



DEC 03 2009

*Administrator*

Washington, DC 20201

Ms. Mary Beth Senkewicz  
Deputy Insurance Commissioner, State of Florida  
Chair, Senior Issues Task Force  
National Association of Insurance Commissioners  
444 N. Capitol Street, NW., Suite 701  
Washington, DC 20001-1509

Dear Ms. Senkewicz:

Thank you for your letter regarding a Medigap product being marketed by some issuers involving hospital network arrangements. Issuers marketing this product contend that it complies with Medigap requirements because there is no change in the benefits of the plan regardless of whether the beneficiary utilizes the network.

While the Centers for Medicare & Medicaid Services share some of the concerns of the National Association of Insurance Commissioners (NAIC), we do not believe that this particular network arrangement violates the Medigap standardization provisions. Section 1882(p) of the Social Security Act and section 9(c) of the NAIC Model define standardization in terms of benefits. Section 9(c), for example, states that: "Each benefit shall be structured in accordance with the format provided in Sections 8B and 8C or 8D and list the benefits in the order shown in this subsection. For purposes of this section, structure, language, and format means style, arrangement and overall content of a benefit." Since the benefits in question (payment of the beneficiaries' Part A deductible) are not impacted, this particular network arrangement does not violate the standardization provisions. The premium credit also does not violate standardization since premiums are not considered to be a benefit subject to standardization. Furthermore, since benefits are not restricted to a network of providers, this arrangement does not meet the definition of a Medicare Select policy pursuant to section 1882(t).

It is important to emphasize, however, that State regulators have the discretion to decline licensing of a Medigap product with this network arrangement if they conclude that it violates State law, or that sale of such products will have a detrimental impact on their respective markets, or will be discriminatory against certain providers or issuers. Also, because this arrangement is not a benefit, it would not appear to meet the definition of an "innovative" benefit. However, even if it were a benefit, it could not be offered without State approval. If these products are permitted to be marketed and sold in a State, the waiver of the Part A deductible and the premium credit must be factored into the loss ratio calculation and into the policy premium.

I appreciate you bringing this matter to our attention. If you have questions, please do not hesitate to contact Mr. Jim Mayhew of my staff at (410) 786-9244.

Sincerely,

Charlene Frizzera  
Acting Administrator