to produce loss ratios as originally anticipated for the applicable policy or certificate and any supporting documents necessary to justify the adjustment.
- Any appropriate riders, endorsements, or policy forms needed to accomplish the Medicare supplemental insurance modifications necessary to eliminate benefits provided by Medicare. The riders, endorsements and policy forms would have to provide a clear description of the Medicare supplemental benefits provided by the policy or certificate.

After satisfying the filing and approval requirements, an insurer would have to provide to each covered policyholder and certificate holder any rider, endorsement, or policy form necessary to eliminate benefits under the policy or certificate that duplicated benefits provided by Medicare.

Other Provisions

The bill also would:

- Require insurers to comply with provisions in the Federal Social Security Act concerning voluntary certification of Medicare supplemental insurance policies, receipt of claims from participating physicians and suppliers, and assignment of benefits.
- Specify that riders or endorsements to Medicare supplemental policies that would reduce or eliminate benefits to

avoid duplication of Medicare benefits would not have to comply with the Code's general requirements that riders and endorsements that reduce or eliminate benefits receive signed acceptance by the insured.

- Specify that riders or endorsements that increased benefits and, therefore, premiums, in order to meet minimum standards for Medicare supplemental policies would not have to be agreed to in writing by the insured.
- Delete from the information requirement for Medicare supplemental coverage forms language advising persons not enrolled in Medicare part B coverage to buy the coverage before buying a Medicare supplemental certificate and require instead that the form state that persons applying for a supplemental certificate "should be eligible for and should have applied for or be enrolled in medicare parts A and B".
- Prohibit a supplemental policy or certificate from duplicating benefits provided by Medicare.

MCL 500.2265 et al.

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

ARGUMENTS

Supporting Argument

The bill would make the necessary changes to the Insurance Code's provisions regulating Medicare supplemental policies to take into account changes in Federal law and new Federal regulations. The bill contains amendments that have been identified as necessary by the Federal Health Care Financing Administration for Michigan to be certified as meeting Federal minimum standards. Further, ~~by~~ allowing Medicare supplemental policies to exclude coverage for the new drug deductibles would keep those policies affordable for people who do not need or choose not to purchase the deductible coverage. Some companies assuredly will offer the coverage for drug deductibles, so it will continue to be available to those willing to pay

the higher premium. Finally, by making it clear that persons who wished to purchase Medicare supplemental policies would first have to be enrolled in regular Medicare coverage, the bill would help eliminate instances in which individuals have purchased policies to supplement Medicare coverage that they never had.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.