

HOUSE BILL No. 4779

May 8, 1989, Introduced by Reps. Perry Bullard, Owen, Weeks, Webb, Gubow, Leland, Pitoniak, Joe Young, Jr., Berman and Jondahl and referred to the Committee on Insurance.

A bill to amend sections 1207 and 2267 of Act No. 218 of the Public Acts of 1956, entitled as amended

"The insurance code of 1956,"

section 2267 as amended by Act No. 453 of the Public Acts of 1988, being sections 500.1207 and 500.2267 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1207 and 2267 of Act No. 218 of the
2 Public Acts of 1956, section 2267 as amended by Act No. 453 of
3 the Public Acts of 1988, being sections 500.1207 and 500.2267 of
4 the Michigan Compiled Laws, are amended to read as follows:

5 Sec. 1207. (1) An agent shall be a fiduciary for all
6 ~~moneys~~ MONEY received or held by ~~him~~ THE AGENT in his OR HER
7 capacity as an agent. Failure by an agent in a timely manner to
8 turn over the ~~moneys~~ MONEY which he OR SHE holds in a fiduciary

1 capacity to the persons to whom they are owed is prima facie
2 evidence of violation of the agent's fiduciary responsibility.
3 AN AGENT SHALL NOT ACCEPT PAYMENT OF A PREMIUM IN THE FORM OF A
4 CHECK MADE PAYABLE TO THE AGENT INSTEAD OF THE INSURER. UPON
5 RECEIVING PAYMENT OF A PREMIUM, AN AGENT SHALL IMMEDIATELY PRO-
6 VIDE A WRITTEN RECEIPT TO THE INSURED.

7 (2) An agent shall use reasonable accounting methods to
8 record funds received in his OR HER fiduciary capacity including
9 the receipt and distribution of all premiums due each of his OR
10 HER insurers. ~~He~~ AN AGENT shall record return premiums
11 received by or credited to him OR HER which are due an insured on
12 policies reduced or canceled or which are due a prospective pur-
13 chaser of insurance as a result of a rejected or declined
14 application. Records required by this section shall be open to
15 examination by the commissioner.

16 (3) Except as provided in ~~sections 1212 and 1860~~ SECTION
17 1212 and subsection (4), an agent shall not reward or remunerate
18 any person for procuring or inducing business in this state, fur-
19 nishing leads or prospects, or acting in any other manner as an
20 agent.

21 (4) If an agent is unable to immediately provide, through
22 his OR HER insurers that are authorized to underwrite the cover-
23 age, all or a part of the coverage requested on a risk, ~~he~~ THE
24 AGENT may obtain the part of the coverage refused by his OR HER
25 insurers through another licensed agent, through the state acci-
26 dent fund, or through a risk sharing plan permitted by state
27 law. An agent who attempts to place the refused part of the

1 coverage through another licensed agent shall advise the buyer in
2 writing that the refused part of the coverage is not in effect
3 until the buyer receives written evidence of insurance.

4 (5) A person may not sell or attempt to sell insurance by
5 means of intimidation or threats, whether express or implied.
6 Except as provided in ~~subsection (4) of section 2077~~ SECTION
7 2077(4) a person may not induce the purchase of insurance through
8 a particular agent or from a particular insurer by means of a
9 promise to sell goods, to lend money, to provide services, or by
10 a threat to refuse to sell goods, to refuse to lend money, or to
11 refuse to provide services.

12 (6) After January 1, 1973, an insurer or an agent may not be
13 a party to a contract under which the agent assumes any responsi-
14 bility or obligation for payment, from his OR HER commission or
15 any allocation of premium to him OR HER by the insurer, of any
16 losses on insurance policies sold by the agent unless the claim
17 adjusting is done by insurance company adjusters or licensed
18 independent adjusters.

