



SPONSOR: Rep. Kowalko & Rep. Wilson-Anton & Rep. Ramone &  
Sen. Ennis & Sen. Lawson  
Rep. Lynn

HOUSE OF REPRESENTATIVES  
151st GENERAL ASSEMBLY

HOUSE BILL

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO HEALTH CARE INSURANCE FOR PUBLIC OFFICERS, EMPLOYEES, AND ELIGIBLE PENSIONERS.

1           WHEREAS, beginning January 1, 2023, the State of Delaware Group Health Insurance Plan will only offer one  
2 Medicare plan option, the Highmark Blue Cross Blue Shield (“BCBS”) Delaware’s Freedom Blue PPO Medicare  
3 Advantage Plan, with Part D prescription through SilverScript (“Delaware Medicare Advantage Plan”); and

4           WHEREAS, beginning January 1, 2023, the State of Delaware Group Health Insurance Plan will no longer offer  
5 the Highmark BCBS Delaware Special Medicfill Medicare Supplement Plan with or without prescription (“Delaware  
6 Medicare Supplement Plan”); and

7           WHEREAS, the decision to only offer State pensioners with Medicare (“retirees”) the Delaware Medicare  
8 Advantage Plan was made without soliciting input from retirees; and

9           WHEREAS, the decision to only offer retirees the Delaware Medicare Advantage Plan fundamentally changes the  
10 health care benefits promised by the State to employees and long-relied on by retirees by shifting from a Medicare  
11 Supplement Plan to a Medicare Advantage plan; and

12           WHEREAS, offering only a Medicare Advantage plan is not the only possible method to address the State’s  
13 anticipated liability for increased costs for retiree health care insurance; and

14           WHEREAS, the Retirement Benefit Study Committee’s *Initial Report on Other Post-Employment Benefits*, issued  
15 on November 1, 2021, identified 6 benefit options for potential implementation effective January 1, 2024, to reduce these  
16 anticipated increases in costs for retiree health care insurance; and

17           WHEREAS, many retirees live outside of Delaware and many retirees who live in Delaware receive specialized  
18 health care in other states; and

19           WHEREAS, there are major health care providers in surrounding states and across the country that do not  
20 currently accept the Delaware Medicare Advantage Plan; and

21           WHEREAS, there is no guarantee that retirees will have access to their preferred health care providers and  
22 treatment under the Delaware Medicare Advantage Plan; and

23 WHEREAS, an April 2022 report by the Office of Inspector General of the U.S. Department of Health and Human  
24 Services (“OIG Report”) found that 13% of prior authorization denials by Medicare Advantage Organizations (“MAO”)  
25 were for service requests that met Medicare coverage rules, likely preventing or delaying medically necessary care for  
26 Medicare Advantage beneficiaries; and

27 WHEREAS, the OIG Report also found that 18% of payment denials by MAOs were for claims that met Medicare  
28 coverage rules and MAO billing rules, which delayed or prevented payments for services that providers had already  
29 delivered; and

30 WHEREAS, a study from the Kaiser Family Foundation found that companies typically earn twice as much gross  
31 profit from their Medicare Advantage plans as from other types of insurance; and

32 WHEREAS, the Centers for Medicare & Medicaid Services has recouped \$13.7 million in overpayments  
33 associated with the 37 Medicare Advantage contracts audited as a pilot starting with the 2007 payment year; and

34 WHEREAS, given these findings regarding Medicare Advantage plans, retirees should continue to have the option  
35 to choose the Delaware Medicare Supplement Plan; and

36 WHEREAS, this State can afford to continue to offer the Delaware Medicare Supplement Plan given the Delaware  
37 Economic and Financial Advisory Council’s October 2022 report forecasting a \$259 million increase in revenues for the  
38 current fiscal year and a \$120 million increase in revenues for Fiscal Year 2024; and

39 WHEREAS, on October 19, 2022, a Superior Court judge issued an order staying the implementation of the  
40 Delaware Medicare Advantage plan and directing the State to “take all necessary and proper steps to ensure that the  
41 healthcare insurance and benefits available to State retirees prior to October 3, 2022, or in which they were enrolled prior to  
42 that time, remain in full force and effect.” See *RiseDelaware, Inc. v. Secretary Claire DeMatteis*, C.A. No. N22C-09-526  
43 (Del. Super. Ct. Oct. 19, 2022).

44 NOW, THEREFORE:

45 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

46 Section 1. Amend § 5202, Title 29 of the Delaware Code by making deletions as shown by strike through and  
47 insertions as shown by underline as follows:

48 § 5202. Payment of premium or subscription charge [Effective Jan. 1, 2023].

