

WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC
FORM 2

RULES CLEARINGHOUSE

Ronald Sklansky
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(608) 266-1304

One E. Main St., Ste. 401
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Madison, WI 53701-2536
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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 99-013

AN ORDER to amend Ins 3.39 (34) (b) 1., 2., 3. b. and 6., relating to guarantee issue eligibility for Medicare supplement insurance.

Submitted by **OFFICE OF THE COMMISSIONER OF INSURANCE**

01-28-99 RECEIVED BY LEGISLATIVE COUNCIL.

02-19-99 REPORT SENT TO AGENCY.

RS:JLK:jal;kjf

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

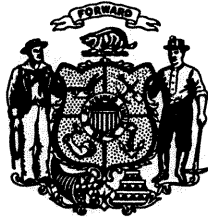
Comment Attached YES NO

WISCONSIN LEGISLATIVE COUNCIL STAFF

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CLEARINGHOUSE RULE 99-013

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

a. A plain language analysis of the rule is required. [See s. 1.02 (2) (b), Manual.] The substantive part of this analysis states that: "These changes will clarify the persons eligible who have the right to have policies guaranteed issued." Because this sentence does not refer to the type of policies at issue, it would be more helpful if the analysis stated something such as: "These changes will clarify the persons eligible to have medicare supplement policies guaranteed issued."

b. Throughout the rule, new underscored material should immediately follow stricken material instead of preceding it. [See s. 1.06 (1), Manual.]

c. In s. Ins 3.39 (34) (b) 1. and 2., all subunits of a rule (other than the introductory material) should end with a period, rather than a semicolon or the word "or." Also, s. Ins 3.39 (34) (b) 2. c. (intro.) should include an introductory phrase such as: ". . . established by the secretary, that at least one of the following has occurred:".

d. In s. Ins 3.39 (34) (b) 2. b., c. and d., the word "Secretary" should not be capitalized. In s. Ins 3.39 (34) (b) 6., the word "Medicare" should not be capitalized. [See s. 1.01 (4) (a), Manual.]

4. Adequacy of References to Related Statutes, Rules and Forms

- a. The statutes interpreted provision refers to s. 628.28, Stats. There is no such statute.
- b. In s. Ins 3.39 (34) (b) 2. a., the bracketed reference to “[under this part]” should be replaced with the correct cross-reference.
- c. Section Ins 3.39 (34) (b) 2. b. refers to “section 1851 (g) (3) (B) of the federal Social Security Act.” It also refers to “section 1856” without further clarification. When citing a federal law, the U.S. code reference should be used, and if the agency wishes to include a reference to a named federal act, this may be done in a note. [See s. 1.07 (3) (a), Manual.]
- d. In s. Ins 3.39 (34) (b) 3. b., the notation “subd.” should be replaced by the notation “par.”

5. Clarity, Grammar, Punctuation and Use of Plain Language

- a. Section Ins 3.39 (34) (b) 1. is ambiguous because of the confusing use of semicolons, commas, the word “and” and the word “or” to separate material. If, as appears to be the case, the underscored material is a new alternative description of an “eligible person,” then it would be less confusing if s. Ins 3.39 (34) (b) 1m. were created to include the new underscored material, rather than including it in s. Ins 3.39 (34) (b) 1. If this is not done, s. Ins 3.39 (34) (b) 1. should be revised.
- b. Section Ins 3.39 (34) (b) 2. b., c. and d. refer to “the Secretary.” Because this material is no longer part of a quotation, the term “Secretary” is unclear and should be defined.
- c. Section Ins 3.39 (34) (b) 6., as amended, would read: “. . . upon first becoming enrolled in medicare part B for benefits under part A of Medicare” It seems confusing that a person enrolls in Medicare Part B for benefits under Medicare Part A. Is this correct?

