

17:35C-1

LEGISLATIVE HISTORY CHECKLIST  
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(Medicare supplementary  
health insurance)

NJSA: 17:35C-1

LAWS OF: 1992 CHAPTER: 144

BILL NO: S1125

SPONSOR(S) Sinagra

DATE INTRODUCED: September 10, 1992

COMMITTEE: ASSEMBLY: ---

SENATE: Commerce

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: ASSEMBLY: October 8, 1992

SENATE: October 5, 1992

DATE OF APPROVAL: November 19, 1992

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: No

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

P.L.1992, CHAPTER 144, approved November 19, 1992

1992 Senate No. 1125

1 AN ACT concerning medicare supplement health insurance  
2 offered by medical, hospital and health service corporations  
3 and amending and supplementing P.L.1982, c.95.

4  
5 BE IT ENACTED by the Senate and General Assembly of the  
6 State of New Jersey:

7 1. (New section) Except as otherwise specifically provided:

8 a. The provisions of P.L.1982, c.95 (C.17:35C-1 et seq.) shall  
9 apply to all medicare supplement contracts and subscriber  
10 certificates delivered or issued for delivery in this State.

11 b. The provisions of P.L.1982, c.95 (C.17:35C-1 et seq.) shall  
12 not apply to subscriber certificates, including group conversion  
13 contracts, provided to medicare eligible persons that are not  
14 advertised, marketed, designed primarily as, or otherwise held  
15 out to be medicare supplement contracts.

16 2. Section 1 of P.L.1982, c.95 (C.17:35C-1) is amended to read  
17 as follows:

18 1. For the purposes of this act:

19 a. "Applicant" means:

20 (1) In the case of an individual medicare supplement subscriber  
21 contract, the person who seeks to contract for [hospital or  
22 medical] service corporation benefits, and

23 (2) In the case of a group medicare supplement subscriber  
24 contract, the person eligible for service corporation benefit  
25 coverage.

26 b. "Certificate" means any certificate issued under an  
27 individual or group medicare supplement contract, which  
28 [contract] certificate has been delivered or issued for delivery in  
29 this State.

30 c. "Commissioner" means the Commissioner of Insurance.

31 d. "Medicare" means the program established by the "Health  
32 Insurance for the Aged Act," Title XVIII of the [Social Security  
33 Amendments of 1965,] "Social Security Act," Pub.L.89-97, as  
34 then constituted or later amended (42 U.S.C. §1395 et seq.).

35 e. "Medicare supplement contract" means a group or  
36 individual subscriber contract or certificate which is advertised,  
37 marketed [or] , designed primarily as, or is otherwise held out to  
38 be, a supplement to reimbursements under medicare for the  
39 hospital, medical or surgical expenses of persons eligible for  
40 medicare [by reason of age] , other than a contract issued  
41 pursuant to a contract under 42 U.S.C. §1395] or 42 U.S.C.  
42 §1395mm or a contract issued under a demonstration project

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 authorized pursuant to the "Health Insurance for the Aged Act,"  
2 42 U.S.C. §1395 et seq. The term does not include:

3 (1) A) a contract [of] issued to one or more employers or labor  
4 organizations, or [of] to the trustees of a fund established by one  
5 or more employers or labor organizations, or combination  
6 thereof, for employees or former employees or combination  
7 thereof or for members or former members, or combination  
8 thereof, of the labor organizations [; or

9 (2) A contract of any professional, trade or occupational  
10 association for its members or former or retired members, or  
11 combination thereof, if the association:

12 (a) Is composed of individuals all of whom are actively engaged  
13 in the same profession, trade or occupation;

14 (b) Has been maintained in good faith for purposes other than  
15 obtaining hospital or medical service benefits;

16 (c) Has been in existence for at least 2 years prior to the date  
17 of its initial offering of the contract or plan to its members;

18 (3) Individual contracts issued pursuant to a conversion  
19 privilege under a contract of group or individual service benefits  
20 when the group or individual contract includes provisions which  
21 are inconsistent with the requirements of this act].

