



CALIFORNIA HEALTH ADVOCATES

Supplementing Medicare: Your Rights to Purchase a Medigap Policy

This fact sheet describes your rights to purchase a Medigap plan during Open Enrollment and Guaranteed Issue periods. A Medigap plan (Medicare Supplement insurance) is a way to supplement the benefits of the Original Medicare program. For more information about Medigap policies, please see our fact sheet “Supplementing Medicare: Medigap Plans” at cahealthadvocates.org.

If you already have a Medicare Advantage plan, or a retiree plan, or if you have full Medi-Cal benefits, you do not need to buy a Medigap policy.

If you have health coverage before becoming eligible for Medicare, you will need to notify the plan administrator that you are eligible for Medicare to learn about changes in your benefits. For example, if you have a qualified health plan from Covered California, or health coverage through COBRA, your benefits will change when you become eligible for Medicare.

Note: If you have permanent kidney failure, also known as End Stage Renal Disease or ESRD, **AND you are younger than 65, none of the rights described in this fact sheet apply to you.** See our fact sheet “Medicare and People with End Stage Renal Disease.”

If you are relatively healthy, you may be able to buy a Medigap policy at any time as long as you can pass a company’s health screening. Health screening means answering questions about your health as a part of the application for coverage. Each company has different health screening standards to decide what health conditions they will accept. Some companies’ health screening is very strict others are fairly minimal. Guaranteed Issue and Open Enrollment periods give you a right to buy a Medigap policy when a company could

otherwise refuse to sell you one due to a pre-existing health condition or your age. (The provision in the Affordable Care Act prohibiting insurance companies from discriminating against applicants with pre-existing conditions does not apply to Medigap policies.) Knowing about these Guaranteed Issue and Open Enrollment periods is important if you’d like to supplement your Original Medicare benefits with a Medigap policy and you would otherwise be turned down for coverage.

Insurance companies are not required to sell Medigap policies, but if a company chooses to sell Medigap policies, it must sell Plan A and Plan C or F. Some companies choose to sell only a few Medigap plans, while others sell all 10 of the standardized plans plus one plan with a high deductible. Your choices in any of the events described in this fact sheet will be limited to those Medigap plans each company is selling where you live.

Note: The options described here apply when there are no complicating factors to be considered. If you have a situation that involves something not included in one of these descriptions, please contact your local HICAP for individual assistance. See HICAP info at the end of this Fact Sheet.

A. Open Enrollment

Open Enrollment period at 65 years of age and older

Open enrollment means that companies selling Medigap policies must sell you a plan regardless of your health and at the best price for your age. When you are 65 years old or older and signing up for Part B, you have 6 months to purchase any Medigap policy at the lowest price for your age, even if you have or recently had health problems, including ESRD.

Your 6-month Open Enrollment period for a Medigap policy starts on the date your Medicare Part B becomes effective. However, you can apply for a Medigap policy before the effective date of your Medicare Part B and request that the policy begin on the same date your Medicare benefits begin to avoid a gap in coverage.

If you already have a Medigap policy when you're turning 65 and want to keep it, you can ask for a lower premium. For instance, if you became eligible for Medicare due to a disability and bought a Medigap policy, when you turn 65, you get the 6-month Open Enrollment period starting the month of your 65th birthday. Contact your current company to let them know you are 65 and ask them to lower your premium. Or you can take advantage of this new right to get another Medigap from a different company that is more suitable for your needs.

In California, regardless of your age, if you were covered by an employer group health plan and thus delayed enrollment in Medicare Part B, you also have a 6-month Open Enrollment period when you enroll in Part B later. Your Open Enrollment period begins on the effective date of your Part B coverage.

Note: If you also delayed enrollment in Medicare Part D, you have only 63 days to enroll in a Medicare Part D plan.

Open Enrollment period at ages younger than 65 years

In California, if you are younger than 65 and have Medicare because of a disability (but not ESRD), you have a 6-month Open Enrollment period beginning on the effective date of your Medicare Part B. If you are notified retroactively of your eligibility for Medicare, then your Open Enrollment period begins from the date of the notice you receive from Social Security of your right to Medicare benefits.

