

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 852**

FINAL READING

Introduced by Jacobson, 42.

Read first time January 03, 2024

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to the Medicare Supplement Insurance Minimum  
2 Standards Act; to amend sections 44-3601 and 44-3602, Reissue  
3 Revised Statutes of Nebraska; to define terms; to change provisions  
4 relating to durable medical equipment, prosthetics, orthotics, and  
5 supplies; to provide certain requirements relating to individuals  
6 who are under sixty-five years of age and qualify for medicare by  
7 reason of disability; to harmonize provisions; to provide operative  
8 dates; and to repeal the original sections.  
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 44-3601, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 44-3601 Sections 44-3601 to 44-3610 and sections 3 to 5 of this act  
4 shall be known and may be cited as the Medicare Supplement Insurance  
5 Minimum Standards Act.

6 Sec. 2. Section 44-3602, Reissue Revised Statutes of Nebraska, is  
7 amended to read:

8 44-3602 For purposes of the Medicare Supplement Insurance Minimum  
9 Standards Act:

10 (1) Applicant means ~~shall mean~~:

11 (a) In the case of an individual medicare supplement policy, the  
12 person who seeks to contract for insurance benefits; and

13 (b) In the case of a group medicare supplement policy, the proposed  
14 certificate holder;

15 (2) Balance bill means charging or collecting an amount in excess of  
16 the medicare-approved amount from a medicare beneficiary;

17 (3) (2) Certificate means ~~shall mean~~ any certificate delivered or  
18 issued for delivery in this state under a group medicare supplement  
19 policy;

20 (4) (3) Certificate form means ~~shall mean~~ the form on which the  
21 certificate is delivered or issued for delivery by the issuer;

22 (5) (4) Director means ~~shall mean~~ the Director of Insurance;

23 (6) (5) Issuer means ~~shall include~~ insurance companies, fraternal  
24 benefit societies, health care service plans, health maintenance  
25 organizations, and any other entities delivering or issuing for delivery  
26 in this state medicare supplement policies or certificates;

27 (7) (6) Medicare means ~~shall mean~~ the Health Insurance for the Aged  
28 Act, Title XVIII of the Social Security Amendments of 1965, as then  
29 constituted or later amended;

30 (8) Medicare-approved amount means the current payment rate listed  
31 in the applicable fee schedule established by the federal Centers for

1 Medicare and Medicaid Services;

2       (9) ~~(7)~~ Medicare supplement policy means shall mean a group or  
3 individual policy of sickness and accident insurance or a subscriber  
4 contract of health maintenance organizations, other than a policy issued  
5 pursuant to a contract under section 1876 of the federal Social Security  
6 Act, 42 U.S.C. 1395 et seq., or an issued policy under a demonstration  
7 project specified in 42 U.S.C. 1395ss(g)(1), which is advertised,  
8 marketed, or designed primarily as a supplement to reimbursements under  
9 medicare for the hospital, medical, or surgical expenses of persons  
10 eligible for medicare;~~and~~

11       (10) ~~(8)~~ Policy form means shall mean the form on which the policy  
12 is delivered or issued for delivery by the issuer; and -

13       (11) Supplier has the same meaning as defined in 42 C.F.R. 400.202,  
14 as such regulation existed on January 1, 2024, including an entity or  
15 individual that sells or rents Medicare Part B covered durable medical  
16 equipment, prosthetics, orthotics, and supplies to medicare  
17 beneficiaries.

18       Sec. 3. A supplier that is a nonparticipating provider in the  
19 medicare program shall not balance bill a Nebraska medicare beneficiary  
20 for any durable medical equipment, prosthetic, orthotic, or supply for  
21 which the supplier has not accepted assignment, unless the beneficiary  
22 (1) agrees in writing prior to such billing to pay the additional amount  
23 and (2) pays the full amount prior to receipt of the durable medical  
24 equipment, prosthetic, orthotic, or supply. Such agreement shall provide  
25 notification to the beneficiary that medicare reimburses eighty percent  
26 of the medicare-approved amount and that an issuer of a medicare  
27 supplement policy or certificate shall not be required to reimburse the  
28 supplier or the beneficiary in an amount greater than one hundred fifteen  
29 percent of the medicare-approved amount for durable medical equipment,  
30 prosthetics, orthotics, or supplies as provided in section 4 of this act.

31       Sec. 4. An issuer of a medicare supplement policy or certificate

1 shall not be required to reimburse a supplier or beneficiary in an amount  
2 greater than one hundred fifteen percent of the medicare-approved amount  
3 for durable medical equipment, prosthetics, orthotics, or supplies.  
4 Nothing in this section shall be construed to prevent an issuer from  
5 negotiating the level and type of reimbursement with a supplier for  
6 covered durable medical equipment, prosthetics, orthotics, or supplies.

7       Sec. 5. (1) An issuer that makes a medicare supplement policy or  
8 certificate available to an individual who is sixty-five years of age and  
9 eligible for medicare benefits as described in 42 U.S.C. 1395c(1), as  
10 such section existed on January 1, 2024, shall make at least one medicare  
11 supplement policy or certificate that meets the requirements of the  
12 Medicare Supplement Insurance Minimum Standards Act, available to an  
13 individual who is under sixty-five years of age and eligible for and  
14 enrolled in medicare by reason of disability as described in 42 U.S.C.  
15 1395c(2), as such section existed on January 1, 2024.

16       (2) Premium rates for medicare supplement insurance policies or  
17 certificates may differ between an individual who qualifies for medicare  
18 who is sixty-five years of age or older and an individual who qualifies  
19 for medicare by reason of disability and who is under sixty-five years of  
20 age. Such differences in premiums shall not be excessive, inadequate, or  
21 unfairly discriminatory and shall be based on sound actuarial principles  
22 and be reasonable in relation to the benefits provided. The premium for  
23 an individual who is under sixty-five years of age shall not exceed one  
24 hundred fifty percent of the premium for a similarly situated individual  
25 who is sixty-five years of age.

26       (3) An individual who is under sixty-five years of age and is  
27 eligible for a medicare supplement policy or certificate by reason of  
28 disability as described in subsection (1) of this section shall be  
29 subject to the same open enrollment rules applicable to an individual who  
30 is sixty-five years of age and eligible for a medicare supplement policy  
31 or certificate as described in subsection (1) of this section beginning

1 on the first day of the first month that the individual turns sixty-five  
2 years of age.

3       Sec. 6. Section 5 of this act becomes operative on January 1, 2025.

4 The other sections of this act become operative on their effective date.

5       Sec. 7. Original sections 44-3601 and 44-3602, Reissue Revised  
6 Statutes of Nebraska, are repealed.