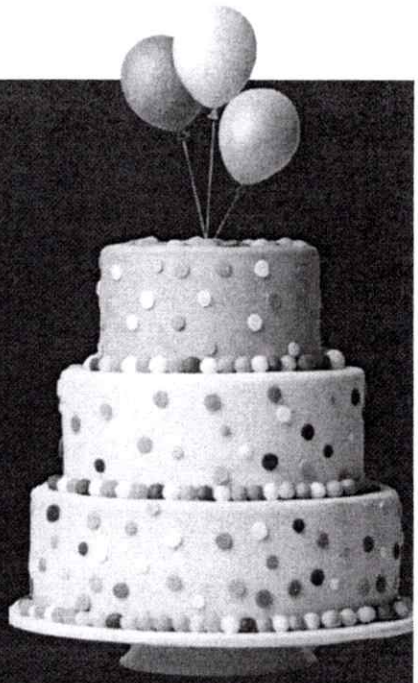
SCC STATE CORPORATION COMMISSION **BUREAU OF INSURANCE**

Virginia's Medigap "Birthday Rule" Annual Open Enrollment



Virginia's new Medigap Birthday Rule provides an annual open enrollment opportunity for individuals currently enrolled in a Medicare Supplement (Medigap) policy. Beginning July 1, 2025, Virginia law requires Medigap insurers to offer a 60-day open enrollment period starting on an enrollee's birthday. During this time, the enrollee may switch to any Medigap policy with the same benefits offered by any insurer in Virginia, regardless of health status.

Note: Throughout this guidance, "Medigap policy" means a policy issued on an individual basis, including a policy issued through a non-employer group trust, plan or association. It also means eligible Medigap policies offered by public entities.

WHAT IS THE BIRTHDAY RULE?

The Birthday Rule is a new Virginia law that allows a person enrolled in a Medigap policy to change their Medigap policy during an annual 60-day open enrollment period, beginning on their birthday each year. The Birthday Rule creates a personalized enrollment window tied to each enrollee's birthday.

Starting on July 1, 2025, the Birthday Rule ensures that covered individuals will have a chance to purchase any Medigap policy with the same benefits without being denied coverage or charged a higher rate due to health conditions or claims history.

[1] § 38.2-3611 of the Code of Virginia; effective July 1, 2025.

WHO IS ELIGIBLE?

You qualify for the Birthday Rule if:

- You are a resident of Virginia, and
- You are currently insured under a Medigap policy or certificate issued by a licensed insurer, health services plan, or health maintenance organization in Virginia.

If you purchased your current Medigap policy in Virginia and are no longer a Virginia resident, you will receive notice of the 60-day open enrollment period under the Birthday Rule. However, if you choose to select another Medigap policy during this period, the laws of the state in which you currently reside will apply and you may be subject to underwriting.

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WHAT POLICIES CAN BE CHOSEN?

You may change to any Medigap policy that:

- Is offered by any insurer issuing Medigap policies in Virginia; AND
- Provides the same benefits as your current Medigap policy (e.g., Plan G to Plan G).

Note: When determining benefit levels, "innovative benefits" – such as vision, hearing, or dental services – are not considered.

WHEN CAN YOU CHANGE POLICIES UNDER THE BIRTHDAY RULE?

You may switch Medigap policies each year during a 60-day period, starting on your birthday.

- For example, if your birthday is August 10:
- The Birthday Rule open enrollment period would run from August 10 through October 9.

You must apply for the new policy during the 60-day period.

To ensure there is no lapse in coverage, do not cancel your current Medigap policy until the new Medigap policy is issued and effective.

Note: New coverage typically begins on the first of the month following the application date. Insurers can adjust the effective date, so consumers do not have two policies that are active at the same time. In some cases, this means the policy start date is more than 30 days from the date of application. For example: Susan's birthday is September 5. She applies to a new company on September 20 but requests a November 1 effective date to allow time to cancel the existing policy.

WHAT PROTECTIONS APPLY?

During the Birthday Rule open enrollment period:

- Insurers cannot deny you coverage based on your health status (including tobacco use), medical condition, claims history, or receipt of health care.
- Insurers cannot charge you more for the new Medigap policy based on your health status.
- Insurers cannot impose waiting periods or medical underwriting requirements during this time.

These protections apply only when switching to a policy with the same benefits.

WHAT NOTIFICATION WILL YOU RECEIVE?

Your current Medigap insurer must send you written notice:

- At least 15 days but no more than 30 days before your birthday open enrollment period begins.
- The notice must include:
  - The start and end dates of your 60-day enrollment window,
  - Your rights under the Birthday Rule, and
  - Any changes to your current Medigap policy, including adjustments to benefits or premiums.

Note: If your birthday does not coincide with your renewal date, you may receive a separate notice of benefit and premium adjustments to your current policy at your renewal date.