



CALIFORNIA HEALTH ADVOCATES

Supplementing Medicare: Your Rights to Purchase a Medigap Policy

This fact sheet describes your rights to purchase a Medigap plan during Open Enrollment and Guaranteed Issue periods. A Medigap plan (Medicare Supplement insurance) is a way to supplement the benefits of the Original Medicare program. You must have both Medicare Part A and Part B to buy a Medigap policy. For more information about Medigap policies, please see our fact sheet “Supplementing Medicare: Medigap Plans” at cahealthadvocates.org.

If you already have a Medicare Advantage plan, or a retiree plan, or if you have full Medi-Cal benefits, you do not need to buy a Medigap policy. But, you may have a right to a Medigap if you are changing from one of these forms of health care coverage.

If you have health coverage before becoming eligible for Medicare, you will need to notify the plan administrator that you are eligible for Medicare to learn about changes in your benefits. For example, if you have a qualified health plan from Covered California, or health coverage through COBRA, your benefits will change when you become eligible for Medicare.

Note: If you are eligible for COBRA please see our fact sheet F-001 or the COBRA section in our [Other Health Insurance](#) topic section online.

Note: If you have permanent kidney failure, also known as End Stage Renal Disease or ESRD, **AND you are younger than 65, none of the rights described in this fact sheet apply to you regardless of the date you became eligible for Medicare.** See our fact sheet “Medicare and People with End Stage Renal Disease.”

If you are relatively healthy, you may be able to buy a Medigap policy *at any time* if a company agrees to sell you one, and you can pass a company’s health screening. Health screening

means answering questions about your health as a part of the application for coverage. Each company has different health screening standards to decide what health conditions they will accept. Some companies’ health screening is very strict, others are fairly minimal.

A Note About a Change in Federal Law: As of January 1, 2020, federal law does not allow beneficiaries who have their 65th birthday **on or after** that date, or who become eligible for Medicare due to a disabling condition to buy any Medigap plan that covers the Part B deductible. This restriction includes Medigap plans C, F, and high deductible Plan F.

Instead, those beneficiaries (except younger beneficiaries with ESRD) can buy Medigap plans D, G or high deductible G instead that don’t include a benefit for the Part B deductible. This is a change to federal law to encourage beneficiaries to shoulder more of their own medical costs.

This restriction does not apply to anyone who was eligible for Medicare **before** 2020. Medigap Plans C, F, and high deductible F can continue to be sold to anyone who had their 65th birthday **before** 2020, or was eligible for Medicare because of a disabling condition, not including ESRD, before the same date. Companies are required by federal law to continue to make Medigap plans A and C or F, and D or G available in any state where they market Medigap plans.

Guaranteed Issue and Open Enrollment periods give you a right to buy a Medigap policy when a company could otherwise refuse to sell you one due to a pre-existing health condition or your age. (The provision in the Affordable Care Act prohibiting insurance companies from discriminating against applicants with pre-existing conditions does not apply to Medigap

policies.) Knowing about these Guaranteed Issue and Open Enrollment periods is important if you'd like to supplement your Original Medicare benefits with a Medigap policy and you would otherwise be turned down for coverage.

Note: Some companies declare a "health screening holiday" for Medigaps during the Medicare Annual Enrollment Period (AEP) each year. Some companies may extend it into the first few months of a new year. The holiday may apply to all Medigaps a company sells or only to one of its Medigap plans. Or they may restrict that right to Medicare beneficiaries who are new to Medicare or new to that company.

Insurance companies are not required to sell Medigap policies, but if a company chooses to sell Medigap policies, it must offer Plan A and Plan C or F. Beginning in 2020 they must also make Plan D or Plan G available for those beneficiaries whose 65th birthday occurred on or after 1/1/2020, or whose eligibility for Medicare began on or after the same date because of a disabling condition (but not including ESRD).

Note: Some companies have chosen to remove original Plan F from their available Medigaps. Instead, they will only sell a Plan F with additional benefits like dental, vision, or hearing.

Some companies choose to sell only a few Medigap plans, while others sell all 10 of the standardized plans plus two plans with a high deductible. Your choices in any of the events described in this fact sheet will be limited to specific Medigap plans, or those that each company is selling where you live.

Note: The options described here apply when there are no complicating factors to be considered. If you have a situation that involves something **not** included in one of these descriptions, please contact your local HICAP for individual assistance. See HICAP information at the end of this Fact Sheet.