★★★ NOTICE OF RULEMAKING HEARING ★★★

NOTICE IS HEREBY GIVEN that pursuant to the authority granted under s. 601.41(3), Stats., and the procedure set forth in under s. 227.18, Stats., OCI will hold a public hearing to consider the adoption of the attached proposed rulemaking order affecting Section Ins 3.39(34)(b)1. and 2., (b)3.b. and (b)6., Wis. Adm. Code, relating to guarantee issue eligibility for Medicare Supplement insurance.

HEARING INFORMATION

Date: March 3, 1999

Time: 10:00 a.m., or as soon thereafter as the matter may be reached

Place: Room 6, OCI, 121 East Wilson Street, Madison, WI

Written comments on the proposed rule will be accepted into the record and receive the same consideration as testimony presented at the hearing if they are received at OCI within 14 days following the date of the hearing. Written comments should be addressed to: Robert Luck, OCI, PO Box 7873, Madison WI 53707

SUMMARY OF PROPOSED RULE & FISCAL ESTIMATE

For a summary of the rule see the analysis contained in the attached proposed rulemaking order. There will be no state or local government fiscal effect. The full text of the proposed changes and the fiscal estimate are attached to this Notice of Hearing.

INITIAL REGULATORY FLEXIBILITY ANALYSIS

This rule does not impose any additional requirements on small businesses.

CONTACT PERSON

A copy of the full text of the proposed rule changes and fiscal estimate may be obtained from Tammi Kuhl, Services Section, Office of the Commissioner of Insurance, at (608) 266-0110 or at 121 East Wilson Street, PO Box 7873, Madison WI 53707-7873.

PROPOSED ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE
AMENDING A RULE

To amend Ins 3.39(34)(b)1. and 2., (b)3.b. and (b)6., Wis. Adm. Code, relating to guarantee issue eligibility for Medicare Supplement insurance.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE

Statutory authority: ss. 600.01(2), 601.41(3), 601.42, 628.34(12), 628.38 Stats.

Statutes interpreted: ss. 600.01, 628.34 (12), 628.28 Stats.

These changes will clarify the persons eligible who have the right to have policies guaranteed issued. The changes track the recent revisions in the NAIC (National Association of Insurance Commissioners) model Medicare Supplement regulations.

SECTION 1. Section Ins 3.39(34)(b)1., 2., (b)3.b. and (b)6. are amended to read:

Ins 3.39(34)(b)1. The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under medicare; and the plan terminates, or the plan ceases to provide some or all such supplemental health benefits to the individual; or the individual is enrolled under an employee welfare benefit plan that is primary to Medicare and the plan terminates or the plan ceases to provide all health benefits to the individual because the individual leaves the plan;

2. The individual is enrolled with a Medicare+Choice organization under a Medicare+Choice plan under part C of medicare, and any of the following circumstances apply: there are circumstances permitting discontinuance of the individual's election of the plan under the first sentence of section 1851(e)(4) of the federal Social Security Act, which consists of the following:

~~“Effective as of January 1, 2002, an individual may discontinue an election of a Medicare+Choice plan offered by a Medicare+Choice organization other than during an annual,~~

~~coordinated election period [under Medicare] and make a new election under this section if:~~

~~a. 1. The organization's or plan's certification [under this part] has been terminated or the organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides;~~

~~b. 2. The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the Secretary, but not including termination of the individual's enrollment on the basis described in section 1851(g)(3)(B) of the federal Social Security Act (where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under section 1856), or the plan is terminated for all individuals within a residence area;~~

~~c. 3. The individual demonstrates, in accordance with guidelines established by the Secretary, that:~~

~~i. a. The organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards; or~~

~~ii. b. The organization, or agent or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual; or~~

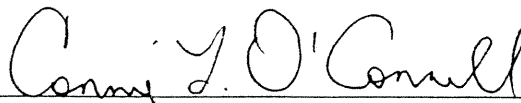
~~d. 4. The individual meets such other exceptional conditions as the Secretary may provide."~~

(b)3.b. The enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under ~~the first sentence of Section 1851(e)(4) of the federal Social Security Act as delineated above in subd. (b)2.~~

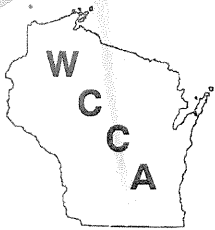
(b)6. The individual, upon first becoming enrolled in Medicare part B eligible for benefits under part A of medicare, enrolls in a Medicare+Choice plan under part C of medicare, and disenrolls from the plan by not later than 12 months after the effective date of enrollment.

