

# SENATE BILL 84

C3

EMERGENCY BILL  
**ENROLLED BILL**

(9lr0040)

—*Finance/Health and Government Operations*—

Introduced by **Chair, Finance Committee (By Request - Departmental - Insurance Administration, Maryland)**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~Medicare Supplement Plan A Policies - Individuals with a Disability - Rates~~  
3 **Health Insurance - Medicare Coverage and Continuation Coverage -**  
4 **Provisions That Relate to Federal Laws and Programs**

5 FOR the purpose of requiring a carrier that issues health benefit plans to small  
6 employers in accordance with certain provisions of law to allow an individual an  
7 extended election period for certain continuation coverage under certain  
8 circumstances; requiring the extended election period to continue for a certain  
9 period of time under certain circumstances; providing for the beginning and end  
10 of the continuation coverage; altering the minimum benefits a Medicare  
11 supplement policy must provide; requiring a carrier, under certain  
12 circumstances, to make available a Medicare supplement policy plan A to an  
13 individual who is eligible for Medicare due to a disability; prohibiting a carrier

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics* indicate opposite chamber committee amendments.

***Bold italics*** indicate conference committee amendments.



1 from charging individuals who, regardless of age, are eligible for Medicare due  
 2 to a disability a higher rate for a Medicare supplement policy plan A than the  
 3 rate charged by the carrier to certain individuals who are eligible for Medicare  
 4 due to age; prohibiting a carrier from taking certain actions relating to a  
 5 Medicare supplement policy plan A for certain reasons if an individual applies  
 6 for the policy plan within a certain time period; applying certain provisions of  
 7 this Act to health maintenance organizations; defining certain terms; making  
 8 this Act an emergency measure; and generally relating to Medicare supplement  
 9 ~~plan A~~ policies and continuation coverage under health insurance.

10 BY adding to

11 Article – Health – General

12 Section 19–706(ttt)

13 Annotated Code of Maryland

14 (2005 Replacement Volume and 2008 Supplement)

15 BY adding to

16 Article – Insurance

17 Section 15–409.1

18 Annotated Code of Maryland

19 (2006 Replacement Volume and 2008 Supplement)

20 BY repealing and reenacting, with amendments,

21 Article – Insurance

22 Section 15–906(a) and 15–909(b)

23 Annotated Code of Maryland

24 (2006 Replacement Volume and 2008 Supplement)

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

27 Article – Health – General

28 19–706.

29 (TTT) THE PROVISIONS OF § 15–409.1 OF THE INSURANCE ARTICLE APPLY  
 30 TO HEALTH MAINTENANCE ORGANIZATIONS.

31 **Article – Insurance**

32 15–409.1.

33 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
 34 MEANINGS INDICATED.

1           (2) “ACT” MEANS THE FEDERAL AMERICAN RECOVERY AND  
2 REINVESTMENT ACT OF 2009 (P.L. 111-5).

3           (3) “CARRIER” MEANS:

4                   (I) AN INSURER;

5                   (II) A NONPROFIT HEALTH SERVICE PLAN; OR

6                   (III) A HEALTH MAINTENANCE ORGANIZATION.

7           (4) “SMALL EMPLOYER” HAS THE MEANING STATED IN § 15-1201  
8 OF THIS TITLE.

9           (B) THIS SECTION APPLIES TO A CARRIER THAT ISSUES HEALTH  
10 BENEFIT PLANS TO SMALL EMPLOYERS IN ACCORDANCE WITH SUBTITLE 12 OF  
11 THIS TITLE.

12           (C) A CARRIER SHALL ALLOW AN EXTENDED ELECTION PERIOD FOR  
13 CONTINUATION COVERAGE UNDER § 15-409 OF THIS SUBTITLE IF THE  
14 INDIVIDUAL:

15                   (1) WAS INVOLUNTARILY TERMINATED FROM EMPLOYMENT BY A  
16 SMALL EMPLOYER BETWEEN SEPTEMBER 1, 2008, AND FEBRUARY 16, 2009,  
17 INCLUSIVE, AS DESCRIBED IN § 3001(A)(3)(C) OF THE ACT;

18                   (2) IS AN ASSISTANCE ELIGIBLE INDIVIDUAL, AS DEFINED IN §  
19 3001(A)(3) OF THE ACT, OR WOULD BE AN ASSISTANCE ELIGIBLE INDIVIDUAL IF  
20 AN ELECTION OF CONTINUATION COVERAGE UNDER § 15-409 OF THIS SUBTITLE  
21 WAS IN EFFECT ON THE DATE OF ENACTMENT OF THE ACT; AND

22                   (3) WAS ELIGIBLE FOR CONTINUATION COVERAGE UNDER §  
23 15-409 OF THIS SUBTITLE AT THE TIME OF THE INDIVIDUAL’S TERMINATION OF  
24 EMPLOYMENT.