A. Open Enrollment

Open Enrollment period at 65 years of age and older

Open enrollment means that companies selling Medigap policies must sell you a plan regardless of your health and at the best price for your age. When you are 65 years old or older and signing up for Part B, **you have 6 months** to purchase a Medigap policy at the lowest price for your age, even if you have or recently had health problems, including ESRD.

Your 6-month Open Enrollment period for a Medigap policy starts on the date your Medicare Part B becomes effective. However, you can apply for a Medigap policy before the effective date of your Medicare Part B and request that the policy begin on the same date your Medicare benefits begin to avoid a gap in coverage.

If you already have Medicare before turning 65 due to a disability, you have the same 6-month Open Enrollment period to buy a Medigap starting when you turn 65, even if you already have a Medigap. In addition, you are entitled to all the other open enrollment rights anyone else has on their 65th birthday as well.

Contact your current company to let them know when you are 65 and ask them to lower your premium. Or you can take advantage of this new right to get another Medigap from a different company that is more suitable for your needs.

In California, regardless of your age, if you were covered by an employer group health plan and delayed enrollment in Medicare Part B, you also have a 6-month Open Enrollment period when you enroll in Part B later. Your Open Enrollment period begins on the effective date of your Part B coverage.

Note: If you have existing credible coverage for prescription drug benefits, and you delayed enrollment in Medicare Part D, you have only **2 months** to enroll in a Medicare Part D plan.

Open Enrollment period at ages younger than 65 years

In California, if you are younger than 65 and have Medicare because of a disability (but not ESRD), **you have a 6-month Open Enrollment period** beginning on the effective date of your Medicare Part B. If you are notified retroactively of your eligibility for Medicare, then your Open Enrollment period begins from the date of the notice you receive from Social Security of your right to Medicare benefits.

During an Open Enrollment period, you have the right to purchase Medigap plans A, B, D, or G from any company selling those plans. You can also choose from plans K or L, **or** from M or N, if the company sells those plans, but the company has the right to decide which plan in each of these two sets of plans it will sell you. If you became eligible for Medicare **before** January 1, 2020 because of a disabling condition, but not ESRD, you can choose Medigap Plan C or F if available.

To avoid a gap in coverage, you can request that the Medigap policy you choose become effective the same date as your Medicare benefits begin.

Note: Because companies have no restrictions on setting premiums, they can charge you a higher premium because of your health status and age than the premiums they charge someone who is 65 years old or older.

Waiting period

In certain situations, companies are allowed to impose a waiting period of up to 6 months for any health condition you had that was treated or diagnosed within 6 months before the date your Medigap coverage will begin. However, if you had **any** health coverage, including Medicare or Medi-Cal, before purchasing a Medigap plan, the company must subtract those months of coverage from the waiting period.

For example, if you had coverage for only 3 months prior to purchasing a Medigap plan, the company must subtract 3 months from any waiting period that applies. If you had health

coverage for at least 6 months before purchasing a Medigap, companies cannot impose a waiting period. You may be asked to provide evidence of your prior coverage such as your previous health insurance card.

Note: If a beneficiary waits more than 6 months after their IEP to apply for a Medigap, a company may impose a waiting period of up to 6 months. In that situation, Medicare coverage wouldn't count as pre-existing credible coverage for the purpose of waiving or shortening the waiting period.

Other Open Enrollment rights

In California, in addition to the Open Enrollment periods described above, you also have the right to purchase a Medigap policy for **6 months** following the events described below. In these situations, a company cannot impose a waiting period, you do not have to answer any health questions that may be on an application to get a Medigap policy, and a company cannot reject your application if you don't answer them.

Event 1. When you have employer-sponsored group health coverage through your own, your spouse's, or a family member's current employment or retirement plan, or COBRA coverage, and the plan ends, OR you lose your eligibility to continue benefits due to divorce or the death of a spouse or other family member. The 6-month period to apply for a Medigap policy starts on the date that you receive the notice that your health benefits will end. If you don't receive a notice in advance, then the 6-month period starts the date the benefits actually end, or the date of your first denied claim. This protection of California law applies regardless of whether your group health benefits were primary benefits or secondary to Medicare.

