An Act

ENROLLED HOUSE
BILL NO. 3040

By: Boles and Fugate of the House

and

Garvin of the Senate

An Act relating to Medicare; amending 36 O.S. 2021, Section 3611.1, which relates to Medicare supplement policies; modifying provisions related to notice of premium rate increase; restricting frequency of implementation; eliminating exemption from filing requirements; and providing an effective date.

SUBJECT: Medicare

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 36 O.S. 2021, Section 3611.1, is amended to read as follows:

Section 3611.1 A. As used in this section:

1. "Commissioner" means the Commissioner of Insurance;

2. "Medicare supplement policy" means a group or individual policy of accident and health insurance, or a subscriber contract of a nonprofit hospital service and medical indemnity corporation or a health maintenance organization which is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare. Such term does not include:

a. a policy or contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees

or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organizations, or

b. a policy or contract of any professional, trade or occupational association for its members or former or retired members, or combination thereof, if such association:

(1) is composed of individuals all of whom are actively engaged in the same profession, trade or occupation,

(2) has been maintained in good faith for purposes other than obtaining insurance, and

(3) has been in existence for at least two (2) years prior to the date of its initial offering of such policy or plan to its members, or

c. individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance; and

3. "Direct response Medicare supplement policy" means a policy of insurance which is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare issued as a result of solicitation of individual insureds by mail or by mass media advertising.

B. The Commissioner shall issue reasonable regulations to establish minimum standards for benefit claims payment, marketing practices, compensation arrangements, and reporting practices for Medicare supplement policies. The Commissioner shall issue reasonable regulations to provide for an open enrollment period for those persons who qualify as disabled pursuant to federal Medicare guidelines.

C. A Medicare supplement policy may not deny a claim for losses incurred more than six (6) months from the effective date of coverage for a preexisting condition. The policy may not define a preexisting 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".

D. Any premium rate filing for a Medicare supplement policy shall be filed with and approved by the Insurance Commissioner and communicated to the policyholder ~~on or after September 1 but no later than October 30 of each year~~ at least forty-five (45) days prior to the effective date of a premium rate increase. Such premium increases shall be ~~effective January 1 of the following year~~ implemented no more than once per year. ~~This subsection shall not apply to insurers with five thousand or fewer policyholders.~~

E. A Medicare supplement policy shall be expected to return to the policyholder benefits which are reasonable in relation to the premium charged. The Commissioner shall issue regulations to establish minimum standards for loss ratios of Medicare supplement policies on the basis of incurred claims experience, or incurred health care expenses where coverage is provided by a health maintenance organization on a service rather than reimbursement basis, and earned premiums for the period of coverage for which rates are computed and in accordance with accepted actuarial principles and practices.

F. 1. No Medicare supplement policy or certificate issued pursuant to a group Medicare supplement policy shall be delivered or issued for delivery in this state unless an outline of coverage is provided to the applicant at the time application is made.

2. The Commissioner shall prescribe by regulation the contents and a standard form of an informational brochure for persons eligible for Medicare which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. The Commissioner may require by regulation that the informational brochure be provided with the outline of coverage to any prospective insureds eligible for Medicare. With respect to direct response policies, the Commissioner may require that the prescribed brochure and outline of coverage be provided upon request to any prospective insureds eligible for Medicare, but in no event later than the time of policy delivery.

3. The Commissioner may require notice provisions, designed to inform prospective insureds that particular insurance coverages are not Medicare supplement coverages, for all accident and health

insurance policies sold to persons eligible for Medicare by reason of age, other than:

a. Medicare supplement policies,

b. disability income policies,

c. basic, catastrophic, or major medical expense policies,

d. single premium, nonrenewable policies, or

e. other policies defined by regulation of the Commissioner.

4. The Commissioner may adopt from time to time, such reasonable regulations as are necessary to conform Medicare supplement policies and certificates to the requirements of federal law and regulations promulgated thereunder, including but not limited to:

a. requiring refunds or credits if the policies or certificates do not meet loss ratio requirements,

b. establishing a uniform methodology for calculating and reporting loss ratios,

c. assuring public access to policies, premiums and loss ratio information of issuers of Medicare supplement insurance, and

d. establishing a policy for holding public hearings prior to approval of premium increases.

G. Medicare supplement policies or certificates shall have a notice prominently printed on the first page of the policy or certificate, or attached thereto, stating that the applicant shall have the right to return the policy or certificate within thirty (30) days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. A direct response policy issued to persons eligible for Medicare shall have a notice prominently printed on the first page, or attached thereto, stating that the applicant shall have the right to return the policy or certificate within thirty (30) days of its delivery and to have the premium

refunded if, after examination, the applicant is not satisfied for any reason.

H. The Insurance Commissioner shall have the authority to employ actuaries, statisticians, accountants, auditors, investigators, or any other technicians as the Insurance Commissioner may deem necessary or beneficial to examine any Medicare supplement filings made by insurers or rating organizations and to examine such records of the insurers or rating organizations as may be deemed appropriate in conjunction with the Medicare supplement filing in order to determine that the rates or other filings are consistent with the terms, conditions, requirements and purposes of the Insurance Code, and to verify, validate and investigate the information upon which the insurer or rating organization relies to support such filing.

1. The Commissioner shall maintain a list of technicians who are proficient in the line of Medicare supplement insurance. If the Commissioner determines that it is necessary to utilize the services of such a technician, the Commissioner shall employ the next available technician in rotation on the list.

2. All reasonable expenses incurred in such filing review shall be paid by the insurer or rating organization making the filing.

SECTION 2. This act shall become effective November 1, 2022.

Passed the House of Representatives the 14th day of March, 2022.

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Presiding Officer of the House
of Representatives

Passed the Senate the 25th day of April, 2022.

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Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

_____
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____