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**SUBSTITUTE HOUSE BILL 2479**

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**State of Washington**

**52nd Legislature**

**1992 Regular Session**

**By** House Committee on Financial Institutions & Insurance (originally sponsored by Representatives R. Johnson, Broback, Dellwo, Paris, Ferguson, Winsley and Franklin; by request of Insurance Commissioner)

Read first time 02/05/92.

1       AN ACT Relating to making medicare supplement insurance conform to  
2 federal law; amending RCW 48.66.020, 48.66.030, 48.66.041, 48.66.050,  
3 48.66.090, 48.66.100, 48.66.110, and 48.66.130; and adding a new  
4 section to chapter 48.66 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6       **Sec. 1.** RCW 48.66.020 and 1981 c 153 s 2 are each amended to read  
7 as follows:

8       Unless the context clearly requires otherwise, the definitions in  
9 this section apply throughout this chapter.

10       (1) "Medicare supplemental insurance" or "medicare supplement  
11 insurance policy" refers to a group or individual policy of disability  
12 insurance or a subscriber contract of a health care service contractor,  
13 a health maintenance organization, or a fraternal benefit society,  
14 which relates its benefits to medicare, or which is advertised,

1 marketed, or designed primarily as a supplement to reimbursements under  
2 medicare for the hospital, medical, or surgical expenses of persons  
3 eligible for medicare (~~by reason of age~~). Such term does not  
4 include:

5 (a) A policy or contract of one or more employers or labor  
6 organizations, or of the trustees of a fund established by one or more  
7 employers or labor organizations, or combination thereof, for employees  
8 or former employees, or combination thereof, or for members or former  
9 members, or combination thereof, of the labor organizations; or

10 (b) A policy (~~or contract of any professional, trade, or~~  
11 ~~occupational association for its members or former or retired members,~~  
12 ~~or combination thereof, if such association:~~

13 (i) ~~Is composed of individuals all of whom are actively engaged in~~  
14 ~~the same profession, trade, or occupation;~~

15 (ii) ~~Has been maintained in good faith for purposes other than~~  
16 ~~obtaining insurance; and~~

17 (iii) ~~Has been in existence for at least two years prior to the~~  
18 ~~date of its initial offering of such policy or plan to its members))~~  
19 issued pursuant to a contract under Section 1876 or Section 1833 of the  
20 federal social security act (42 U.S.C. Sec. 1395 et seq.), or an issued  
21 policy under a demonstration project authorized pursuant to amendments  
22 to the federal social security act; or

23 (c) (~~Individual policies or contracts issued pursuant to a~~  
24 ~~conversion privilege under a policy or contract of group or individual~~  
25 ~~insurance when such group or individual policy or contract includes~~  
26 ~~provisions which are inconsistent with the requirements of this~~  
27 ~~chapter; or policies issued to employees or members as additions to~~  
28 ~~franchise plans in existence on January 1, 1982)) Insurance policies or  
29 health care benefit plans, including group conversion policies,~~

1 provided to medicare eligible persons, that are not marketed or held to  
2 be medicare supplement policies or benefit plans.

3 (2) "Medicare" means the "Health Insurance for the Aged Act," Title  
4 XVIII of the Social Security Amendments of 1965, as then constituted or  
5 later amended.

6 (3) "Medicare eligible expenses" means health care expenses of the  
7 kinds covered by medicare, to the extent recognized as reasonable and  
8 medically necessary by medicare. (~~(Payment of benefits by insurers for~~  
9 ~~medicare eligible expenses may be conditioned upon the same or less~~  
10 ~~restrictive payment conditions, including determinations of medical~~  
11 ~~necessity, as are applicable to medicare claims.))~~

12 (4) "Applicant" means:

13 (a) In the case of an individual medicare supplement insurance  
14 policy or subscriber contract, the person who seeks to contract for  
15 insurance benefits; and

16 (b) In the case of a group medicare supplement insurance policy or  
17 subscriber contract, the proposed certificate holder.

18 (5) "Certificate" means any certificate delivered or issued for  
19 delivery in this state under a group medicare supplement insurance  
20 policy(~~(, which policy has been delivered or issued for delivery in~~  
21 ~~this state))~~.

22 (6) "Loss ratio" means the incurred claims as a percentage of the  
23 earned premium computed under rules adopted by the insurance  
24 commissioner.

25 (7) "Preexisting condition" means a covered person's medical  
26 condition that caused that person to have received medical advice or  
27 treatment during a specified time period immediately prior to the  
28 effective date of coverage.

29 (8) "Disclosure form" means the form designated by the insurance  
30 commissioner which discloses medicare benefits, the supplemental

1 benefits offered by the insurer, and the remaining amount for which the  
2 insured will be responsible.

3 (9) "Issuer" includes insurance companies, health care service  
4 contractors, health maintenance organizations, fraternal benefit  
5 societies, and any other entity delivering or issuing for delivery in  
6 this state medicare supplement policies or certificates.

