

HOUSE BILL NO. 64

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Labor and Commerce

on _____)

(Patron Prior to Substitute--Delegate Campbell)

A BILL to amend the Code of Virginia by adding in Chapter 36 of Title 38.2 sections numbered 38.2-3611 and 38.2-3612, relating to Medicare supplement policies; annual open enrollment period; compensation of agents and other representatives.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 36 of Title 38.2 sections numbered 38.2-3611 and 38.2-3612 as follows:

§ 38.2-3611. Annual open enrollment period.

A. An insurer, health services plan, or health maintenance organization issuing individual Medicare supplement policies or certificates in the Commonwealth, when the certificates are issued on an individual basis through a non-employer group trust, plan, or association, shall offer to an individual 65 years of age or older who is currently insured under any such policy or certificate an annual open enrollment period commencing on the day of the individual's birthday and remaining open for at least 30 days thereafter, during which time the individual may purchase any Medicare supplement policy made available by an insurer in the Commonwealth that offers the same benefits as or lesser benefits than those provided by the current coverage. Innovative benefits, as described in 42 U.S.C. § 1395ss(p)(4)(B), shall not be considered when determining whether a Medicare supplement policy includes the same benefits as or lesser benefits than those provided by the previous coverage.

B. During the annual open enrollment period offered pursuant to this section, no insurer shall deny or condition the issuance or effectiveness, or discriminate in the price of coverage, of a Medicare supplement policy based on the health status, claims experience, receipt of health care, or medical condition of an individual currently insured under any such policy.

27 C. At least 15 days prior but not more than 30 days prior to the commencement of an annual open
28 enrollment period for an individual to whom the open enrollment period established by the provisions of
29 this section applies, the insurer, health services plan, or health maintenance organization issuing a
30 Medicare supplement policy or certificate shall notify each such individual of:

- 31 1. The dates on which the open enrollment period begins and ends;
- 32 2. The rights of the individual during the open enrollment period; and
- 33 3. Any modification of the benefits provided by the policy under which the individual is currently
34 insured or adjustment of the premiums charged for that policy.

35 The notice required by this subsection shall be delivered to such individual based on currently
36 available contact information.

37 **§ 38.2-3612. Compensation of agents and other representatives.**

38 A. An insurer, health services plan, or health maintenance organization issuing Medicare
39 supplement policies or certificates in the Commonwealth, including policies or certificates issued on an
40 individual or group basis or through a group trust, may provide compensation to an agent or other
41 representative for the sale of a policy to supplement Medicare or a certificate only if the compensation for
42 the first year is no more than 200 percent of the compensation paid for selling or servicing the policy or
43 certificate in the second year or period.

44 B. The compensation provided in a subsequent renewal year shall be the same as that provided in
45 the second year or period and shall be provided for not less than five renewal years.

46 C. An insurer, health services plan, or health maintenance organization issuing Medicare
47 supplement policies or certificates in the Commonwealth shall not provide to its agents or other
48 representatives, and an agent or other representative shall not accept, compensation that is greater than the
49 compensation for renewal that would have been paid by the replacing insurer on a renewal policy to
50 supplement Medicare or a certificate if the existing policy or certificate is replaced.

51 D. As used in this section, "compensation" includes pecuniary or nonpecuniary remuneration of
52 any kind relating to the sale or renewal of the policy to supplement Medicare or the certificate, including
53 any bonus, gift, prize, award, or finder's fee.

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