SECTION 2. These changes will take effect on the first day of the first month after publication, as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin, this 25th day of January, 1999.



Connie L. O'Connell
Commissioner of Insurance



Wisconsin
County Code
Administrators

JAN 28 1999
Sen. Robson

January 20, 1999

Senator Robert Welch
Representative Glenn Grothman
Joint Committee on Review of Administrative Rules
State Capitol
Madison, WI 53702

Dear Senator Welch & Representative Grothman:

The Wisconsin County Code Administrators (WCCA) is the organization representing the professionals employed by counties to administer a wide range of state and county codes at the local level. The state agencies that mandate or encourage local administration of their rules include the Departments of Agriculture, Trade and Consumer Protection, Natural Resources, and Commerce.

The WCCA Board of Directors recently became aware of the Administrative Rules Committee's action to suspend a portion of Wisconsin Administrative Code Comm 83.03(2) relating to residences connecting to public sewer when it becomes available. This was discussed at our business meeting on January 7, 1999. We wish to express our position on this subject as follows.

The requirement to connect to public sewer has been a part of the uniform statewide plumbing code since its inception in 1972. We strongly support this portion of the code as sound public policy. Although we agree that private sewage systems are perfectly acceptable methods of disposing domestic wastewater, when the policy decision to extend public sewer into an area is adopted, we believe it is best for all connections to be made at that time.

It is true that state statutes provide authority to sanitary districts to require dwellings to connect to the public sewer when it becomes available. However, the districts frequently do not have the staffing or resources to enforce those regulations. The counties have supported the sanitary districts in their efforts to ensure that the connections are made as required by the statutes. This has been a commendable example of intergovernmental cooperation to achieve the desired policy outcome which, by and large, is based on public health and safety considerations.

The Department of Commerce has eliminated this authority in the proposed revisions to WAC ch. Comm 83. Our organization has gone on record at all of the public hearings in opposition to this part of the revision. We believe the authority is an important aspect of private sewage system regulations. We do not believe it is in the public interest to allow private sewage systems to remain in an area where public sewer is available. Ultimately the private sewage system will fail, causing nuisances and possible health risks where the public would least expect it, and the cost of connecting at a future date will be much greater than when the sewer first becomes available.

Senator Welch
Representative Grothman
January 27, 1999
Page 2

The WCCA regrets that we did not receive notice in time to provide testimony at the hearing on this rule. We strongly urge the committee to reconsider this action and restore the authority which allows counties to assist sanitary districts when they request it, in the interest of fostering a positive example of intergovernmental cooperation in the interest of public health and safety.

We appreciate the opportunity to express our position on this important issue. If you have any questions, please feel free to call me at the Calumet County Planning Department at (920) 849-1442 between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Sincerely,



Theodore Rohloff, President
Wisconsin County Code Administrators

cc: Honorable Governor Tommy G. Thompson
Brenda Blanchard, Secretary, Department of Commerce



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE



Tommy G. Thompson

Governor

Connie L. O'Connell

Commissioner

January 28, 1999

121 East Wilson Street • P.O. Box 7873

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Phone: (608) 266-3585 • Fax: (608) 266-9935

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http://badger.state.wi.us/agencies/oci/oci_home.htm

HONORABLE ROBERT WELCH
SENATE CO-CHAIRPERSON
JOINT COMM FOR REVIEW OF ADM RULES
100 NORTH HAMILTON ST 4TH FL
MADISON WI 53702

JAN 28 1999

Re: Emergency Rule, Section Ins 3.39(34)(b)1. and 2., (b)3.b. and (b)6., Wis. Adm. Code, relating to guarantee issue eligibility for Medicare supplement insurance

Dear Senator Welch:

I am promulgating the attached rule as an emergency rule. It will be published in the official State newspaper on January 29, 1999.