7 **Sec. 2.** RCW 48.66.030 and 1981 c 153 s 3 are each amended to read  
8 as follows:

9 ~~(1) ((Medicare supplement insurance policies must include a~~  
10 ~~renewal, continuation, or nonrenewal provision. The language or~~  
11 ~~specifications of such provision must be consistent with the type of~~  
12 ~~contract to be issued. Such provision must be appropriately captioned,~~  
13 ~~appear on the first page of the policy, and clearly state the duration,~~  
14 ~~where limited, of renewability and the duration of the term of coverage~~  
15 ~~for which the policy is issued and for which it may be renewed.~~

16 ~~(2))~~ A medicare supplement insurance policy which provides for the  
17 payment of benefits may not be based on standards described as "usual  
18 and customary," "reasonable and customary," or words of similar import  
19 ~~((must include a definition of such terms and an explanation of such~~  
20 ~~terms in its accompanying outline of coverage))~~.

21 ~~((3))~~ (2) Limitations on benefits, such as policy exclusions or  
22 waiting periods, shall be labeled in a separate section of the policy  
23 or placed with the benefit provisions to which they apply, rather than  
24 being included in other sections of the policy, rider, or endorsement.

25 NEW SECTION. **Sec. 3.** A new section is added to chapter 48.66 RCW  
26 to read as follows:

1 (1) A medicare supplement insurance policy or certificate form or  
2 application form, rider, or endorsement shall not be issued, delivered,  
3 or used unless it has been filed with and approved by the commissioner.

4 (2) Rates, or modification of rates, for medicare supplement  
5 policies or certificates shall not be used until filed with and  
6 approved by the commissioner.

7 (3) Every filing shall be received not less than thirty days in  
8 advance of any such issuance, delivery, or use. At the expiration of  
9 such thirty days the form or rate so filed shall be deemed approved  
10 unless prior thereto it has been affirmatively approved or disapproved  
11 by order of the commissioner. The commissioner may extend by not more  
12 than an additional fifteen days the period within which he or she may  
13 affirmatively approve or disapprove any such form or rate, by giving  
14 notice of such extension before expiration of the initial thirty-day  
15 waiting period. At the expiration of any such period as so extended,  
16 and in the absence of such prior affirmative approval or disapproval,  
17 any such form or rate shall be deemed approved. A filing of a form or  
18 rate or modification thereto may not be deemed approved unless the  
19 filing contains all required documents prescribed by the commissioner.  
20 The commissioner may withdraw any such approval at any time for cause.  
21 By approval of any such form or rate for immediate use, the  
22 commissioner may waive any unexpired portion of such initial thirty-day  
23 waiting period.

24 (4) The commissioner's order disapproving any such form or rate or  
25 withdrawing a previous approval shall state the grounds therefor.

26 (5) A form or rate shall not knowingly be issued, delivered, or  
27 used if the commissioner's approval does not then exist.

28 **Sec. 4.** RCW 48.66.041 and 1982 c 200 s 1 are each amended to read  
29 as follows:

1 (1) The insurance commissioner shall adopt rules to establish  
2 minimum standards for benefits in medicare supplement insurance  
3 policies and certificates.

4 (2) The commissioner shall adopt rules to establish specific  
5 standards for medicare supplement insurance policy or certificate  
6 provisions. These rules may include but are not limited to:

7 (a) Terms of renewability;

8 (b) Nonduplication of coverage;

9 (c) Benefit limitations, exceptions, and reductions; ~~((and))~~

10 (d) Definitions of terms;

11 (e) Requiring refunds or credits if the policies or certificates do  
12 not meet loss ratio requirements;

13 (f) Establishing uniform methodology for calculating and reporting  
14 loss ratios;

15 (g) Assuring public access to policies, premiums, and loss ratio  
16 information of an issuer of medicare supplement insurance;

17 (h) Establishing a process for approving or disapproving proposed  
18 premium increases; and

19 (i) Establishing standards for medicare SELECT policies and  
20 certificates.

21 (3) The insurance commissioner may adopt rules that establish  
22 disclosure standards for replacement of policies or certificates by  
23 persons eligible for medicare by reason of age.

24 (4) The insurance commissioner may by rule prescribe that an  
25 informational brochure, designed to improve the buyer's understanding  
26 of medicare and ability to select the most appropriate coverage, be  
27 provided to persons eligible for medicare by reason of age. The  
28 commissioner may require that the brochure be provided to applicants  
29 concurrently with delivery of the outline of coverage, except with

1 respect to direct response insurance, when the brochure may be provided  
2 upon request but no later than the delivery of the policy.

3 (5) In the case of a state or federally qualified health  
4 maintenance organization, the commissioner may waive compliance with  
5 one or all provisions of this section until January 1, 1983.

6 **Sec. 5.** RCW 48.66.050 and 1981 c 153 s 5 are each amended to read  
7 as follows:

8 (1) The insurance commissioner may issue reasonable rules that  
9 specify prohibited policy provisions not otherwise specifically  
10 authorized by statute which, in the opinion of the commissioner, are  
11 unfair, unjust, or unfairly discriminatory to any person insured or  
12 proposed (~~for coverage~~) to be insured under a medicare supplement  
13 insurance policy or certificate.

