

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **First Extraordinary Session, 1992**  
4 **By: Senator Moore**

**A Bill ACT 72 OF 1992**

Call Item 15

SENATE BILL 3

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6  
7 **For An Act To Be Entitled**

8 "AN ACT TO AMEND *TITLES 17, 20 AND 23* OF ARKANSAS CODE  
9 ANNOTATED OF 1987 AND TO PROVIDE FOR MINIMUM STANDARDS FOR  
10 MEDICARE SUPPLEMENT INSURANCE; AND FOR OTHER PURPOSES."

11  
12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

13  
14 SECTION 1. Arkansas Code 23-79-109, Subsection (a), is hereby amended  
15 to read as follows:

16 "(a) No basic insurance policy, or annuity contract form, or  
17 application form where written application is required and is to be made a  
18 part of the policy or contract, or printed rider or endorsement form or form  
19 of renewal certificate, shall be issued, delivered, or used as to a subject of  
20 insurance resident, located, or to be performed in this state unless the form  
21 has been filed with and approved by the commissioner and, in the case of  
22 individual disability contracts, the rates have been filed with and approved  
23 by the commissioner.

24 (1) This subsection shall not apply to surety bonds, nor to  
25 policies, riders, endorsements, or forms of unique character designed for, and  
26 used with relation to, insurance upon a particular subject, or which relate to  
27 the manner of distribution of benefits or to the reservation of rights and  
28 benefits under life and disability insurance policies and are used at the  
29 request of the individual policyholder, contract holder, or certificate  
30 holder.

31 (2) As to group insurance policies effectuated and delivered  
32 outside this state but covering persons resident in this state, the group  
33 certificates to be delivered or issued for delivery in this state shall be  
34 filed with and approved by the commissioner.

35 (3) No group disability certificate of insurance may be extended  
36 to residents of this state under a group disability policy issued outside this

1 state which does not include the provisions required for group policies issued  
2 in this state, unless the commissioner determines that the provisions are not  
3 appropriate for the coverage provided. Upon request of the Insurance  
4 Commissioner, copies of such group disability policies issued outside this  
5 state shall be made available on an informational basis.

6 (4) On and after January 1, 1990, all medicare supplement rates  
7 shall be based on a composite age basis only, and shall not be based on any  
8 age banding or other groupings.

9 (5) Nothing in this subsection shall prohibit an insurer or  
10 hospital and medical service corporation issuing medicare supplement insurance  
11 policies from using its usual and customary underwriting procedures or  
12 excluding preexisting health conditions; provided, that no insurer shall  
13 refuse to issue a medicare supplement policy based solely on the age of the  
14 applicant."

15

16 SECTION 2. Arkansas Code 23-79-112, Subsection (f), is hereby  
17 amended to read as follows:

18 "(f) (1) All individual life, annuity and disability policy or  
19 contract filings, excluding medicare supplement policies and variable life  
20 policies and variable annuities, shall have a notice prominently printed on  
21 the first page of the policy or contract stating in substance that the  
22 policyholder shall have the right to return the policy or contract within ten  
23 (10) days of its delivery, unless the policy or contract provides for a  
24 greater period, and to have the premium refunded if after examination of the  
25 policy or contract the policyholder is not satisfied for any reason.

26 (2) If the policyholder returns the policy or contract to the  
27 insurance company or to the agent through whom it was purchased within ten  
28 (10) days of the policy delivery, it shall be void from its inception and the  
29 parties shall be in the same position as if no policy or contract had been  
30 issued."

31

32 SECTION 3. Chapter 79 of Title 23 is hereby amended by inserting an  
33 additional subchapter to read as follows:

34 "§23-79-401. Title. This Act shall be known and cited as the 'Medicare  
35 Supplement Insurance Minimum Standards Act'.

1 §23-79-402. Applicability and Scope.

2 (a) Except as otherwise specifically provided in §23-79-405, this Act  
3 shall apply to:

4 (1) All medicare supplement policies delivered or issued for  
5 delivery in this State on or after the effective date of this Act; and

6 (2) All certificates issued under group medicare supplement  
7 policies, which certificates have been delivered or issued for delivery in  
8 this State.

9 (b) This Act shall not apply to a policy of one or more employers or  
10 labor organizations, or of the trustees of a fund established by one or more  
11 employers or labor organizations, or combination thereof, for employees or  
12 former employees or a combination thereof, or for members or former members,  
13 or a combination thereof, of the labor organizations.

14 (c) The provisions of this Act are not intended to prohibit or apply to  
15 insurance policies or health care benefit plans, including group conversion  
16 policies, provided to medicare eligible persons, which policies are not  
17 marketed or held to be medicare supplement policies or benefit plans.