If you have any questions, please contact Robert Luck at 266-0082 or e-mail at bluck@mail.state.wi.us.

Sincerely,

Connie L. O'Connell
Commissioner

CLO:RL

Attachment: 1 copy rule



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE



Tommy G. Thompson
Governor

Connie L. O'Connell
Commissioner

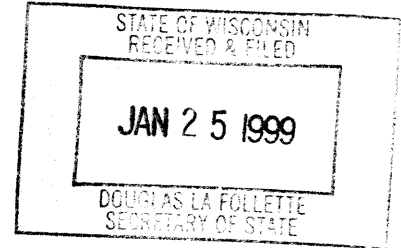
January 25, 1999

121 East Wilson Street • P.O. Box 7873
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STATE OF WISCONSIN

OFFICE OF THE COMMISSIONER OF INSURANCE

SS



I, Connie L. O'Connell, Commissioner of Insurance and custodian of the official records, certify that the annexed emergency rule affecting Section Ins 3.39(34)(b)1. and 2., (b)3.b. and (b)6., Wis. Adm. Code, relating to guarantee issue eligibility for Medicare supplement insurance, is duly approved and adopted by this Office on January 25, 1999.

I further certify that I have compared this copy with the original on file in this Office and that it is a true copy of the original, and the whole of the original.

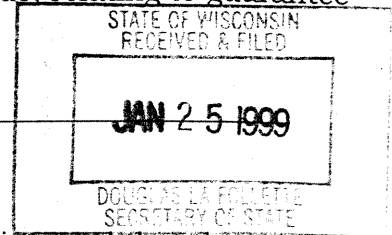
IN TESTIMONY WHEREOF,
I have hereunto set my hand at
121 East Wilson Street, Madison, Wisconsin,
on January 25, 1999.

Connie L. O'Connell
Commissioner

EMERGENCY ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE

AMENDING A RULE

To amend Ins 3.39(34)(b)1. and 2., (b)3.b. and (b)6., Wis. Adm. Code, relating to guarantee issue eligibility for Medicare Supplement insurance.



FINDING OF EMERGENCY

The Commissioner of Insurance finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. Facts constituting the emergency are as follows:

These changes clarify the persons eligible who have the right to have policies guaranteed issued. The changes track the recent revisions in the NAIC (National Association of Insurance Commissioners) model Medicare Supplement regulations. In order to provide more certainty and provide guarantee issue to the appropriate persons in Wisconsin, it is necessary that the change be put into effect as soon as possible. In addition, other permanent changes to the Medicare Supplement requirements are effective February 1, 1999 and this change effective the same date will allow insurers to modify their policies one time rather than two.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE

Statutory authority: ss. 600.01(2), 601.41(3), 601.42, 628.34(12), Stats.

Statutes interpreted: ss. 600.01, 628.34 (12), Stats.

These changes will clarify the persons eligible who have the right to have policies guaranteed issued. The changes track the recent revisions in the NAIC (National Association of Insurance Commissioners) model Medicare Supplement regulations.