19 Sec. 2267. (1) An insurer who offers a medicare supplemen-
20 tal policy shall provide to ~~the~~ A PROSPECTIVE applicant ~~at~~
21 BEFORE the time of application an outline of coverage and, except
22 for direct response solicitation policies, shall obtain an
23 acknowledgment of receipt of the outline of coverage from the
24 applicant. The outline of coverage shall be in substantially the
25 following form, as approved by the commissioner:

(Company Name)

Medicare Supplemental Coverage

Outline of Coverage

1. Read ~~your policy~~ THIS carefully. This outline of coverage provides a very brief description of the important features of your policy. YOU CAN USE THIS OUTLINE OF COVERAGE TO COMPARISON SHOP FOR A MEDICARE SUPPLEMENTAL POLICY OR CERTIFICATE.

2. This OUTLINE OF COVERAGE is not the insurance contract, and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is important that you ALSO read your policy carefully!

3. AFTER YOU RECEIVE YOUR POLICY, YOU HAVE 30 DAYS WITHIN WHICH YOU MAY DECIDE WITHOUT COST WHETHER YOU DESIRE TO KEEP THE POLICY.

4. ~~-2-~~ Medicare has 2 parts. Part A covers many hospital costs. Part B covers many medical costs. If you are applying for a medicare supplemental insurance policy, but you are not enrolled in medicare part B, you should read this notice carefully. If you are not enrolled in medicare part B, it is probably to your advantage to buy medicare part B coverage before you consider buying a medicare supplemental policy. Although the cost changes yearly, in [~~-1988-~~ 1989] medicare part B coverage was available at a cost of [~~-\$27.90-~~ \$31.90] per month. This is an excellent buy because the federal government subsidizes more than 2/3 of the actual cost of the coverage. (Note: the company

1 issuing the policy shall change the bracketed figures each year
2 to reflect the proper figures.)

3 5. ~~3.~~ Medicare supplemental coverage--policies of this
4 category are designed to supplement medicare by covering some
5 hospital, medical, and surgical services which are partially cov-
6 ered by medicare. Coverage is provided for hospital inpatient
7 charges and some physician charges, subject to any deductibles
8 and co-payment provisions which may be in addition to those pro-
9 vided by medicare and subject to other limitations which may be
10 set forth in the policy. The policy does not provide benefits
11 for custodial care, such as help in walking, getting in and out
12 of bed, eating, dressing, bathing, and taking medicine (delete if
13 this coverage is provided in the policy).

14 6. YOU SHOULD NOT PURCHASE MORE THAN 1 MEDICARE SUPPLEMEN-
15 TAL POLICY OR CERTIFICATE.

16 7. ~~4.~~ Neither (insert company's name) nor its agents are
17 connected with medicare.

18 8. ~~5.~~ The following is a brief summary of the major bene-
19 fit gaps in medicare parts A and B with a parallel description of
20 supplemental benefits, including dollar amounts, provided by the
21 medicare supplemental coverage:

Service	Benefit	Medicare pays	This policy pays	You* pay
Hospitalization (part A): Semiprivate room and board, general nursing, and mis- cellaneous hospital services and supplies, meals, special care units, drugs, lab tests, diagnostic x-rays, medical supplies, operat- ing and recovery room, anesthesia, and rehabilitation services	Per calendar year	All but [\$560.00]		
Posthospital skill- ed (part A):	First 8 days Per calendar year	All but [\$25.50] per day		
Nursing care in a facility approved by medi- care	Days 9 through 150 per calendar year	100% of reasonable cost		
	Beyond 150 days per calendar year	Nothing		
Medical services approved by medicare (part B): Physician's services, in- patient and out- patient medical services and sup- plies at a hos- pital, physical and speech therapy, and ambulance	Per calendar year	80% of rea- sonable charge (after \$75.00 deductible)		

