



ADMINISTRATIVE RULES OF MONTANA



6.6.507C GUARANTEED ISSUE FOR ELIGIBLE PERSONS

- (1) The following are general provisions relating to guaranteed issue:
 - (a) Eligible persons are those individuals described in (2) who enroll under the policy during the period specified in (3) and who submit evidence of the date of termination, disenrollment, or Medicare part D enrollment with the application for a Medicare supplement policy.
 - (b) with respect to eligible persons, an issuer shall not:
 - (i) deny or condition the issuance or effectiveness of a Medicare supplement policy described in (5) that is offered and is available for issuance to new enrollees by the issuer;
 - (ii) discriminate in the pricing of such a Medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition; or
 - (iii) impose an exclusion of benefits based on a preexisting condition under such a Medicare supplement policy.
 - (c) if an eligible person who originally purchased an issue-age rated plan applies for another issue-age plan from any issuer on a guaranteed issue basis, then that issuer must rate the replacement policy or certificate using the age at which the original policy or certificate was rated.
- (2) An eligible person is an individual described in any of the following paragraphs:
 - (a) The individual is enrolled under an employee welfare benefit plan that:
 - (i) provides health benefits that supplement the benefits under Medicare, and the plan terminates, or the plan ceases to provide some or all such supplemental health benefits to the individual; or
 - (ii) is primary to Medicare and the plan terminates or the plan ceases to provide some or all health benefits to the individual because the individual leaves the plan;
 - (b) the individual is enrolled with a Medicare advantage organization under a Medicare advantage plan under Part C of Medicare, and any of the following circumstances apply, or the individual is 65 years of age or older and is enrolled with a Program of All-inclusive Care for the Elderly (PACE) provider under section 1894 of the Social Security Act, and there are circumstances similar to those described below that would permit discontinuance of the individual's enrollment with such provider if such individual were enrolled in a Medicare advantage plan:

- (i) the organization's or plan's certification has been terminated or the organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides;
 - (ii) the individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the secretary, but not including termination of the individual's enrollment on the basis described in section 1851(g)(3)(B) of the federal Social Security Act (where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under section 1856), or the plan is terminated for all individuals within a residence area;
 - (iii) the individual demonstrates, in accordance with guidelines established by the secretary, that:
 - (A) the organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards; or
 - (B) the organization, or agent or other entity on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual; or
 - (C) the individual meets such other exceptional conditions as the secretary may provide.
- (c) The individual:
 - (i) is enrolled with one of the following organizations:
 - (A) an eligible organization under a contract under section 1876 of the Social Security Act (Medicare cost);
 - (B) a similar organization operating under demonstration project authority, effective for periods before April 1, 1999;
 - (C) an organization under an agreement under section 1833(1)(A) of the Social Security Act (health care prepayment plan); or
 - (D) an organization under a Medicare select policy; and
 - (ii) the enrollment ceases under the same circumstance that would permit discontinuance of an individual's election of coverage under (2)(b).
- (d) The individual is enrolled under a Medicare supplement policy and the enrollment ceases because:
 - (i) of the insolvency of the issuer or bankruptcy of the non-issuer organization;
 - (ii) of other involuntary termination of coverage or enrollment under the policy;
 - (iii) the issuer of the policy substantially violated a material provision of the policy; or
 - (iv) the issuer, or an agent or other entity acting on the issuer's behalf, materially misrepresented the policy's provisions in marketing the policy to the individual.

- (e) The individual was enrolled under a Medicare supplement policy and terminates enrollment and:
 - (i) subsequently enrolls, for the first time, with any Medicare advantage organization under a Medicare advantage plan under Part C of Medicare, any eligible organization under a contract under section 1876 of the Social Security Act (Medicare risk or cost), any similar organization operating under demonstration project authority, any PACE provider under section 1894 of the Social Security Act, an organization under an agreement under section 1833(a)(1)(A) (health care prepayment plan), or a Medicare select policy; and
 - (ii) the subsequent enrollment under (2)(e) is terminated by the enrollee during any period within the first 12 months of such subsequent enrollment (during which the enrollee is permitted to terminate such subsequent enrollment under section 1851(e) of the Federal Social Security Act).
 - (f) the individual, upon first becoming eligible for benefits under Medicare part A at age 65, enrolls in a Medicare advantage plan under Part C of Medicare, or with a PACE provider under section 1894 of the Social Security Act, and disenrolls from the plan or program by not later than 12 months after the effective date of enrollment.
 - (g) the individual enrolls in a Medicare Part D plan during the initial enrollment period and, at the time of enrollment in part D, was enrolled under a Medicare supplement policy that covers outpatient prescription drugs and the individual terminates enrollment in the Medicare supplement policy and submits evidence of enrollment in Medicare Part D along with the application for a policy described in (5)(e).
 - (h) the individual, upon first becoming eligible for benefits under Medicare Part A and B is enrolled in the Qualified Medicare Beneficiary Program as defined in section 6408(d)(2) of the Federal Omnibus Budget Reconciliation Act of 1989, Public Law 101-239, or full Medicaid (ARM 37.83.802), and no longer qualifies due to income or eligibility changes; or
 - (i) the individual becomes eligible for benefits under Medicare Part A and B by reason of disability.
- (3) The guaranteed issue time period:
- (a) for an individual described in (2)(a):
 - (i) begins on the later of:
 - (A) the date the individual receives a notice of termination or cessation of some or all supplemental health benefits (or, if a notice is not received, notice that a claim has been denied because of such a termination or cessation); or
 - (B) the date that the applicable coverage terminates or ceases;
 - (ii) ends 63 days after the applicable notice;
 - (b) for an individual described in (2)(b), (c), (e), (f), or (h), whose enrollment is terminated involuntarily, begins on the date that the individual receives a notice of termination and ends 63 days after the date the applicable coverage is terminated;
 - (c) for an individual described in (2)(d)(i) or (ii):

