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ADVISORY OPINION

2020-07

The following Advisory Opinion is to advise the reader of the current position of the Kentucky Department of Insurance on the specified issue. The Advisory Opinion is not legally binding on either the Department or the reader.

TO: ALL INSURERS AND AGENTS SELLING MEDICARE ADVANTAGE PRODUCTS AND/OR MEDICARE SUPPLEMENT PRODUCTS IN KENTUCKY OR TO KENTUCKY CONSUMERS

FROM: SHARON P. CLARK, COMMISSIONER
KENTUCKY DEPARTMENT OF INSURANCE

RE: APPLICATION OF 806 KAR 17:570 SECTION 20's COMPARISON STATEMENT REQUIREMENT TO MEDICARE ADVANTAGE PLANS

DATE: NOVEMBER 23, 2020

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This Advisory Opinion sets forth the Department's general position on providing comparison statements to consumers replacing a Medicare supplement or Medicare Advantage plan with another Medicare Advantage plan. 806 KAR 17:570 Section 20(1) states in pertinent part:

Section 20. Requirements for Application Forms and Replacement Coverage.

(1) Comparison statement.

(a) If a Medicare Advantage or Medicare supplement policy or certificate is to replace another Medicare supplement or Medicare Advantage policy or certificate, there shall be presented to the applicant, no later than the application date, HL-MS-5.

It has come to the Department's attention that several local and national e-brokers, traditional brokers, and enrollment platforms that sell Medicare Advantage products in Kentucky do not include a Comparison Statement (HL-MS-5). The Department reminds all insurers and agents of Medicare Advantage products and Medicare supplement products that the comparison statement requirement applies to both product types as clearly stated in the regulation. The comparison statement must be provided when a replacement is determined at application that replaces from Medicare supplement to Medicare supplement, Medicare

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supplement to Medicare Advantage, or Medicare Advantage to Medicare supplement. Insurers and agencies are advised to review their practices to ensure that any such products offered meet the requirements of 806 KAR 17:570 and avoid violations. Insurers that do not correct noncompliant practices within fourteen (14) days from the date of this bulletin will be subject to penalties as deemed appropriate by the Commissioner.

For further information regarding this advisory opinion, please contact Stephanie McGaughey-Bowker at (502) 782-5278 or Stephanie.bowker@ky.gov.

// Sharon P. Clark //

Commissioner

Kentucky Department of Insurance

