(Governor's Bill)
FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document **No. 455**

S. P. 175 In Senate, January 27, 1981

Referred to the Committee on Business Legislation. Sent down for concurrence and ordered printed.

MAY M. ROSS, Secretary of the Senate

Presented by Senator Trafton of Androscoggin.

Cosponsors: Representative Aloupis of Bangor, Senator Clark of Cumberland and Representative Hayden of Durham.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Establish Minimum Standards for Medicare Supplement Insurance Policies.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 24 MRSA § 2328 is enacted to read:

§ 2328. **Health care contracts; supplementing Medicare; compliance with provisions of Title 24-A, chapter 67**

Every nonprofit hospital or medical service organization or nonprofit health care plan which issues individual health care contracts which are designed primarily to supplement coverage provided to residents of this State under the "Health Insurance for the Aged Act," Title XVIII of the Social Security Amendments of 1965, P.L. 89-97, as amended, shall be subject to the requirements of Title 24-A, chapter 67 and any rules promulgated by the superintendent under that chapter. Any such requirements shall be in addition to any requirements of this Title.

Sec. 2. 24-A MRSA § 2413, sub-§ 1, ¶F is enacted to read:

F. As to individual Medicare supplement policies or contracts, as defined in chapter 67, if the policy cannot be anticipated, as estimated for the entire period

for which rates are computed to provide coverage, on the basis of incurred claims experience and earned premiums for that period and in accordance with accepted actuarial principles and practices, to return to policyholders in the form of aggregate benefits provided under the policy at least 60% of the aggregate amount of premiums collected.

Sec. 3. 24-A MRSA c. 67 is enacted to read:

CHAPTER 67

MEDICARE SUPPLEMENT INSURANCE POLICIES

§ 5001. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Medicare. "Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the Social Security Amendments of 1965, P.L. 89-97, as amended.

2. Medicare supplement policy. "Medicare supplement policy" means an individual policy of health insurance or a subscriber contract of a nonprofit hospital or medical service organization or nonprofit health care plan which is designed primarily to provide coverage for expenses incurred by an insured person for services and items for which payment may be made under Medicare, but which are not reimbursable by reason of the applicability of deductibles, coinsurance amounts or other limitations imposed pursuant to Medicare.

3. Superintendent. "Superintendent" means the Superintendent of Insurance.

§ 5002. Standards for policy provisions

1. Specific standards. The superintendent shall issue rules to establish specific standards, including standards of full and fair disclosure, that set forth the manner, content and required disclosure for the sale of policies providing coverage of persons eligible for Medicare by reason of age. The standards shall be in addition to and in accordance with applicable laws of this State, including chapter 33, and may include, but are not limited to:

A. Terms of renewability, which shall provide that the policy may not be cancelled or nonrenewed by the insurer solely on the grounds of deterioration of health;

B. Initial and subsequent conditions of eligibility;

C. Nonduplication of coverage;

D. Preexisting conditions;

E. Probationary periods;

F. Limitations, exceptions and reductions, which shall not include those which are more restrictive than those of Medicare for any type of care covered under the policy;

G. Elimination periods;

H. Requirements for replacement;

I. Recurrent conditions; and

J. Definition of terms, including the terms "hospital," "accident," "sickness," "injury," "physician" and "accidental means."

Nothing in this subsection shall apply to conversion policies issued pursuant to a contractual conversion privilege under a group or individual policy of accident and health insurance, when such group or individual contract contains provisions which are inconsistent with the requirements of this chapter or any regulation issued pursuant to this chapter or to policies being issued to employees or members being added to franchise plans in existence on the effective date of this chapter.

2. Prohibited policy provisions. The superintendent may issue reasonable rules that specify prohibited policy provisions not otherwise specifically authorized by statute which in the opinion of the superintendent are unjust, unfair, inequitable or unfairly discriminatory to the policyholder, any person insured under the policy or any beneficiary.

§ 5003. Minimum standards for benefits

1. Establishment of minimum standards. The superintendent shall issue reasonable rules to establish minimum standards for benefits for Medicare supplement policies and contracts, other than conversion policies issued pursuant to a contractual conversion privilege under a group or individual policy when such group or individual policy contains provisions which are inconsistent with the requirements of this chapter or to policies being issued to employees or members being added to franchise plans in existence on the effective date of this chapter.

2. Method of identification. The superintendent shall prescribe the method of identification of Medicare supplement policies based upon coverage provided.

§ 5004. Medicare supplement policy rates

Any Medicare supplement policy or contract is subject to the minimum loss ratio standards of section 2413, subsection 1, paragraph F as well as any other laws of this State as apply to rate filings with respect to individual accident and health insurance and nonprofit hospital and medical service organization and nonprofit health care plan contracts.

§ 5005. Outline of coverage

1. Delivery of outline of coverage. In order to provide for full and fair disclosure in the sale of Medicare supplement policies, no such policy or contract shall be delivered or issued for delivery in this State unless the outline of coverage described in subsection 2 is delivered to the applicant at the time application is made. In the event an individual Medicare supplement policy is issued on the basis other than that applied for, the outline of coverage properly describing the policy

must accompany the policy when it is delivered and clearly state that it is not the policy or contract for which application was made.

2. Format; content of outline. The superintendent shall prescribe the format and content of the outline of coverage required by subsection 1. "Format" means style, arrangements and overall appearance, including such items as the size, color and prominence of type and the arrangement of text and captions. The outline of coverage shall include:

A. A description of the principal benefits and coverage provided in the policy;

B. A statement of the exceptions, reductions and limitations contained in the policy;

C. A statement of the renewal provisions including any reservation by the insurer of a right to change premiums; and

D. A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

3. Disclosure rules. The superintendent may prescribe disclosure rules, which are determined to be in the public interest, for Medicare supplement policies designed to adequately inform the prospective insured of the need for and extent of coverage offered as Medicare supplement coverage.

4. Standard form; contents of informational brochure. The superintendent may further prescribe by rule a standard form and the contents of an informational brochure for persons eligible for Medicare by reason of age, which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the superintendent may require by regulation that the informational brochure be provided to any prospective insureds eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the superintendent may require by rule that the prescribed brochure must be provided to any prospective insureds eligible for Medicare by reason of age upon request, but in no event later than the time of policy delivery.

§ 5006. Preexisting conditions

Notwithstanding section 2706, subsection 2, no insurer or nonprofit hospital or medical services organization or nonprofit health care plan shall issue any Medicare supplement policy, or subscriber contract, regardless of whether issued on the basis of a detailed application form, a simplified application form or an enrollment form, which containes a preexisting condition limitation other than a provision which excludes or limits, coverage for those conditions for which the insured received medical diagnosis or treatment within 6 months immediately preceding the effective date of coverage under the policy and which causes loss within 6 months following the effective date.

STATEMENT OF FACT

The purpose of this bill is to bring the State into substantial compliance with United States Public Law 96-265, section 507 which establishes minimum federal standards for state regulation of Medicare supplement policies. The State has until July 1, 1982, to meet the requirements established by the federal standards. Failure to do so would result in the implementation of federal regulation of Medicare supplement insurance policies in this State.

The bill would establish a minimum loss ratio standard with respect to individual Medicare supplement policies sold in this State by both private insurers and nonprofit hospital and medical service organizations and nonprofit health care plans.

The bill would also authorize the Superintendent of Insurance to promulgate rules establishing minimum standards for benefits and other policy provisions and disclosure requirement with respect to Medicare supplement policies.