

State of Delaware



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Department of Insurance

RATES AND FORMS BULLETIN NO. 10

APPARENT PRACTICES THAT VIOLATE THE OPEN ENROLLMENT LAW

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The Omnibus Reconciliation Act of 1990 (42 U.S.C., s 1395 (s)(2)(A)) and Section 11 of Regulation 41 of the Delaware Insurance Code, Medicare Supplement Insurance Minimum Standards, 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 Delaware Insurance Department 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 insurance policies during the open enrollment period by establishing compensation arrangements that resulting 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 Department believes the practices outlined above violate the legislative intent and spirit of the federal law and violate the section in Regulation 41 on open enrollment that is patterned after the federal law.

The Department will monitor the market to ensure that all companies comply with the clear legislative intent of Chapter 34 and Regulation 41. Violators will be subject to fines up to \$15,000 per violation.