**Section 2008.75 Guaranteed Issue for Eligible Persons**

All Medicare supplement insurance policies shall be guaranteed issue to eligible persons who meet the requirements of this Section (see 42 U.S.C. 1395ss(s)).

a) Guaranteed Issue

1) Eligible persons are those individuals described in subsection (b) who seek to enroll under the policy during the period specified in subsection (c), and who submit evidence of the date of termination, disenrollment, or Medicare Part D enrollment with the application for a Medicare supplement policy.

2) With respect to eligible persons, an issuer shall not deny or condition the issuance or effectiveness of any Medicare supplement policy or certificate described in subsection (e) that is offered and is available for issuance to new enrollees by the issuer; shall not discriminate in the pricing of such a Medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition; and shall not impose an exclusion of benefits based on a preexisting condition under such a Medicare supplement policy.

b) Eligible person is an individual described in any of the following subsections:

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 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 Advantage organization under a Medicare Advantage plan under Part C of Medicare, and any of the following circumstances apply, or the individual is 65 years of age or older and is enrolled with a Program of All-Inclusive Care for the Elderly (PACE) provider under Section 1894 of the Social Security Act, and there are circumstances similar to those described in subsections (b)(2), (3), (4), (5) and (6) that would permit discontinuance of the individual's enrollment with such provider if such individual were enrolled in a Medicare Advantage Plan:

A) The certification of the organization or plan under this Part has been terminated;

B) The organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides;

C) 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;

D) The individual demonstrates, in accordance with guidelines established by the Secretary, that:

i) The organization offering the plan substantially violated a material provision of the organization's contract 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) 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

E) The individual meets such other exceptional conditions as the Secretary may provide;

3) The individual's enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under subsection (b)(2) and they enrolled under:

A) An eligible organization under a contract under Section 1876 of the Social Security Act (Medicare cost);

B) A similar organization operating under demonstration project authority, effective for periods before April 1, 1999;

C) An organization under an agreement under Section 1833(a)(1)(A) of the Social Security Act (health care prepayment plan); or

D) An organization under a Medicare Select policy;

4) The individual is enrolled under a Medicare supplement policy and the enrollment ceases because:

A) Of the insolvency of the issuer or bankruptcy of the nonissuer organization;

B) Of other involuntary termination of coverage or enrollment under the policy;

C) The issuer of the policy substantially violated a material provision of the policy; or

D) The issuer, or an agent or other entity acting on the issuer's behalf, materially misrepresented the policy's provisions in marketing the policy to the individual;

5) The individual was enrolled under a Medicare supplement policy and terminates enrollment and subsequently enrolls, for the first time, with any Medicare Advantage organization under a Medicare Advantage plan under Part C of Medicare, any eligible organization under a contract under Section 1876 of the Social Security Act (Medicare cost), any similar organization operating under demonstration project authority, any PACE provider under Section 1894 of the Social Security Act, or a Medicare Select policy; and the subsequent enrollment is voluntarily or involuntarily terminated during any period within the first 12 months of such subsequent enrollment;

6) The individual, upon first enrolling under Part B of Medicare at age 65 or older, enrolls in a Medicare Advantage plan under Part C of Medicare or with a PACE provider under Section 1894 of the Social Security Act, and voluntarily or involuntarily disenrolls from the plan or program by not later than 12 months after the effective date of enrollment;

7) The individual enrolls in a Medicare Part D plan during the initial enrollment period and, at the time of enrollment in Part D, was enrolled under a Medicare supplement policy that covers outpatient prescription drugs and the individual terminates enrollment in the Medicare supplement policy and submits evidence of enrollment in Medicare Part D along with the application for a policy described in subsection (e)(4); or

8) *The individual:*

A) *is enrolled for* benefits under *Medicare Part B*;

B) *was enrolled in the State's medical assistance program during the COVID-19 Public Health Emergency described in Section 5-1.5 of the Illinois Public Aid Code* [305 ILCS 5/5-1.5];

C) *was terminated or disenrolled from the medical assistance program after the COVID-19 Public Health Emergency* with the later of the effective date of the loss of benefits or receipt of *notice of a claim* denial *due to termination* occurring *on, after, or no more than 63 days before the end of either, as applicable:*

i) *the individual's Medicare supplement open enrollment period described in* Section 2008.74; or

ii) *the 6-month period described in Section 363(6)(a)(i) of* the *Code*; and

D) *submits evidence of the date of termination of benefits or notice of* claim denial due to *termination under the medical assistance program with the application for a Medicare supplement policy or certificate.* [215 ILCS 5/363(9)]

c) Guaranteed Issue Time Periods

1) In the case of an individual described in subsection (b)(1), the guaranteed issue period begins on the later of:

A) date the individual receives a notice of termination or cessation of all supplemental health benefits (or, if a notice is not received, notice that a claim has been denied because of termination or cessation) and ends 63 days thereafter; or

B) the date that the applicable coverage terminates or ceases;

