

CHAPTER 182

(HB 345)

AN ACT relating to Medicare supplement insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS 304.14-500 TO 304.14-550 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

(a) *"Non-age eligible person":*

1. *Means a person who is:*

- a. *Under the age of sixty-five (65); and*
- b. *Eligible for Medicare by reason other than age; and*

2. *Includes persons entitled to benefits under 42 U.S.C. sec. 426(b) or 426-1, as amended; and*

(b) *"Weighted average aged premium rate" means a premium rate calculated as follows:*

1. *First, multiply the premium rate for each age band, age sixty-five (65) and over, by the number of Kentucky insureds in-force in that age band to arrive at the total Kentucky premium for each age band age sixty-five (65) and over;*
2. *Then, calculate the sum of the Kentucky premium for all age bands age sixty-five (65) and over to arrive at the total Kentucky premium for all age bands age sixty-five (65) and over;*
3. *Then, calculate the sum of the Kentucky insureds in-force for all age bands age sixty-five (65) and over to arrive at the total number of Kentucky insureds in-force for all age bands age sixty-five (65) and over; and*
4. *Last, divide the total determined under subparagraph 2. of this paragraph by the total determined under subparagraph 3. of this paragraph to arrive at the weighted average aged premium rate.*

(2) *Except as provided in subsection (3)(b)1. of this section, an insurer shall not deny, condition the issuance or effectiveness of, or discriminate in the pricing of a Medicare supplement policy available for sale in this state because of the health status, claims experience, receipt of health care, or medical condition of an applicant if the applicant:*

(a) *Submits an application for the policy prior to or during the six (6) month period beginning on the first day of the first month in which the applicant is both:*

1. *Sixty-five (65) years of age or older; and*
2. *Timely enrolled for benefits under Medicare Part B without penalty under federal law;*

(b) *Is a non-age eligible person and:*

1. *Submits an application for the policy prior to or during the six (6) month period beginning on the first day of the first month in which the non-age eligible person is enrolled for benefits under Medicare Part B; or*
2. *Satisfies both of the following requirements:*
 - a. *The applicant was enrolled for benefits under Medicare Part B prior to the effective date of this section; and*
 - b. *Either:*
 - i. *The applicant submits an application for the policy during the six (6) month period beginning on the effective date of this section; or*
 - ii. *If an application is not available for the applicant to submit under subpart i. of*

this subdivision on or before the effective date of this section, the applicant makes a request for an application for the policy during the six (6) month period beginning on the effective date of this section; or

- (c) *Satisfies all of the following requirements:*
1. *At the time the application is submitted, the applicant is insured under a Medicare supplement policy;*
 2. *The application for the policy is submitted:*
 - a. *To an insurer that is different than the insurer that issued the applicant's current Medicare supplement policy; and*
 - b. *Within sixty (60) days of the applicant's birthday date; and*
 3. *The applicant seeks to maintain the same Medicare supplement plan.*
- (3) (a) *Subject to paragraph (b) of this subsection, all Medicare supplement policies available for sale in this state shall be made available to the applicants referenced in subsection (2)(b) of this section.*
- (b) *For policies made available to applicants referenced in subsection (2)(b) of this section:*
1. *The applicant shall not be charged more than the weighted average aged premium rate for the policy;*
 2. *The insurer shall demonstrate compliance with subparagraph 1. of this paragraph; and*
 3. *The policy shall not contain any waiting period or pre-existing condition limitation or exclusion.*

➔Section 2. KRS 304.14-520 is amended to read as follows:

- (1) Notwithstanding any other provision of *state* law *except subsection (3)(b)3. of Section 1 of this Act*~~of this state~~, a Medicare supplement policy *shall*~~may~~ not:
- (a) Deny a claim for losses incurred more than six (6) months from the effective date of coverage for a pre-existing condition; ~~or~~~~[- The policy may not]~~
 - (b) Define a pre-existing condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage.

➔Section 3. Sections 1 and 2 of this Act apply to Medicare supplement policies available, issued, or renewed in this state on or after January 1, 2024.

➔Section 4. (1) Insurers shall file all policy forms and rates and comply with any other regulatory requirements in a timely manner so as to ensure that applications are available for applicants to submit under Section 1 of this Act on or before January 1, 2024.

(2) The Department of Insurance shall take any and all regulatory action necessary in a timely manner so as to ensure that applications are available for applicants to submit under Section 1 of this Act on or before January 1, 2024, including but not limited to:

- (a) Reviewing policy forms, rates, and other information and forms; and
- (b) Promulgating any administrative regulations necessary to implement Section 1 of this Act.

➔Section 5. Sections 1, 2, and 3 of this Act take effect on January 1, 2024.

Signed by Governor April 6, 2023.