



ARIZONA STATE SENATE
Fifty-Fifth Legislature, Second Regular Session

AMENDED

FACT SHEET FOR S.B. 1118

insurance; fees; consent; limits

(NOW: insurance; fees; consent; medicare supplement)

Purpose

Allows an insurer to file for Medicare supplement rates that include an early enrollment discount that will not be considered an attained age rating structure. Decreases the minimum amount of the nonrefundable fee for the certificate of the Director of the Department of Insurance and Financial Institutions (DIFI), under seal. Requires an oral communication that meets outlined requirements to qualify as consent for an insurer to deliver documents electronically. Prescribes flood insurance and high-risk fire area posting and notification requirements for insurers, the State Forester and DIFI.

Background

Insurance

The Secretary of the U.S. Department of Health and Human Services must establish a procedure for Medicare supplemental policies to be certified as meeting minimum standards and requirements. The Director of DIFI must adopt rules necessary to comply with federal requirements, laws and regulations so that the State of Arizona may retain its full authority to regulate minimum standards for Medicare supplement insurance ([42 U.S.C. 1395ss](#); [A.R.S. § 20-1133](#)).

Every health care insurer that offers individual health insurance coverage in the individual market in Arizona must provide guaranteed availability of coverage to an eligible individual who desires to enroll in individual health insurance coverage and may not: 1) decline to offer that coverage to, or deny enrollment of, that individual; or 2) impose any preexisting condition exclusion for that coverage. Statute requires a health care insurer to provide a written certificate of creditable coverage if the individual: 1) ceases to be covered under a policy offered by the health care insurer; and 2) requests certification from the insurer within 24 months after the coverage ceases ([A.R.S. § 20-1379](#)).

Fees and Communications

DIFI collects nonrefundable fees from financial institutions and enterprises with the filing of certain documents and applications ([A.R.S. § 6-126](#)).

Any notice to a party or other document required in an insurance transaction may be delivered, stored and presented electronically if certain requirements are met. An oral communication or a recording of an oral communication does not qualify as consent to deliver a notice or document by electronic means ([A.R.S. § 20-239](#)).

Title Insurance Agencies

An agent for a title insurer may not adopt a corporate or business name that contains the words *title insurance*, *title guaranty* or *title guarantee* or other words indicating that the agent is in the business of title insurance, unless followed by *agent* or *agency*. The words *agent* or *agency* must be the same size and type as the words preceding them in any print or advertisement. A title insurer is not responsible for an agent's violation of corporate or business name and is not liable for a civil penalty imposed on an agent ([A.R.S. § 20-1583](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

Medicare Supplement Insurance

1. Allows an insurer, for the purposes of Medicare supplement insurance, to file for Medicare supplement rates that include an early enrollment discount that will not be considered an attained age rating structure.
2. Requires an early enrollment discount to diminish over a period of time and is only available to enrollees who purchase the plan within the early enrollment period designated by the insurer.
3. Requires an insurer to disclose to all applicants how the early enrollment discount will diminish over time.

Fees and Communications

4. Reduces, from \$1.50 to \$0.00, the minimum amount of the nonrefundable fee for the certificate of the Director, under seal.
5. Requires either an oral communication with a contemporaneous written record made of the communication or an archived recording, subject to the insurer's written record retention policy, to qualify as consent for an insurer to deliver a notice or document by electronic means.
6. Specifies that oral consent applies only to an agreement to the use of electronic communication with the insurer and is not an agreement to any other insurance matter.

Title Insurance Agencies

7. Removes the restrictions on the corporate or business name of an agent for a title insurer.

Miscellaneous

8. Exempts an insurer, if the federal laws that require providing a certificate of creditable coverage are superseded by the prohibition on preexisting condition exclusions, from the requirement to:
 - a) provide a certificate of creditable coverage; and
 - b) comply with certain annual reporting requirements relating to eligible individuals.

9. Requires a person, to qualify as an advisory organization, to assist two or more insurers or rate service organizations in the making of rates.
10. Makes technical and conforming changes.
11. Becomes effective on the general effective date.

Amendments Adopted by Committee

1. Modifies consent through oral communication by requiring, rather than allowing, either the contemporaneous record to be written or a recording to be archived subject to the insurer's written record retention policy.
2. Prohibits the Director from prohibiting Medicare supplement insurance from offering discounts to enrollees for early enrollment or payment method.

Amendments Adopted by Committee of the Whole

1. Specifies that oral consent to electronic delivery applies only to an agreement to the use of electronic communication with the insurer and is not an agreement to any other insurance matter.
2. Removes the requirement for an insurance producer to disclose fees and service charges in writing.
3. Requires a person, to qualify as an advisory organization, to assist two or more insurers or rate service organizations in the making of rates.
4. Makes technical changes.

Amendments Adopted by the House of Representatives

1. Removes the prohibition on the Director of DIFI prohibiting Medicare supplement insurance providers from offering discounts to enrollees for early enrollment or payment method.
2. Allows an insurer to file for Medicare supplement rates that include an early enrollment discount that will not be considered an attained age rating structure.
3. Requires an early enrollment discount to diminish over a period of time and requires an insurer to disclose how the early enrollment discount will diminish over time.
4. Exempts an insurer, if the federal laws that require providing a certificate of creditable coverage are superseded by the prohibition on preexisting condition exclusions, from the requirement to:
 - a) provide a certificate of creditable coverage; and
 - b) comply with certain annual reporting requirements relating to eligible individuals.
5. Removes the specification that a motor vehicle liability policy is not required to provide coverage for any liability not required under state law.

6. Removes the authorization for a motor vehicle liability policy to contain exclusions except as specifically prohibited by law.
7. Makes technical and conforming changes.

Senate Action

FIN 1/26/22 DPA 10-0-0
3rd Read 2/24/22 28-0-2

House Action

COM 3/8/22 DPA 10-0-0-0
3rd Read 6/22/22 57-0-3

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