

BULLETIN 92-1

TO: Domestic Medicare Supplement Insurers

FROM: Commissioner of Insurance

DATE: March 3, 1992

RE: Apparent Practices that Violate the Open Enrollment Law

The Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. Section 1395 (s)(2)(A)) and Section 11 of the NAIC Medicare Supplement Insurance Model Regulation provide for a six month open enrollment period for Medicare beneficiaries 65 years of age or older who first enroll for benefits under Medicare Part B. These provisions state that Medicare supplement insurance issuers may not deny or condition the issuance or effectiveness of, nor discriminate in the pricing of a Medicare supplement policy during the open enrollment period.

It has come to the attention of the NAIC Medicare Supplement and Other Limited Benefit Plans (B) Task Force that some Medicare supplement issuers have taken actions which are contrary to the legislative intent of the open enrollment requirement. These actions include the following:

1. Creating a disincentive to sell Medicare supplement policies during the open enrollment period by establishing compensation arrangements that result in producers receiving substantially lower or no compensation for policies sold pursuant to the open enrollment provision.
2. Applying pre-existing condition limitation waiting periods only to those policies issued pursuant to the open enrollment provision.
3. Engaging in premium rating practices which result in higher premiums solely for those policies issued pursuant to the open enrollment provision.

The Task Force believes the practices outlined above violate the legislative intent and spirit of the federal law and violate the section in the model regulation on open enrollment which is patterned after the federal law.

Insurers should be aware of the existing laws, both state and federal, regarding Medicare supplement insurance to determine whether violations appear to be occurring. Until such time as the Utah Insurance Department adopts the NAIC Model Regulation and has the authority to address violations, any evidence of such violations will be referred to the U.S. Department of Health and Human Services.

DATED this 3rd day of March, 1992.

Insurance Commissioner

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