25           (D) THE EXTENDED ELECTION PERIOD PROVIDED UNDER THIS SECTION  
26 SHALL CONTINUE UNTIL 60 DAYS AFTER PROVISION OF THE NOTIFICATION  
27 REQUIRED BY § 3001(A)(7)(C) OF THE ACT IF THE NOTIFICATION DESCRIBES  
28 THE EXTENDED ELECTION PERIOD REQUIRED UNDER THIS SECTION.

29           (E) ANY CONTINUATION COVERAGE ELECTED BY AN INDIVIDUAL  
30 DURING AN EXTENDED ELECTION PERIOD UNDER THIS SECTION:

1           (1) SHALL BEGIN DURING THE FIRST PERIOD OF COVERAGE  
2 BEGINNING ON OR AFTER THE INDIVIDUAL'S ELECTION OF CONTINUATION  
3 COVERAGE; AND

4           (2) MAY NOT EXTEND BEYOND THE PERIOD OF CONTINUATION  
5 COVERAGE THAT WOULD HAVE BEEN REQUIRED UNDER § 15-409 OF THIS  
6 SUBTITLE IF THE COVERAGE HAD BEEN ELECTED AS REQUIRED UNDER THAT  
7 SECTION.

8 15-906.

9           (a) [At a minimum, a] A Medicare supplement policy shall provide THE  
10 MINIMUM BENEFITS REQUIRED BY FEDERAL LAW. [:

11           (1) to the extent not covered by Medicare, coverage of Medicare Part A  
12 eligible expenses for hospitalization from the 61st day through the 90th day of a  
13 Medicare benefit period;

14           (2) to the extent not covered by Medicare, coverage of Medicare Part A  
15 eligible expenses incurred as daily hospital charges during use of Medicare's lifetime  
16 hospital inpatient reserve days;

17           (3) after all Medicare hospital inpatient coverage is exhausted,  
18 including lifetime reserve days, subject to the lifetime maximum benefit of an  
19 additional 365 days, coverage of all Medicare Part A eligible expenses for  
20 hospitalization not covered by Medicare paid at the rate of the diagnostic related group  
21 (DRG) day outlier per diem or, if applicable, the per diem approved by the Health  
22 Services Cost Review Commission;

23           (4) coverage for the coinsurance amount of Medicare eligible expenses  
24 under Medicare Part B regardless of hospital confinement;

25           (5) unless replaced in accordance with federal regulations or already  
26 paid for under Medicare Part B, coverage under Medicare Part A for the reasonable  
27 cost in a calendar year of the first 3 pints of blood or, as defined by federal regulations,  
28 equivalent quantities of packed red blood cells; and

29           (6) unless replaced in accordance with federal regulations or already  
30 paid for under Medicare Part A and subject to the Medicare Part B deductible amount,  
31 coverage under Medicare Part B for the reasonable cost in a calendar year of the first 3  
32 pints of blood or, as defined by federal regulations, equivalent quantities of packed red  
33 blood cells.]

34 15-909.

1 (b) (1) If an application for a Medicare supplement policy or certificate is  
2 submitted during the 6-month period beginning with the first month in which an  
3 individual who is at least 65 years old first enrolls for benefits under Medicare Part B,  
4 a carrier:

5 (i) may not deny or condition the issuance or effectiveness of  
6 the Medicare supplement policy or certificate or discriminate in the pricing of the  
7 Medicare supplement policy or certificate because of the health status, claims  
8 experience, receipt of health care, or medical condition of the applicant; or

9 (ii) may not deny, reduce, or condition coverage or apply an  
10 increased premium rating to an applicant for a Medicare supplement policy because of  
11 the health status, claims experience, or medical condition of the applicant or the use of  
12 medical care by the applicant.

