## CHAPTER 153

[Substitute House Bill No. 297]

## THE MEDICARE SUPPLEMENTAL HEALTH INSURANCE ACT

AN ACT Relating to medicare supplemental insurance; adding a new chapter to Title 48 RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. This chapter shall be known and may be cited as "The Medicare Supplemental Health Insurance Act" and is intended to govern the content and sale of medicare supplemental insurance as defined in this chapter. The provisions of this chapter shall apply in addition to, rather than in place of, other requirements of Title 48 RCW.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Medicare supplemental insurance" or "medicare supplement insurance policy" refers to a group or individual policy of disability insurance or a subscriber contract of a health care service contractor, a health maintenance organization, or a fraternal benefit society, which relates its benefits to medicare, or which is advertised, marketed, or designed primarily as a supplement to reimbursements under medicare for the hospital, medical, or surgical expenses of persons eligible for medicare by reason of age. Such term does not include:

(a) A policy or contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organizations; or

(b) A policy or contract of any professional, trade, or occupational association for its members or former or retired members, or combination thereof, if such association:

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

(ii) Has been maintained in good faith for purposes other than obtaining insurance; and

(iii) Has been in existence for at least two years prior to the date of its initial offering of such policy or plan to its members; or

(c) Individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when such group or individual policy or contract includes provisions which are inconsistent with the requirements of this chapter; or policies issued to employees or members as additions to franchise plans in existence on the effective date of this act.

(2) "Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended.

(3) "Medicare eligible expenses" means health care expenses of the kinds covered by medicare, to the extent recognized as reasonable by medicare. Payment of benefits by insurers for medicare eligible expenses may be conditioned upon the same or less restrictive payment conditions, including determinations of medical necessity, as are applicable to medicare claims.

(4) "Applicant" means:

(a) In the case of an individual medicare supplement insurance policy or subscriber contract, the person who seeks to contract for insurance benefits; and

(b) In the case of a group medicare supplement insurance policy or subscriber contract, the proposed certificate holder.

(5) "Certificate" means any certificate issued under a group medicare supplement insurance policy, which policy has been delivered or issued for delivery in this state.

(6) "Loss ratio" means the incurred claims as a percentage of the earned premium computed under rules adopted by the insurance commissioner.

(7) "Preexisting condition" means a covered person's medical condition that caused that person to have received medical advice or treatment during a specified time period immediately prior to the effective date of coverage.

(8) "Disclosure form" means the form designated by the insurance commissioner which discloses medicare benefits, the supplemental benefits offered by the insurer, and the remaining amount for which the insured will be responsible.

NEW SECTION. Sec. 3. (1) Medicare supplement insurance policies must include a renewal, continuation, or nonrenewal provision. The language or specifications of such provision must be consistent with the type of contract to be issued. Such provision must be appropriately captioned, appear on the first page of the policy, and clearly state the duration, where limited, of renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed.

(2) A medicare supplement insurance policy which provides for the payment of benefits based on standards described as "usual and customary," "reasonable and customary," or words of similar import must include a definition of such terms and an explanation of such terms in its accompanying outline of coverage.

(3) Limitations on benefits, such as policy exclusions or waiting periods, shall be labeled in a separate section of the policy or placed with the benefit provisions to which they apply, rather than being included in other sections of the policy, rider, or endorsement.

NEW SECTION. Sec. 4. A medicare supplement insurance policy must provide at least the following:

(1) Coverage of Part A medicare eligible expenses for hospitalization to the extent not covered by medicare from the 61st day through 90th day in any medicare benefit period;

(2) Coverage of Part A medicare eligible expenses incurred as daily hospital charges to the extent not covered by medicare during use of medicare's lifetime hospital inpatient reserve days;

(3) Upon exhaustion of all medicare hospital inpatient coverage including the lifetime reserve days, coverage of ninety percent of all medicare Part A eligible expenses for hospitalization not covered by medicare subject to a lifetime maximum benefit of an additional 365 days;

(4) Coverage of twenty percent of the amount of medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket deductible of two hundred dollars of such expenses and to a maximum benefit of at least five thousand dollars per calendar year.

NEW SECTION. Sec. 5. (1) The insurance commissioner may issue reasonable rules that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unfair, unjust, or unfairly discriminatory to any person insured or proposed for coverage under a medicare supplement insurance policy.

(2) No medicare supplement insurance policy may use waivers to exclude, limit, or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions.