1 2 Screening 3 mammography 4 (part B) effective 5 January 1, 1990 6	Biennial	80% of approved charge
7 Respite care 8 (part B) as approved 9 by medicare effec- 10 tive January 1, 1990 11 12 13	First 80 hours per calendar year after out of pocket limit or outpatient drug deductible is met	100% of reasonable charge
14 15 16	Beyond 80 hours per calendar year	Nothing
17 Catastrophic drug 18 insurance (part B): 19 Prescription drugs 20 out of hospital 21 22 23	Limited drug benefits: Drugs administered intra- venously at home for calendar year 1990	80% of reasonable charge after \$550.00 deductible
24 25 26 27 28 29 30 31 32	Limited drug benefits: Immunosuppressive drugs after the first year following a transplant for calendar year 1990	50% of reasonable charge after \$550.00 deductible
33 34 35 36 37 38	Full drug benefits: All outpatient prescription drugs and insulin for calendar year 1991	50% of reasonable charge after \$600.00 deductible
39 40 41 42 43 44	Full drug benefits: All outpatient prescription drugs and insulin for calendar year 1992	60% of reasonable charge after \$652.00 deductible
45 46 47 48 49 50 51 52 53	Full drug benefits: All outpatient prescription drugs and insulin for calendar year 1993 and thereafter	80% of reasonable charge after deductible as deter- mined by medicare

1	Custodial nursing		Nothing	
2	care			
3				
4	Services outside		Nothing	
5	of U.S. or U.S.			
6	territories			
7				

8 *You may be responsible for charges above the medicare approved rate.

9
10 Date Applicant's Signature

11 (The corporation issuing the certificate shall change the brack-
12 eted figures each year to reflect current changes.)

13 9. ~~6.~~ The policy shall state if it does or does not cover
14 the following:

15 (a) Private duty nursing.

16 (b) Skilled nursing home care costs beyond what is covered
17 by medicare.

18 (c) Custodial nursing home care costs.

19 (d) Intermediate nursing home care costs.

20 (e) Home health care above number of visits covered by
21 medicare.

22 (f) Physician charges above medicare's reasonable charge.

23 (g) Drugs other than prescription drugs furnished during
24 hospital or skilled nursing facility stay.

25 (h) Care received outside of the United States.

26 (i) Dental care or dentures, checkups, routine immuniza-
27 tions, cosmetic surgery, routine foot care, examinations for eye-
28 glasses or hearing aids.

29 10. ~~7.~~ A description of any policy provision which
30 excludes, eliminates, resists, reduces, limits, delays, or in any
31 other manner operates to qualify payment of a benefit, including
32 the following statements:

1 (a) The chart summarizing medicare benefits only briefly
2 describes the benefits.

3 (b) The health care financing administration or its medicare
4 publications should be consulted for further details and
5 limitations.

6 11. ~~-8-~~ A description of policy provisions respecting
7 renewability or continuation of coverage including any reserva-
8 tions of a right to change the premium.

9 12. ~~-9-~~ The amount of the premium for this policy.

10 (2) AN APPLICATION FOR A MEDICARE SUPPLEMENTAL POLICY SHALL
11 CONTAIN THE FOLLOWING STATEMENT IN NOT LESS THAN 12-POINT TYPE:
12 "NOTICE: THIS IS AN APPLICATION FOR A MEDICARE SUPPLEMENTAL
13 HEALTH INSURANCE POLICY. YOU SHOULD NOT SIGN THIS APPLICATION
14 UNTIL YOU HAVE RECEIVED AND READ AN OUTLINE OF THE POLICY'S
15 COVERAGE."

16 (3) ~~-(2)-~~ If the medicare supplemental policy or certificate
17 THAT is issued ~~on a basis which would require revision of the~~
18 ~~outline,~~ IS NOT CONSISTENT WITH THE OUTLINE OF COVERAGE THAT WAS
19 PROVIDED TO THE PROSPECTIVE APPLICANT, a substitute outline of
20 coverage properly describing the policy or certificate must
21 accompany the policy or certificate when it is delivered. The
22 substitute outline shall contain the following statement, in not
23 less than 12-point type, immediately above the company name:
24 "Notice: Read this outline of coverage carefully. It is not the
25 same as the outline of coverage for the policy you applied for.
26 The policy you applied for has not been issued. This policy is

1 different in the following ways: (Note: Company shall list
2 differences.)"

3 Section 2. This amendatory act shall take effect January 1,
4 1990.