49 (d) For the purposes of this chapter, eligible employees who were each first employed as a regular officer or  
50 employee by the State on or before December 31, 2011, a husband and wife legally married on or before December 31,  
51 2011, may each qualify as a regular officer, employee or eligible pensioner of the State. In the case where 2 members of a  
52 family qualify, the following options are set forth:

53 (4) Effective July 1, 2012, to December 31, 2017, if the 2 employees enroll under an employee and spouse or  
54 family contract, there shall be a \$25 per month charge to the employee who enrolls for the coverage. If the employees  
55 choose to enroll in separate plans, employee only and employee and children contracts, either the employee cost share  
56 premium or a \$25 per month charge shall apply to both contracts, whichever is less. If employee and spouse are  
57 eligible pensioners where 1 or both retire on or after July 1, 2012, and before July 1, 2017, only 1 \$25 per month  
58 charge shall apply when separate contracts are required for a Medicare Advantage ~~Plan~~ Plan or a Medicare  
59 Supplement Plan.

60 (5) Effective January 1, 2018, if the 2 employees or non-Medicare pensioners enroll under an employee and  
61 spouse or family contract, the employee or non-Medicare pensioner who enrolls for the coverage shall be charged ~~50~~  
62 ~~percent~~ 50% of the employee or non-Medicare pensioner cost share premium per month, or \$25 per month, whichever  
63 is greater. If the employees or non-Medicare pensioners choose to enroll in separate plans, employee only and  
64 employee and children contracts, each employee or non-Medicare pensioner shall be charged ~~50 percent~~ 50% of the  
65 employee or non-Medicare cost share premium per month, or \$25 per month, whichever is greater for the plans chosen.

66 a. If both spouses are eligible pensioners and 1 is not yet Medicare eligible, the non-Medicare pensioner  
67 will enroll under a pensioner only or pensioner and children contract and the Medicare pensioner will enroll in the  
68 Medicare Advantage ~~Plan~~ Plan or Medicare Supplement Plan. The non-Medicare pensioner shall be charged ~~50~~  
69 ~~percent~~ 50% of the cost share premium, or \$25 per month, whichever is greater.

70 b. If 1 spouse is a regular officer or employee and 1 spouse is a Medicare eligible pensioner, the regular  
71 officer or employee who enrolls for employee and spouse or family coverage shall be charged ~~50 percent~~ 50% of  
72 the employee cost share ~~premium~~ premium. If the employee and Medicare eligible spouse choose to enroll in  
73 separate plans, each employee and Medicare eligible pensioner shall be charged ~~50 percent~~ 50% of the employee  
74 and Medicare Advantage ~~Plan~~ Plan or Medicare Supplement Plan cost share premium per month, or \$25 per  
75 month, whichever is greater for the plans chosen.

76 c. If both spouses are Medicare eligible and 1 or both retired on or after July 1, 2017, only 1 ~~50 percent~~  
77 50% pensioner only, or \$25 per month premium, whichever is greater, shall apply when separate contracts are  
78 required for a Medicare Advantage ~~Plan~~ Plan or Medicare Supplement Plan.

79 d. If both spouses are Medicare eligible and both retired after July 1, 2012, and before July 1, 2017, each  
80 Medicare eligible pensioner shall be charged \$25 per month premium when separate contracts are required for a  
81 Medicare Advantage ~~Plan~~ Plan or Medicare Supplement Plan.

82 Section 2. Amend § 5203, Title 29 of the Delaware Code by making deletions as shown by strike through and  
83 insertions as shown by underline as follows:

84 § 5203. Specifications of the coverage.

85 (b) The plan shall be for regular employees and eligible pensioners under 65 years of age and for employees and  
86 eligible pensioners over 65 years of age who are not entitled to services, ~~rights~~ rights, or benefits under the federal  
87 Medicare ~~Program (U.S. Public Law 89-97, as amended) [42 U.S.C. § 1395 et seq.]; Program, 42 U.S.C. § 1395 et seq.;~~ and  
88 a plan which is supplemental to Medicare parts A and B, or constructed as a plan under Medicare part C, for eligible  
89 pensioners entitled to services, ~~rights~~ rights, or benefits under the federal Medicare ~~Program. Program, which, through~~  
90 December 31, 2025, must include the Delaware Special Medicfill Medicare Supplement Plan with or without prescription  
91 in effect on January 1, 2022.

#### SYNOPSIS

This Act requires that the State's health care insurance plan continue to offer the Delaware Special Medicfill Medicare Supplement Plan with or without prescription in effect on January 1, 2022, through December 31, 2025.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.