18 §23-79-403. Definitions. As used in this Act, unless the context  
19 otherwise requires:

20 (a) `Applicant' means:

21 (1) in the case of an individual medicare supplement policy, the  
22 person who seeks to contract for insurance benefits, and

23 (2) in the case of a group medicare supplement policy, the  
24 proposed certificateholder;

25 (b) `Certificate' means any certificate delivered or issued for  
26 delivery in this State under a group medicare supplement policy;

27 (c) `Certificate Form' means the form on which the certificate is  
28 delivered or issued for delivery by the issuer;

29 (d) `Commissioner' means the Insurance Commissioner of the State of  
30 Arkansas;

31 (e) `Issuer' includes insurance companies, fraternal benefit societies,  
32 health care service plans, health maintenance organizations, and any other  
33 entity delivering or issuing for delivery in this State medicare supplement  
34 policies or certificates;

35 (f) `Medicare' means the `Health Insurance for the Aged Act' Title

1 XVIII of the Social Security Amendments of 1965, as then constituted or later  
2 amended;

3 (g) `Medicare Supplement Policy' means a group or individual policy of  
4 disability insurance or a subscriber contract of a hospital and medical  
5 service corporation or health maintenance organization, other than a policy  
6 issued pursuant to a contract under Section 1876 or Section 1833 of the  
7 federal Social Security Act (42 U.S.C. Section 1395 et seq.), or an issued  
8 policy under a demonstration project authorized pursuant to amendments to the  
9 federal Social Security Act, which is advertised, marketed or designed  
10 primarily as a supplement to reimbursements under medicare for the hospital,  
11 medical or surgical expenses of persons eligible for medicare.

12 (h) `Policy Form' means the form on which the policy is delivered or  
13 issued for delivery by the issuer.

14 §23-79-404. Standards for Policy provisions and Authority to Promulgate  
15 Regulations. (a) No medicare supplement policy or certificate in force  
16 in this State shall contain benefits that duplicate benefits provided by  
17 medicare.

18 (b) Notwithstanding any other provision of law of this State, a  
19 medicare supplement policy or certificate shall not exclude or limit benefits  
20 for losses incurred more than six (6) months from the effective date of  
21 coverage because it involved a pre-existing condition. The policy or  
22 certificate shall not define a pre-existing condition more restrictively than  
23 a condition for which medical advice was given or treatment was recommended by  
24 or received from a physician within six (6) months before the effective date  
25 of coverage.

26 (c) The commissioner shall adopt reasonable regulations to establish  
27 specific standards for policy provisions of medicare supplement policies and  
28 certificates. Such standards shall be in addition to and in accordance with  
29 applicable laws of this State, including Arkansas Code Annotated §23-66-306  
30 and, as amended by this Act, §23-79-109 and §23-79-112. No requirement of the  
31 Insurance Code relating to minimum required policy benefits, other than the  
32 minimum standards contained in this Act, shall apply to medicare supplement  
33 policies and certificates. The standards may cover, but not be limited to:

- 34 (1) Terms of renewability;  
35 (2) Initial and subsequent conditions of eligibility;

- 1           (3) Nonduplication of coverage;
- 2           (4) Probationary periods;
- 3           (5) Benefit limitations, exceptions and reductions;
- 4           (6) Elimination periods;
- 5           (7) Requirements for replacement;
- 6           (8) Recurrent conditions; and
- 7           (9) Definitions of terms.

8           (d) The commissioner shall adopt reasonable regulations to establish  
9 minimum standards for benefits, claims payment, marketing practices and  
10 compensation arrangements and reporting practices, for medicare supplement  
11 policies and certificates.

12           (e) The commissioner may adopt from time to time, such reasonable  
13 regulations as are necessary to conform medicare supplement policies and  
14 certificates to the requirements of federal law and regulations promulgated  
15 thereunder, including but not limited to:

16                   (1) Requiring refunds or credits if the policies or certificates  
17 do not meet loss ratio requirements;

18                   (2) Establishing a uniform methodology for calculating and  
19 reporting loss ratios;

20                   (3) Assuring public access to policies, premiums and loss ratio  
21 information of issuers of medicare supplement insurance;

22                   (4) Establishing a process for approving or disapproving policy  
23 forms and certificate forms and proposed premium increases;

24                   (5) Establishing a policy for holding public hearings prior to  
25 approval of premium increases; and

26                   (6) Establishing standards for Medicare Select policies and  
27 certificates.