SECTION 1. Section Ins 3.39(34)(b)1., 2., (b)3.b. and (b)6. are amended to read:

Ins 3.39(34)(b)1. The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under medicare; and the plan terminates, or the plan ceases to provide some or all such supplemental health benefits to the individual; or the individual is enrolled under an employee

welfare benefit plan that is primary to Medicare and the plan terminates or the plan ceases to provide all health benefits to the individual because the individual leaves the plan;

2. The individual is enrolled with a Medicare+Choice organization under a Medicare+Choice plan under part C of medicare, and any of the following circumstances apply: ~~there are circumstances permitting discontinuance of the individual's election of the plan under the first sentence of section 1851(e)(4) of the federal Social Security Act, which consists of the following:~~

~~“Effective as of January 1, 2002, an individual may discontinue an election of a Medicare+Choice plan offered by a Medicare+Choice organization other than during an annual, coordinated election period [under Medicare] and make a new election under this section if:~~

~~a. 1- The organization's or plan's certification [under this part] has been terminated or the organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides;~~

~~b. 2- The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the Secretary, but not including termination of the individual's enrollment on the basis described in section 1851(g)(3)(B) of the federal Social Security Act (where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under section 1856), or the plan is terminated for all individuals within a residence area;~~

~~c. 3- The individual demonstrates, in accordance with guidelines established by the Secretary, that:~~

~~i. a- The organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards; or~~

~~ii. b- The organization, or agent or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual; or~~

~~d. 4- The individual meets such other exceptional conditions as the Secretary may provide.”~~

(b)3.b. The enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under ~~the first sentence of Section 1851(e)(4) of the federal Social Security Act as delineated above in subd. (b)2.~~

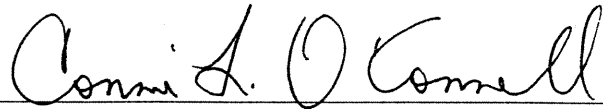
(b)6. The individual, upon first becoming enrolled in Medicare part B ~~eligible~~ for benefits under part A of medicare, enrolls in a Medicare+Choice plan under part C of

medicare, and disenrolls from the plan by not later than 12 months after the effective date of enrollment.

SECTION 2. These changes first apply to policies issued, renewed or solicited after February 1, 1999.

SECTION 3. These emergency rule changes will take effect on February 1, 1999, as provided in s. 227.24(1)(c), Stats.

Dated at Madison, Wisconsin, this 25 day of January, 1999.



Connie L. O'Connell
Commissioner of Insurance

FISCAL ESTIMATE
DOA-2048 N(R10/94)

- ORIGINAL
- UPDATED
- CORRECTED
- SUPPLEMENTAL

Subject

guaranteed issue eligibility for Medicare supplement insurance

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

- Increase Existing Appropriation
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues

Decrease Costs

Local: No local government costs

- 1. Increase Costs
 - Permissive
 - Mandatory
- 2. Decrease Costs
 - Permissive
 - Mandatory

- 3. Increase Revenues
 - Permissive
 - Mandatory
- 4. Decrease Revenues
 - Permissive
 - Mandatory

5. Types of Local Governmental Units Affected:
- Towns
 - Villages
 - Cities
 - Counties
 - Others _____
 - School Districts
 - WTCS Districts

Fund Sources Affected

- GPR
- FED
- PRO
- PRS
- SEG
- SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The changes only affect how insurers underwrite Medicare supplement policies and therefore has no fiscal impact on state and local governments

Long-Range Fiscal Implications

None

Agency/Prepared by: (Name & Phone No.)

Robert Luck 266-0082

Authorized Signature/Telephone No

Conni L O'Connell

Date

1/25/99

FISCAL ESTIMATE WORKSHEET

1995 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R10/94)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
3.39

Amendment No.

Subject: guaranteed issue eligibility for Medicare supplement insurance

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
None

II. Annualized Costs:		Annualized Fiscal impact on State funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes		\$	\$ -
(FTE Position Changes)		(FTE)	(- FTE)
State Operations - Other Costs			-
Local Assistance			-
Aids to Individuals or Organizations			-
TOTAL State Costs by Category		\$	\$ -
B. State Costs by Source of Funds			
GPR		\$	\$ -
FED			-
PRO/PRS			-
SEG/SEG-S			-
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)			
GPR Taxes		\$	\$ -
GPR Earned			-
FED			-
PRO/PRS			-
SEG/SEG-S			-
TOTAL State Revenues		\$	\$ -

NET ANNUALIZED FISCAL IMPACT

	STATE	LOCAL
NET CHANGE IN COSTS	\$ 0	\$ 0
NET CHANGE IN REVENUES	\$ 0	\$ 0

Agency/Prepared by: (Name & Phone No.)