2) In the case of an individual described in subsection (b)(2), (b)(3), (b)(5) or (b)(6) whose enrollment is terminated involuntarily, the guaranteed issue period begins on the date that the individual receives a notice of termination and ends 63 days after the date the applicable coverage is terminated;

3) In the case of an individual described in subsection (b)(4)(A):

A) the guaranteed issue period begins on the earlier of:

i) the date that the individual receives a notice of termination, a notice of the issuer's bankruptcy or insolvency, or other such similar notice if any; or

ii) the date that the applicable coverage is terminated; and

B) ends on the date that is 63 days after the date the coverage is terminated;

4) In the case of an individual described in subsection (b)(2), (b)(4)(B), (b)(4)(C), (b)(5) or (b)(6) who disenrolls voluntarily, the guaranteed issue period begins on the date that is 60 days before the effective date of the disenrollment and ends on the date that is 63 days after the effective date;

5) In the case of an individual described in subsection (b)(7), the guaranteed issue period begins on the date the individual receives notice pursuant to Section 1882(v)(2)(B) of the Social Security Act from the Medicare supplement issuer during the 60-day period immediately preceding the initial Part D enrollment period and ends on the date that is 63 days after the effective date of the individual's coverage under Medicare Part D;

6) In the case an individual described in subsection (b) but not described in the preceding provisions of this subsection (c), the guaranteed issue period begins on the effective date of the disenrollment and ends on the date that is 63 days after the effective date; and

7) In the case of an individual described in subsection (b)(8), the guaranteed issue period:

A) begins on the later of:

i) the effective date of loss of benefits under the medical assistance program; or

ii) receipt of notice of a claim denial due to termination; and

B) ends on the date that is 63 days later.

d) Extended Medigap Access for Interrupted Trial Periods

1) In the case of an individual described in subsection (b)(5) whose enrollment with an organization or provider described in subsection (b)(5) is involuntarily terminated within the first 12 months of enrollment, and who, without an intervening enrollment, enrolls with another such organization or provider, the subsequent enrollment shall be deemed to be initial enrollment described in subsection (b)(5);

2) In the case of an individual described in subsection (b)(6) whose enrollment with a plan or in a program described in subsection (b)(6) is involuntarily terminated within the first 12 months of enrollment, and who, without an intervening enrollment, enrolls in another such plan or program, the subsequent enrollment shall be deemed to be an initial enrollment described in subsection (b)(6); and

3) For purposes of subsections (b)(5) and (b)(6), no enrollment of an individual with an organization or provider described in subsection (b)(5)(A), or with a plan or in a program described in subsection (b)(6), may be deemed to be an initial enrollment after the 2-year period beginning on the date on which the individual first enrolled with such an organization, provider, plan or program.

e) Products to Which Eligible Persons are Entitled

The Medicare supplement policy to which eligible persons are entitled under:

1) Subsection (b)(1), (2), (3), and (4) is a Medicare supplement policy which has a benefit package classified as Plan A, B, C, F (including F with a high deductible), K or L offered by any issuer.

2) Subject to subsection (e)(2)(B), subsection (b)(5) is the same Medicare supplement policy in which the individual was most recently previously enrolled, if available from the same issuer, or, if not available, a policy described in subsection (e)(1). After December 31, 2005, if the individual was most recently enrolled in a Medicare supplement policy with an outpatient prescription drug benefit, a Medicare supplement policy described in this subsection (e)(2) is:

A) The policy available from the same issuer but modified to remove outpatient prescription drug coverage; or

B) At the election of the policyholder, an A, B, C, F (including F with a high deductible), K or L policy that is offered by any issuer.

3) Subsections (b)(6) and (b)(8) shall include any Medicare supplement policy offered by any issuer.

4) Subsection (b)(7) is a Medicare supplement policy that has a benefit package classified as Plan A, B, C, F (including F with a high deductible), K or L, and that is offered and is available for issuance to new enrollees by the same issuer that issued the individual's Medicare supplement policy with outpatient prescription drug coverage.

f) Notification Provisions

1) At the time of an event described in subsection (b) other than subsection (b)(8), because of which an individual loses coverage or benefits due to the termination of a contract or agreement, policy, or plan, the organization that terminates the contract or agreement, the issuer terminating the policy, or the administrator of the plan being terminated, respectively, shall notify the individual of the individual's under this Section, and of the obligations of issuers of Medicare supplement policies under subsection (a). Such notice shall be communicated contemporaneously with the notification of termination.

2) At the time of an event described in subsection (b) other than subsection (b)(8), because of which an individual ceases enrollment under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer offering the policy, or the administrator of the plan, respectively, shall notify the individual of the individual's rights under this Section, and of the obligations of issuers of Medicare supplement policies under subsection (a). Such notice shall be communicated within 10 working days after the issuer receives notification of disenrollment.

g) Nothing in this Section shall eliminate or reduce the time period during which Section 2008.74 of this Part or Section 363(6)(a)(i) of the Code applies except that provisions in this Section that completely prohibit the exclusion of benefits based on a preexisting condition shall control.

(Source: Amended at 47 Ill. Reg. 16454, effective November 1, 2023)