

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 675 Medicare Supplement Policies

SPONSOR(S): Workman and others

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Insurance, Business & Financial Affairs Policy Committee		Reilly	Cooper
2) Health & Family Services Policy Council			
3) General Government Policy Council			
4)			
5)			

SUMMARY ANALYSIS

Medicare provides health insurance for people 65 years of age or older, and those under the age of 65 with a disability or End Stage Renal Disease (ESRD). ESRD is defined as permanent kidney failure requiring dialysis or a kidney transplant.

Under Federal law, Medicare beneficiaries age 65 and older, who are also enrolled in Medicare Part B, have a guaranteed right to buy Medicare supplemental insurance (Medigap insurance) during an open enrollment period. Medigap policies help pay some of the health care costs not covered by Medicare, including copayments, coinsurance, and deductibles. This guaranteed right does not extend to Medicare beneficiaries under the age of 65. However, federal law does not preclude states from making Medigap insurance available to these Medicare beneficiaries. To date, 28 states, to varying degrees, make Medigap insurance available to Medicare beneficiaries under the age of 65 and provide an open-enrollment period.

House Bill 675 extends the right to purchase Medigap insurance during the open enrollment period to Medicare beneficiaries under the age of 65 with ESRD who are also enrolled in Medicare Part B.

In Florida, there are more than 11,000 Medicare beneficiaries under age 65 with ESRD, approximately 2,000 of whom do not have secondary insurance to Medicare. Without secondary insurance, Medicare beneficiaries may have difficulty accessing major medical services, forego treatment plans and subsequently require hospitalization and emergency room services, and spend down assets to qualify for Florida's Medicaid program.

The bill is effective July 1, 2009, and appears to have no financial impact on state or local governments.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Medicare and Medigap Policies**

Medicare is health insurance for people 65 years of age and older and for those under age 65 with a disability or End Stage Renal Disease (ESRD). ESRD is defined as permanent kidney failure requiring dialysis or a kidney transplant.

Under federal law,<sup>1</sup> Medicare beneficiaries age 65 and older, who are also enrolled in Medicare Part B,<sup>2</sup> have a guaranteed right to purchase a Medicare supplemental policy (Medigap insurance) during an open enrollment period.<sup>3</sup> Medigap insurance helps pay some of the health costs not covered by Medicare, including copayments, coinsurance, and deductibles. The open enrollment period for Medigap insurance lasts for six months, beginning on the first day of the month the beneficiary is both age 65 or older and enrolled in Medicare Part B.<sup>4</sup>

The guaranteed right to buy Medigap insurance is limited to persons who qualify for Medicare based on age and does not extend to Medicare beneficiaries under the age of 65. States, however, are not precluded from making Medigap insurance available to under-65 beneficiaries. At present, 28 states,<sup>5</sup> to varying degrees, make Medigap insurance available to Medicare beneficiaries under the age of 65,<sup>6</sup>

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<sup>1</sup> 42 U.S.C. 1395ss.

<sup>2</sup> Medicare Part B helps cover doctors' expenses and outpatient care.

<sup>3</sup> Medicare beneficiaries may be able to purchase Medigap insurance after the open enrollment period has ended. However, insurance companies can use medical underwriting criteria in determining whether to issue a policy.

<sup>4</sup> Center for Medicare & Medicaid Services, "Choosing a Medigap Policy 2009: A Guide to Health Insurance for People with Medicare." Found at: <http://www.medicare.gov> (last visited on March 2, 2009).

<sup>5</sup> California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Oklahoma, Oregon, Pennsylvania, South Dakota, Texas, Vermont, Washington, and Wisconsin.

<sup>6</sup> According to a Florida Renal Coalition fact sheet, "Medigap for People with Kidney Failure under Age 65," California, Massachusetts, and Vermont do not authorize Medicare beneficiaries under 65 with ESRD to purchase Medigap insurance. By contrast, Delaware's under-65 Medigap authorization extends solely to Medicare beneficiaries with ESRD.

and all provide for the open-enrollment period. Ten of these states passed such legislation within the past 10 years.<sup>7</sup>

A 1998 report by Abt Associates Inc., "Expansion of Medigap to Under-65 Medicare Beneficiaries Could Increase Access at Little Cost,"<sup>8</sup> studied the 16 states that at that time required open enrollment for Medicare beneficiaries under age 65, and concluded in part that:

"Extending a six month open enrollment period to the under-65 population will have little effect on premium levels, and will result in little or no disruption to the Medigap market."

