

State Corporation Commission 2010 Fiscal Impact Statement

1. Bill Number: HB 265

House of Origin X Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: Englin

3. Committee: Commerce and Labor

4. Title: **Medicare supplement policies for individuals under age 65.**

5. Summary: Requires insurers to offer coverage to those eligible for Medicare because of disability or end-stage renal disease (ESRD) who are under the age of 65. The bill provides that insurers issuing Medicare supplement policies must offer a Medicare supplement policy to those eligible for Medicare because of disability or ESRD without “conditioning” policy issuance or “discriminating in price” based on the medical or health status or receipt of health care. The bill applies to Virginia residents that are enrolled in Medicare Part B. The individual must request coverage during the first 6 months of eligibility for Medicare. For individuals retroactively enrolled in Medicare, the application for coverage must be submitted within 6 months of being notified of the eligibility decision, or the individual must make the request during the 63-day period after termination of coverage under a group health policy. If a person is under 65 and eligible for Medicare because of disability or ESRD and enrolled in Medicare Part B before October 1, 2010, the 6-month period to enroll in Medicare supplement insurance begins on October 1, 2010. A Medicare supplement policy issued under the bill cannot exclude coverage for preexisting conditions if the individual has continuous creditable coverage for at least 6 months as of the application date. The insurer must make at least, Plans A, C and J available without regard to medical condition, claims experience or health status. Insurers can develop rates specific to individuals covered under the bill. Insurers cannot discriminate in the pricing for those covered under the bill because of the health status, claims experience, receipt of health care or medical condition of an applicant that requests coverage during the 6-month or 63 day periods established in the bill.

6. No Fiscal Impact on the State Corporation Commission

7. Budget amendment necessary: No

8. Fiscal implications: None on the State Corporation Commission

9. Specific agency or political subdivisions affected: State Corporation Commission Bureau of Insurance

10. Technical amendment necessary: Virginia’s *Rules Governing Minimum Standards for Medicare Supplement Policies*, (the Rules) at 14 VAC 5-170, were recently revised to reflect updated federal standards applicable to Medicare Supplement policies nationwide. Among many other changes included in these revisions was the elimination of Plan J, which may not be sold or

issued in Virginia on and after June 1, 2010. Therefore, the Bureau of Insurance recommended to the patron of House Bill 265 that Plan J should be removed from the required available plans on Line 35 of the bill. The patron, at his discretion, may also consider replacing Plan J with a different plan, but he was advised that Plans E, H and I will also be eliminated effective June 1, 2010. The Bureau also offered other technical corrections for clarity and consistency of terminology beginning on Line 16:

§ 38.2-3610. Medicare supplement policies for persons eligible by reason of disability.

*A. An insurer issuing Medicare supplement policies in the Commonwealth shall offer the opportunity of enrolling in a Medicare supplement policy, without conditioning the issuance or effectiveness of the policy on, and without discriminating in the price of the policy based on, the medical condition or health status or receipt of health care by the individual.—**Medicare supplement policies shall be offered** to any individual who resides in the Commonwealth, is enrolled in Medicare Part B, and is under 65 years of age and eligible for Medicare by reason of disability or end-stage renal disease:*

1. Upon the request of the individual during the six-month period beginning with the first month in which the individual is eligible for Medicare by reason of a disability or end-stage renal disease. For those persons who are retroactively enrolled in Medicare Part B due to a retroactive eligibility decision made by the Social Security Administration, the application must be submitted within a six-month period beginning with the month in which the person receives notification of the retroactive eligibility decision; or

*2. Upon the request of the individual during the 63-day period following termination of coverage under a group health ~~insurance policy~~ **plan**.*

B. The six-month period to enroll in a Medicare supplement policy for an individual who is under 65 years of age and is eligible for Medicare by reason of disability or end-stage renal disease and otherwise eligible under subsection A and first enrolled in Medicare Part B before October 1, 2010, shall begin on October 1, 2010.

C. A Medicare supplement policy issued to an individual under subsection A may not exclude benefits based on a preexisting condition if the individual has a continuous period of creditable coverage of at least six months as of the effective date of ~~application for~~ coverage.

*D. An insurer shall at least make standardized Medicare Supplement Plans A, C, and ~~J~~ **[substitute a different Plan in place of Plan J or change the wording to read: Medicare Supplement Plans A and C]** available to individuals described in subsection A. This action shall be taken without regard to medical condition, claims experience, or health status.*

E. An insurer may develop premium rates specific to the class of individuals described in subsection A. No insurer shall discriminate in the pricing of the Medicare supplement plans issued to individuals described in subsection A because of the health status, claims experience, receipt of health care, or medical condition of an applicant

F. For purposes of the section, the term “group health plan” shall have the same meaning as in § 38.2-3431.

11. Other comments: House Bill 265 is assigned to Subcommittee #2 of House Commerce and Labor.

Date: 02/03/10/V. Tompkins

cc: Secretary of Commerce and Trade

Secretary of Health and Human Resources