13 (2) Notwithstanding paragraph (1)(ii) of this subsection, a carrier may  
14 include in a Medicare supplement policy a provision that complies with subsection (d)  
15 of this section.

16 (3) (i) A carrier shall make available [both a Medicare supplement  
17 policy plan C and a Medicare supplement policy plan I] **MEDICARE SUPPLEMENT**  
18 **POLICY PLANS A, C, AND I** to an individual who is under the age of 65 years but is  
19 eligible for Medicare due to a disability, if an application for a Medicare supplement  
20 policy or certificate is submitted:

21 1. during the 6-month period following the applicant's  
22 enrollment in Part B of Medicare; or

23 2. for an individual terminated from the Maryland  
24 Health Insurance Plan as a result of enrollment in Part B of Medicare, during the  
25 6-month period after the individual's termination.

26 (ii) For a Medicare supplement policy plan [C or a Medicare  
27 supplement policy plan I] **A, C, OR I** required to be made available under  
28 subparagraph (i) of this paragraph, a carrier:

29 1. may not deny or condition the issuance or  
30 effectiveness of a Medicare supplement policy plan [C or a Medicare supplement policy  
31 plan I] **A, C, OR I** because of the health status, claims experience, receipt of health  
32 care, or medical condition of the applicant; or

33 2. may not deny, reduce, or condition coverage to the  
34 applicant for a Medicare supplement policy plan [C or a Medicare supplement policy  
35 plan I] **A, C, OR I** because of the health status, claims experience, or medical  
36 condition of the applicant or the use of medical care by the applicant.

1                   **(III) FOR A MEDICARE SUPPLEMENT POLICY PLAN A**  
2 **REQUIRED TO BE MADE AVAILABLE UNDER SUBPARAGRAPH (I) OF THIS**  
3 **PARAGRAPH, A CARRIER MAY NOT CHARGE INDIVIDUALS WHO ARE UNDER THE**  
4 **AGE OF 65 YEARS, BUT ARE ELIGIBLE FOR MEDICARE DUE TO A DISABILITY, A**  
5 **RATE HIGHER THAN THE AVERAGE OF THE PREMIUMS PAID BY ALL**  
6 **POLICYHOLDERS AGE 65 AND OLDER IN THE STATE WHO ARE COVERED UNDER**  
7 **THAT PLAN A POLICY FORM.**

8                   (4) A carrier may elect to offer Medicare supplement policy plans to  
9 individuals who are under the age of 65 years, but eligible for Medicare due to a  
10 disability, in addition to the Medicare supplement policy [plan C and the Medicare  
11 supplement policy plan I] **PLANS A, C, AND I** that are required to be offered under  
12 paragraph (3)(i) of this subsection.

13                   (5) Nothing in paragraph (3) of this subsection may be construed to  
14 require a carrier to offer a Medicare supplement policy plan to individuals who are  
15 under the age of 65 years, but are eligible for Medicare due to a disability, if the plan  
16 is not offered to individuals who are eligible for Medicare due to age.

17                   SECTION 2. AND BE IT FURTHER ENACTED, That a carrier that did not  
18 make available a Medicare supplement policy plan A to an individual who is under the  
19 age of 65 years but was eligible for Medicare due to a disability, or charged an  
20 individual who is under the age of 65 years but was eligible for Medicare due to a  
21 disability, a rate higher than the average of the premiums paid by all policyholders  
22 age 65 and older in the State who are covered under that plan A policy form between  
23 July 1, 2008, and the effective date of this Act may not deny or condition the issuance  
24 or effectiveness of a Medicare supplement policy plan A because of health status,  
25 claims experience, or medical condition of an individual who is under the age of 65  
26 years but is eligible for Medicare due to a disability and is currently enrolled with that  
27 same carrier in a Medicare supplement policy plan C offered in the State, provided  
28 that the individual applies for a Medicare supplement policy plan A with that same  
29 carrier no later than 63 days after the policy plan C renewal date.

30                   SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency  
31 measure, is necessary for the immediate preservation of the public health or safety,  
32 has been passed by a yea and nay vote supported by three-fifths of all the members  
33 elected to each of the two Houses of the General Assembly, and shall take effect from  
34 the date it is enacted.