

Indiana Department of Insurance

April 20, 2023

Bulletin 269

MEDICARE SUPPLEMENT GUARANTEED ISSUE
SPECIAL ENROLLMENT PERIOD

The purpose of this bulletin is to advise all issuers, as defined at IC 27-8-13-7.3, writing Medicare Supplement policies, as defined at IC 27-8-13-3, (“Insurers”), and Hoosiers continuously enrolled in Medicaid because of the COVID-19 Public Health Emergency (“PHE”), of changes to federal law impacting Medicare enrollment and eligibility periods. These changes create a special Medicare enrollment period for people who were unable to enroll in Medicare due to the PHE. Additionally, many Hoosiers may have missed their initial enrollment period to obtain Medicare Supplement insurance or would have been prevented from enrolling because federal law prevents the sale of Medicare Supplement insurance to Medicaid members. To ensure Hoosiers have access to the coverage they could have obtained if not for the PHE, the Department directs Insurers to guarantee the issue of Medicare Supplement policies available in Indiana to applicants as set forth in this bulletin.

Due to the PHE, the Families First Coronavirus Response Act (“FFCRA”) was signed into law on March 18, 2020. The FFCRA required Medicaid programs to keep members continuously enrolled in coverage through the end of the month following the end of the PHE. Accordingly, Indiana stopped disenrolling members from Medicaid coverage in the spring of 2020 to ensure members were able to continuously keep their coverage without interruption.

On December 29, 2022, the Consolidated Appropriations Act of 2023 was signed into law, which included a provision ending the continuous enrollment requirement. Effective April 1, 2023, Medicaid programs began following the regular rules for Medicaid eligibility once again. As a result, Indiana Medicaid has started the Medicaid Unwinding process, which requires Indiana to redetermine the eligibility of all Medicaid members. The redetermination process will be completed within approximately twelve (12) months, and Indiana Medicaid will return to normal operations in May 2024. During the Medicaid Unwinding process, members who are no longer eligible for Medicaid coverage will be disenrolled and must transition to other coverage, including any individuals who may be eligible for Medicare.

Typically, Hoosiers who become eligible for Medicare receive a Medicare Supplement open enrollment period of six (6) months. 760 IAC 3-9-1. During open enrollment, Insurers must offer guaranteed issue rights to all applicants and are prohibited from price discrimination based on an applicant’s health status. Insurers are also prohibited from selling Medicare Supplement policies to Medicaid members under federal law. *See* 42 U.S.C. § 1395ss(d)(3)(B)(iii). However, because of the continuous enrollment requirement, many Indiana Medicaid members who became eligible for Medicare during the PHE may have already exhausted their six (6)-month open enrollment period.

To ensure eligible Hoosiers may access coverage they could have obtained if not for the PHE, the Department directs Insurers writing Medicare Supplement policies to guarantee the issue of any Medicare Supplement policies available in Indiana to applicants who:

1. Are enrolled in Medicare Part B while enrolled in Medicaid;
2. Remained enrolled in Medicaid because of the federal continuous enrollment requirement during the PHE and were not disenrolled from Medicaid coverage until at least six (6) months following the effective date of enrollment in Medicare Part B, or enrolled in Part B for the first time following disenrollment from Medicaid;
3. Apply for the Medicare Supplement policy during the 63 days following the later of their notice of termination or disenrollment from Medicaid or their date of termination or disenrollment from Medicaid, or apply during the six (6)-month period following the first day of the first month in which the applicant is enrolled in Part B; and
4. Submit evidence of the date of termination or disenrollment from Medicaid (such as a copy of the "final closure notice" from Indiana Medicaid) with the application for a Medicare Supplement policy.

By issuing this directive, the Department is ensuring applicants who missed their typical initial enrollment period because of continuous enrollment in Medicaid during the PHE will receive guarantee issue rights to Medicare Supplement policies, including Hoosiers who are dual eligible (i.e., Hoosiers eligible for both Medicare and Medicaid).

The Commissioner encourages Hoosiers to contact Indiana's State Health Insurance Assistance Program (SHIP) with questions. SHIP assistance is available online at <https://www.in.gov/ship> or by telephone at 1-800-452-4800. Questions about this bulletin may be directed to Compliance@idoi.IN.gov.

INDIANA DEPARTMENT OF INSURANCE


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