



**DOMESTIC AND FOREIGN INSURERS BULLETIN NO. 164 AND
PRODUCER AND ADJUSTER BULLETIN NO. 40**

**TO: ALL MEDICARE SUPPLEMENT CARRIERS AND LICENSED PRODUCERS IN
DELAWARE**

**RE: SENATE BILL 71 - MEDICARE SUPPLEMENT SPECIAL ENROLLMENT
PERIOD**

DATED: January 12, 2026

The Delaware Department of Insurance (“Department”) issues this Bulletin to advise carriers and producers of the enactment of Senate Bill 71 ([SB 71](#)), signed into law on September 3, 2025. SB 71 amends Title 18 of the Delaware Code to establish important consumer protections for Medicare Supplement (“Medigap”) policyholders. This Bulletin outlines carrier obligations and compliance expectations under SB 71.

SB 71 Key Provisions:

Birthday Rule – Guaranteed Issue Special Enrollment Period (SEP)

- Existing Medicare Supplement policyholders are entitled to a Special Enrollment Period beginning 30 days before their birthday and extending at least 30 days after.
- During this SEP, policyholders have Guaranteed Issue rights to purchase a new Medicare Supplement policy with the same or lesser benefits from their current carrier or a new carrier, without medical underwriting.
- Innovative benefits must not be considered when determining whether benefits are the same or lesser.

Guaranteed Issue Rights for Medicare Advantage to Original Medicare Transitions

- Individuals switching from a Medicare Advantage plan to Original Medicare during Federal Enrollment Periods, which currently include:
 - Annual Medicare Open Enrollment (Oct. 15 – Dec. 7), or
 - Medicare Advantage Open Enrollment (Jan. 1 – Mar. 31) may purchase any Medicare Supplement policy available in Delaware.
- Carriers must provide Guaranteed Issue coverage and may not deny applications.

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- Carriers may medically underwrite and apply pre-existing condition limitations, but coverage cannot be denied.

Carrier Requirements:

- **Notification Obligations**
 - Beginning January 1, carriers must notify eligible policyholders of their rights under SB 71 at least 30 days before the SEP begins, but not more than 60 days prior.
- **Applicability**
 - Applies to Delaware residents who purchased a Medicare Supplement policy in Delaware and still reside in the state.
 - Applies to out-of-state policyholders who now reside in Delaware once carriers become aware of their residency.
 - Does **not** apply to Delaware-issued policies where the policyholder has moved out of state.
 - Does **not** apply to Medicare-eligible State of Delaware retirees in relation to their ability to opt-in or opt-out of coverage annually in October and for certain qualifying events under the discretion of the State Employee Benefits Committee.

Carrier Prohibitions Under Guaranteed Issue Rights:

- Carriers cannot apply any additional substandard rate ups other than the rate ups approved by the Department in their current books of business. This prohibition applies to both Birthday Rule transitions and to Medicare Advantage transitions.
- Carriers cannot refuse to write a Medicare Supplement policy for consumers transitioning from Medicare Advantage to Original Medicare and add a Medicare Supplement plan except as provided in [18 Del. Admin. Code 1501](#).
- Carriers must charge existing rates to new policyholders and may only adjust rates at renewal.
- Carriers are prohibited from opening new books of business to apply only to consumers transitioning under the Birthday Rule and from Medicare Advantage.

Permissible Carrier Actions:

- Carriers may medically underwrite and charge appropriate premiums for individuals transitioning from Medicare Advantage to Original Medicare with a Medicare Supplement policy.
- Carriers may ask medical questions during underwriting, but coverage cannot be denied.

NOTE: This Bulletin is intended solely for informational purposes. It is not intended to set forth legal rights, duties, or privileges, nor is it intended to provide legal advice. Readers should consult applicable statutes and rules and contact the Delaware Department of Insurance if additional information is needed.

Rating Practices for Medicare Supplement and Advantage Transitions:

- **Tobacco Rating:** Tobacco Rating is permissible under both the Birthday Rule and Medicare Advantage transitions.
- **Substandard Rating:** Carriers may not apply any new substandard rating under either the Birthday Rule or Medicare Advantage transitions.
- **Non-Discrimination:** All rating practices must comply with 18 Del. Admin. Code § 1501 and 18 Del. C. § 2304.

Compliance

Carriers must be fully compliant with all notification, issuance, rating, and filing requirements set forth in this Bulletin.

- Marketing and sales materials must clearly describe the new enrollment rights.
- Rate filings and underwriting guidelines must reflect the Guaranteed Issue protections described above.
- Producers should receive appropriate training to accurately advise clients on their rights under SB 71.
- Carriers must also comply with the standards set forth in Domestic & Foreign [Bulletin No. 162](#) and Producer & Adjuster [Bulletin No. 39](#) related to unfair trade practices

Enforcement

The Department of Insurance will actively monitor market conduct to ensure compliance. Violations may result in enforcement action under Title 18 of the Delaware Code, including but not limited to:

- Suspension or revocation of licenses under 18 Del. C. §§ 520 and 1712.
- Administrative penalties under 18 Del. C. § 2308, including applicable fines.

Questions about this Bulletin should be emailed to compliance@delaware.gov.

This Bulletin shall be effective immediately and shall remain in effect unless withdrawn or superseded by subsequent law, regulation or bulletin.



Trinidad Navarro

Delaware Insurance Commissioner

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