

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS INFORMATIONAL STATEMENT AS REQUIRED BY NRS 233B.066

LCB FILE NO. R163-22

The following statement is submitted by the State of Nevada, Department of Business and Industry, Division of Insurance (“Division”) for adopted amendments to Nevada Administrative Code (“NAC”) Chapter(s) 687B.

1. A clear and concise explanation of the need for the adopted regulation.

This regulation is needed to provide additional guidance concerning Assembly Bill 250 (“AB 250”), the Medicare Supplement “Birthday Rule” Law which was passed during Nevada’s 2021 Legislative Session and became effective on January 1, 2022. Based upon questions the Division received from insurance carriers and producers, the language proposed in this regulation is intended to provide regulatory clarification for areas of ambiguity in the bill.

2. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

- (a) A description of how public comment was solicited:

Public comment was solicited by emailing the proposed regulation, notice of workshop, notice of intent to act upon the regulation, and small business impact statement to persons on the Division’s mailing list requesting notification of proposed regulations. The documents were also made available on the website of the Division, <http://doi.nv.gov/>, the website of the Nevada Legislature, <http://www.leg.state.nv.us>, and the Nevada Public Notice website, <http://www.notice.ng.gov>. The documents were also emailed, or mailed where no email address was available, to the main library for each county in Nevada.

Public comment was also solicited at the workshop held on October 4, 2022, and at the hearing held on October 18, 2022. The public workshop and hearing took place virtually via Webex.

- (b) A summary of the public response:

Most of the public responses the Division received were from Medicare Supplement Insurance companies who were concerned that they would not have enough time to implement system and application changes required as a result of subsection 3 of section 1, which prohibits existing Medicare Supplement policyholders from re-enrolling in the same plan and company that they currently have.

Other public responses from brokers were in regard to AB 250, which regulation R163-22 addresses. One of the brokers gave an example of how much premium AB 250

saved his client when the client was able to switch Medicare Supplement plans without underwriting.

(c) An explanation of how other interested persons may obtain a copy of the summary:

The summary in part 2(b) above reflects the public comments and testimony that transpired with regard to regulation R163-22. A copy of said summary may be made available by e-mail request to regs@doi.nv.gov.

3. The number of persons who:

- (a) Attended the hearing: 24
- (b) Testified at the hearing: 2
- (c) Submitted to the agency written statements: 1

4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3 (b) and (c), as provided to the agency:

Testified at the hearing:

Name	Entity/Organization Represented	Business Address	Telephone No./ Business Telephone No.	E-Mail Address
Jack Childress	NV DOI	1818 E College Pkwy Suite 103 Carson City, NV 89706	775-687-0731	jchildress@doi.nv.gov
Jack Kim	UnitedHealthcare Insurance Company	2720 N Tenaya Way Las Vegas, NV 89128	(866) 574-6088	Jack.kim@uhc.com

Submitted to the agency written statements:

Name	Entity/Organization Represented	Business Address	Telephone No./ Business Telephone No.	E-Mail Address
Andy Riegel	Elevance Health	220 Virginia Avenue Indianapolis, IN 46204	(702) 467-7043	Andrew.Riegel@elevancehealth.com
Ashley Jonkey	Elevance Health	220 Virginia Avenue Indianapolis, IN 46204	(775) 842-2367	Ashley.Jonkey@elevancehealth.com

5. A description of how comments were solicited from affected businesses, a summary of their responses, and an explanation of how other interested persons may obtain a copy of the summary.

(a) A description of how comments were solicited from affected businesses:

Comments were solicited from affected businesses in the same manner as they were solicited from the public. Please see the description provided above in response to #2(a).

Additionally, a survey was sent to producer associations and chambers of commerce to measure the impact of Assembly Bill 250 on small businesses.

(b) A summary of the responses from affected businesses:

In addition to the public response outlined in question 2b above, a survey was sent through Survey Monkey to broker associations and chambers of commerce. 94.4% of the responses stated that there would be either no impact or a positive impact to their business. However, some producers have expressed that this will have a large negative impact on their business which will cause them to send people to Medicare Advantage plans instead where the commissions are higher.

(c) An explanation of how other interested persons may obtain a copy of the summary:

The summary in part 5(b) above reflects the public comments and testimony that transpired with regard to regulation R163-22. A copy of said summary will also be made available by e-mail request to regs@doi.nv.gov.

6. If, after consideration of public comments, the regulation was adopted without changing any part of the proposed regulation, provide a summary of the reasons for adopting the regulation without change.

The Division considered each of the arguments provided by industry representatives who were opposed to various aspects of the proposed regulation. Ultimately, the Division chose to adopt the proposed regulation without any changes, for the reasons explained below.

One of the Medicare Supplement Insurance companies stated that insurance companies would not have time to implement system and application changes before the effective date of the regulation. As a result, the Division will not enforce subsection 3 of section 1 of R163-22 in order for insurance companies to have the time they need to make the necessary changes. This will benefit both the insurance companies, by giving them extra time; and consumers, who will be able to switch to the same Medicare Supplement plan with their existing insurance company and receive no underwriting. Subsection 3 of section 1 specifically prohibits this; however, that will be allowed until the insurance company has sufficient time to make the necessary changes to their system and application.

7. (a) The estimated economic effect of the adopted regulation on the business which it is to regulate:

(1) Both adverse and beneficial effects:
i. Beneficial: The beneficial impact this regulation provides to Medicare Supplement insurance companies is that any existing Medicare Supplement policyholders who they currently have won't be able to re-enroll in the same plan without underwriting. This provision will save Medicare Supplement companies money and risk. Additionally, this regulation removes any ambiguity as to how commissioners should be paid.

ii. Adverse: This regulation doesn't provide any additional adverse effects to Medicare Supplement Insurance companies than what is already caused by AB 250.

(2) Both immediate and long-term effects:
i. Immediate: Once effective, this regulation will benefit Medicare Supplement Insurance companies because existing Medicare Supplement policyholders won't be able to re-enroll in the same plan with the same company. This means that any policyholders who do not choose to change plans as a result of AB 250 will be priced at the appropriate risk.

ii. Long-Term: The long-term effects of this regulation are the same as the immediate effects.

(b) The estimated economic effect of the adopted regulation on the public:

(1) Both adverse and beneficial effects:
i. Beneficial: The beneficial impact is that information is posted to the Division's website explaining what plan options existing Medicare Supplement policyholders have, based on their existing plan.
ii. Adverse: Not being able to re-enroll in the same plan and company could be considered an adverse effect of this regulation. However, this was implemented to prevent consumers from engaging in behavior that was never the intent of AB 250.

(2) Both immediate and long-term effects:
i. Immediate: The immediate effects of this regulation are explained in 7(b)(1) above.
ii. Long-Term: The long-term effects of this regulation are explained in 7(b)(1) above.

8. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the Division for enforcement of the adopted regulation.

9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates, and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

R163-22 does not overlap or duplicate any regulations of other state or government agencies.

10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of those provisions.

R163-22 does not include provisions that are more stringent than any federal regulation.

11. If the regulation establishes a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

R163-22 does not establish a new fee or increase an existing fee.