During an Open Enrollment period, you have the right to purchase Medigap plans A, B, C, or F from any company selling those plans. You can also choose from plans K or L, or from M or N, if the company sells those plans, but the company

has the right to decide which plan in each of these two sets of plans it will sell you.

To avoid a gap in coverage, you can request that the Medigap policy become effective the same date as your Medicare benefits.

Note: Because companies have no restrictions on setting premiums, they can charge you a higher premium because of your health status and age than the premiums they charge someone who is 65 years old or older.

Waiting period

In certain situations companies are allowed to impose a waiting period of up to 6 months for any health condition you had that was treated or diagnosed within 6 months before the date your Medigap coverage will begin. However, if you had any health coverage, including Medicare or Medi-Cal, before purchasing a Medigap plan, the company must subtract those months of coverage from the waiting period.

For example, if you had coverage for only 3 months prior to purchasing a Medigap plan, the company must subtract 3 months from any waiting period that applies. If you had health coverage for at least 6 months before purchasing a Medigap, plan companies cannot impose a waiting period. You may be asked to provide evidence of your prior coverage such as your previous health insurance card.

Other Open Enrollment rights

In California, in addition to the Open Enrollment periods described above, you also have the right to purchase a Medigap policy for 6 months following the events described below. In these situations, you do not have to answer any health questions that may be on an application to get a Medigap policy, and a company cannot reject your application if you don't answer them.

Event 1. When you have employer-sponsored group health coverage through your own, your spouse's, or a family member's current employment or retirement plan, or COBRA coverage, and the plan ends, OR you lose your eligibility to continue benefits due to divorce or the death of a

spouse or other family member. The 6-month period to apply for a Medigap policy starts on the date that you receive the notice that your health benefits will end. If you don't receive a notice in advance, then the 6-month period starts the date the benefits actually end, or the date of your first denied claim. This protection of California law applies regardless of whether your group health benefits were primary benefits or secondary to Medicare.

Note: You are also entitled to this protection when you become eligible for COBRA or have used up all your COBRA benefits. COBRA benefits are always secondary to Medicare benefits unless you have ESRD and are in a 30-month coordination period. For more information on COBRA, see our fact sheet "Medicare and Other Health Insurance Coverage," and for more information about ESRD, see our fact sheet "Medicare and People with ESRD."

Event 2. When you move out of the geographic area served by your Medigap plan. For instance, if you have a Medigap you bought while living in another state that will not cover you in this state, you have 6 months to replace that policy without health screening.

Event 3. When your health care coverage ends because of a military base closure, or because a military base no longer offers health care services, you move away from the base, or you are no longer eligible to receive health care services at that base.

Event 4. When you lose your eligibility for Medi-Cal benefits because of an increase in your income or assets, or you are required to pay a Share of Cost before Medi-Cal will pay for your care.

Note: For the 4 events mentioned above, your choice of Medigap plans depends on your age. If you are 65 years old or older, you can choose from all of the Medigap plans that are available for sale from any company in your geographical area. If you are younger than 65 years old (and you do not have ESRD), you can choose A, B, C, or F. You can also choose K or L, or M or N, if the company sells those plans, but the

company has the right to decide which plan in each of these two sets of plans it will sell you.

B. Guaranteed Issue

Guaranteed issue rights mean that companies selling Medigap policies must sell you one of the required plans without health screening, without a waiting period due to pre-existing conditions, and at the best price for your age. You do not have to answer any health questions that may be on an application to get a guaranteed issued Medigap policy and a company cannot reject your application for failure to answer health questions.

In general, the time period in which you can choose another policy is shorter than during an Open Enrollment period, and you may have fewer choices. Not all insurance companies sell all 10 Medigap plans and the one high deductible option.

Following the events described below, people with Medicare are guaranteed the right to buy certain Medigap policies. You can usually apply for one of these guaranteed issued Medigaps as early as 60 days *before* your coverage will end to avoid any lapse in coverage. In most cases, you only have 63 days to apply for one of these Medigaps *after* your health care coverage ends as a result of one of these events. You must usually also provide a letter or other evidence showing the date that your other coverage will end or has ended when you submit your application.

