For File

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Bulletin No. 94-05

To: All Health Insurers Which Have Medicare Supplement Policies In-Force and/or Have Medicare Supplement Policies Approved for Sale Under 211 CMR 68.00 et.seq.

All Health Maintenance Organizations Which Have Medicare Risk or Cost Contracts

From: Linda Ruthardt, Commissioner of Insurance

Date: June 22, 1994

RE: Proposed Regulations for Medicare Supplement Insurance and Policies Issued Pursuant to Medicare Risk or Cost Contracts

On April 21 and 22, 1994, the Division held public hearings on the following proposed insurance regulations to implement M.G.L. c. 176K, commonly referred to as the Medigap reform law:

1. 211 CMR 69.00, Medicare Supplement Insurance and Evidences of Coverage Issued Pursuant to a Risk or Cost Contract -- To Facilitate the Implementation of M.G.L. c. 176K;
2. 211 CMR 121.00, Procedures Concerning Filings of Medicare Supplement Insurance Policies and Rates and the Conduct of Hearings Relating Thereto;
3. Amendments to 211 CMR 68.00, Medicare Supplement Insurance -- To Comply with the Requirements of the Omnibus Budget Reconciliation Act of 1990 as of July 30, 1992.

The Division received much public comment in response to the above proposed regulations. After consideration, the Division has decided to prepare newly revised regulations for another public hearing. At that time, the Division will welcome comment and suggestions for changes from all interested parties concerning those proposed regulations both orally at the hearing and in writing during the open comment period following the hearing, including comment on testimony offered by others during the public proceeding. The public hearing and comment process for the upcoming Medigap proposed regulations will afford interested parties the opportunity to comment fully on the issues involved in the implementation of the Medigap reform legislation through those regulations.

To allow for a smooth transition from the current regulatory scheme to that envisioned in M.G.L. c. 176K and assure that there is no cessation in the availability of Medigap and HMO products, all Medigap insurers should, on or after July 1, 1994, continue to offer, sell, issue, deliver, or otherwise make effective, or renew Medicare Supplement insurance policies under the provisions of 211 CMR 68.00 or earlier regulations, if appropriate, and Health Maintenance Organizations should do the same for evidences of coverage issued pursuant to a risk or cost contract under 211 CMR 43.00, until otherwise provided by regulations promulgated by the Division for Medigap insurers and Health Maintenance Organizations.

Further, consumers are not to be provided with information that is speculative, untrue, misleading, unfair, deceptive or otherwise misrepresents benefits and rates under the forthcoming regulations issued pursuant to M. G. L. c. 176K.

Specifically, Medigap insurers and Health Maintenance Organizations, and their agents and brokers, should be sure that they do not violate state statutes or regulations by (a) making any representations regarding what products and benefits will be available on or after the implementation date for 211 CMR 69.00 until 211 CMR 69.00 is made final; or (b) making any representations regarding what premium amounts will be charged for the offered products on or after the implementation date of 211 CMR 69.00 (including how those premiums will compare to premiums charged for products available under 211 CMR 68.00 or earlier regulations) until the above noted regulations are made final *and* any necessary approvals by the Division have been granted for the actual premiums charged. Currently, the Division anticipates that January 1, 1995 will be the date by which Medigap insurers and HMOs will have available policies and rates in accordance with the above noted regulations once those regulations are finalized.

It is expected that all insurers understand the seriousness of abiding by this bulletin and will communicate the same to all agents and brokers with whom they do business.

All questions regarding this bulletin should be addressed to Eric DuPont, Assistant General Counsel in the Office of the General Counsel. His direct phone number is 617-521-7368.