

ORDER R 93-02 ADOPTING OR AMENDING  
REGULATIONS OF THE DIVISION OF INSURANCE

The attached 7 pages of regulations, dealing with disability insurance marketed as medicare supplements to comply with the requirements of 42 U.S.C. 1395ss so that the state may retain full authority to set certain standards for medicare supplemental insurance, are hereby adopted and certified to be correct copies of the regulations that the Division of Insurance adopts or amends (3 AAC 28.420, 3 AAC 28.430, 3 AAC 28.460, 3 AAC 28.470, and 3 AAC 28.502) under the authority of AS 21.06.090 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

This order takes effect on the 30th day after it has been filed by the lieutenant governor, as provided in AS 44.62.180.

DATED this 21<sup>st</sup> day of January, 1993, at Anchorage, Alaska.



David J. Walsh, Director  
Division of Insurance  
Department of Commerce and  
Economic Development

FILING CERTIFICATION

I, John B. Coghill, Lieutenant Governor for the State of Alaska, certify that on 5-5, 1993 at 3:35 P.m., I filed the attached regulations according to the provisions of AS 44.62.040 -- 44.62.120.



Lieutenant Governor

Effective

June 4, 1993

Register

126, July, 1993

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TITLE 3. COMMERCE AND ECONOMIC DEVELOPMENT

PART 2. DIVISION OF INSURANCE

CHAPTER 28. LIFE, DISABILITY, VARIABLE, AND RELATED INSURANCE

Article 5. Disability Insurance Marketed as Medicare Supplements

Section

- 420. Applicability and scope
- 430. Policy definitions and terms
- 460. Loss ratio standards and refund or credit of premium
- 470. Filings
- 502. Notice regarding policies or certificates that are not medicare supplement policies

3 AAC 28.420 is amended to read:

3 AAC 28.420. APPLICABILITY AND SCOPE. Except as otherwise provided in 3 AAC 28.450, 3 AAC 28.458, 3 AAC 28.460, 3 AAC 28.470, and 3 AAC 28.506, 3 AAC 28.410 -- 3 AAC 28.510 apply to all medicare supplement policies delivered or issued for delivery in this state on or after 7/1/92 and to all certificates issued under group medicare supplement policies that have been delivered or issued for delivery in this state on or after 6/4/93. (Eff. 3/26/82, Register 81; am 8/8/90, Register 115; am 7/1/92, Register 122; am 6/4/93, Register 126)

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Authority AS 21.06.090

AS 21.42.130

AS 21.89.060

The lead-in language of (a), (a)(1), and (a)(7) of 3 AAC 28.430 are amended to read:

3 AAC 28.430(a). POLICY DEFINITIONS AND TERMS. (a) A medicare supplement policy or certificate using the following terms or their equivalent must contain terms and definitions as follows:

(1) "accident," "accidental injury," or "accidental means" must use "result" language and may not include words that establish an accidental-means test or use words characterizing the accident or injury as "external, violent, or visible wounds" or similar words of description or characterization; the definition may not be more restrictive than "injury or injuries for which benefits are provided means accidental bodily injury sustained by the insured person that is the direct result of an accident, independent of disease, bodily infirmity, or other cause, and occurs while insurance coverage is in force"; the definition may provide that injuries must not include injuries for which benefits are provided or available under a workers' compensation, employer's liability, or similar law or a motor vehicle no-fault plan, unless prohibited by law;

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(7) "medicare" means Title I, Part I of Public Law 89-97, as enacted by the Eighty-Ninth Congress of the United States of America, including subsequent amendments, (popularly known as the Health Insurance for the Aged Act) and each policy or certificate must include this or a substantively equivalent definition [OF "MEDICARE" THAT REFERS TO THE FEDERAL LAW CREATING THE MEDICARE PROGRAM];

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(Eff. 3/26/82, Register 81; am 8/8/90, Register 115; am 7/1/92, Register 122; am 6/4/93, Register 126)

