



CONSUMER ALERT

DELAWARE ANNOUNCES ADDITIONAL OPEN ENROLLMENT/GUARANTEED ISSUE PERIODS FOR MEDICARE SUPPLEMENT POLICIES

The Delaware Governor signed into law Senate Bill (SB) 71, on September 3, 2025. SB 71 creates a special enrollment period (SEP) window for persons already enrolled in a Medicare Supplement or “Medigap” policy to switch to another Medigap policy that provides the same or lesser benefits, allowing enrollees to find a plan that better fits their financial circumstances. SB 71 also guarantees the issuance of a Medigap policy to those enrollees who switch from a Medicare Advantage (MA) plan back to original Medicare during either of the Medicare open enrollment periods. SB 71 goes into effect on January 1, 2026.

What SB 71 does:

1. Allows existing Medicare Supplement policyholders to have a new open enrollment period starting 30 days before their birthday and remaining open for at least 30 days after their birthday. This is referred to as the “birthday rule.”
 - a. During this open enrollment period, these policyholders may purchase a new Medicare Supplement policy (with the same or lesser benefits) from their existing carrier or a new carrier without medical underwriting.
 - b. Innovative benefits must not be considered when determining whether a Medicare Supplement policy has the same or lesser benefits than another policy.
2. Allows persons who are enrolled in a Medicare Advantage plan and switch to original Medicare during either the annual Medicare open enrollment period (October 15 to December 7) or the Medicare Advantage open enrollment period (January 1 to March 31) to purchase any Medicare Supplement policy available for purchase in this State. For individuals switching from Medicare Advantage to a Medicare Supplement policy, SB 71 prohibits issuers of Medicare Supplement policies from denying applications for such policies but does allow issuers to individually rate and apply a pre-existing condition limitation.

Things to know:

1. Switching mid-year from one Medigap High-Deductible policy to another will restart the high deductible under the new carrier’s policy contract. Consider the annual deductible before switching policies.
2. “Mid-month” effective dates are discouraged, as applicants typically must give their prior carrier notice.
3. Do not cancel the current Medigap policy until the new Medigap policy is issued. You may have to pay two premiums for one month to ensure a smooth transfer from the old to new policy.

4. The birthday rule applies only to consumers who switch from one Medigap policy to another Medigap policy. Consumers who switch from Medicare Advantage back to Original Medicare, Medicare Part D, and Medicare Supplement policy may only switch during the Medicare Open Enrollment Period (October 15 – December 7) and/or one-time during the Medicare Advantage open enrollment period (January 1 to March 31).

What Medicare Supplement Carriers are Required to do:

1. For policyholders eligible for the birthday rule, at least 30 days before the beginning of the open enrollment period, but not more than 60 days, Medicare Supplement carriers are required to notify their policyholders of their rights to enroll in a new plan under SB 71, and the timeframes in which they can do so.
2. The Division expects carriers to still provide an open enrollment period to people with January birthdays, even though they are not mandated to provide notice prior to the January 1, 2026, effective date of SB 71. Carriers should still provide notice to policyholders with January birthdays during their open enrollment period so they can take advantage of the “birthday rule” if they choose to.
 - a. This applies to Delaware policyholders who purchased a Medicare Supplement policy in this state and still live in Delaware.
 - b. For policyholders who purchased an out-of-state policy but now live in Delaware, the Department acknowledges that carriers may not have information about this group of people but still expects the “birthday rule” to apply when carriers are made known of such individuals.
 - c. This does not apply to policyholders who purchased a policy in Delaware and now live out-of-state.

What Medicare Supplement Carriers cannot do:

1. Carriers cannot rate up policyholders who have an existing Medicare Supplement policy and choose to switch policies pursuant to the “birthday rule.”
2. Carriers cannot deny coverage to, or rate up, consumers who have a Medicare Advantage plan and switch back to Original Medicare and add a Medicare Supplement plan.
3. Carriers must charge existing rates to new policyholders and cannot charge them new rates until the renewal period.

What Medicare Supplement carriers can do:

1. When switching from Medicare Advantage plans back to Original Medicare and adding a Medicare Supplement policy, carriers are permitted to medically underwrite consumers and charge an appropriate premium. This includes asking consumer medical questions even if they cannot deny coverage to a consumer.

Who is not eligible for the Medigap Birthday Rule:

1. Self-funded employer-sponsored group Medigap plans are not eligible for the Medigap birthday rule. If you leave your self-funded employer-sponsored group Medigap plan, you may not be able to get it back if the employer plan rules do not allow it.