22 f. "Service corporation" means any medical service  
23 corporation operating pursuant to the provisions of P.L.1940, c.74  
24 (C.17:48A-1 et seq.), any hospital service corporation operating  
25 pursuant to the provisions of P.L.1938, c.366 (C.17:48-1 et seq.),  
26 any health service corporation operating pursuant to the  
27 provisions of P.L.1985, c.236 (C.17:48E-1 et seq.), or any similar  
28 organization which is authorized by law to provide health care  
29 services and supplies.

30 g. "Service corporation contract" means any group or  
31 individual subscriber contract issued by a service corporation.

32 (cf: P.L.1982, c.95, s.1)

33 3. Section 3 of P.L.1982, c.95 (C.17:35C-3) is amended to read  
34 as follows:

35 3. a. No medicare supplement contract shall contain benefits  
36 which duplicate any benefits provided by medicare.

37 b. The commissioner may issue regulations that specify  
38 prohibited contract provisions not otherwise specifically  
39 authorized by statute which, in the opinion of the commissioner,  
40 are unjust, unfair or unfairly discriminatory to any person  
41 covered or proposed for coverage under a medicare supplement  
42 contract.

43 (cf: P.L.1982, c.95, s.3)

44 4. Section 5 of P.L.1982, c.95 (C.17:35C-5) is amended to read  
45 as follows:

46 5. The commissioner shall [issue] promulgate regulations to  
47 [establish] effectuate and enforce the provisions of P.L.1982, c.95  
48 (C. 17:35C-1 et seq.) and any regulations which are necessary to  
49 conform medicare supplement contracts and certificates with  
50 federal law. These regulations shall include, but not be limited to:

51 a. Establishment of minimum standards for benefits (under  
52 medicare supplement contracts), claim payments, marketing and  
53 reporting practices and compensation arrangements;

54 b. Establishment of a uniform methodology for calculating and

1 reporting loss ratios, and requiring refunds or credits if the  
2 contracts or certificates do not meet loss ratio requirements;

3 c. Establishment of a process for filing of all requests for  
4 premium increases and rate changes, which may include public  
5 hearings as determined appropriate by the commissioner prior to  
6 approval of any premium increases;

7 d. Assurance of access by the public to contract, premium and  
8 loss ratio information; and

9 e. Establishment of standards for Medicare Select contracts  
10 and certificates at such time as this State is authorized under  
11 federal law to authorize Medicare Select contracts and  
12 certificates.

13 (cf: P.L.1982, c.95, s.5)

14 5. Section 6 of P.L.1982, c.95 (C.17:35C-6) is amended to read  
15 as follows:

16 6. a. No service corporation shall deliver or issue for delivery  
17 to a resident of this State a medicare supplement contract unless  
18 it has filed with the commissioner a copy of the contract or  
19 certificate and a copy of any application, rider and endorsement  
20 for use in connection with the issuance or renewal thereof.

21 (1) The commissioner may, at any time, notify the service  
22 corporation of his disapproval of any form filed pursuant to the  
23 provisions of this section on the ground that the form contains  
24 provisions which are unjust, unfair, inequitable, misleading, or  
25 contrary to law or to the public policy of this State and no  
26 service corporation shall use any form in this State which has  
27 been disapproved pursuant to this paragraph.

28 (2) Any disapproval shall be subject to review in accordance  
29 with the "Administrative Procedure Act," P.L.1968, c.410  
30 (C.52:14B-1 et seq.).

31 (3) The disapproval or the withdrawal of any form by the  
32 commissioner shall state in writing the grounds therefor in such  
33 detail as is reasonable to inform the service corporation of the  
34 reasons for withdrawal or disapproval.

35 b. Any service corporation providing medicare supplement  
36 benefits in this State shall file annually with the commissioner its  
37 rates, rating schedule and supporting documentation  
38 demonstrating that it is in compliance with the applicable loss  
39 ratio standards of this State. All filings of rates and rating  
40 schedules shall demonstrate that the actual and expected losses  
41 in relation to premiums comply with the requirements of  
42 P.L.1982, c.95 (C.17:35C-1 et seq.) and any rule or regulation  
43 promulgated thereunder.