Note: You are also entitled to this protection when you first become eligible for COBRA or have used up all your COBRA benefits. COBRA benefits are always secondary to Medicare benefits unless you have ESRD and are in the 30-month coordination period. For more information on COBRA, see our fact sheet "Medicare and Other Health Insurance

Coverage.” If you are younger than 65 and COBRA was secondary to Medicare because you have ESRD, this right does not apply to you. For more information about ESRD, see our fact sheet “Medicare and People with ESRD.”

Event 2. When you move out of the geographic area served by your Medigap plan. For instance, if you have a Medigap you bought while living in another state that will not cover you in this state you have 6 months to replace that policy without health screening.

Event 3. When your health care coverage ends because of a military base closure, or because a military base no longer offers health care services, you move away from the base, or you are no longer eligible to receive health care services at that base. You have 6 months to replace that coverage without health screening.

Note: If you are eligible for military health care benefits, you may be able to enroll in TriCare for Life. There are no premiums and it includes prescription drug benefits so you do not need a Medigap or Medicare Part D benefits.

Event 4. When you lose your eligibility for Medi-Cal benefits because of an increase in your income or assets, or you are required to pay a Share of Cost before Medi-Cal will pay for your care. You have 6 months to buy a Medigap without health screening. If you have a Share of Cost (SOC), you must apply for a Medigap before you have met your monthly SOC.

Note: For the 4 events mentioned above, your choice of Medigap plans depends on the date of your 65th birthday or the date of your eligibility for Medicare if you are younger than 65 and don't have ESRD. If you had your 65th birthday **before** January 1, 2020 or were eligible for Medicare before that date, you can choose from all of the Medigap plans that are available for sale from any company in your geographical area. If your 65th birthday occurred **on or after** January 1, 2020, or if you are younger and eligible for Medicare because of a disabling condition and don't have ESRD, you can't buy Medigap Plan C

or F or high deductible F. Instead you can buy D or G (including high deductible G).

B. Guaranteed Issue

Guaranteed issue rights mean that companies selling Medigap policies must sell you one of the required plans without health screening, without a waiting period due to pre-existing conditions, and at the best price for your age. A waiting period for a pre-existing health condition is not permitted in the situations described below. You do not have to answer any health questions that may be on an application to get a guaranteed issued Medigap policy and a company cannot reject your application for failure to answer health questions.

In general, the time period in which you can choose another policy is shorter than during an Open Enrollment period, and you may have fewer choices. Not all insurance companies sell all 10 Medigap plans and the two high deductible options.

Following the events described below, people with Medicare are guaranteed the right to buy certain Medigap policies. You can usually apply for one of these guaranteed issued Medigaps **as early as 60 days before your coverage will end** to avoid any lapse in coverage. **In most cases, you only have 63 days to apply for one of these Medigaps after your health care coverage ends as a result of one of these events.** You must usually also provide a letter or other evidence showing the date that your other coverage will end or has ended when you submit your application.

The events described below apply to Medicare beneficiaries of all ages, *except those younger than 65 with ESRD who don't have any of these rights.* For most of the events listed below, the Medigap plans you are guaranteed the right to buy are plans A, B, D, G (including G with a high deductible), K, L, M, or N from any company that sells one of these. If your 65th birthday, *or if you are younger but don't have ESRD and your eligibility for Medicare occurred before January 1, 2020,* you can buy plans C or

F (including high deductible F) if a company sells one.

Event 1. When your employer-sponsored retiree health plan supplementing Medicare involuntarily terminates. This is a federal law that applies a limited right to employer-sponsored retiree plans, including COBRA coverage. However, it applies only when those health benefits acted as a supplement to Medicare. It does not apply if your health plan provided primary health benefits. This right also does NOT apply if you stop paying your premium for the COBRA coverage because the premiums became too expensive. California law, discussed above in Event 1 under “Other Open Enrollment Rights” of this fact sheet, is broader and provides more protection in this situation.

Event 2. When your employer-sponsored retiree health plan supplementing Medicare reduces benefits, you lose your eligibility for continued coverage, or your plan no longer pays the Part B 20% coinsurance. This law applies when your retiree plan stops providing supplemental benefits to Medicare, but continues providing other benefits.

