



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 is a way to supplement the benefits of the Original Medicare program. If you already have other health care benefits, such as 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. For more information about Medigap policies, please see our fact sheet “Supplementing Medicare: Medigap Plans” at cahealthadvocates.org.

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

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. If you are relatively healthy, you may be able to buy a Medigap policy at any time as long as you pass a company’s health screening. Each company has different health screening requirements. Some companies’ health screening is extensive, some fairly minimal and others may even sell you a policy without health screening, unless you have ESRD.

In any case, knowing your Guaranteed Issue and Open Enrollment periods is important if you’d like to supplement your Medicare with a Medigap policy.

Insurance companies are not required to sell Medigap policies. If a company chooses to sell Medigap policies the only plan they are required to sell is Plan A. Some companies choose to sell

only a few Medigap plans, while others sell all twelve of the standardized plans. Your choices in any of the events described in this fact sheet will be limited to those Medigap plans each company serving your geographic area has available for sale.

A. Open Enrollment

Open Enrollment period at 65 years of age and older

Open enrollment means that companies selling Medigap policies must sell you one of the required plans without health screening and at the best price for your age. When you are 65-years-old or older and are eligible for Medicare, you have a six-month period during which you can purchase any Medigap policy at the lowest price for your age, even if you have or recently had health problems.

Your six-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 begins to avoid a gap in coverage.

If you became eligible for Medicare when you were younger, you are also entitled to this six-month Open Enrollment period on your 65th birthday. If you already have a Medigap policy, you can keep it and get a lower premium because you are 65, or you can take advantage of this right to get another Medigap more suitable to your needs from another company. Contact your current company to let them know that you are 65 years old and to have them lower your premium.

In California, if you were covered by an employer group health plan and you delayed enrollment in

Medicare Part B because you or your spouse were actively employed, you also have a six-month Open Enrollment period. When you enroll in Medicare Part B, this 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 that part of Medicare.

Open Enrollment period at ages younger than 65 years

In California, if you are younger than 65 and have Medicare because of a disability (not ESRD), you have Open Enrollment rights for six months after 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 the Open Enrollment period, you have the right to purchase Medigap plans A, B, C, or F. You can also choose from H, I, or J, or K or L, at the option of the insurance company if they sell those plans.

To avoid a gap in coverage, you may request that the Medigap policy become effective the same date as your Medicare benefits, or as soon after as is practical.

Note: Because companies have no restrictions on the premiums they can charge, they can charge you a higher premium than someone who is 65 or even older than 65.

Waiting period

Open enrollment rights mean that companies selling Medigap policies must sell you one of the required plans without medical underwriting or health screening. However, companies may impose a waiting period of up to six-months for any pre-existing health condition you may have. But if you had any health coverage prior to purchasing a Medigap plan, the company must subtract those months from the waiting period.

For example, if you had coverage for only three months prior to purchasing a Medigap plan, the company must subtract three months from any waiting period that applies. A waiting period is

limited to six months. Thus, if you had health coverage for six or more months prior to purchasing a Medigap plan, the company cannot impose any waiting period for pre-existing conditions.

Other Open Enrollment rights

In California, in addition to the Open Enrollment period following the effective date of your Medicare Part B, you also have the right to purchase a Medigap policy for six months following the events described below.

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, and the plan terminates, OR you lose your eligibility to continue benefits due to divorce or the death of a spouse or other family member. The six-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 do not receive a notice in advance, then the six-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 or secondary to Medicare.

Note: You are also entitled to this protection when you have used up all the COBRA benefits to which you are entitled. It does NOT apply if you stop paying COBRA premiums before you have exhausted all of your benefits. For more information on COBRA, see our fact sheet "Medicare and Other Health Insurance Coverage" at cahealthadvocates.org.

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 six months to replace that policy without health underwriting.

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, or you move away

from the base, or you lose access to health care services at that base.

Event 4. When you lose your eligibility for full Medi-Cal benefits because of an increase in your income or assets.

Note: For the four 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 only choose from plans A, B, C, or F. You may also be able to choose from H, I or J, or K or L at the option of the insurance company if they sell any of those plans.

B. Guaranteed Issue

Guaranteed issue means that companies selling Medigap policies must sell you one of the required plans without a health screening, without a waiting period because of pre-existing conditions, and at the best price for your age. 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 twelve Medigap plans and some companies may not even sell all of the Medigap plans to which you may be entitled.