Robert Luck 266-0082

Authorized Signature/Telephone No.

Connie L O'Connell

Date

1/25/99



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE



Tommy G. Thompson
Governor

Connie L. O'Connell
Commissioner

January 28, 1999

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Members of the Legislature

Re: Emergency Rule, Section Ins 3.39(34)(b)1. and 2., (b)3.b. and (b)6., Wis. Adm. Code, relating to guarantee issue eligibility for Medicare supplement insurance

Dear Senator or Representative to the Assembly:

I have promulgated the attached rule as an emergency rule. The rule will be published in the official State newspaper on January 29, 1999.

The attached copy of the rule includes the Finding of Emergency which required promulgation of the rule.

If you have any questions, please contact Robert Luck at 266-0082 or e-mail at bluck@mail.state.wi.us.

Sincerely,

Connie L. O'Connell
Commissioner

CLO:RL

Attachment: 1 copy rule



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE



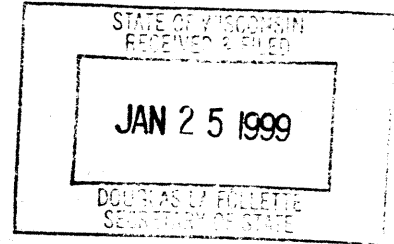
Tommy G. Thompson
Governor
Connie L. O'Connell
Commissioner

January 25, 1999

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STATE OF WISCONSIN
OFFICE OF THE COMMISSIONER OF INSURANCE

SS



I, Connie L. O'Connell, Commissioner of Insurance and custodian of the official records, certify that the annexed emergency rule affecting Section Ins 3.39(34)(b)1. and 2., (b)3.b. and (b)6., Wis. Adm. Code, relating to guarantee issue eligibility for Medicare supplement insurance, is duly approved and adopted by this Office on January 25, 1999.

I further certify that I have compared this copy with the original on file in this Office and that it is a true copy of the original, and the whole of the original.

IN TESTIMONY WHEREOF,
I have hereunto set my hand at
121 East Wilson Street, Madison, Wisconsin,
on January 25, 1999.

Connie L. O'Connell
Commissioner

EMERGENCY ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE

AMENDING A RULE

To amend Ins 3.39(34)(b)1. and 2., (b)3.b. and (b)6., Wis. Adm. Code, relating to guarantee issue eligibility for Medicare Supplement insurance.

STATE OF WISCONSIN
RECEIVED & FILED

JAN 25 1999

DOUGLAS W. BRADY
SECRETARY OF STATE

FINDING OF EMERGENCY

The Commissioner of Insurance finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. Facts constituting the emergency are as follows:

These changes clarify the persons eligible who have the right to have policies guaranteed issued. The changes track the recent revisions in the NAIC (National Association of Insurance Commissioners) model Medicare Supplement regulations. In order to provide more certainty and provide guarantee issue to the appropriate persons in Wisconsin, it is necessary that the change be put into effect as soon as possible. In addition, other permanent changes to the Medicare Supplement requirements are effective February 1, 1999 and this change effective the same date will allow insurers to modify their policies one time rather than two.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE

Statutory authority: ss. 600.01(2), 601.41(3), 601.42, 628.34(12), Stats.

Statutes interpreted: ss. 600.01, 628.34 (12), Stats.

These changes will clarify the persons eligible who have the right to have policies guaranteed issued. The changes track the recent revisions in the NAIC (National Association of Insurance Commissioners) model Medicare Supplement regulations.

