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INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

April 8, 1999

Honorable M. Diane Koken, Commissioner
Insurance Department
1326 Strawberry Square
Harrisburg, PA 17120

Re: IRRC Regulation #11-193 (#2000)
Insurance Department
Medicare Supplement Insurance Minimum Standards

Dear Commissioner Koken:

Enclosed are our Comments on your proposed regulation #11-193. They are also available on our website at <http://www.irrc.state.pa.us>.

The Comments list our objections and suggestions for your consideration when you prepare the final version of this regulation. We have also specified the regulatory criteria which have not been met. These Comments are not a formal approval or disapproval of the proposed version of this regulation.

If you want to meet with us to discuss these Comments, please contact James M. Smith at 783-5439.

Sincerely,

Robert E. Nyce
Executive Director

REN:kgg

Enclosure

cc: Pete Salvatore
Office of General Counsel
Office of Attorney General
Pete Tartline

COMMENTS OF THE INDEPENDENT REGULATORY REVIEW COMMISSION

ON

INSURANCE DEPARTMENT REGULATION NO. 11-193

MEDICARE SUPPLEMENT INSURANCE MINIMUM STANDARDS

APRIL 8, 1999

We have reviewed this proposed regulation from the Insurance Department (Department) and submit for your consideration the following objections and recommendations. Subsections 5.1(h) and 5.1(i) of the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) specify the criteria the Commission must employ to determine whether a regulation is in the public interest. In applying these criteria, our Comments address issues that relate to clarity. We recommend that these Comments be carefully considered as you prepare the final-form regulation.

1. Complaints - Clarity

The regulation is not clear regarding what constitutes a complaint, how complaints are to be distinguished from grievances, and the procedures an insurer must follow when a complaint is received. This affects the plan of operations filed by insurers, hearing of complaints by insurers, and the Department's evaluation of the performance of an insurer regarding complaints and grievances. The following comments provide specific points in the regulation where complaints and their procedures are vague.

a) Definition of "Complaint."

The definition of "complaint" in Subsection (c) does not provide a clear distinction between a complaint and a grievance. The definition of "grievance" appears to be substantially the same as the definition of "complaint." However, the definition of "grievance" contains qualifying phrases such as "expressed in writing," and "insured under a Medicare Select policy or certificate." It isn't clear whether a complaint could be in writing, or whether a complaint could be filed by an individual who is not insured. The regulation should provide clear guidance to distinguish a complaint from a grievance.

Alternatively, if there is not a clear distinction between the terms, the Department should combine these provisions and delete one of the terms from the regulation.

b) Plan of operation regarding complaints.

Subsection (f)(3) requires a description of the grievance procedure. The regulation does not require a corresponding description of the complaint procedure. If there is a difference between a complaint and a grievance, the regulation should include a requirement for the plan of operation to contain a description of the complaint procedure to be utilized, and how the insurer will distinguish between a complaint and a grievance.

c) Procedures for hearing complaints.

Subsection (l) requires procedures for hearing complaints and resolving written grievances. However, subsequent Paragraphs (1) - (6) only discuss grievances. If there is a difference between a complaint and a grievance, the regulation should provide a parallel description of procedures for hearing complaints and their resolution.

d) Report regarding complaint procedures.

Subsection (l)(6) requires reporting regarding grievance procedures. The regulation should provide a parallel reporting requirements for complaint procedures.

2. Subsection (f). Plan of Operation - Clarity

Subsection (f)(7) requires a proposed plan to contain "other information requested by the Commissioner." The Department should narrow the scope of this requirement to information pertinent to the plan of operation.

3. Subsection (l). Complaint and Grievance Procedures - Clarity

Subsection (l) requires the grievance procedure to be provided in the policy, the outline of coverage, and described in detail when a policy is issued. The Department should also consider requiring the insurer to explain how an individual may initiate a complaint or grievance when an individual expresses dissatisfaction to the insurer or its providers.

Subsection (l)(3) requires grievances to be considered in a "timely manner." Subsection (l)(4) requires corrective action to be taken "promptly." Subsection (l)(5) requires the concerned parties to be notified, but does not provide a timeframe for notice. These subsections do not provide clear guidance for when the actions are expected to occur. A grievance may involve the type or level of care an ill individual is receiving. The Department should consider setting minimum timeframes for processing grievances that directly affect a patient's care.