

Title 23. Public Utilities and Regulated Industries
Chapter I. State Insurance Department, Department of Commerce
Subchapter B. Life, Health, and Accident
Part 103. Transitional Requirements for the Conversion of Medicare Supplement Insurance Benefits and Premiums to Conform to Repeal of Medicare Catastrophic Coverage Act

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Section 2. Authority

This rule is issued pursuant to the authority vested in the Commissioner under Ark. Code Ann. Sections 23-6-108, and 25-15-202, et seq."

"Section 11. Separability

If any provision of this rule or the application thereof to any person or circumstances is for any reason held to be invalid, the remainder of the rule and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 12. Effective Date

The effective date of this rule is March 1, 1990."

Subpart 1. Generally

23 CAR § 103-101. Purpose.

The purpose of this part is to:

- (1) Ensure the orderly implementation and conversion of Medicare supplement insurance benefits and premiums due to changes in the federal Medicare program;
- (2) Provide for the reasonable standardization of the coverage, terms, and benefits of Medicare supplement policies or contracts;

- (3) Facilitate public understanding of such policies or contracts;
 - (4) Eliminate provisions contained in such policies or contracts that may be misleading or confusing in connection with the purchase of such policies or contracts;
 - (5) Eliminate policy or contract provisions that may duplicate Medicare benefits;
 - (6) Provide for adjustment of required minimum benefits for Medicare supplement policies;
 - (7) Provide notice to former policyholders of offer to reinstitute coverage;
 - (8) Provide full disclosure of policy or contract benefits and benefit changes;
- and
- (9) Provide for appropriate premium adjustments.

Authority. Arkansas Code § 23-6-108.

23 CAR § 103-102. Applicability and scope.

(a) This part shall take precedence over other rules and requirements relating to Medicare supplement policies or contracts to:

- (1) The extent necessary to assure that benefits are not duplicated;
- (2) Adjust minimum required benefits to changes in Medicare benefits;
- (3) Ensure that applicants receive adequate notice and disclosure of changes in Medicare supplement policies and contracts; and
- (4) Ensure that:
 - (A) Appropriate premium adjustments are made in a timely manner; and
 - (B) Premiums are reasonable in relation to benefits.

(b) Except as provided in 23 CAR § 103-104, this part shall apply to all:

- (1) Medicare supplement policies and contracts delivered, issued for delivery, or which are otherwise subject to the jurisdiction of this state on or after the effective date hereof; and
- (2) Certificates issued under group Medicare supplement policies as provided in subdivision (b)(1) of this section.

Authority. Arkansas Code § 23-6-108.

23 CAR § 103-103. Definitions.

As used in this part:

(1) "Applicant" means:

(A) In the case of an individual Medicare supplement policy or contract, the person who seeks to contract for insurance benefits; and

(B) In the case of a group Medicare supplement policy or contract, the proposed certificate holder;

(2) "Certificate" means any certificate issued under a group Medicare supplement policy; and

(3) "Medicare supplement policy" means a group or individual policy of disability insurance or any other contract that is advertised, marketed, or designed primarily to provide health care benefits as a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of persons eligible for Medicare by reason of age.

Authority. Arkansas Code § 23-6-108.

23 CAR § 103-104. Benefit conversion requirements.

(a) Effective January 1, 1990, no Medicare supplement insurance policy, contract, or certificate in force in this state shall contain benefits that duplicate benefits provided by Medicare.

(b) Benefits eliminated by operation of the Medicare Catastrophic Coverage Act of 1988, Pub. L. No. 100-360, transition provisions shall be restored.

(c) For Medicare supplement policies subject to the minimum standards adopted by the states pursuant to the Medicare Catastrophic Coverage Act of 1988, the minimum benefits shall be:

(1) Coverage of Part A Medicare-eligible expenses for hospitalization to the extent not covered by Medicare from the sixty-first day through the ninetieth day in any Medicare benefit period;

(2) Coverage for either all or none of the Medicare Part A inpatient hospital deductible amount;

(3) Coverage of Part A Medicare-eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days;

(4) Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of ninety percent (90%) of all Medicare Part A-eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional three hundred sixty-five (365) days;

(5) Coverage under Medicare Part A for the reasonable cost of the first three (3) pints of blood, or equivalent quantities of packed red blood cells as defined under federal regulations, unless replaced in accordance with federal regulations or already paid for under Part B;

(6) Coverage for the coinsurance amount of Medicare-eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket amount equal to the Medicare Part B deductible, seventy-five dollars (\$75.00); and

(7) Effective January 1, 1990, coverage under Medicare Part B for the reasonable cost of the first three (3) pints of blood, or equivalent quantities of packed red blood cells, as defined under federal regulations), unless replaced in accordance with federal regulations or already paid for under Part A, subject to the Medicare deductible amount.

(d) General requirements.

(1)(A) No later than January 31, 1990, every insurer, health care service plan, or other entity providing Medicare supplement insurance or benefits to a resident of this state shall notify its policyholders, contract holders, and certificate holders of modifications it has made to Medicare supplement insurance policies or contracts.

(B) Such notice shall be in a format prescribed by the Insurance Commissioner as adopted by the NAIC and which is attached as Appendix A to this part.

(C) Such notice shall include a description of:

(i) Revisions to the Medicare program; and

(ii) Each modification made to the coverage provided under the Medicare supplement insurance policy or contract.

(D) The notice shall inform each covered person as to when any premium adjustment due to changes in Medicare benefits will be effective.

(E) The notice of benefit modifications and any premium adjustments shall be in outline form and in clear and simple terms so as to facilitate comprehension.

(F) Such notice shall not contain or be accompanied by any solicitation.