Event 3 (A). When your Medicare Advantage (MA) plan increases your premium, increases your cost-sharing, reduces your benefits, or the MA plan terminates its relationship with a medical provider who is treating you. You have the right to buy a Medigap plan *from the same MA organization in which you are enrolled, if it sells one, or from the parent company or network that contracts with the MA plan.* This right is generally only available during the Annual Enrollment Period (AEP) because this is the time of year that MA plans can change benefits, premiums or costs. (MA plans are health plans that provide Medicare-covered services and are available to Medicare beneficiaries through commercial companies. See our fact sheet “Medicare Advantage (Medicare Part C): An Overview.”)

Note: This right does not apply if the health care provider treating you leaves the MA plan.

Event 3(B): If the MA organization providing your MA plan *doesn't* sell a Medigap policy. You still have the right to buy a Medigap from any other company **IF:**

1. The MA plan increased your premium or your copayments for
2. hospital, physician, or drug benefits by 15% or more
3. The MA Plan reduced benefits covered by the MA plan, or
4. The **MA plan** terminated its relationship with a medical provider who was treating you.

Note: The increase in premium or cost-sharing must be 15% or more to trigger the right to buy a Medigap from another company **only when a MA organization in which you are enrolled, or the parent company or network that contracts with the MA plan *does not* sell a Medigap.**

The guaranteed issue right to buy a Medigap in this situation is only during the Annual Election Period (AEP) – October 15 to December 7 each year.

One exception to the AEP is **when an MA plan terminates its relationship with a provider who is treating you.** However, while you have the right to buy a Medigap at that time, you may not also have the right to disenroll from the MA plan. This Event 3 right **does not** apply if your health care provider decides to leave the MA plan. Contact your local HICAP for assistance. Their number listed in the footer of this fact sheet.

You can purchase one of the guaranteed issue Medigap policies, beginning on the date you are notified of a reduction of benefits or increase in premium or cost-sharing, or termination of a relationship with your provider, but no later than 63 days after those benefits end.

Event 4. When you move out of the service area of your Medicare Advantage plan or the Program for All-Inclusive Care for the Elderly (PACE) organization. You have the right to buy a Medigap policy even when Medicare

Advantage plans are available in your new location.

Event 5. When your Medicare Advantage plan, Medicare SELECT* Medigap Plan, PACE provider, or any other health plan under contract with Medicare commits fraud, ends or loses their contract with Medicare, or misrepresents the contract you bought. You have the right to buy a Medigap policy IF the federal government determines that the company failed to meet its contractual obligations to Medicare beneficiaries.

***Note:** Medicare SELECT plans were a hybrid Medigap policy combined with a Preferred Provider Organization (PPO) that encouraged its member to use its network of providers for covered services.

Event 6. Medicare Trial Period #1, at age 65: When you first become eligible for Medicare Part A at age 65 AND you enroll in a Medicare Advantage plan or with a Program for All-Inclusive Care for the Elderly (PACE) organization for the first time. If you disenroll from the MA or PACE plan within the first 12 months, you can choose from any Medigap policy that is available for sale. You can apply 60 days before your coverage will end and not later than 63 days after it ends. **Note:** This event only applies **at age 65**, and it does not apply if you delay Part B and apply later.

Event 7. Medicare Trial Period #2, for people with a Medigap policy: When you give up a Medigap plan to enroll in any of the following for the very first time: Medicare Advantage plan, any PACE organization, a Medicare SELECT Medigap plan, or any other health care organization contracting with Medicare to provide Medicare-covered services. If you disenroll within the first 12 months, you have the option to return to your previous Medigap plan, if it is still available. If it is not available, you can choose from plans A, B, D, G, (including high deductible G), K, L, M or N from your current insurance company or from another company. You can apply **60 days before** your coverage will end and **not later than 63 days after** it ends.

Note: If you had your 65th birthday, or if you are younger and your eligibility for Medicare is due to a disabling condition, but not ESRD, **before** January 1, 2020, you can also buy Medigap Plans C, F, or high deductible F.

Note: You do NOT have a guaranteed issue right if you have previously been enrolled in a plan that contracted with Medicare even if you went back to Original Medicare later. You only have this right if your situation matches exactly one of the two Medicare Trial Periods described in Events 6 and 7 of this fact sheet.

C. Other Guaranteed Issue or Open Enrollment Periods Under California Law

Below are listed more events that are specific to California law and allow for additional enrollment periods. Each of these events has a different time limit to exercise your rights.

