Operational Policy Letter # 21

Department of Health & Human Services

Health Care Financing Administration

Medicare Managed Care

July 7, 1995

IMPACT OF 1994 AMENDMENTS ON ANTIDUPLICATION STATUTE

Issue:

The Social Security Act Amendments of 1994, (SSAA '94/Public Law 103-432), amended Section 1882 of the Act to modify the antiduplication provisions relating to the sale of Medicare supplement (Medigap) policies. According to the amended statute, sales of health insurance policies which duplicate the benefits provided by Medicare, Medicaid or another supplemental insurance policy are permitted, provided the following two standards are met:

> (i) all benefits must be fully payable directly to, or on behalf of, the beneficiary without regard to other health benefit coverage; and
>
> (ii) the issuer must disclose to the applicant a prescribed statement describing the extent to which benefits payable under the policy or plan duplicate Medicare benefits.

Operational Policy Questions:

1. What are the disclosure requirements for Medicare managed care plans?

2. Can insurers sell Medigap policies to beneficiaries that are enrolled in Medicare managed care plans?

Answers:

1. Medicare-contracting managed care plans are considered to provide Medicare benefits; that is, enrollment in a contracting plan is a means of obtaining Medicare coverage and thus does not "duplicate" Medicare benefits. Therefore, Medicare contracting managed care plans are not required to use a disclosure statement to inform potential enrollees about the possibility of duplication.

2. SSAA '94 revisions have the effect of removing the prohibition against sales of additional health insurance policies to managed care plan enrollees, provided the two standards (no coordination of benefits and disclosure of duplication) are met. This raises the possibility that beneficiaries enrolled in Medicare managed care plans could purchase too much coverage. We believe that while, in general, beneficiaries enrolled in managed care plans do not need Medigap coverage, in some cases it may not be inappropriate for an enrollee to retain an existing Medigap policy. For example, we generally encourage beneficiaries who may not be certain that they are comfortable being locked-in to a defined provider network to consider retaining their Medigap policy for several months after enrolling in the plan to avoid potential increases in Medigap premiums or the imposition of pre-existing condition waiting periods. Beneficiaries in cost plans may also benefit by having a Medigap policy, as the supplemental benefits would cover certain out-of-pocket costs incurred if the enrollee obtains routine services from non-network providers.

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