

Chapter 495

(House Bill 536)

AN ACT concerning

Maryland Insurance Commissioner – Authority – Federal Health Emergency

FOR the purpose of requiring the Maryland Insurance Commissioner to adopt regulations that may be applied when a certain national or public health emergency, that within the Commissioner's discretion affects the State, is issued by the President of the United States or the Secretary of Health and Human Services; requiring that, for a certain period of time after the termination of a national or public health emergency due to the COVID-19 pandemic, a carrier that issues Medicare supplement policies establish a special enrollment period for individuals enrolled in Medicare Part B and the Maryland Medical Assistance Program who remain in the Program due to a suspension of terminations by the Program during the state of emergency and are not disenrolled until a certain period of time following the effective date of enrollment in Medicare Part B; and generally relating to the authority of the Maryland Insurance Commissioner during a federal health emergency.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 2-115

Annotated Code of Maryland

(2017 Replacement Volume and 2021 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Insurance

2-115.

(a) The Commissioner shall adopt regulations that may be applied when:

(1) the Governor has declared a state of emergency for the State or an area within the State under § 14-107 of the Public Safety Article; [or]

(2) the President of the United States has issued a major disaster or emergency declaration for the State or an area within the State under the federal Stafford Act; **OR**

(3) A NATIONAL OR PUBLIC HEALTH EMERGENCY, THAT WITHIN THE COMMISSIONER'S DISCRETION AFFECTS THE STATE;

(I) IS ISSUED:

~~(H)~~ **1. BY THE PRESIDENT OF THE UNITED STATES UNDER § 201, § 202(D), OR § 301 OF THE FEDERAL NATIONAL EMERGENCIES ACT; OR**

~~(H)~~ **2. BY THE SECRETARY OF HEALTH AND HUMAN SERVICES UNDER THE FEDERAL PUBLIC HEALTH SERVICE ACT; AND**

(II) IS BASED ON A SERIOUS THREAT TO HEALTH RESULTING FROM THE EXISTENCE OF A DEADLY AGENT AS DEFINED IN § 14-3A-01 OF THE PUBLIC SAFETY ARTICLE.

(b) The regulations may:

(1) apply to any person regulated by the Commissioner under this article or Title 19, Subtitle 7 of the Health – General Article; and

(2) address:

(i) submission of claims or proof of loss;

(ii) grace periods for payment of premiums and performance of other duties by insureds;

(iii) temporary postponement of cancellations, nonrenewals, premium increases, or policy modifications;

(iv) procedures for obtaining nonelective health care services;

(v) time restrictions for filling or refilling prescription drugs;

(vi) time frames applicable to an action by the Commissioner under this article; and

(vii) any other activity necessary to protect the residents of the State.

(c) (1) To activate a regulation adopted under this section, the Commissioner shall issue a bulletin specifying:

(i) that the regulation is activated;

(ii) the line or lines of business to which the regulation applies;

(iii) the geographic areas to which the regulation applies; and

(iv) the period of time for which the regulation applies.

(2) (I) **[A] EXCEPT AS PROVIDED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH,** A regulation activated under paragraph (1) of this subsection may not apply beyond the duration of, or the geographical area included within, the Governor's or President's declaration of a state of emergency or disaster.

(II) A REGULATION ACTIVATED UNDER PARAGRAPH (1) OF THIS SUBSECTION IN RESPONSE TO A NATIONAL OR PUBLIC HEALTH EMERGENCY DESCRIBED IN SUBSECTION (A)(3) OF THIS SECTION MAY NOT APPLY BEYOND THE DURATION OF THE PRESIDENT'S OR SECRETARY OF HEALTH AND HUMAN SERVICES' DECLARATION OF A NATIONAL OR PUBLIC HEALTH EMERGENCY.

(3) The Commissioner:

(i) shall provide a copy of the bulletin to the emergency contact designated by the person subject to the bulletin; and

(ii) may post a copy of the bulletin on the Administration's Web site.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) This section:

(1) prevails over any inconsistent provisions of COMAR 31.10.06.09-1; and

(2) shall apply to any individual Medicare supplement policy and to any group Medicare supplement policy issued to a group of which an individual has privileges associated with group membership.

(b) The definitions in § 15-901 of the Insurance Article shall apply to this section.

(c) A carrier that issues Medicare supplement policies in the State shall issue any Medicare supplement policy the carrier sells in the State to an individual eligible for Medicare if the individual:

(1) is enrolled in Medicare Part B while enrolled in the Maryland Medical Assistance Program;

(2) remained in the Maryland Medical Assistance Program due to a suspension of terminations by the Maryland Medical Assistance Program during a state of emergency and was not disenrolled or terminated until at least 6 months following the effective date of enrollment in Medicare Part B;

(3) applies for the Medicare supplement policy during the 63–day period following the later of notice of termination or disenrollment or the date of termination from the Maryland Medical Assistance Program; and

(4) submits evidence of the date of termination or disenrollment from the Maryland Medical Assistance Program with the application for a Medicare supplement policy.

(d) With respect to an individual described in this section, a carrier may not:

(1) deny or place a condition on the issuance or effectiveness of a Medicare supplement policy that is offered and is available for issuance to new enrollees by the carrier;

(2) discriminate in the pricing of a Medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition; or

(3) impose an exclusion of benefits based on a preexisting condition under a Medicare supplement policy.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted. Section 2 of this Act shall remain effective until 1 year after the termination of the national emergency declared by the President of the United States under § 201, § 202(d), or § 301 of the federal National Emergencies Act or the termination of the public health emergency declared by the federal Department of Health and Human Services under the federal Public Health Service Act due to the COVID–19 pandemic, whichever is later, and, at that time, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 29, 2022.