NEW SECTION. Sec. 6. A medicare supplement insurance policy may not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

NEW SECTION. Sec. 7. A medicare supplement insurance policy must provide that benefits designed to cover cost-sharing amounts under medicare will be changed automatically to coincide with any changes in the applicable medicare deductible amount and copayment percentage factors. Premiums may be modified to correspond with such changes.

NEW SECTION. Sec. 8. "Benefit period" or "medicare benefit period" may not be defined more restrictively than as defined in the medicare program.

NEW SECTION. Sec. 9. A medicare supplement insurance policy may not provide that the policy may be cancelled or nonrenewed by the insurer solely on the grounds of deterioration of health.

NEW SECTION. Sec. 10. (1) Commencing with reports for the accounting periods beginning on or after January 1, 1982, medicare supplement insurance policies shall be expected to return to policyholders in the form of aggregate loss ratio under the policy:

(a) At least seventy-five percent of the earned premiums in the case of group policies; and

(b) At least sixty percent of the earned premiums in the case of individual policies.

(2) For the purpose of this section, medicare supplement insurance policies issued as a result of solicitation of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be treated as individual policies.

(3) By January 1, 1982, the insurance commissioner shall adopt rules sufficient to accomplish the provisions of this section and may, by such rules, impose more stringent or appropriate loss ratio requirements when it is found that sales practices exist which warrant those requirements.

NEW SECTION. Sec. 11. (1) An agent, insurer, health care service contractor or health maintenance organization initiating a sale of an individual or group medicare supplement insurance policy in this state shall complete and sign a disclosure form, in a form prescribed by the insurance commissioner, and deliver the completed form to the potential policyholder not later than the time of application for the policy.

(2) If a medicare supplement insurance policy or certificate is issued on a basis which would require revision of the outline of coverage delivered at the time of application, a substitute outline of coverage properly describing the policy or certificate actually issued must accompany the policy or certificate when it is delivered and contain the following statement, in no less than twelve-point type, immediately above the company name: "NOTICE. Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued."

NEW SECTION. Sec. 12. Every individual medicare supplement insurance policy issued after January 1, 1982, and every certificate issued pursuant to a group medicare supplement policy after January 1, 1982, shall have prominently displayed on the first page of the policy form a notice stating in substance that the person to whom the policy is issued shall be permitted to return the policy within thirty days of its delivery to the purchaser and to have the premium refunded if, after examination of the policy, the purchaser is not satisfied with it for any reason. If a policyholder or purchaser, pursuant to such notice, returns the policy to the insurer at its home or branch office or to the agent through whom it was purchased, it shall be void from the beginning and the parties shall be in the same position as if no policy had been issued.

NEW SECTION. Sec. 13. (1) Effective January 1, 1982, no medicare supplement insurance policy which excludes coverage for preexisting conditions which appeared more than one hundred eighty days prior to the effective date of the policy may be sold or offered for sale in this state.

(2) Effective January 1, 1982, no medicare supplement insurance policy may be sold or offered for sale in this state which excludes coverage for preexisting conditions for a period of more than one hundred eighty days into the term of the policy.

(3) If a medicare supplement insurance policy contains any limitations with respect to preexisting conditions, such limitations must appear as a separate paragraph of the policy and be labeled as "Preexisting Condition Limitations."

NEW SECTION. Sec. 14. Any time that completion of a medical history of a patient is required in order for an application for a medicare supplement insurance policy to be accepted, that medical history must be completed by the applicant, a relative of the applicant, a legal guardian of the applicant, or a physician.

NEW SECTION. Sec. 15. Commencing with reports for accounting periods beginning on or after January 1, 1982, insurers, health care service contractors, health maintenance organizations, and fraternal benefit societies shall, for reporting and recordkeeping purposes, separate data concerning medicare supplement insurance policies and contracts from data concerning other disability insurance policies and contracts.

NEW SECTION. Sec. 16. In any case where the provisions of this chapter conflict with provisions of the "Health Insurance For The Aged Act," Title XVIII of the Social Security Amendments of 1965, or any amendments thereto or regulations promulgated thereunder, regarding any contract between the secretary of health and human services and a health maintenance organization, the provisions of the "Health Insurance For The Aged Act" shall supersede and be paramount.

NEW SECTION. Sec. 17. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 18. Sections 1 through 17 of this act shall constitute a new chapter in Title 48 RCW.

NEW SECTION. Sec. 19. This act shall take effect January 1, 1982.

Passed the House April 2, 1981.
Passed the Senate April 21, 1981.
Approved by the Governor May 14, 1981.
Filed in Office of Secretary of State May 14, 1981.