

191—37.28(514D) Required disclosure provisions.**37.28(1) General rules.**

a. A Medicare supplement policy or certificate shall include renewal or continuation provisions. The language or specifications of such provisions shall be consistent with the type of Medicare supplement policy issued. Such provisions shall be appropriately captioned and shall appear on the first page of the Medicare supplement policy or certificate, and shall include any reservations by the issuer of the right to change premiums and any automatic renewal premium increases based on the covered individual's age.

b. Except for a rider or an endorsement by which the issuer effectuates a request made in writing by the covered individual, exercises a specifically reserved right under a Medicare supplement policy or certificate, or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits, any rider or endorsement added to a Medicare supplement policy or certificate after the date the policy or certificate is issued, or at reinstatement or renewal, which reduces or eliminates benefits or coverage in the policy or certificate shall require a signed acceptance by the covered individual. After the date of issue of a Medicare supplement policy or certificate, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term shall be agreed to in writing signed by the covered individual, unless the benefits are required by the minimum standards for Medicare supplement policies or certificates, or if the increased benefits or coverage is required by law. Where a separate additional premium is charged for benefits provided in connection with a rider or endorsement, such premium charge shall be set forth in the Medicare supplement policy or certificate.

c. Medicare supplement policies or certificates shall not provide for the payment of benefits based on standards described as "usual and customary," "reasonable and customary" or words of similar import.

d. If a Medicare supplement policy or certificate contains any limitations with respect to preexisting conditions, such limitations shall appear as a separate paragraph of the Medicare supplement policy or certificate and be labeled as "Preexisting Condition Limitations."

e. A Medicare supplement policy or certificate shall have a notice prominently printed on the first page of the policy or certificate, or attached thereto, stating in substance that the covered individual shall have the right to return the Medicare supplement policy or certificate within 30 days of its delivery and to have the premium refunded if, after examination of the Medicare supplement policy or certificate, the covered individual is not satisfied for any reason.

f. An issuer of an accident or sickness policy or certificate which provides hospital or medical expense coverage on an expense-incurred or indemnity basis to an individual eligible for Medicare shall provide to any applicant for such policy or certificate the most recent version of *Choosing a Medigap Policy: Guide to Health Insurance for People with Medicare*, issued by Centers for Medicare and Medicaid Services ("guide"), developed jointly by the National Association of Insurance Commissioners and CMS, using the same language, format, type size (no less than 12 point), type-proportional spacing, bold characters and line spacing. Delivery of the guide shall be made whether or not such policy or certificate was advertised, solicited or issued as a Medicare supplement policy or certificate as defined in this chapter. Except in the case of a direct response issuer, delivery of the guide shall be made to the applicant at the time of application and acknowledgment of receipt of the guide shall be obtained by the issuer. A direct response issuer shall deliver the guide to the applicant upon request but not later than at the time the Medicare supplement policy is delivered.

37.28(2) Notice requirements.

a. As soon as practicable, but no later than 30 days prior to the annual effective date of any Medicare benefit changes, an issuer shall notify its covered individuals of modifications it has made to Medicare supplement policies or certificates in a format acceptable to the commissioner. The notice shall:

(1) Include a description of revisions to the Medicare program and a description of each modification made to the coverage provided under the Medicare supplement policy or certificate; and

(2) Inform each covered individual as to when any premium adjustment is to be made due to changes in Medicare.

b. The notice of benefit modifications and any premium adjustments shall be in outline form and in clear and simple terms so as to facilitate comprehension.

c. Such notices shall not contain or be accompanied by any solicitation.

37.28(3) *MMA notice requirements.* Issuers shall comply with any notice requirements of the MMA.

37.28(4) *Outline of coverage requirements for Medicare supplement policies.*

a. An issuer shall provide an outline of coverage to any applicant for a Medicare supplement policy or certificate at the time application is presented to the prospective applicant and, except for a direct response policy, shall obtain an acknowledgment of receipt of such outline of coverage from the applicant.

b. If an outline of coverage is provided at the time of application and the Medicare supplement policy or certificate is issued on a basis which would require revision of the outline, the issuer shall provide a substitute outline of coverage properly describing the Medicare supplement policy or certificate to accompany such Medicare supplement policy or certificate when it is delivered to the covered individual, and the substitute outline of coverage shall contain the following statement, in no less than 12-point type, immediately above the issuer's company name:

“NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued.”

c. The outline of coverage provided to an applicant pursuant to this rule shall consist of the following four parts: a cover page; premium information; disclosure pages; and charts displaying the features of each Medicare supplement benefit plan offered by the issuer. The outline of coverage shall be in the language and format prescribed in this rule and in Appendix E in no less than 12-point type. All plans shall be shown on the cover page, and the plans that are offered by the issuer shall be prominently identified. Premium information for plans that are offered by the issuer shall be shown on the cover page or immediately following the cover page and shall be prominently displayed. The premium and mode shall be stated for all plans that are offered to the prospective applicant. All possible premiums for the prospective applicant shall be illustrated.

d. The items in Appendix E shall be included in the outline of coverage in the order prescribed in Appendix E.

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