

Operational Policy Letter #2

Department Of Health & Human Services

Health Care Financing Administration

Medicare Managed Care

March 3, 1995

IMPACT OF 1994 AMENDMENTS ON HCPPs.

Issue:

The Omnibus Budget Reconciliation Act of 1990 (OBRA 1990, Public Law 101-508) requires all Medicare supplemental (Medigap) insurance policies to conform to minimum standards including loss ratio requirements, standardized benefit packages and consumer protection requirements. OBRA '90 exempted HCPPs from the Medigap rules by excluding all HCPPs from the definition of a Medigap policy. The 1994 Amendments to the Social Security Act (Public Law 103-432, Section 171(f)) ended this exemption effective December 31, 1995.

Operational Policy Question:

What impact will Public Law 103-432 have on the HCPP program?

Answer:

While the HCPP agreement itself is no longer a basis for exemption from Medigap requirements, the following plans continue to be exempt on other bases: 1) Union- and employer-related plans that meet the criteria of section 1882(g)(1) of the Social Security Act will continue to be exempt from Medigap compliance; and 2) Plans with risk or cost contracts under section 1876 of the Social Security Act also remain exempt from Medigap requirements under section 1882(g), regardless of whether they have "nonrisk" enrollees who were previously enrolled under an HCPP agreement.

All other HCPPs must comply with Federal and state Medigap requirements, including the following: 1) Effective January 1, 1996, the benefits under all newly issued policies must conform to one of the standardized Medigap benefit plans approved for use in your state. Current enrollees whose coverage is "renewed" may retain current HCPP benefit packages. State law will determine whether a particular policy is "renewed" or "newly issued"; and 2) Also effective January 1, 1996, all nonexempt plans with HCPP agreements with HCFA will be subject to Medigap "loss ratio" requirements. These

requirements will apply to all Medicare enrollment, but only with respect to claims experience after January 1, 1996.

HCPPs should consult their state insurance commissioner's office about Medigap requirements in their state. Unless Congress takes further action, all HCPPs that are not otherwise exempt must comply with Medigap standards by January 1, 1996.

An important consideration in the ability of HCPPs to meet Medigap requirements is the status of Medicare SELECT. Currently, no Medigap policy may have a network feature (i.e., offer full coverage from selected providers, with lesser or no coverage outside the network) unless the state is one of the 15 involved in the Medicare SELECT pilot program. This pilot program expires on June 30, 1995, though Congress is considering legislation to expand or extend the Medicare Select program.

HCPPs that meet the necessary qualifications will also have the option of converting from their current agreements with HCFA to Medicare risk or cost contracts. The Office of Managed Care will expedite all risk or cost contract applications completed by July 1, 1995. This will allow converting HCPPs to have their Medicare risk or cost contracts operational by January 1, 1996. If you need assistance with an application, please call your plan manager or (202) 619-2911.

Additionally, you are reminded that, effective May 22, 1995, all HCPPs under agreement with HCFA will be required to establish administrative review (appeal) procedures. This provision was published in the Federal Register on November 21, 1994 under a regulation entitled "Appeal Rights and Procedures for Beneficiaries Enrolled in Prepaid Health Care Plans."

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