PURPOSES

The purposes of this Information Memorandum are:

1) to inform you of pending changes in Medicare supplement insurance (MSI), commonly referred to as Medigap insurance;

2) to highlight some of the major changes specific to New York State;

3) to provide some counseling advice; and

4) to provide information on the Federal health insurance counseling grant funds.

The changes result from a mandate of the Omnibus Reconciliation Act of 1990, P.L. 101-508, (OBRA) to simplify and reform the Medicare supplement insurance market by establishing new minimum standards. The process has been referred to as "Medigap simplification."

This Information Memorandum supplements the information on Medigap simplification contained in the SOFA Advocacy Alert dated November 21, 1991.

1. THE LAW CHANGING MEDICARE SUPPLEMENT INSURANCE

Congress sought to remedy the many problems associated with the Medicare supplement insurance market. The result of their deliberations was addressed under OBRA 1990 that: 1) mandated the adoption of standardized Medicare supplement insurance policies by the insurance industry, 2) set standards for consumer protection including marketing standards, and 3) authorized funds for health insurance counseling programs.
As directed by OBRA, the National Association of Insurance Commissioners (NAIC) adopted a revised version of the Medicare Supplement Insurance Minimum Standards Model Act and Regulation. The NAIC Model Act and Regulation sets minimum standards that states must use as a guide.

MODEL POLICIES

The NAIC has developed ten (10) model Medicare supplement policy plans (labeled A through J). Each offers a different benefit package. With only ten types of policies available, consumers will have a clearer basis for comparison. States are required to adopt the core or basic plan (Plan A) and have the option of offering the others. See the attached chart that denotes the plan options (Attachment A).

2. NEW YORK STATE SPECIFIC CHANGES

The New York State Insurance Department has promulgated proposed Medicare supplement insurance standards to meet the federal mandate under OBRA. April 1, 1992 is the proposed effective date.

As required by law, the Department filed the proposed standards with the Secretary of State. Attached is a copy of the notice in the January 8 State Register (Attachment B). The public had 45 days from the date that the proposed standards appeared in the State Register in which to comment. The State Office has reviewed the proposed standards, and we have notified the Insurance Department that we have no objection to them. The Insurance Department’s proposed standards exceed the NAIC’s minimum standards and contain extra provisions designed to benefit New York consumers. Some of the key provisions of New York’s proposed standards are listed on Attachment C.

The Insurance Department will review and approve new policies according to their conformance to the standards, which should be adopted on or about April 1. Once the new policies are approved, the Insurance Department will update their Medicare supplement insurance guide.

In the mean time, you should consult the “1992 Guide to Health Insurance for People with Medicare,” which provides general information about the changes. This booklet is available from any Social Security Office and from insurers who offer Medicare supplement insurance. The new law requires insurers to provide prospective policyholders with a copy of this booklet. Should additional questions arise regarding specific policies, they should be directed to the individual insurers listed in the current Insurance Department's guide.
MARKETING STANDARDS

The NAIC and New York’s proposed standards include marketing standards designed to benefit consumers by addressing complaints from the public on widespread abusive sales tactics. Issuers of Medicare supplement policies must establish marketing procedures to ensure fair comparison of policies by agents, to ensure excessive insurance is not sold, and require agents to ask whether the prospective consumer has other accident and health insurance. Most importantly, abuses such as “twisting,” high pressure tactics, and “cold lead advertising” are prohibited.

3. COUNSELING FOR CONSUMERS

Counselors should have a general awareness of the new insurance standards prescribed under “Medigap simplification”. The attached question and answer piece prepared by the NAIC provides information on basic questions regarding the changes (Attachment D). Anyone interested in receiving a copy of the NAIC’s section-by-section analysis of the “Medigap simplification” can request a copy through the State Office for the Aging’s Benefits and Entitlements Unit.

The following provides some “counseling tips” or insights into some questions with which counselors or AAA staff may be confronted.

Policies

- Policies in force at the time the revised insurance standards become effective will remain in effect.

  Consumers should not assume that new Medigap policies under simplification will necessarily be better than their current policy. New York State’s current minimum standards match Plan “B”. Before considering any change, consumers should be advised to review the benefits of their current plan carefully and compare with any new option under consideration. Consumers may find that their current policy is adequate. The key element in the decision-making process is to choose (or keep) a policy that best fits an individual’s needs.

  - Policyholders may have the option of canceling or revising their policy. Consumers should check their policies carefully or seek advice as to whether their policy can be or should be changed. Depending on the contract/policy language, some policies may not be able to be changed.

  - Policies sold after the effective date of the regulations, must adhere to the revised regulations.
If a Medicare supplement policy replaces an existing policy, the replacement policy must waive any time period applicable to re-existing conditions (to the extent such time period has expired under the original policy). Awaiting period for pre-existing conditions cannot be imposed on a replacement policy if the policy being replaced was in effect for at least six months.

Any misrepresentations by agents or deviations from the law should be reported to the insurance company and the New York State Insurance Department.

Open Enrollment

We call your attention again to the open enrollment provision. The open enrollment provision guarantees Medicare supplement coverage to people, regardless of their health, as they turn 65 and enroll in Medicare Part B. Insurers cannot deny coverage providing the individual applies within six months of enrolling in Part B. Any incidents of denials should be reported to the Insurance Department. The law does not allow this opportunity for those whose Medicare Part B became effective prior to June 1, 1991.

Consumers should be encouraged to enroll during this six-month period as it may be difficult for them to obtain coverage with some plans due to health conditions if they do not enroll during this open enrollment period.

Please refer to Attachment C for information on open enrollment specific to New York State. Attached is a general explanation of open enrollment prepared by the HCFA (Attachment E).

4. GRANT FUNDS FOR HEALTH INSURANCE COUNSELING

To reduce the elderly's confusion about their health insurance needs and benefits, and to address consumer vulnerability to high pressure and unscrupulous sales practices, Congress included language in OBRA that would require the Secretary to make grants to States to support or establish health insurance counseling programs.

Section 4360 "Health Insurance Information, Counseling and Assistance Grants" of the Act authorized (but did not appropriate) $10 million for each of federal fiscal years 1991, 1992 and 1993 for health insurance counseling demonstration programs. The purpose of the funds is to enable state governments to provide statewide counseling.

The State Office advocated for the approval of these funds in Congress and with the Health Care Financing Administration. Congress approved the appropriation in September of 1991, and the appropriation was signed into law in November, 1991.
HCFA currently is preparing regulations and developing a method of distribution for the funds. The funds will not be released for several months. We will continue to monitor developments at the federal level and keep you informed through the Association of Area Agencies on Aging.

5. **FUTURE ACTIVITIES**

We will provide you with updated information regarding Medicare supplement insurance as it is available.

**ATTACHMENTS**

Attached to this Information Memorandum are several items containing information related to Medigap simplification. They are:

A. Chart of Model Plans "A-"J"
B. A copy of the notice from the State Register.
C. List of provisions from the New York State's proposed standards that exceed the NAIC's standards.
D. Q&A on Medigap simplification prepared by the NAIC.
E. Open Enrollment Q&A prepared by the HCFA.
F. 1992 Medicare and Medigap Update prepared by United Seniors Health Cooperative. A New York State-specific piece is being developed and will be sent via a separate Information Memorandum.

cc: Governor's Advisory Committee
    Older Americans Act Advisory Committee
    Statewide Committee on Minority Participation
    Advisory Committee to the Recreation Program for the Elderly