14 (2) No medicare supplement insurance policy may use waivers to  
15 exclude, limit, or reduce coverage or benefits for specifically named  
16 or described preexisting diseases or physical conditions.

17 **Sec. 6.** RCW 48.66.090 and 1981 c 153 s 9 are each amended to read  
18 as follows:

19 All medicare supplement policies must be guaranteed renewable and  
20 a medicare supplement insurance policy may not provide that the policy  
21 may be cancelled or nonrenewed by the insurer solely on the grounds of  
22 deterioration of health. The issuer shall not cancel or nonrenew the  
23 policy for any reason other than nonpayment of premium or material  
24 misrepresentation. All medicare supplement policies and certificates  
25 must include a renewal or continuation provision. The language or  
26 specifications of such provision must be appropriately captioned,  
27 appear on the first page of the policy, and shall include any  
28 reservation by the issuer or a right to change premium.

1       **Sec. 7.** RCW 48.66.100 and 1982 c 200 s 2 are each amended to read  
2 as follows:

3       (1) (~~Commencing with reports for the accounting periods beginning~~  
4 ~~on or after January 1, 1982,~~) Medicare supplement insurance policies  
5 shall (~~be expected to~~) return to policyholders in the form of  
6 aggregate (~~loss ratio~~) benefits under the policy, for the entire  
7 period for which rates are computed to provide coverage, loss ratios  
8 of:

9       (a) At least seventy-five percent of the (~~earned~~) aggregate  
10 amount of premiums earned in the case of group policies; and

11       (b) At least (~~sixty~~) sixty-five percent of the (~~earned~~)  
12 aggregate amount of premiums earned in the case of individual policies.

13       (2) For the purpose of this section, medicare supplement insurance  
14 policies issued as a result of solicitation of individuals through the  
15 mail or mass media advertising, including both print and broadcast  
16 advertising, shall be treated as individual policies.

17       (3) (~~By January 1, 1982,~~) The insurance commissioner (~~shall~~)  
18 may adopt rules sufficient to accomplish the provisions of this section  
19 and may, by such rules, impose more stringent or appropriate loss ratio  
20 requirements when it is necessary for the protection of the public  
21 interest.

22       **Sec. 8.** RCW 48.66.110 and 1981 c 153 s 11 are each amended to read  
23 as follows:

24       (~~(1) An agent, insurer, health care service contractor or health~~  
25 ~~maintenance organization initiating a sale of an individual or group~~  
26 ~~medicare supplement insurance policy in this state shall complete and~~  
27 ~~sign a disclosure form, in a form prescribed by the insurance~~  
28 ~~commissioner, and deliver the completed form~~) In order to provide for  
29 full and fair disclosure in the sale of medicare supplement policies,



1 a medicare supplement policy or certificate shall not be delivered in  
2 this state unless an outline of coverage is delivered to the potential  
3 policyholder not later than the time of application for the policy.

4 ~~((2) If a medicare supplement insurance policy or certificate is~~  
5 ~~issued on a basis which would require revision of the outline of~~  
6 ~~coverage delivered at the time of application, a substitute outline of~~  
7 ~~coverage properly describing the policy or certificate actually issued~~  
8 ~~must accompany the policy or certificate when it is delivered and~~  
9 ~~contain the following statement, in no less than twelve point type,~~  
10 ~~immediately above the company name: "NOTICE. Read this outline of~~  
11 ~~coverage carefully. It is not identical to the outline of coverage~~  
12 ~~provided upon application and the coverage originally applied for has~~  
13 ~~not been issued.")~~)

14 **Sec. 9.** RCW 48.66.130 and 1981 c 153 s 13 are each amended to read  
15 as follows:

16 (1) ~~((Effective January 1, 1982, no medicare supplement insurance~~  
17 ~~policy which excludes coverage for preexisting conditions which~~  
18 ~~appeared more than one hundred eighty days prior to the effective date~~  
19 ~~of the policy may be sold or offered for sale in this state))~~ No later  
20 than July 1, 1992, and notwithstanding any other provision of Title 48  
21 RCW, a medicare supplement policy or certificate shall not exclude or  
22 limit benefits for losses incurred more than six months from the  
23 effective date of coverage because it involved a preexisting condition.

24 (2) ~~((Effective January 1, 1982, no medicare supplement insurance~~  
25 ~~policy may be sold or offered for sale in this state which excludes~~  
26 ~~coverage for preexisting conditions for a period of more than one~~  
27 ~~hundred eighty days into the term of the policy))~~ No later than July 1,  
28 1992, a medicare supplement policy or certificate shall not define a  
29 preexisting condition more restrictively than as a condition for which

1 medical advice was given or treatment was recommended by or received  
2 from a physician within six months before the effective date of  
3 coverage.

4 (3) If a medicare supplement insurance policy or certificate  
5 contains any limitations with respect to preexisting conditions, such  
6 limitations must appear as a separate paragraph of the policy or  
7 certificate and be labeled as "Preexisting Condition Limitations."