The events described below apply to Medicare beneficiaries of all ages, *except those younger than 65 with ESRD who don't have any of these rights*. For most of the events listed below, the Medigap plans you are guaranteed the right to buy are plans A, B, C, F (including F with a high deductible), K, L, M, or N from any company that sells one of these plans.

Event 1. When your employer-sponsored retiree health plan supplementing Medicare involuntarily terminates. This federal law applies a limited right to employer-sponsored retiree plans, including COBRA coverage.

However, it applies only when those health benefits acted as a supplement to Medicare. It does not apply if your health plan provided primary health benefits. This right also does NOT apply if you stop paying your premium for the COBRA coverage because the premiums became too expensive. California law, discussed above in Event 1 under “Other Open Enrollment Rights” of this fact sheet, is broader and provides more protection in this situation.

Event 2. When your employer-sponsored retiree health plan supplementing Medicare reduces benefits, you lose your eligibility for continued coverage, or your plan no longer pays the Part B 20% coinsurance. This law applies when your retiree plan stops providing supplemental benefits to Medicare, but continues providing other benefits.

Event 3. When your Medicare Advantage (MA) plan increases your premium, increases your cost-sharing, reduces your benefits, or terminates its relationship with a medical provider who is treating you. You have the right to buy a Medigap plan from the same MA organization in which you are enrolled, if it sells one, or from the parent company or network that contracts with the MA plan. (MA plans are health plans that provide Medicare-covered services and are available to Medicare beneficiaries through commercial companies. See our fact sheet “Medicare Advantage (Medicare Part C): An Overview.”) **If the MA organization providing your MA plan doesn’t sell a Medigap policy, you still have the right to buy a Medigap from any other company IF your MA plan increased your premium or your copayments by 15% or more, reduced your benefits, or terminated its relationship with your medical provider who was treating you.**

The guaranteed issue right to buy a Medigap may or may not coincide with a period that allows you to disenroll from an MA plan. For instance, an MA plan can discontinue its contract with a provider anytime during the year. Medicare may grant a Special Election Period that allows members to disenroll from the plan when an MA plan makes significant changes in

its provider network during the plan year. However, if a Special Election Period is not granted, members cannot disenroll from the MA plan even though they have a guaranteed right to buy a Medigap.

MA plans are allowed to reduce benefits or increase premium or cost-sharing for the new plan year but not during the current plan year. In this situation, a beneficiary may disenroll during the Annual Election Period (AEP) – October 15 to December 7 – and use the guaranteed issue period to buy a Medigap.

You can purchase one of the guaranteed issue Medigap policies, beginning on the date you are notified of any reduction of benefits or increase in premium or cost-sharing or termination of a relationship with your provider and no later than 63 days after those benefits end.

Event 4. When you move out of the service area of your Medicare Advantage plan or Program for All-Inclusive Care for the Elderly (PACE) organization. You have the right to buy a Medigap policy even when Medicare Advantage plans are available in your new location.

Event 5. When your Medicare Advantage plan, Medicare SELECT* Medigap Plan, PACE provider, or any other health plan under contract with Medicare commits fraud, ends or loses their contract with Medicare, or misrepresents the contract you bought. You have the right to buy a Medigap policy IF the federal government determines that the company failed to meet its contractual obligations to Medicare beneficiaries.

***Note:** Medicare SELECT plans were a hybrid Medigap policy combined with a Preferred Provider Organization (PPO) that encouraged its member to use its network of providers for covered services.

Event 6. Medicare Trial Period #1, at age 65: When you become eligible for Medicare Part A at age 65 AND you enroll in a Medicare Advantage plan or with a Program for All-Inclusive Care for the Elderly (PACE)

organization for the first time. If you disenroll from the MA or PACE plan within the first 12 months, you can choose from any Medigap policy that is available for sale. You can apply 60 days before your coverage will end and not later than 63 days after it ends.