- (i) begins on the earlier of:
 - (A) the date that the individual receives a notice of termination, a notice of the issuer's bankruptcy or insolvency, or other similar notice if any; or
 - (B) the date that the applicable coverage is terminated;
 - (ii) and ends on the date that is 63 days after the date the coverage is terminated;
 - (d) for an individual described in (2)(b), (d)(iii), (e), or (f) who disenrolls voluntarily, begins on the date that is 60 days before the effective date of the disenrollment and ends on the date that is 63 days after the effective date;
 - (e) for an individual described in (2)(g), begins on the date the individual receives notice pursuant to section 1882(v)(2)(B) of the Social Security Act from the Medicare supplement issuer during the 60-day period immediately preceding the initial Part D enrollment period and ends on the date that is 63 days after the effective date of the individual's coverage under Medicare Part D;
 - (f) for an individual described in (2) but not described in the preceding provisions of (3), begins on the effective date of disenrollment and ends on the day that is 63 days after the effective date; and
 - (g) for an individual described in (2)(i), begins on the date the individual is informed of the individual's eligibility for Medicare by reason of disability and end 63 days after that date.
- (4) An individual is entitled to an extension of the guarantee issue time periods for Medicare supplement and Medicare select access if there is an interrupted trial period, as follows:
- (a) if an individual described in (2)(e) (or deemed to be so described, pursuant to this subsection) whose enrollment with an organization or provider described in (2)(e)(i) is involuntarily terminated within the first 12 months of enrollment, and who, without an intervening enrollment, enrolls with another such organization or provider, then the subsequent enrollment shall be deemed to be an initial enrollment described in (2)(e);
 - (b) if an individual described in (2)(f) (or deemed to be so described, pursuant to this subsection) whose enrollment with a plan or in a program described in (2)(f) is involuntarily terminated within the first 12 months of enrollment, and who, without an intervening enrollment, enrolls in another such plan or program, then the subsequent enrollment shall be deemed to be an initial enrollment described in (2)(f); and
 - (c) for purposes of (2)(e) and (f), no enrollment of an individual with an organization or provider described in (2)(e)(i), or with the plan or in a program described in (2)(f), may be deemed to be an initial enrollment under this subsection after the two-year period beginning on the date on which the individual first enrolled with such an organization, provider, plan or program.
- (5) The following describe the type of Medicare supplement policy which must be issued to an eligible person:
- (a) an eligible person defined in (2)(a), (b), (c), or (d) is entitled to the issuance of a Medicare supplement policy which has a benefit package classified as Plan A, B, C, F (including F with a high deductible), K, or L offered by any issuer;

- (b) subject to (5)(c), an eligible person defined in (2)(e) is entitled to the issuance of the same Medicare supplement policy in which the eligible person was most recently enrolled, if available from the issuer, or, if not so available, a policy described in (5)(a);
 - (c) after December 31, 2005, an individual who was most recently enrolled in a Medicare supplement policy with an outpatient prescription drug benefit and who elects to enroll in Part D, is entitled to the issuance of a Medicare supplement policy described as follows:
 - (i) the same policy from the same issuer but modified to remove outpatient prescription drug coverage; or
 - (ii) at the election of the policyholder, an A, B, C, F (including F with high deductible), K, or L policy that is offered by any issuer;
 - (d) an eligible person defined in (2)(f), (h), or (i) is entitled to the issuance of any Medicare supplement policy offered by any issuer;
 - (e) An eligible person defined in (2)(g) is entitled to the issuance of a Medicare supplement policy that has a benefit package classified as Plan A, B, C, F (including F with a high deductible), K, or L, and that is offered and is available for issuance to new enrollees by the same issuer that issued the individual's Medicare supplement policy with outpatient prescription drug coverage. However, if the eligible person wishes to enroll in an A, B, C, F (including high deductible F), K, or L and that issuer does not offer that plan, then the eligible person is entitled to have that plan issued by any issuer who makes it available for sale to new enrollees in Montana.
- (6) The following establish standards for notification upon termination and disenrollment:
- (a) at the time of an event described in (2) because of which an individual loses coverage or benefits due to the termination of a contract or agreement, policy, or plan, the organization that terminates the contract or agreement, the issuer terminating the policy, or the administrator of the plan being terminated, respectively, shall notify the individual of his or her rights under this rule, and of the obligations of issuers of Medicare supplement policies under (1). Such notice shall be communicated contemporaneously with the notification of termination.
 - (b) at the time of an event described in (2) because of which an individual ceases enrollment under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, regardless of the basis of the cessation of enrollment, the issuer offering the policy, or the administrator of the plan, respectively, shall notify the individual of his or her rights under this rule, and of the obligations of issuers of Medicare supplement policies under (1). Such notice shall be communicated within ten working days of the issuer receiving notification of disenrollment.

Authorizing statute(s): 33-1-313, 33-22-904, 33-22-905, MCA

Implementing statute(s): 33-22-902, 33-22-904, 33-22-905, MCA

History: NEW, 1998 MAR p. 3269, Eff. 12/18/98; AMD, 2004 MAR p. 313, Eff. 2/13/04; AMD, 2005 MAR p. 1910, Eff. 9/9/05; AMD, 2009 MAR p. 1107, Eff. 7/17/09; AMD, 2013 MAR p. 1819, Eff. 10/18/13; AMD, 2015 MAR p. 1049, Eff. 7/31/15; AMD, 2018 MAR p. 572, Eff. 3/17/18.