

DEPARTMENT OF INSURANCE

Statutory Authority: 18 Delaware Code, Sections 311 and 3403 (18 Del.C. §§311 and 3403)

FINAL

1501 Medicare Supplement Insurance Minimum Standards

ORDER

A public hearing was held on December 2, 2004 to receive comments on proposed amendments to Regulation 1501 relating to amendments to Delaware's Medicare Supplement Insurance Minimum Standards. On October 14, 2004, I appointed Deputy Insurance Commissioner F.L. Peter Stone as the hearing officer to receive comments and testimony on the proposed regulatory amendments. Public notice of the hearings and publication of the proposed amendments to Regulation 1501 in the Register of Regulations and two newspapers of general circulation was in conformity with Delaware law. Five persons attended the public hearing. Four written comments were received by the Department as a result of the public notice for comment.

Summary Of The Evidence And Information Submitted

Exhibits admitted into the record included, the order appointing the hearing officer, the affidavits of publication in the Delaware State News and the News Journal, the National Association of Insurance Commissioners' ("NAIC") September 8, 2004 model regulation ("NAIC model") showing the changes to be made and drafting notes explaining all of the changes, and the written statements of Allan R. Glass, UnitedHealth Group and America's Health Insurance Plans. Deputy Attorney General Michael J. Rich presented the position of the Delaware Department of Insurance ("the Department"). One of the Department's purposes in proposing the changes to the regulation was to adopt the NAIC's recommended changes to the NAIC model regulation which, in turn, reflected changes in the federal regulatory provisions. Delaware's existing regulation 1501 was itself based on the original NAIC model and adopting the proposed changes would keep Delaware's regulation consistent with the uniform changes approved by the NAIC. The drafting notes in the NAIC model provided the basis and the rationale for the changes to the current version of the regulation. A second purpose for the proposed amendments was to amend section 12.2.1. The Department seeks to amend section 12.2.1. independently of the NAIC model to provide a 63 day guaranteed issue period for Medigap purchase for Delawareans whose employer-sponsored health plans cut back on some or all benefits. Allan R. Glass, a member of Senator Joseph R. Biden, Jr.'s staff, speaking for himself and not the Senator, had recommended additional changes to the regulation. However, the Department recommended against such changes since those additional changes might expand the scope of the change to section 12.2.1 beyond that intended by the Department.

Ms. Dotti Outland, on behalf of UnitedHealth Group, spoke in support of the proposed changes. She recommended that the effective date of the regulation in section 25 be amended to reflect the federal provision that forms being currently used under Plans K and L can be used through 2005 since the federal provisions relating to forms used under Medicare Part D do not become effective until the beginning of 2006.

The NAIC had faxed errata sheets to the Department on December 1, 2004 noting several printing errors in certain of the tables included in the regulation. The errata sheets did not suggest any substantive changes to the regulation.

Findings Of Fact

The purpose for a public hearing on a proposed regulatory change is to determine the necessity for the change and whether the language proposed to effect that change needs to be changed or modified for purposes of clarity or efficiency. There were no objections to the adoption of the proposed changes to the regulation. I find that the proposed technical changes recommended by UnitedHealth Group and America's Health Insurance Plans are desirable for purposes of clarity and conformity with existing law (in the case of the modification to the provisions relating to the effective date). Accordingly, I find that making such changes does not require republication and rehearing under the provisions of 29 Del.C. §10113.

I find that Mr. Glass' recommendations to modify sections 12.6 and 12.3.1.1 are not required and would be likely to be substantive. Since any change to a regulation is normally prospective in nature, any change to sections 12.6 or 12.3.1.1 as recommended would, by necessity either be retroactive or delay the purpose for the change. That would either increase a class of beneficiaries or delay the implementation of the change. As a result, I find that it is not

appropriate to make the recommend changes to sections 12.6 or 12.3.1.1.

Decision

Based on the provisions of 18 **Del.C.** §§311 and 3403, and the record in this docket, I adopt the FINAL REPORT AND RECOMMENDATION OF THE HEARING OFFICER dated December 8, 2004 and order that Regulation 1501 be amended as provided for in the notice published in the *Delaware Register of Regulations* 8 **DE Reg.** 672 (10/1/04) with the technical and legally conforming changes recommended by the Department, the NAIC, UnitedHealth Group and America's Health Insurance Plans.

I order that the proposed change shall become effective on February 1, 2005.

Donna Lee H. Williams, Insurance Commissioner

DATED: December 10, 2004

DUE TO THE LENGTH OF THE REGULATION THE FULL TEXT IS NOT BEING PUBLISHED. THE REGULATION IS AVAILABLE FROM THE REGISTRAR OR ONLINE.

Regulation 1501 Medicare Supplement Insurance Minimum Standards (PDF Version)
Regulation 1501 Medicare Supplement Insurance Minimum Standards (HTML Version)

8 DE Reg. 1026 (01/01/05)