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 must also apply for one of the guaranteed issued Medigaps no later than 63 days after your coverage ends as a result of one of these events. You must usually provide evidence of 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. For most of the events listed below, the only Medigap plans you are guaranteed the right to buy are plans A, B, C, F, K, or L from any company that sells one 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 act 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 retiree plan or COBRA coverage because the premiums became too expensive. California law, shown 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 health plan supplementing Medicare reduces benefits or you lose your eligibility for continued coverage. This federal law applies when your employer-sponsored retiree plan stops providing supplemental benefits to Medicare, but continues providing other benefits, or when you lose your eligibility to continue benefits due to the divorce or death of a spouse or other family member.

Event 3. When your Medicare Advantage (MA) plan increases your costs, reduces your benefits, or a medical provider who is treating you leaves the plan. Medicare Advantage plans are health plans that are available to Medicare beneficiaries through commercial companies.

In these situations, you have the right to buy a Medigap plan only from the Medicare Advantage company in which you are enrolled, if it sells one, or from the parent company or network that contracts with the Medicare Advantage plan. You can only make this choice once every two years.

You have 63 days to purchase one of the guarantee issue Medigap policies from the time you are notified of any reduction of benefits, increases in co-payments, or that a medical provider treating you will be leaving the Medicare Advantage plan, if at the same time you have a right to leave the plan under federal law.

Usually you will receive notices of reductions in benefits or increases in cost at the end of each plan year which overlaps with your federal right

to leave your plan. Providers, however, can be dropped or added throughout the year. Therefore, even though you may have a right to a Medigap when a medical professional who has been treating you leaves a Medicare Advantage plan, you may not have a corresponding federal right to disenroll from that Medicare Advantage plan.

In general, you can only disenroll from your Medicare Advantage plan during the Medicare Annual Election Period (AEP) and/or during the Medicare Advantage Open Enrollment Period (OEP). The AEP is November 15 – December 31 of each year with an effective date of your disenrollment being January 1 of the following year. The OEP is from January 1 through March 31 of each year with your effective disenrollment date being the first day of the month following your request. You may not be able to exercise your right to a Medigap when the medical provider treating you is no longer with the plan, except during one of these federal enrollment periods.

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 where you are moving.

Event 5. When your Medicare Advantage plan, Medicare SELECT* Medigap Plan, PACE provider, or any other health plan under contract with Medicare committed 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 are a hybrid Medigap policy combined with a Preferred Provider Organization (PPO), which encourages its member to use its network of providers to take advantage of lower copayments when using covered services.

Event 6. Medicare Trial Period #1, at age 65: When you are first eligible for Medicare at age 65 and enroll in a Medicare Advantage

plan or with a Program for All-Inclusive Care for the Elderly (PACE) organization and then disenroll within the first twelve months you can choose from any Medigap policy that is available for sale.

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, and then 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 or L from your current insurance company or from another company.

Note: A person who has been in a Medicare Advantage plan more than once is not eligible for the guaranteed issue right described in Events 6 and 7.

Also note: You do NOT have a guarantee issue right if you have been enrolled in a Medicare Advantage plan for more than 12 months even if you go back to Original Medicare during the Medicare Annual Election Period (AEP) that happens at the end of each year. You only have this right if your situation matches 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, K or L. You can apply anytime after the Medicare Advantage plan first notifies you that

they are leaving or that you will no longer be eligible for benefits. You have up to 123 days after your Medicare Advantage plan benefits actually end to apply for a guaranteed issue Medigap policy. But, you only have 63 days to replace the prescription drug benefits if they were included in your Medicare Advantage plan benefits.

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Event 2. If you already have a Medigap policy, each year for a 30-day period following your birthday you can replace your current policy with one that has the same or fewer benefits. You can 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 may switch to any other Plan C, from the same or a different company. You do NOT have this right unless you already have a Medigap policy on your birthday.

The fact sheet contains general information and should not be relied upon to make individual decisions. In some situations you may be faced with 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.

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. If you have Medi-Cal with share of cost (SOC), you can buy a Medigap policy to fill in the gaps or to see medical providers that don't accept Medi-Cal patients. 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 that don't take Medi-Cal. Or, you can notify the insurance company and place your Medigap benefits on "hold" for up to 24 months. If you lose Medi-Cal before the end of this period, you can reinstate your Medigap policy. You must notify the company within 90 days of losing your Medi-Cal benefits. You can get your policy reinstated, or get another one like it. You will only be charged a premium from the date your Medigap benefits are reinstated or a new policy is issued. For more information, see our fact sheets "Low Income Assistance: Medi-Cal" and "Low Income Assistance: Medicare Savings Programs" at cahealthadvocates.org.