



CAHP LEGISLATIVE INFORMATION

SB 407 (Monning) Chapter 549, Statutes of 2019

As a service to our members, the California Association of Health Plans produces guidelines designed to assist in the interpretation and implementation of new laws, and to promote full compliance with those laws. This document, however, is not intended to be authoritative. Any questions about official interpretations of the law should be directed to the appropriate state regulatory agency such as the Department of Managed Health Care or the Department of Health Care Services, as well as your legal counsel.

MEDICARE SUPPLEMENT BENEFIT COVERAGE

BACKGROUND

Senator Monning introduced SB 407 which was sponsored by California Health Access to reduce consumer confusion with Medicare “innovative benefit” plans that are popular in Medigap. According to the sponsor, there is consumer confusion from the inability to compare healthcare benefits and prices between innovative and standard Medicare products because the innovative plan contains additional benefits.

To reduce consumer confusion, the introduced version of the bill would have banned innovative products from being sold in California by requiring the additional benefits to be sold only as riders. The issue with riders is that consumers are less likely to purchase riders that result in multiple bills and payments.

CAHP negotiated with the author and sponsors and had the bill amended to require insurers to break the costs out for the innovative benefits on consumer’s statements. This bill also extends the enrollment period for Medicare enrollees from 30 days to 60 days. Lastly, this bill allows Medicare beneficiaries to move up and down products during their enrollment period.

CAHP was able to secure some amendments and made some improvements to this bill, but was unable to remove opposition due to the ability for enrollees to move to more products with more robust benefits during open enrollment.

REQUIREMENTS

SB 407 amends Sections 1358.91 and 1358.11 of the Health and Safety Code, relating to Medicare.

Specifically, SB 407 does the following:

1358.11. (h) (1) Extends the Medicare supplement annual open enrollment period 30 additional days (for a total of 60 days or more), commencing with the individual’s birthday. Requires a Medicare supplement policy to also notify an enrollee of their open enrollment rights on any notice related to a benefit modification or premium adjustment.

1358.11. (f) (1) (C) Requires, on or after January 1, 2020, the portion of the premium attributed to the new or innovative benefits to be identified as a separate line item on the payment invoice or bill.

1358.91. (f) (2) Requires, in the interest of full and fair disclosure, and to ensure the availability of necessary consumer information to potential and current enrollees, DMHC and CDI to collaborate with consumer group representatives and issuers to develop and implement policies and procedures, as necessary, including, but not limited to:

- (A) The development and dissemination of information and material about any new or innovative benefits approved for sale;
- (B) The revision of materials, as described, as may be necessary; and,
- (C) The standardization of new or innovative benefits, as appropriate, for purposes of allowing consumer comparison of benefits, out-of-pocket costs, and premiums.

1358.91. (f) (3) Authorizes DMHC/CDI on or before July 1, 2020, to issue guidance to issuers regarding compliance with this bill not subject to the Administrative Procedure Act until December 31, 2022, or until regulations are issued.

1358.11. (h) (2) (M) Prohibits new or innovative benefits from being included when determining whether benefits are equal to or lesser than those provided by the previous coverage.

COMPLIANCE DATES

January 1, 2020 – plan G HDHP will be available for purchase.

July 1, 2020 – the portion of the premium attributed to new or innovative benefits must be identified as a separate line item on the premium billing statement.

IMPLEMENTATION ISSUES

Beginning on January 1, 2020, CMS will no longer permit Medicare Supplement (Medigap) plans to cover Medicare Part B. Therefore, Plan C and Plan F will no longer be available to new enrollees beginning on January 1, 2020. Existing enrollees in Plan C and Plan F will be allowed to keep these plans.

This bill designates Plan G as the high deductible plan (currently Plan F).

Effective July 1, 2020, all new or innovative benefits must be identified as a separate line item on the premium billing statement. This may require programming changes in a plan's system to ensure that each new or innovative product is listed separately.

This law also allows new or existing enrollees to choose different Medicare Supplemental plans during open enrollment, and also includes new provisions and triggering events for Special Enrollment Periods. Plans may need to review their agent-broker materials, website and other external communications to ensure that existing or potential enrollees are appropriately notified of their rights for choosing Medicare Supplemental plans and eligibility for special enrollment periods.

Finally, this law exempts guidance from the Department of Managed Health Care (DMHC) from formal rulemaking until December 31, 2022. Should the Department update their guidance related to this law after 2022, the Department would be required to adhere to the Administrative Procedures Act (APA).

If you have any questions regarding this document, please contact Jennifer Alley at 916-552-2910.