

THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

500.3829a Medicare supplement policies or certificates delivered, issued for delivery, or renewed on or after May 21, 2009; genetic test; definitions.

Sec. 3829a. (1) This section applies to all medicare supplement policies or certificates delivered, issued for delivery, or renewed on or after May 21, 2009.

(2) An insurer of a medicare supplement policy or certificate shall not do either of the following:

(a) Deny or condition the issuance or effectiveness of the policy or certificate, including the imposition of any exclusion of benefits under the policy based on a preexisting condition, on the basis of the genetic information with respect to that individual.

(b) Discriminate in the pricing of the policy or certificate, including the adjustment of premium rates, of an individual on the basis of the genetic information with respect to that individual.

(3) Nothing in subsection (2) limits the ability of an insurer, to the extent otherwise permitted by law, from doing either of the following:

(a) Denying or conditioning the issuance or effectiveness of a policy or certificate or increasing the premium for a group based on the manifestation of a disease or disorder of an insured or applicant.

(b) Increasing the premium for any policy issued to an individual based on the manifestation of a disease or disorder of an individual who is covered under the policy. However, the manifestation of a disease or disorder in 1 individual cannot be used as genetic information about other group members and to further increase the premium for the group.

(4) An insurer of a medicare supplement policy or certificate shall not request or require an individual or a family member of that individual to undergo a genetic test.

(5) Subsection (4) does not preclude an insurer of a medicare supplement policy or certificate from obtaining and using the results of a genetic test in making a determination regarding payment, as defined for the purposes of applying the regulations promulgated under part C of title XI and section 264 of the health insurance portability and accountability act of 1996, 42 USC 1320d to 1320d-8, and consistent with subsection (2).

(6) For purposes of carrying out subsection (5), an insurer of a medicare supplement policy or certificate may request only the minimum amount of information necessary to accomplish the intended purpose.

(7) Notwithstanding subsection (4), an insurer of a medicare supplement policy may request, but not require, that an individual, or a family member of that individual, undergo a genetic test if each of the following conditions is met:

(a) The request is made pursuant to research that complies with 45 CFR part 46, or equivalent federal regulations, and any applicable state or local law or regulations for the protection of human subjects in research.

(b) The insurer clearly indicates to each individual, or in the case of a minor child, to the legal guardian of that child, to whom the request is made, that compliance with the request is voluntary and that noncompliance will have no effect on enrollment status or premium or contribution amounts.

(c) Genetic information collected or acquired under this subsection shall not be used for underwriting, determination of eligibility to enroll or maintain enrollment status, premium rates, or the issuance, renewal, or replacement of a policy or certificate.

(d) The insurer notifies the commissioner in writing that the insurer is conducting activities pursuant to the exception provided for under this subsection, including a description of the activities conducted.

(e) The insurer complies with any other conditions as the commissioner may by regulation require for activities conducted under this subsection.

(8) An insurer of a medicare supplement policy or certificate shall not request, require, or purchase genetic information for underwriting purposes.

(9) An insurer of a medicare supplement policy or certificate shall not request, require, or purchase genetic information with respect to any individual prior to that individual's enrollment under the policy in connection with that enrollment.

(10) If an insurer of a medicare supplement policy or certificate obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning any individual, that request, requirement, or purchase is not a violation of subsection (9) if that request, requirement, or purchase does not violate subsection (8).

(11) As used in this section:

(a) "Family member" means, with respect to an individual, any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of that individual.

(b) "Genetic information" means, with respect to any individual, information about that individual's genetic tests, the genetic tests of family members of that individual, and the manifestation of a disease or disorder in family members of that individual. Genetic information includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by that individual or any family member of that individual. Any reference to genetic information concerning an individual or family member of an individual who is a pregnant woman includes genetic information of any fetus carried by that pregnant woman or, with respect to an individual or family member utilizing reproductive technology, includes genetic information of any embryo legally held by an individual or family member. Genetic information does not include information about the sex or age of any individual.

(c) "Genetic services" means a genetic test, genetic counseling, including obtaining, interpreting, or assessing genetic information, or genetic education.

(d) "Genetic test" means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detect genotypes, mutations, or chromosomal changes. Genetic test does not mean an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

(e) "Insurer of a medicare supplement policy or certificate" includes a third-party administrator or other person acting for or on behalf of that insurer.

(f) "Underwriting purposes" means all of the following:

(i) Rules for, or determination of, eligibility, including enrollment and continued eligibility, for benefits under the policy.

(ii) The computation of premium or contribution amounts under the policy.

(iii) The application of any preexisting condition exclusion under the policy.

(iv) Other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits.

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