



# Illinois Department of Insurance

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JB PRITZKER  
Governor

DANA POPISH SEVERINGHAUS  
Director

**TO:** All Companies issuing Medicare Supplement Insurance in Illinois

**FROM:** Dana Popish Severinghaus, Director *dps*

**DATE:** July 20, 2023

**RE:** Company Bulletin 2023-09  
Medicare supplement insurance protections for individuals terminated from  
Medicaid after the COVID-19 Public Health Emergency

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The purpose of this Bulletin is to provide guidance in connection with the end of the COVID-19 Public Health Emergency (PHE) declared by the U.S. Department of Health and Human Services (HHS) and the monthly Medicaid terminations that took effect in Illinois beginning July 1, 2023.

During the PHE, Illinois residents were permitted to remain enrolled in Medicaid without a redetermination of income or other eligibility requirements. This population includes individuals who were enrolled in Medicare at the same time as Medicaid, as well as individuals who will be newly enrolling in Medicare upon disenrollment from Medicaid. Because federal law prevented many of these individuals from purchasing Medicare supplement insurance while enrolled in Medicaid even if they already had Medicare, *see* 42 U.S.C. § 1395ss(d)(3)(B)(iii), some Medicare eligible consumers may have missed their open enrollment period for Medicare supplement plans.

The Medicaid omnibus legislation of Public Act 103-0102, which took effect immediately on June 16, 2023 for Medicare supplement insurance, contains provisions to address both open enrollment and guaranteed issue situations.

The provisions for a 6-month open enrollment at 215 ILCS 5/363(10) are a clarification of existing law, which apply generally but bear emphasis during the Medicaid terminations. Individuals who enroll in Medicare Part B at or after the age of 65 or who enroll by reason of disability at any age below 65 already must be afforded a 6-month open enrollment period for Medicare supplement insurance. *See* 215 ILCS 5/363(6); 50 Ill. Adm. Code 2008.74. The omnibus legislation confirms that this 6-month period is triggered by the actual date of enrollment in Medicare Part B (or in some cases for disability, by the actual month of notice of retroactive eligibility), not by the first date when the individual *could* have enrolled in Medicare Part B.

The provisions for a 63-day guaranteed issue period at 215 ILCS 5/363(9) are a change to existing law. They especially protect individuals who had dual enrollment in Medicare and Medicaid during the PHE. For these individuals, subsection (9) provides a Medicare supplement guaranteed issue period of 63 days starting from their date of Medicaid termination or, if notice was not received until after termination, 63 days from their date of notice. Please note that, if an individual enrolled in Medicare Part B shortly before their Medicaid termination, their 6-month open enrollment for Medicare supplement insurance

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might continue beyond the 63-day guaranteed issue period depending on when exactly they enrolled in Medicare Part B.

To avoid denying applicants guaranteed issue rights to which they are entitled by statute, issuers will need to update their Medicare supplement application forms with pertinent questions. To help expedite the update and Departmental approval process, the Department is providing a set of model questions that companies may use in their application form filings:

- Have you been notified that your coverage under the state Medicaid program is terminating or has already terminated?

YesNo

  - If “Yes,” Did you still have coverage under the state Medicaid program on May 11, 2023 (the last day of the COVID-19 Public Health Emergency)?

YesNo
  - If both of the previous two answers were “Yes,” fill in the following dates:

▪ the effective date of the Medicaid coverage termination

MONTHDAYYEAR

▪ the date the notice of Medicaid termination was sent to you

MONTHDAYYEAR
  - If at least one of the two dates was within the past 63 days, submit evidence of the date of termination of benefits or the notice of termination under the state Medicaid program. If you did not know that your Medicaid benefits had been terminated until you received a denial of a claim for benefits that specified termination as the reason, you may submit the denial letter.

Consistent with the procedure outlined in 50 Ill. Adm. Code 2008.100(a), the Department will allow issuers either to insert their new questions into approved application forms (attaching redlines of revisions made to the previously approved version) or to file a supplementary application form that will be signed by the applicant and the insurance producer.

Issuers that are actively marketing Medicare supplement insurance do not need to revise their advertising materials to comply with the new law unless their existing materials contain statements that conflict with the law's requirements. Any revisions to issuers' advertisements must be filed with the Department.

Questions about this bulletin may be directed to DOI.InfoDesk@illinois.gov.