Authority: AS 21.06.090

AS 21.42.130

AS 21.89.060

3 AAC 28.460(a) is repealed and readopted to read:

3 AAC 28.460. LOSS RATIO STANDARDS AND REFUND OR CREDIT OF PREMIUM. (a) A medicare supplement policy form or certificate form may not be delivered or issued for delivery in this state unless the policy or certificate form can be expected, as estimated for the entire period for which rates are

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computed to provide coverage, to return to policyholders and certificate holders in the form of aggregate benefits, not including anticipated refunds or credits, provided under the policy or certificate form of a percentage calculated on the basis of incurred claims experience or incurred health care expenses when coverage is provided by a health maintenance organization on a service, rather than reimbursement basis and earned premiums for the period, and in accordance with accepted actuarial principles and practices, that is

(1) at least 75 percent of the aggregate amount of premiums earned in the case of group policies; or

(2) at least 65 percent of the aggregate amount of premiums earned in the case of individual policies.

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(Eff. 3/26/82, Register 81; am 8/8/90, Register 115; am 7/1/92, Register 122; am 6/4/93, Register 126)

Authority: AS 21.06.090

AS 21.42.130

AS 21.89.060

3 AAC 28.470(b) is amended to read:

3 AAC 28.470. FILINGS.

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(b) As soon as practicable, but before the effective date of enhancements in medicare benefits, an issuer of medicare supplement policies or certificates in this state shall file with the director appropriate premium adjustments necessary to produce loss ratios as anticipated for the current premium for the applicable policies or certificates. The supporting documents necessary to justify the adjustment to produce loss ratios required by 3 AAC 28.460(a) must accompany the filing. An issuer shall make premium adjustments necessary to produce an expected loss ratio under a policy or certificate that will conform with 3 AAC 28.460 and that are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current premiums by the issuer for the medicare supplement policies or certificates. A premium adjustment that would modify the loss ratio experience under the policy other than the adjustments described in this section may not be made with respect to a policy at any time other than upon its renewal date or anniversary date. Any rider, endorsement, or policy form needed to accomplish the medicare supplement policy or certificate modification necessary to eliminate benefit duplication with medicare shall also be filed with the director in a manner that provides a clear description of the medicare supplement benefits provided by the policy or certificate.

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(Eff. 3/26/82, Register 81; am 8/8/90, Register 115; am 7/1/92, Register 122;  
am 6/4/93, Register 126)

Authority: AS 21.06.090  
AS 21.06.200  
AS 21.42.120  
AS 21.42.130  
AS 21.84.300  
AS 21.87.180  
AS 21.89[39].060

3 AAC 28.502 is amended to read:

3 AAC 28.502. NOTICE REGARDING POLICIES OR CERTIFICATES  
THAT ARE NOT MEDICARE SUPPLEMENT POLICIES. A disability insurance  
policy or certificate, other than a medicare supplement policy, or a policy issued  
under a contract under 42 U.S.C. 1395 -- 1395ccc [ET SEQ.](sec. 1876 of the Social  
Security Act); disability income policy or certificate; basic, catastrophic, or major  
medical expense policy; or single premium non-renewable policy, issued for  
delivery in this state to a person eligible for medicare by reason of age shall notify  
insureds under the policy or certificate that the policy or certificate is not a

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medicare supplement policy. The notice must either be printed on or attached to the first page of the outline of coverage delivered to the insured under the policy or certificate, or, if no outline of coverage is delivered, to the first page of the policy or certificate delivered to the insured. The notice must be in no less than 12-point type and must contain the following language:

"THIS (POLICY OR CERTIFICATE) IS NOT A MEDICARE SUPPLEMENT POLICY]. If you are eligible for medicare, review the medicare supplement buyer's guide available from the company."

(Eff. 8/8/90, Register 115; am 7/1/92, Register 122; am 6/4/93, Register 126)

Authority: AS 21.06.090

AS 21.42.130

AS 21.89.060