In 2008, the University of South Florida at St. Petersburg published a "Medigap Expansion Study"<sup>9</sup> based on the ten states that had enacted Medigap legislation for under-65 Medicare beneficiaries subsequent to the 1998 Abt study. The results were consistent with what was found in the 1998 study.

The study reports that more than 11,000 Florida Medicare beneficiaries under 65 have ESRD. Approximately 2,000 of these beneficiaries lack secondary insurance. Without secondary insurance, Medicare beneficiaries may have difficulty accessing major medical services, may forego treatment plans, may be financially devastated, and may spend down assets in order to qualify for Florida Medicaid under the "Medically Needy Share of the Cost Program."

Additional findings include:

- Nationally, 8 percent of Medicare beneficiaries under the age of 65 who are able to purchase Medigap insurance do so (compared with 28% for Medicare beneficiaries aged 65 and over).
- Medicare beneficiaries without secondary coverage may not adhere to treatment plans and subsequently require more expensive hospitalization and emergency room services.
- Transplant centers generally require those without secondary insurance to pay \$1,000 to \$5,000 to be placed on the transplant waiting list. Thus, Medicare beneficiaries who cannot afford this cost continue to receive expensive dialysis treatment indefinitely. (Florida citizens with ESRD who are on dialysis have three treatments per week.)
- Financial costs to Medicare beneficiaries without secondary insurance include the Medicare Part A deductible of \$1,086 for each hospitalization, Part B's \$135 annual deductible, and the 20 percent charge after Medicare for other outpatient medical treatment.
- The Medigap expansion will not change demand level for treatment or service, and will allow Medicare beneficiaries with adequate incomes to avoid spending down their assets to access the state's Medicaid program.<sup>10</sup>

## B. SECTION DIRECTORY:

**Section 1.** Amends s.627.6741, F.S., requiring Medicare supplement insurers to guarantee-issue coverage to individuals within 6 months after they become eligible for Medicare due to having End Stage Renal Disease, or by January, 2010, whichever is later. The individual must also be enrolled in Medicare Part B to be entitled to guarantee-issue.

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<sup>7</sup>The ten states are California, Colorado, Delaware, Hawaii, Illinois, Kentucky, Maryland, South Dakota, Vermont, and Washington.

<sup>8</sup> Study available at <http://www.abtassociates.com> (last accessed March 3, 2009).

<sup>9</sup> Pursuant to s. 624.215, F.S., a cost/benefit study must be conducted for any legislative proposal for mandated health benefits. In an attempt to comply with this provision, the Florida Renal Association requested that the University of South Florida conduct a Medigap expansion study. A copy of this study is on file with staff of the Insurance, Business & Financial Affairs Policy Committee.

<sup>10</sup> In 2003, Florida spent \$10,348 for every disabled person who was eligible for both Medicare and Medicaid.

**Section 2.** Provides that the bill takes effect on July 1, 2009.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Approximately 11,000 Medicare beneficiaries under 65 will be eligible to purchase Medicare supplemental insurance. To the extent that expanding eligibility for this insurance increases overall claims cost for an insurer, those costs may be passed through in the form of premium increases.

### **D. FISCAL COMMENTS:**

Correspondence from the Agency for Health Care Administration and the Office of Insurance Regulation indicates that the bill has no fiscal impact on state government.<sup>11</sup>

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

### **B. RULE-MAKING AUTHORITY:**

None.

### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

The bill requires Medicare supplement insurers to guarantee-issue coverage to individuals within 6 months after they become eligible for Medicare due to having End Stage Renal Disease, or by January, 2010, whichever is later. However, it does not specify a date in January, 2010.

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<sup>11</sup> Correspondence on file with staff of the Insurance, Business & Financial Affairs Policy Committee.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**