

Introduced by Senator Blakespear
(Coauthor: Assembly Member Schiavo)

February 15, 2024

An act to add Section 1358.25 to the Health and Safety Code, and to add Section 10192.25 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 1236, as introduced, Blakespear. Medicare supplement coverage: open enrollment periods.

Existing federal law provides for the Medicare Program, which is a public health insurance program for persons 65 years of age and older and specified persons with disabilities who are under 65 years of age. Existing federal law specifies different parts of Medicare that cover specific services, such as Medicare Part B, which generally covers medically necessary services and supplies and preventive services. Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care, and makes a willful violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance.

Existing federal law additionally provides for the issuance of Medicare supplement policies or certificates, also known as Medigap coverage, which are advertised, marketed, or designed primarily as a supplement to reimbursements under the Medicare Program for the hospital, medical, or surgical expenses of persons eligible for the Medicare Program, including coverage of Medicare deductible, copayment, or coinsurance amounts, as specified. Existing law, among other provisions, requires supplement benefit plans to be uniform in structure, language,

designation, and format with the standard benefit plans, as prescribed. Existing law prohibits an issuer from denying or conditioning the offering or effectiveness of any Medicare supplement contract, policy, or certificate available for sale in this state, or discriminating in the pricing of a contract, policy, or certificate because of the health status, claims experience, receipt of health care, or medical condition of an applicant in the case of an application that is submitted prior to or during the 6-month period beginning with the first day of the first month in which an individual is both 65 years of age or older and is enrolled for benefits under Medicare Part B.

This bill, on and after January 1, 2025, would prohibit an issuer of Medicare supplement coverage in this state from denying or conditioning the issuance or effectiveness of any Medicare supplement coverage available for sale in the state, or discriminate in the pricing of that coverage because of the health status, claims experience, receipt of health care, medical condition, or age of an applicant, if an application for coverage is submitted during an open enrollment period, as specified in the bill. The bill would entitle an individual enrolled in Medicare Part B to a 90-day annual open enrollment period beginning on January 1 of each year, as specified, during which period the bill would require applications to be accepted for any Medicare supplement coverage available from an issuer, as specified. The bill would require the open enrollment period to be a guaranteed issue period.

Because a violation of the bill's requirements by a health care service plan would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares as follows:
- 2 (a) Existing state law requires insurance companies that sell
- 3 Medicare supplement coverage, also known as Medigap coverage,
- 4 to issue that insurance on a guaranteed-issue basis to eligible

1 individuals without adjusting premiums based on medical
2 underwriting, as long as their applications are submitted within a
3 one-time open enrollment period.

4 (b) The open enrollment period in the state is during the
5 six-month window beginning when the individual is enrolled for
6 benefits under Medicare Part B. After this open enrollment period,
7 there is no guarantee that Medigap coverage will be issued to
8 individuals with preexisting medical conditions unless the
9 individual satisfies certain conditions, and even if the coverage is
10 issued, the premium may be significantly higher.

11 (c) As a result, it is extremely difficult for individuals whose
12 health conditions or financial situations may have changed after
13 their open enrollment period to switch to another Medicare
14 supplement coverage plan that is more suitable.

15 (d) It is, therefore, the intent of the Legislature in enacting this
16 act to do both of the following:

17 (1) Establish an annual open enrollment for applicants, and
18 require Medigap coverage issuers in California to accept an
19 individual's application for coverage or an application to switch
20 to another eligible plan during that period.

21 (2) Prohibit issuers from denying the applicant Medigap
22 coverage or making any premium rate distinctions due to any of
23 the following:

24 (A) Health status.

25 (B) Claims experience.

26 (C) Medical condition.

27 (D) Whether the applicant is receiving health care services.

28 SEC. 2. Section 1358.25 is added to the Health and Safety
29 Code, to read:

30 1358.25. (a) On and after January 1, 2025, an issuer of
31 Medicare supplement coverage in this state shall not deny or
32 condition the issuance or effectiveness of any Medicare supplement
33 coverage contract available for sale in the state, or discriminate in
34 the pricing of the contract because of the health status, claims
35 experience, receipt of health care, medical condition, or age of an
36 applicant, if an application for that coverage is submitted at either
37 of the following times:

38 (1) Before or during the six-month period beginning with the
39 first day of the month in which an individual first enrolled for

1 benefits under Medicare Part B, as described in subdivision (a) of
 2 Section 1358.11.

3 (2) During an annual open enrollment period, including, but not
 4 limited to, the open enrollment period established in subdivision
 5 (b) of this section.

6 (b) An individual enrolled in Medicare Part B is entitled to a
 7 90-day annual open enrollment period beginning on January 1 of
 8 each year, as described in this section.

9 (1) During the open enrollment period established pursuant to
 10 this subdivision, applications shall be accepted for any Medicare
 11 supplement coverage available from an issuer.

12 (2) The open enrollment period established pursuant to this
 13 section is a guaranteed issue period.

14 SEC. 3. Section 10192.25 is added to the Insurance Code, to
 15 read:

16 10192.25. (a) On and after January 1, 2025, an issuer of
 17 Medicare supplement coverage in this state shall not deny or
 18 condition the issuance or effectiveness of any Medicare supplement
 19 coverage policy or certificate available for sale in the state, or
 20 discriminate in the pricing of the policy or certificate because of
 21 the health status, claims experience, receipt of health care, medical
 22 condition, or age of an applicant, if an application for that coverage
 23 is submitted at either of the following times:

24 (1) Before or during the six-month period beginning with the
 25 first day of the month in which an individual first enrolled for
 26 benefits under Medicare Part B, as described in subdivision (a) of
 27 Section 10192.11.

28 (2) During an annual open enrollment period, including, but not
 29 limited to, the open enrollment period established in subdivision
 30 (b) of this section.

31 (b) An individual enrolled in Medicare Part B is entitled to a
 32 90-day annual open enrollment period beginning on January 1 of
 33 each year, as described in this section.

34 (1) During the open enrollment period established pursuant to
 35 this subdivision, applications shall be accepted for any Medicare
 36 supplement coverage available from an issuer.

37 (2) The open enrollment period is a guaranteed issue period.

38 SEC. 4. No reimbursement is required by this act pursuant to
 39 Section 6 of Article XIII B of the California Constitution because
 40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

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