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Insurance Bulletin No. 208

Rating of Disabled Medicare Supplement Policyholders Upon Turning 65

February 10, 2020

The purpose of this bulletin is to clarify the application of 8 V.S.A. § 4080e(b) to disabled Medicare Supplement policyholders who reach the age of 65. Section 4080e requires community rating for Medicare supplemental policies, “except that a health insurance company, hospital or medical service corporation, or health maintenance organization may set different community rates for persons eligible for Medicare by reason of age and persons eligible for Medicare by reason of disability.” Because there are typically fewer individuals and higher utilization in an insurer’s disabled risk pool, Medicare supplement plans are more expensive for a disabled policyholder than for a policyholder who is eligible and rated for Medicare supplemental insurance by reason of age.

The Department has become aware of inconsistent practices among insurers operating in the state regarding the rating of disabled Medicare supplemental policyholders who become eligible for Medicare by reason of age. Some insurers automatically move disabled policyholders to the larger, more affordable over-65 risk pool once they become eligible for Medicare by reason of age. Others transfer disabled policyholders to the over-65 risk pool only upon request during open enrollment. These insurers’ policyholders otherwise remain in the insurer’s disabled risk pool and continue to pay higher rates.

Under 42 C.F.R. § 406.20(b), all individuals over the age of 65 are eligible for Medicare by reason of age, even if they were previously eligible by reason of disability. Since disabled policyholders who turn 65 are eligible for Medicare by reason of age, there is no legal justification for keeping them in the more expensive disabled risk pool. Continuing to charge higher rates to disabled policyholders who are eligible for Medicare by reason of age not only violates the community-rating requirements of 8 V.S.A. § 4080e, but also the provisions of 8 V.S.A. § 4724(7)(A), which prohibit unfair discrimination between insureds of the same class.



If insurers elect to rate individuals eligible for Medicare supplemental insurance by reason of disability in a separate risk pool from those eligible by reason of age, § 4080e(b) requires insurers to automatically transfer disabled policyholders to their over-65 risk pool once the disabled policyholder becomes eligible by reason of age. It is the Department's position that, to achieve consistency with federal open-enrollment rules, this transfer should occur on the first day of the month in which the disabled policyholder turns 65. Insurers must immediately transfer any policyholders currently in their disabled risk pool who have turned 65 to their over-65 risk pool and charge them the approved over-65 rate.

Insurers will be expected to demonstrate compliance with the requirements of this bulletin when they make their annual Medicare supplement rate filing. The Department encourages insurers to affirmatively notify disabled policyholders a month prior to turning 65 that they will be automatically transferred to the over-65 risk pool, and that their rate will change but their coverage will remain the same.

The requirements of this bulletin do not apply to Medicare supplement insurers that do not maintain separate rating pools for their disabled and 65-plus policyholders and that charge the same rate to both policyholder groups for each plan that they offer.

Inquiries about this Bulletin should be directed to Christina Rouleau, Director of Market Regulation (Christina.Rouleau@vermont.gov), or Emily Brown, Director of Rates and Forms (Emily.Brown@vermont.gov).



Michael S. Peciak, Commissioner

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Date