Event 1. When your Medicare Advantage plan leaves your geographic area. This applies when your Medicare Advantage plan leaves the area or the zip code where you live. You have the right to apply for Medigap plans A, B, D, G (including the high deductible option), K, L, M or N. If you had your 65th birthday, or if you are younger than 65 and became eligible for Medicare is due to a disabling condition but not ESRD, **before** January 1, 2020, you can also buy Medigap Plans C, F, or high deductible F.

You can apply any time after the Medicare Advantage plan first notifies you that they are leaving. You have up to **123 days** after your Medicare Advantage plan benefits actually end to apply for a guaranteed issue Medigap policy.

Event 2. If you already have a Medigap policy, each year on your birthday, you can decide to replace your current policy with one that has the same or fewer benefits. You have at least **60 days** to choose another plan from the same company or any other company selling Medigap policies, but you are limited to one that has the same or fewer benefits than the plan you already have. For example, if you

already have Plan C, you can switch to any other Plan C, from the same or a different company. Also, if you have a plan with “innovative” or “extra” benefits, those benefits are not included when determining which Medigap plans have equal or fewer benefits. You do NOT have this right unless you already have a Medigap policy on your birthday.

Note: Medigap companies offer extra benefits like vision and dental benefits that require a premium in addition to the Medigap premium and are part of a Medigap policy. Some companies provide an additional benefit like a gym or auto club membership that doesn’t require a premium and is a benefit of buying a Medigap from that company. These benefits are not guaranteed from one year to the next.

Note: Some companies may refuse to sell Plan G with fewer benefits to someone who has a Medigap Plan F and was eligible for Medicare prior to 1/1/2020. A company may be limiting enrollment in Plan G to new younger beneficiaries. This issue has been referred to the insurance department to determine if companies are allowed to deny Plan G for people exercising this right.

Note: Employers sometimes contract with an insurance exchange to provide a variety of insurance products for their active employees and retirees. An employer may provide an annual benefit amount towards the premium cost of coverage, but only when coverage is purchased through the exchange. Exchanges sometimes include one or more Medigaps for an employer’s retiree population and may not comply with this rule.

Note: If you have a Medigap policy with benefits that are different from the policies that are currently available, you will need individual assistance to discover which current Medigap plans have the same or fewer benefits. Please contact your local HICAP.

D. Medi-Cal & Medigap Policies

If you have full Medi-Cal benefits, you do not need a Medigap policy, and it is illegal for

companies to sell you one. However, there are a few exceptions: You may get a Medigap policy if you have Medi-Cal with a share of cost; or Medi-Cal only pays your Medicare Part B premium and you are **not** eligible for full Medi-Cal benefits. If you are enrolled in one of the Medicare Savings Programs, insurance companies cannot sell you a Medigap policy.

If you lose your Medi-Cal benefits or you have been notified you have a share of cost and want to buy a Medigap policy, you have **6 months** to apply for it. If you have a share of cost you must submit the application before you have met your share of cost for the month in which you are applying for coverage. In addition, many companies require proof of loss of Medi-Cal benefits or a share-of-cost notification.

If you already own a Medigap policy and then become eligible for Medi-Cal, you are allowed to keep it if you want to use it with medical providers who don’t take Medi-Cal. Or you can notify the insurance company that you want to place your Medigap benefits on “hold” for up to **24 months** and stop paying premiums. If you lose Medi-Cal before the end of this 24-month period, you can reinstate your previous Medigap policy. In that case, you must notify the company within **90 days** of losing your Medi-Cal benefits to get your policy reinstated or, if it is no longer available, you can get another one like it. You can only be charged a premium from the date your Medigap benefits are reinstated or the effective date of a new policy. For more information, see our fact sheets “Low Income Assistance: Medi-Cal” and “Low Income Assistance: Medicare Savings Programs.”

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This fact sheet contains general information and should not be relied upon to make individual decisions. In some situations, you may have more than one right that applies at the same time.

If you find yourself in a situation not listed in this fact sheet and/or would like to discuss your specific situation and choices, call the Health Insurance Counseling and Advocacy Program

(HICAP). HICAP provides free and objective information and counseling on Medicare and can help you understand your specific rights and health care options. You can call **1-800-434-0222** to make an appointment at the HICAP office nearest you.

Note: Online access to all CHA fact sheets on Medicare and related topics is available for an annual subscription. See cahealthadvocates.org/fact-sheets/.