



The State of New Hampshire
Insurance Department
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Christopher R. Nicolopoulos
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Bulletin

Docket No. INS 2023-006-AB

To: All Insurers Authorized to Transact Health Insurance in NH and Write Medicare Supplement Business; Agents, Brokers, and Producers

From: Christopher R. Nicolopoulos, Esq., Commissioner *C.R.N.*

Date: April 10, 2023

RE: Medicare Supplement Guaranteed Issue Period Applicable to Termination of Medicaid Eligibility

Recently, the New Hampshire Insurance Department (NHID) received multiple inquiries from insurers, producers, medical providers, non-profit organizations, and consumers regarding the end of the continuous coverage requirement for Medicaid and its impact on Medicare enrollment. This law required Medicaid programs to keep people continuously enrolled through the end of the month in which the COVID-19 public health emergency ends, in exchange for enhanced federal funding.

The Centers for Medicare & Medicaid Services (CMS) issued a final rule, effective Jan. 1, 2023, to implement several changes in Medicare enrollment and eligibility that were included in the Consolidated Appropriations Act of 2021 (CAA). This new rule creates a Special Enrollment Period (SEP) for Medicaid enrollees who lose Medicaid eligibility under the "PHE Medicaid Unwinding". CMS promulgated these new provisions in response to the expected disenrollment of many Medicaid enrollees who turned 65 during the public health emergency but did not lose their Medicaid coverage on account of requirements in the Families First Coronavirus Response Act. Similarly, many of these enrollees will also have missed their initial enrollment period for Medicare Supplement insurance or would have been prevented from enrolling because insurers are prohibited under federal law from selling Medicare Supplement policies to individuals on Medicaid.

Special Enrollment Period Timelines for Medicare

If the termination of Medicaid eligibility occurs after the last day of the COVID-19 PHE and before January 1, 2023, the SEP starts on January 1, 2023, and ends on June 30, 2023. If the termination of Medicaid eligibility occurs on or after January 1, 2023, the SEP starts when the individual is notified of termination of Medicaid eligibility and ends 6 months after the termination of eligibility.

NH Medicare Supplement Impact

NHID interprets this new federal rule to not only allow for a SEP for Medicare Part A but also Medicare Part B, in accordance with CMS's website. (<https://www.cms.gov/Medicare/Eligibility-and-Enrollment/OrigMedicarePartABELigEnrol>). In short, if someone missed their Initial Enrollment period for Medicare, the federal government is providing them an opportunity to enroll in Medicare Parts A & B without penalties until 6 months after they are notified of termination of Medicaid eligibility.

We acknowledge that this is a unique situation as a result of the COVID-19 pandemic and federal rules emanating from its conclusion. The above is the Department's interpretation of the federal rule and the information provided by CMS about that rule. As such, our Medicare Supplement rules should align with this new federal rule in providing an extended enrollment period for those products. Therefore, consumers who became eligible for Medicare during the PHE, including disabled people under 65 years of age, and who have been on the Medicaid Expansion program but delayed signing up for either Medicare or Medicare Supplement may now sign up as new insureds in those products.

All insurers, agents, producers and brokers should be aware that the New Hampshire Department of Health and Human Services (DHHS) recently announced its plans to resume Medicaid eligibility and enrollment operations beginning on April 1, 2023. It is anticipated that additional people will be eligible for guaranteed issue Medicare Supplement coverage upon their enrollment in Medicare Part B or upon termination of their Medicaid eligibility even though they missed their initial enrollment period.

All Medicaid enrollees, who became eligible for Medicare during the PHE, may apply for Medicare Supplement coverage during the following periods: 1) The 63 days following the later of their notice of termination or disenrollment from Medicaid or their date of termination from Medicaid, or 2) During the six-month period following the first day of the first month in which the applicant is enrolled in Part B. Consumers should be treated like any other insured during an Initial Enrollment period (no underwriting and guaranteed issue) as per NHID's Medicare Supplement Insurance rules contained in INS 1905.

Questions, comments, or requests for clarification about this Bulletin should be emailed to communications@ins.nh.gov.

This Bulletin shall be effective immediately and shall remain in effect unless withdrawn or superseded by subsequent law, regulation, or bulletin.