Note: This event only applies at age 65, and does not apply if you delay Part B and apply later.

Event 7. Medicare Trial Period #2, for people with a Medigap policy: When you give up a Medigap plan to enroll in any of the following for the very first time: Medicare Advantage plan, any PACE organization, a Medicare SELECT Medigap plan, or any other health care organization contracting with Medicare to provide Medicare-covered services. If you disenroll within the first 12 months, you have the option to return to your previous Medigap plan, if it is still available. If it is not available, you can choose from plans A, B, C, F, K, L, M or N from your current insurance company or from another company.

Also note: You do NOT have a guaranteed issue right if you have previously been enrolled in a plan that contracted with Medicare even if you went back to Original Medicare later. You only have this right if your situation matches exactly one of the two Medicare Trial Periods described in Events 6 and 7 of this fact sheet.

C. Other Guaranteed Issue or Open Enrollment Periods Under California Law

Below are listed more events that are specific to California law and allow for additional enrollment periods. Each of these events has a different time limit to exercise your rights.

Event 1. When your Medicare Advantage plan leaves your geographic area. This applies when your Medicare Advantage plan leaves the area or the zip code where you live. You have the right to apply for Medigap plans A, B, C, F (including the high deductible option), K, L, M or N. You can apply anytime after the

Medicare Advantage plan first notifies you that they are leaving. You have up to 123 days after your Medicare Advantage plan benefits actually end to apply for a guaranteed issue Medigap policy.

Event 2. If you already have a Medigap policy, each year on your birthday, you can decide to replace your current policy with one that has the same or fewer benefits. You have 30 days to choose another plan from the same company or any other company selling Medigap policies, but you are limited to one that has the same or fewer benefits than the plan you already have. For example, if you already have Plan C, you can switch to any other Plan C, from the same or a different company. Companies are permitted to offer you a plan with more benefits if they choose, but they are not required to do so. You do NOT have this right unless you already have a Medigap policy on your birthday.

Note: If you have a Medigap policy with benefits that are different from the policies that are currently available, you will need individual assistance to discover which current Medigap plans have the same or fewer benefits. Please contact your local HICAP.

D. Medi-Cal (California's Medicaid Program) and Medigap Policies

If you have full Medi-Cal benefits, you do not need a Medigap policy, and it is illegal for companies to sell you one. However, there are a few exceptions: You may get a Medigap policy if you have Medi-Cal with a share of cost; or Medi-Cal only pays your Medicare Part B premium and you are not eligible for full Medi-Cal benefits (e.g. if you are in the Specified Low Income Beneficiary or Qualified Individual program).

Note: If you have been notified you have a share of cost and want to buy a Medigap policy, you have 6 months to apply for it, and you must submit the application before you have met your share of cost for that month.

If you already own a Medigap policy and then become eligible for Medi-Cal, you are allowed to keep it if you want to use it with medical providers who don't take Medi-Cal. Or you can notify the insurance company that you want to place your Medigap benefits on "hold" for up to 24 months and stop paying premiums. If you lose Medi-Cal before the end of this 24-month period, you can reinstate your previous Medigap policy. In that case, you must notify the company within 90 days of losing your Medi-Cal benefits to get your policy reinstated or, if it is no longer available, you can get another one like it. You can only be charged a premium from the date your Medigap benefits are reinstated or the effective date of a new policy. For more information, see our fact sheets "Low Income Assistance: Medi-Cal" and "Low Income Assistance: Medicare Savings Programs."

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This fact sheet contains general information and should not be relied upon to make individual decisions. In some situations you may have more than one right that applies at the same time.

If you would like to discuss your specific situation and choices, call the Health Insurance Counseling and Advocacy Program (HICAP). HICAP provides free and objective information and counseling on Medicare and can help you understand your specific rights and health care options. You can call **1-800-434-0222** to make an appointment at the HICAP office nearest you.

Note: Online access to all CHA fact sheets on Medicare and related topics is available for an annual subscription. See cahealthadvocates.org/facts.html.