44 c. Medicare supplement contracts shall be expected to return  
45 to subscribers benefits which are reasonable in relation to the  
46 premium charged. The commissioner shall issue regulations to  
47 establish minimum standards for loss ratios of medicare  
48 supplement contracts on the basis of [incurred] paid claim  
49 experience and [earned] written premiums [for the entire period  
50 for which rates are computed to provide coverage and] in  
51 accordance with accepted actuarial principles and practices.  
52 [For purposes of regulations issued pursuant to this section,  
53 medicare supplement contracts issued as a result of solicitations  
54 of individuals through the mail or mass media advertising.

1 including both print and broadcast advertising, shall be treated as  
2 individual contracts.]

3 (cf: P.L.1982, c.95, s.6)

4 6. Section 7 of P.L.1982, c.95 (C.17:35C-7) is amended to read  
5 as follows:

6 7. a. In order to provide for full and fair disclosure in the sale  
7 of medicare supplement contracts, no medicare supplement  
8 contract or certificate shall be delivered or issued for delivery in  
9 this State, unless an outline of coverage is delivered to the  
10 applicant at the time application is made.

11 b. The commissioner shall prescribe the format and content of  
12 the outline of coverage required by subsection a. of this section.  
13 For the purposes of this section, "format" means style,  
14 arrangement and overall appearance, including such items as the  
15 size, color and prominence of [type] the font used, paper size and  
16 weight and the arrangement of text and captions. The outline of  
17 coverage shall include:

18 (1) A description of the principal benefits and coverage  
19 provided in the contract;

20 (2) [A statement of the exceptions, reductions and limitations  
21 contained in the contract;] (~~Deleted by amendment, P.L. , c.~~ )

22 (3) A statement of the renewal provisions, including any  
23 reservation by the [hospital or medical] service corporation of a  
24 right to change premiums , and disclosure of the existence of any  
25 automatic renewal premium increases based on the subscriber's  
26 age; and

27 (4) A statement that the outline of coverage is a summary of  
28 the contract issued or applied for and that the contract should be  
29 consulted to determine governing contractual provisions.

30 c. The commissioner may [prescribe] require by regulation [a  
31 standard form and the contents of an informational brochure for  
32 persons eligible for medicare by reason of age, which is intended  
33 to improve the buyer's ability to select the most appropriate  
34 coverage and improve the buyer's understanding of medicare] the  
35 publication of forms and an informational brochure with a  
36 standardized format and content, to serve as an aid in the  
37 selection of appropriate coverage, if any, by those eligible for  
38 medicare, and to aid the consumer in improving his understanding  
39 of medicare benefits. Except in the case of direct response  
40 solicitation [hospital or medical] service corporation contracts,  
41 the commissioner may require by regulation that the  
42 informational brochure be provided [to any prospective  
43 subscribers eligible for medicare] , concurrently with delivery of  
44 the outline of coverage, to all prospective subscribers eligible for  
45 medicare. With respect to direct response solicitation [hospital  
46 or medical] service corporation contracts, the commissioner may  
47 require by regulation that the prescribed brochure be provided  
48 upon request to any prospective subscribers eligible for medicare  
49 [by reason of age], but in no event later than the time of contract  
50 delivery.

51 d. The commissioner may promulgate regulations for captions  
52 or notice requirements [, determined to be in the public interest  
53 and designed to inform prospective subscribers that particular  
54 hospital or medical service coverages are not medicare

1 supplement coverages,] for all [hospital or medical] service  
2 corporation contracts sold to persons eligible for medicare [by  
3 reason of age], other than [:

4 (1) Medicare supplement policies;  
5 (2) Disability income policies;  
6 (3) Basic, catastrophic, or major medical expense policies; or  
7 (4) Single premium, nonrenewable policies] for medicare  
8 supplement contracts, to inform those prospective subscribers  
9 that the particular service corporation contract is not a medicare  
10 supplement contract.

11 e. The commissioner may further promulgate regulations to  
12 govern the full and fair disclosure of the information in  
13 connection with the replacement of [hospital or medical] service  
14 corporation contracts by persons eligible for medicare [by reason  
15 of age].