SECTION 1. Section Ins 3.39(34)(b)1., 2., (b)3.b. and (b)6. are amended to read:

Ins 3.39(34)(b)1. The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under medicare; and the plan terminates, or the plan ceases to provide some or all such supplemental health benefits to the individual; or the individual is enrolled under an employee

welfare benefit plan that is primary to Medicare and the plan terminates or the plan ceases to provide all health benefits to the individual because the individual leaves the plan;

2. The individual is enrolled with a Medicare+Choice organization under a Medicare+Choice plan under part C of medicare, and any of the following circumstances apply: ~~there are circumstances permitting discontinuance of the individual's election of the plan under the first sentence of section 1851(e)(4) of the federal Social Security Act, which consists of the following:~~

~~"Effective as of January 1, 2002, an individual may discontinue an election of a Medicare+Choice plan offered by a Medicare+Choice organization other than during an annual, coordinated election period [under Medicare] and make a new election under this section if:~~

~~a. 1. The organization's or plan's certification [under this part] has been terminated or the organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides;~~

~~b. 2. The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the Secretary, but not including termination of the individual's enrollment on the basis described in section 1851(g)(3)(B) of the federal Social Security Act (where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under section 1856), or the plan is terminated for all individuals within a residence area;~~

~~c. 3. The individual demonstrates, in accordance with guidelines established by the Secretary, that:~~

~~i. a. The organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards; or~~

~~ii. b. The organization, or agent or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual; or~~

~~d. 4. The individual meets such other exceptional conditions as the Secretary may provide."~~

(b)3.b. The enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under ~~the first sentence of Section 1851(e)(4) of the federal Social Security Act as delineated above in subd. (b)2.~~

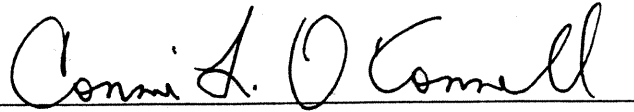
(b)6. The individual, upon first becoming enrolled in Medicare part B eligible for benefits under part A of medicare, enrolls in a Medicare+Choice plan under part C of

medicare, and disenrolls from the plan by not later than 12 months after the effective date of enrollment.

SECTION 2. These changes first apply to policies issued, renewed or solicited after February 1, 1999.

SECTION 3. These emergency rule changes will take effect on February 1, 1999, as provided in s. 227.24(1)(c), Stats.

Dated at Madison, Wisconsin, this 25 day of January, 1999.



Connie L. O'Connell
Commissioner of Insurance

LRB or Bill No./Adm. Rule No. Ins 3.39
Amendment No. if Applicable

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

FISCAL ESTIMATE
DOA-2048 N(R10/94)

Subject
guaranteed issue eligibility for Medicare supplement insurance

Fiscal Effect
 State: No State Fiscal Effect
 Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

<input type="checkbox"/> Increase Existing Appropriation	<input type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs - May be possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Decrease Existing Appropriation	<input type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Create New Appropriation	<input type="checkbox"/> Decrease Costs	

Local: No local government costs

1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others _____
2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts

Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	Affected Ch. 20 Appropriations
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Assumptions Used in Arriving at Fiscal Estimate

The changes only affect how insurers underwrite Medicare supplement policies and therefore has no fiscal impact on state and local governments

Long-Range Fiscal Implications
None

Agency/Prepared by: (Name & Phone No.) Robert Luck 266-0082	Authorized Signature/Telephone No <i>Conni L O'Connell</i>	Date 1/25/99
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FISCAL ESTIMATE WORKSHEET

1995 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R10/94)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
3.39

Amendment No.

Subject: guaranteed issue eligibility for Medicare supplement insurance

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
None

II. Annualized Costs:

Annualized Fiscal impact on State funds from:

A. State Costs by Category

Increased Costs

Decreased Costs

State Operations - Salaries and Fringes

\$

\$

-

(FTE Position Changes)

(

FTE)

(-

FTE)

State Operations - Other Costs

-

Local Assistance

-

Aids to Individuals or Organizations

-

TOTAL State Costs by Category

\$

\$

-

B. State Costs by Source of Funds

Increased Costs

Decreased Costs

GPR

\$

\$

-

FED

-

PRO/PRS

-

SEG/SEG-S

-

III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)

Increased Rev.

