



THE STATE  
of **ALASKA**  
MICHAEL J. DUNLEAVY  
GOVERNOR

Department of Commerce, Community,  
and Economic Development

DIVISION OF INSURANCE

P.O. Box 110805  
Juneau, AK 99811-0805  
Main: 907.465.2515  
Fax: 907.465.3422

## BULLETIN 19-06

**TO: ALL INSURERS AND LICENSEES MARKETING, ISSUING, PROVIDING, OFFERING, OR CONTRACTING TO PROVIDE MEDICARE SUPPLEMENT INSURANCE PLANS IN THE STATE OF ALASKA AND ALL OTHER INTERESTED PARTIES**

**RE: ADOPTING MACRA CHANGES TO MEDICARE SUPPLEMENT REGULATIONS OF THE DIVISION OF INSURANCE**

The State of Alaska has adopted the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) guidance that was signed into law on April 16, 2015. Because of the enactment of MACRA, states were required to amend their Medicare Supplement insurance laws to conform to the federal law. The regulations regarding Medicare Supplement Plans have been updated under the authority of AS 21.06.090; AS 21.55.040; AS 21.55.220; AS 21.55.400 and AS 21.55.430. Please review the act carefully and the rest of Alaska's insurance laws to assure your compliance with transacting insurance business in Alaska. The full text of the Act can be viewed here: <https://www.congress.gov/bill/114th-congress/house-bill/2/text>

This bulletin provides an overview of some of the important changes due to MACRA and is for informational purposes only. It is not intended to be an exhaustive analysis of the statutory changes to the insurance code, and a statement in this bulletin does not supersede or modify in any way the statutory provisions of the regulations or Act.

### **Amended Regulations:**

The amended Alaska Administrative Code 3 AAC 28.456-510 are consistent with the new MACRA guidance. All affected parties must comply with the new regulatory requirements which became effective March 28, 2019. All insurers must comply with the new regulations and will be expected to file updated rates, forms, and advertising in order to comply with the changes that will impact consumers starting with the January 1, 2020. The amended regulations can be viewed on the Division's website at:

<https://www.commerce.alaska.gov/web/ins/>

### **MACRA FACTS:**

The Medicare Access and CHIP Reauthorization Act of 2015 ("MACRA") was signed into law on April 16, 2015. MACRA prohibits the sale of Medigap policies that cover Part B deductibles

to “newly eligible” Medicare beneficiaries defined as those individuals who: (a) have attained age 65 on or after January 1, 2020; or (b) first become eligible for Medicare due to age, disability or end-stage renal disease, on or after January 1, 2020. Because of the enactment of MACRA, states were required to amend their Medicare supplement insurance laws to conform to the federal law.

MACRA is unique from previous modifications to the Medicare Supplement law in that MACRA does not close the previous blocks of business. MACRA states that for ‘**newly eligible**’ Medicare beneficiaries **ONLY**, “C or F shall be deemed, as of January 1, 2020, to be a reference to a Medicare Supplemental policy which has a benefit package classified as D or G, respectively.” MACRA **DOES NOT** state that all plans will have a new effective date as of January 1, 2020. Therefore, MACRA **DOES NOT** close any blocks of plans.

Those individuals who become eligible for Medicare prior to January 1, 2020, and who have coverage as defined in Plans C or F and F High Deductible, may keep the coverage under those plans. Medicare supplement coverage is guaranteed renewable and coverage cannot be cancelled, so long as the policyholder pays the premium. In addition, those individuals who become eligible for Medicare prior to January 1, 2020, may purchase Plans C or F and F High Deductible after December 31, 2019. Finally, those individuals who become eligible for Medicare prior to January 1, 2020, are also able to purchase Plans D or G or G High Deductible on or after January 1, 2020.

Some parties mistakenly think that standardized Plans C and F are discontinued or may be discontinued by a company. **MACRA did not change federal law regarding the required offer of Plans C or F for individuals who are Medicare eligible before January 1, 2020.** As noted, for the “newly eligible,” those who became eligible for Medicare on or after January 1, 2020, the required offer is Plans D or G and cannot be Plans C or F because they provide coverage for the Part B deductible which is prohibited for the “newly eligible.”

Some Medicare supplement insurance policyholders may be getting misleading information. For example, some insurance agents are telling their policyholders that Plans C and F will no longer be available after December 31, 2019 and must therefore purchase new coverage in order to not lose their Medicare supplement coverage. **This is a false statement.**

Section 1882(o)(5) of the Social Security Act requires that if an issuer offers a Medigap plan other than the Plan A core benefits then the issuer must also offer Plans C or F. The NAIC Model Regulation – also a federal minimum standard - requires at section 9.1.A.(2) that an issuer shall make available the Medigap core benefits and, if any other plans, at least either Plans C or F.

Some agents are telling their policyholders that premiums for coverage under Plans C or F will be increasing to such an extent that they should purchase other coverage. These are **misleading statements** to induce policyholders to improperly switch coverage using marketing and sales techniques that are in clear violation of the Medicare supplement insurance laws and a states’ unfair trade practices laws. **If a state finds such activity, the state can take appropriate administrative action.**

- Consumers who are currently age 65 or will be age 65 before January 1, 2020, **ARE NOT** affected.

- If a consumer first become eligible for Medicare due to age, disability or end-stage renal disease before January 1, 2020, MACRA **DOES NOT** affect them.
- MACRA states that, as of January 1, 2020, those who are “newly eligible” cannot buy or be sold Plans C, F or F High Deductible after January 1, 2020.
- “Newly eligible” means those persons who a) attain the age of 65 on or after January 1, 2020 or b) first become eligible for Medicare due to age, disability or end-stage renal disease, on or after January 1, 2020.
- All other Medigap plans will remain unchanged EXCEPT for Medigap Plans D, G and G High Deductible replacing Plans C, F, and F High Deductible for “newly eligible” beneficiaries.
- For the “newly eligible,” Plans D, G, and G High Deductible substitute for Plans C, F and F High deductible.

**A person who reaches the age of 65 or is eligible for Medicare BEFORE January 1, 2020 IS NOT a “newly eligible” individual.**

- Plans C, F or High F will not be discontinued for those individuals who became eligible for Medicare before January 1, 2020. Those individuals who were Medicare eligible before January 1, 2020 will still be able to keep their policies or can purchase and can still be sold Plans C or F on or after January 1, 2020.
- Medigap coverage is guaranteed renewable and, so long as the policyholder pays the premium, the coverage cannot be cancelled. Some policyholders are being told that Plans C and F will no longer be available after December 31, 2019 and must therefore purchase new coverage in order to not lose their Medigap coverage -- **THAT IS NOT TRUE.**
- Some policyholders are being told that premiums for coverage under Plans C or F will be increasing to such an extent that they should purchase other coverage. These would be considered **FALSE** or **MISLEADING** statements to induce policyholders to improperly switch coverage and are in clear violation of Medigap insurance laws.

For more detailed information and references, please refer to the MACRA FAQ at [https://www.naic.org/documents/cmte\\_b\\_senior\\_issues\\_2019\\_macra\\_faq.pdf](https://www.naic.org/documents/cmte_b_senior_issues_2019_macra_faq.pdf)

Any questions concerning this alert may be directed to a state department of insurance or a state health insurance assistance program office (SHIP).

If you have any questions regarding the information in this bulletin, please contact Sarah Bailey at (907) 465-4608 or [sarah.bailey@alaska.gov](mailto:sarah.bailey@alaska.gov).

Dated April 22, 2019

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Lori Wing-Heier  
Director