28           (f) The commissioner may adopt reasonable regulations that specify  
29 prohibited policy provisions not otherwise specifically authorized by statute  
30 which, in the opinion of the commissioner, are unjust, unfair or unfairly  
31 discriminatory to any person insured or proposed to be insured under a  
32 medicare supplement policy or certificate.

33           §23-79-405. Loss Ratio Standards. Medicare supplement policies shall  
34 return to policyholders benefits which are reasonable in relation to the  
35 premiums charged. The commissioner shall issue reasonable regulations to

1 establish minimum standards for loss ratios of medicare supplement policies on  
2 the basis of incurred claims experience, or incurred health care expenses  
3 where coverage is provided by a health maintenance organization on a service  
4 rather than reimbursement basis, and earned premiums in accordance with  
5 accepted actuarial principles and practices.

6 §23-79-406. Disclosure Standards. (a) In order to provide for full  
7 and fair disclosure in the sale of medicare supplement policies, no medicare  
8 supplement policy or certificate shall be delivered in this State unless an  
9 outline of coverage is delivered to the applicant at the time application is  
10 made.

11 (b) The commissioner shall prescribe the format and content of the  
12 outline of coverage required by Subsection (a). For purposes of this Section,  
13 'format' means style, arrangements and overall appearance, including such  
14 items as the size, color and prominence of type and arrangement of text and  
15 captions. Such outline of coverage shall include:

16 (1) A description of the principal benefits and coverage provided  
17 in the policy;

18 (2) A statement of the renewal provisions, including any  
19 reservation by the issuer of a right to change premiums, and disclosure of the  
20 existence of any automatic renewal premium increases based on the  
21 policyholder's age; and

22 (3) A statement that the outline of coverage is a summary of the  
23 policy issued or applied for and that the policy should be consulted to  
24 determine governing contractual provisions.

25 (c) The commissioner may prescribe by regulation a standard form and  
26 the contents of an informational brochure for persons eligible for medicare,  
27 which is intended to improve the buyer's ability to select the most  
28 appropriate coverage and improve the buyer's understanding of medicare.  
29 Except in the case of direct response insurance policies, the commissioner may  
30 require by regulation that the informational brochure be provided to any  
31 prospective insureds eligible for medicare concurrently with delivery of the  
32 outline of coverage. With respect to direct response insurance policies, the  
33 commissioner may require by regulation that the prescribed brochure be  
34 provided upon request to any prospective insureds eligible for medicare, but  
35 in no event later than the time of policy delivery.

1 (d) The commissioner may adopt regulations for captions or notice  
2 requirements, determined to be in the public interest and designed to inform  
3 prospective insureds that particular insurance coverages are not medicare  
4 supplement coverages, for all disability insurance policies sold to persons  
5 eligible for medicare by reason of age, other than:

- 6 (1) Medicare supplement policies;
- 7 (2) Disability income policies;
- 8 (3) Basic, catastrophic or major medical expense policies; or
- 9 (4) Single premium, nonrenewable policies.

10 (e) The commissioner may adopt reasonable regulations to govern the  
11 full and fair disclosure of the information in connection with the replacement  
12 of disability policies, subscriber contracts or certificates by persons  
13 eligible for medicare.

14 §23-79-407. Notice of Free Examination. Medicare supplement policies  
15 and certificates shall have a notice prominently printed on the first page of  
16 the policy or certificate or attached thereto stating in substance that the  
17 applicant shall have the right to return the policy or certificate within  
18 thirty (30) days of its delivery and to have the premium refunded if, after  
19 examination of the policy or certificate, the applicant is not satisfied for  
20 any reason. Any refund made pursuant to this Section shall be paid directly  
21 to the applicant by the issuer in a timely manner.

22 §23-79-408. Filing Requirements for Advertising. Every issuer of  
23 medicare supplement insurance policies or certificates in this State shall  
24 provide a copy of any medicare supplement advertising intended for use in this  
25 State whether through written, radio or television medium to the commissioner  
26 for review and approval prior to their use in this State.

27 §23-79-409. Administrative Procedures. Regulations adopted pursuant  
28 to this Act shall be subject to the provisions of Arkansas Code Annotated  
29 §23-61-108 and to the provisions of Arkansas Code Annotated §§25-15-201, et  
30 seq.

31 §23-79-410. Penalties. In addition to any other applicable penalties  
32 for violations of the Arkansas Insurance Code, the commissioner may require  
33 issuers violating any provisions of this Act or regulations promulgated  
34 pursuant to this Act to cease marketing any medicare supplement policy or  
35 certificate in this State which is related directly or indirectly to a





1. Approved 3/25/92

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APPROVED: 3-20-92