Decreased Rev.

GPR Taxes

\$

\$

-

GPR Earned

-

FED

-

PRO/PRS

-

SEG/SEG-S

-

TOTAL State Revenues

\$

\$

-

NET ANNUALIZED FISCAL IMPACT

STATE

LOCAL

NET CHANGE IN COSTS

\$

0

\$

0

NET CHANGE IN REVENUES

\$

0

\$

0

Agency/Prepared by: (Name & Phone No.)

Robert Luck 266-0082

Authorized Signature/Telephone No.

Connie L O'Connell

Date

1/25/99



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE



Tommy G. Thompson
Governor

Connie L. O'Connell
Commissioner

January 22, 1999

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http://badger.state.wi.us/agencies/oci/oci_home.htm

HONORABLE ROBERT WELCH
SENATE CO-CHAIRPERSON
JOINT COMM FOR REVIEW OF ADM RULES
100 NORTH HAMILTON ST 4TH FL
MADISON WI 53702

Re: Emergency Rule, Section Ins 3.39(34)(b)1. and 2., (b)3.b. and (b)6., Wis. Adm.
Code, relating to guarantee issue eligibility for Medicare supplement
insurance

Dear Senator Welch:

I will be promulgating an emergency rule. Attached is a draft of the rule for your review. The reasons for proceeding with an emergency rule are given in the Finding of Emergency in the rule. It will be published in the official State newspaper in about a week.

If you have any questions, please contact Robert Luck at 266-0082 or e-mail at rluck@mail.state.wi.us.

Sincerely,

Connie L. O'Connell
Commissioner

CLO:RL

Attachment: 1 copy draft rule

D R A F T

EMERGENCY ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE

AMENDING A RULE

To amend Ins 3.39(34)(b)1. and 2., (b)3.b. and (b)6., Wis. Adm. Code, relating to guarantee issue eligibility for Medicare Supplement insurance.

FINDING OF EMERGENCY

The Commissioner of Insurance finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. Facts constituting the emergency are as follows:

These changes clarify the persons eligible who have the right to have policies guaranteed issued. The changes track the recent revisions in the NAIC (National Association of Insurance Commissioners) model Medicare Supplement regulations. In order to provide more certainty and provide guarantee issue to the appropriate persons in Wisconsin, it is necessary that the change be put into effect as soon as possible. In addition, other permanent changes to the Medicare Supplement requirements are effective February 1, 1999 and this change effective the same date will allow insurers to modify their policies one time rather than two.

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2. The individual is enrolled with a Medicare+Choice organization under a Medicare+Choice plan under part C of medicare, and any of the following circumstances apply: ~~there are circumstances permitting discontinuance of the individual's election of the plan under the first sentence of section 1851(e)(4) of the federal Social Security Act, which consists of the following:~~

~~"Effective as of January 1, 2002, an individual may discontinue an election of a Medicare+Choice plan offered by a Medicare+Choice organization other than during an annual, coordinated election period [under Medicare] and make a new election under this section if:~~

~~a. 1-~~ The organization's or plan's certification [under this part] has been terminated or the organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides;

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~~d. 4-~~ The individual meets such other exceptional conditions as the Secretary may provide."

(b)3.b. The enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under ~~the first sentence of Section 1851(e)(4) of the federal Social Security Act as delineated above in subd. (b)2.~~

(b)6. The individual, upon first becoming enrolled in Medicare part B eligible for benefits under part A of medicare, enrolls in a Medicare+Choice plan under part C of medicare, and disenrolls from the plan by not later than 12 months after the effective date of enrollment.

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Dated at Madison, Wisconsin, this _____ day of January, 1999.

Connie L. O'Connell
Commissioner of Insurance