16 (cf: P.L.1982, c.95, s.7)

17 7. Section 8 of P.L.1982, c.95 (C.17:35C-8) is amended to read  
18 as follows:

19 8. Medicare supplement contracts or certificates [, other than  
20 those issued pursuant to direct response solicitation,] shall have a  
21 notice prominently printed on the first page of the contract or  
22 certificate or attached thereto stating in substance that the  
23 applicant shall have the right to return the contract or  
24 certificate within [10] 30 days of its delivery and to have the  
25 premium refunded if, after examination of the contract or  
26 certificate, the applicant is not satisfied for any reason.  
27 [Medicare supplement contracts or certificates issued pursuant to  
28 a direct response solicitation to persons eligible for medicare by  
29 reason of age shall have a notice prominently printed on the first  
30 page or attached thereto stating in substance that the applicant  
31 shall have the right to return the contract or certificate within  
32 30 days of its delivery and to have the premium refunded if, after  
33 examination, the applicant is not satisfied for any reason.]  
34 Refunds made pursuant to this section shall be made in a timely  
35 manner and shall be paid directly to the applicant.

36 (cf: P.L.1982, c.95, s.8)

37 8. (New section) a. Every service corporation shall file with  
38 the Department of Insurance a copy of all advertising materials  
39 to be used in promoting medicare supplement contracts to which  
40 residents of this State will have access, and through which the  
41 service corporation intends, or by implication purports to the  
42 reasonable, targeted consumer its intent, to make such contracts  
43 available for purchase or enrollment in this State. The  
44 requirements of this section shall apply to all advertisements in  
45 any medium whether in print or by means of television or radio  
46 broadcast. Filings shall be made at least 30 days prior to the  
47 date on which the advertisement is to be used in this State, or  
48 made accessible to residents of this State.

49 b. The commissioner may, in the public interest, promulgate  
50 regulations governing medicare supplement contract advertising  
51 including, but not limited to, specific filing procedures, standards  
52 upon which review may be based, celebrity endorsements, unfair  
53 practices and review and disapproval procedures.

54 c. Notwithstanding the provisions of subsection b. of this

1 section, the commissioner may disapprove any advertisement at  
2 any time if he determines that the advertisement misrepresents  
3 the product, misleads the targeted consumer, uses a strategy  
4 which involves scare tactics, unnecessarily confusing data or  
5 representation, false or fraudulent statements or otherwise  
6 violates any applicable laws of this State or regulations  
7 promulgated thereunder.

8 9. (New section) In addition to any other applicable penalties  
9 for violation of the provisions of R.S.17:17-1 et seq., the  
10 commissioner may require service corporations violating the  
11 provisions of P.L.1982, c.95 (C.17:35C-1 et seq.) to cease  
12 marketing any medicare supplement contract or certificate in  
13 this State which is related directly or indirectly to the violation,  
14 require that service corporation to take such action as is  
15 necessary to comply with the provisions of that act, or both.

16 10. This act shall take effect immediately.

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#### 19 STATEMENT

20

21 This bill revises the current law governing medicare  
22 supplement contracts issued on a group or individual basis by  
23 health service corporations, hospital service corporations and  
24 medical service corporations, so that it is in accordance with the  
25 federal mandate under which insurers providing medicare  
26 supplement coverage must meet certain minimum standards,  
27 including nonduplication of benefits already provided by medicare.

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32 Amends law governing medicare supplement insurance issued by  
33 service corporations.

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2 any time if he determines that the advertisement misrepresents  
3 the product, misleads the targeted consumer, uses a strategy  
4 which involves scare tactics, unnecessarily confusing data or  
5 representation, false or fraudulent statements or otherwise  
6 violates any applicable laws of this State or regulations  
7 promulgated thereunder.

8 9. (New section) In addition to any other applicable penalties  
9 for violation of the provisions of R.S.17:17-1 et seq., the  
10 commissioner may require service corporations violating the  
11 provisions of P.L.1982, c.95 (C.17:35C-1 et seq.) to cease  
12 marketing any medicare supplement contract or certificate in  
13 this State which is related directly or indirectly to the violation,  
14 require that service corporation to take such action as is  
15 necessary to comply with the provisions of that act, or both.