(2) No modifications to an existing Medicare supplement contract or policy shall be made at the time of or in connection with the notice requirements of this part except to the extent necessary to accomplish the purposes articulated in 23 CAR § 103-101.

Authority. Arkansas Code § 23-6-108.

Codification Notes. "NAIC" means National Association of Insurance Commissioners.

23 CAR § 103-105. Form and rate filing requirements.

(a) As soon as practicable, but no longer than forty-five (45) days after the effective date of the Medicare benefit changes, every insurer, healthcare service plan, or other entity providing Medicare supplement insurance or contracts in this state shall file with the State Insurance Department, in accordance with the applicable filing procedures of this state:

(1)(A) Appropriate premium adjustments necessary to produce loss ratios as originally anticipated for the applicable policies or contracts.

(B) Such supporting documents as necessary to justify the adjustment shall accompany the filing; and

(2)(A) Any appropriate riders, endorsements, or policy forms needed to accomplish the Medicare supplement insurance modifications necessary to:

- (i) Eliminate benefit duplications with Medicare; and
- (ii) Provide the benefits required by 23 CAR § 103-104.

(B) Any such riders, endorsements, or policy forms shall provide a clear description of the Medicare supplement benefits provided by the policy or contract.

(b) Upon satisfying the filing and approval requirements of this state, every insurer, health care service plan, or other entity providing Medicare supplement insurance in this state shall provide each covered person with any rider, endorsement, or policy form necessary to make the adjustments outlined in 23 CAR § 103-104.

(c)(1) Any premium adjustments shall:

(A) Produce an expected loss ratio under such policy or contract as will conform with minimum loss ratio standards for Medicare supplement policies; and

(B) Result in an expected loss ratio at least as great as that originally anticipated by the insurer, healthcare service plan, or other entity for such Medicare supplement insurance policies or contracts.

(2) Premium adjustments may be calculated for the period commencing with Medicare benefit changes.

Authority. Arkansas Code § 23-6-108.

23 CAR § 103-106. Offer of reinstatement of coverage.

(a) Except as provided in subsection (b) of this section, in the case of an individual who had in effect, as of December 31, 1988, a Medicare supplemental policy with an insurer (as a policyholder or, in the case of a group policy, as a certificate holder) and the individual terminated coverage under such policy before the date of the enactment of the repeal of the Medicare Catastrophic Coverage Act of 1988, Pub. L. No. 100-360, the insurer shall:

(1) Provide written notice no earlier than December 15, 1989, and no later than January 30, 1990, to the policyholder or certificate holder at the most recent available address of the offer described below; and

(2) Offer the individual, during a period of a least sixty (60) days beginning not later than February 1, 1990, reinstatement of coverage with coverage effective as of January 1, 1990, under the terms that:

(A) Does not provide for any waiting period with respect to treatment of preexisting conditions;

(B) Provides for coverage that is substantially equivalent to coverage in effect before the date of such termination; and

(C) Provides for classification of premiums on which terms are at least as favorable to the policyholder or certificate holder as the premium classification terms that would have applied to the policyholder or certificate holder had the coverage never terminated.

(b) An insurer is not required to make the offer under subdivision (a)(2) of this section, in the case of an individual who is a policyholder or certificate holder in another Medicare supplemental policy as of January 1, 1990, if the individual is not subject to a waiting period with respect to treatment of a preexisting condition under such other policy.

Authority. Arkansas Code § 23-6-108.

23 CAR § 103-107. Requirements for new policies and certificates.

(a)(1) Effective January 1, 1990, no Medicare supplement insurance policy, contract, or certificate shall be delivered or issued for delivery in this state that provides benefits that duplicate benefits provided by Medicare.

(2) No such policy, contract, or certificate shall provide fewer benefits than those required under the existing Medicare Supplement Insurance Minimum Standards Act, Arkansas Code § 23-79-401 et seq., or Minimum Standards for Medicare

Supplement Policies, 23 CAR pt. 89, except where duplication of Medicare benefits would result and except as required by these transition provisions.

(b) General requirements.

(1) Within ninety (90) days of the effective date of this part, every insurer, healthcare service plan, or other entity required to file its policies or contracts with this state shall file new Medicare supplement insurance policies or contracts that:

(A) Eliminate any duplication of Medicare supplement benefits with benefits provided by Medicare;

(B) Adjust minimum required benefits to changes in Medicare benefits;
and

(C) Provide a clear description of the policy or contract benefit.

(2) The filing required under 23 CAR § 103-105(a)(1) shall provide for loss ratios which are in compliance with all minimum standards.

(3) Every applicant for a Medicare supplement insurance policy, contract, or certificate shall be provided with an outline of coverage that simplifies and accurately describes benefits provided by Medicare and policy or contract benefits along with benefit limitations.

Authority. Arkansas Code § 23-6-108.

23 CAR § 103-108. Filing requirements for advertising.

(a) Every insurer, healthcare service plan, or other entity providing Medicare supplement insurance or benefits in this state shall provide a copy of any advertisement intended for use in this state whether through written, radio, or television medium to the Insurance Commissioner of this state for review or approval by the commissioner to the extent it may be required under Advertisement of Medicare Supplement Insurance, 23 CAR pt. 100.

(b) Such advertisement shall comply with all applicable laws of this state.

Authority. Arkansas Code § 23-6-108.

23 CAR § 103-109. Buyer's guide.

No insurer, healthcare service plan, or other entity shall make use of or otherwise disseminate any buyer's guide or informational brochure that:

- (1) Does not accurately outline current Medicare benefits; and
- (2) Has not been adopted by the Insurance Commissioner.

Authority. Arkansas Code § 23-6-108.

Appendix A. Medicare Supplement Insurance Modification Notification Letter

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/187/23CARpt.103Appendix.pdf>