



**Department of Insurance**

**State of Arizona**

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**CHRISTINA URIAS**

Director of Insurance

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**REGULATORY BULLETIN 2009-02<sup>1</sup>**

**To:** Insurers Selling Medigap Policies in Arizona

**From:** Christina Urias, Director of Insurance

**Date:** July 29, 2009

**Re:** Clarification of Article 11, Medicare Supplement Insurance, R20-6-1101 Rulemaking; Sale of policies prior to June 1, 2010

On December 3, 2008, the Arizona Department of Insurance ("ADOI") filed a Notice of Proposed Rulemaking with the Secretary of State for Article 11, Medicare Supplement Insurance, R20-6-1101. The purpose of the rulemaking was to conform Arizona's Medicare supplement insurance rules to the 2008 revisions adopted by the National Association of Insurance Commissioners ("NAIC") to the NAIC Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act ("Model Regulation"). The NAIC revised the Model Regulation to conform to the Medicare Improvements for Patient and Providers Act (MIPPA) and the Genetic Information Protection Act (GINA). The Model Regulation reflects the federal law provision that a carrier may issue a new or revised Medigap policy if coverage is effective on or after June 1, 2010. States must implement the MIPPA changes to the Model Regulation by September 24, 2009, to avoid federal preemption. The rulemaking became effective on June 2, 2009.

At the March 2009 Spring National Meeting, the NAIC Senior Issues Task Force ("Task Force") identified a technical language issue in the Model Regulation involving transition language in Sections 4, 8, 8.1, 9 and 9.1, and the benefit chart. The final draft of the Model Regulation currently references policies "issued for delivery on or after June 1, 2010." The Task Force considered suggestions that the regulatory language would more clearly convey the intent to allow the sale of the policies prior to June 1, 2010 if it referred to policies "with an effective date for coverage on or after June 1, 2010." Ultimately, some sections of the Model Regulation inadvertently omitted this regulatory transition language.

The NAIC issued a clarifying statement to state regulators in a March 20, 2009 memorandum, that reaffirmed the clear intention of the transition language is to ensure that insurers could sell policies with the new benefit packages **prior to June 1, 2010**, as long as those policies had a June 1, 2010 (or later) effective date. For example, this transition language allows seniors who are aging-in to Medicare and shopping for Medigap policies prior to June 1, 2010, to purchase policies with the new benefit design, instead of the old 1990 policies, although these new policies would not be effective until on or after June 1, 2010. The NAIC clarifying statement concludes that because the intended meaning of both phrases: policies "issued for delivery on or after June 1, 2010" and policies "with an effective date for coverage on or after June 1, 2010" is exactly the same, and that this intended meaning is also part of the federal law, the NAIC determined no Model Regulation revisions are necessary, nor are changes necessary in those states that have already taken action to enact the revisions.

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<sup>1</sup> This Substantive Policy Statement is advisory only. A Substantive Policy Statement does not include internal procedural documents that only affect the internal procedures of the Agency, and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedures Act. If you believe that the Substantive Policy Statement does impose additional requirements or penalties on regulated parties you may petition the Agency under Arizona Revised Statute Section 41-1033 for a review of the statement.

Therefore, this Regulatory Bulletin confirms that the ADOI concurs with the NAIC and clarifies that ADOI will permit the sale of Medigap policies after June 2, 2009 (the effective date of the amended A.A.C. R20-6-1101), with a June 1, 2010 (or later) effective date.

Please direct any questions regarding this Substantive Policy Statement to Alexandra Shafer, Assistant Director, Life and Health Division, at (602)364-2393 or AShafer@azinsurance.gov.