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#### STATEMENT

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21 This bill revises the current law governing medicare  
22 supplement contracts issued on a group or individual basis by  
23 health service corporations, hospital service corporations and  
24 medical service corporations, so that it is in accordance with the  
25 federal mandate under which insurers providing medicare  
26 supplement coverage must meet certain minimum standards,  
27 including nonduplication of benefits already provided by medicare.

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32 Amends law governing medicare supplement insurance issued by  
33 service corporations.



SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 1125

STATE OF NEW JERSEY

DATED: OCTOBER 1, 1992

The Senate Commerce Committee reports favorably Senate Bill No. 1125.

This bill revises the current law governing Medicare supplement contracts issued on a group or individual basis by health service corporations, hospital service corporations or medical service corporations to comply with federal minimum standards for Medicare supplement contracts. These entities are known as "service corporations" under the bill. Under the bill, service corporations would be precluded from offering benefits under a Medicare supplement contract which duplicate any benefits provided by Medicare. The bill requires the Commissioner of Insurance to establish standards for Medicare Select contracts and certificates at such time as this State is authorized under federal law to authorize Medicare Select contracts and certificates. The bill also requires the commissioner to establish minimum standards for benefits, claim payments, marketing and reporting practices and compensation arrangements for Medicare supplement contracts.

No service corporation may deliver or issue for delivery to a resident of this State a Medicare supplement contract or certificate or any application, rider or endorsement to be used in connection with the issuance or renewal of a Medicare supplement contract or certificate unless the form has been filed with the commissioner. The commissioner may disapprove a filing at any time after it is made by the service corporation. A form may be disapproved by the commissioner on the ground that it contains provisions which are unjust, unfair, inequitable, misleading, or contrary to law or to the public policy of this State. The reasons for any disapproval or withdrawal must be stated in writing to inform the service corporation of the reasons for the action. Any disapproval of a filing is subject to review pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

In addition, the bill requires any service corporation providing Medicare supplement benefits in this State to make an annual filing with the commissioner of its rates, rating schedule and supporting documentation to demonstrate that it is in compliance with applicable loss ratio standards established by regulation of the commissioner. The minimum standards for loss ratios of Medicare supplement contracts are required to be established by the commissioner on the basis of paid claim experience and written premiums in accordance with accepted actuarial principles and practices, instead of using the current basis of incurred claim experience and earned premiums. The bill also requires the commissioner to: establish a uniform methodology for calculating

and reporting loss ratios, and requiring refunds or credits if the contracts or certificates do not meet loss ratio requirements; establish a process for filing of all requests for premium increases and rate changes, which may include public hearings as determined appropriate by the commissioner prior to approval of any premium increases; and assure access by the public to contract, premium and loss ratio information.

The bill contains several provisions intended to provide adequate disclosure to consumers so that they may improve their understanding of Medicare benefits and select appropriate supplemental coverage. These provisions authorize the commissioner to require the publication of coverage selection forms and an informational brochure, in addition to the authority already vested in the commissioner to prescribe the format and content of outlines of coverage which are issued to all applicants for Medicare supplement coverage. The bill extends the "free-look" period provided applicants for Medicare supplement contracts to a uniform 30-day review period, with a right of timely refund paid directly to any applicant who is not satisfied during that period. Currently, the "free-look" is only for 10 days for Medicare supplement contracts or certificates which are not direct response solicitations.

In addition to the filing of forms and rating plans, the bill requires the filing of all advertising materials to be used in promoting Medicare supplement contracts, to which residents of this State will have access, at least 30 days prior to the date on which the advertisement is to be used in, or made accessible to residents of, this State. The bill empowers the commissioner to promulgate regulations in the public interest which will govern Medicare supplement contract advertising, including, but not limited to, the promulgation of filing procedures, standards of review, celebrity endorsements, unfair practices and review and disapproval procedures. The commissioner may disapprove any advertisement at any time if he determines that the advertisement misrepresents the product, misleads the targeted consumer, uses a strategy which involves scare tactics, unnecessarily confusing data or representation or false or fraudulent statements, or otherwise violates any applicable law or regulation.