

AB 250

MEDICARE SUPPLEMENT

“BIRTHDAY RULE”

[AB250 Text \(state.nv.us\)](https://www.state.nv.us)

What it Does:

1. Allows existing Medicare Supplement policyholders to have a new open enrollment period starting on the first day of their birthday month and extending for at least 60 days after.
2. During this time, these policyholders may purchase a new Medicare Supplement plan (with the same or lesser benefits) from their existing carrier or a new carrier without underwriting.
3. Innovative benefits must not be considered when determining whether a Medicare Supplement policy has the same or lesser benefits than another policy.
4. The effective date for AB 250 is January 1, 2022.

What Medicare Supplement Carriers are Required to do:

1. At least 30 days before the beginning of the open enrollment period, but not more than 60 days, Medicare Supplement carriers are required to notify their policyholders of their rights to enroll in a new plan under AB 250; and the timeframes in which they can do so.
2. The Division expects carriers to still provide an open enrollment period to people with January birthdays, even though they are not mandated to provide notice prior to the January 1st effective date of AB 250. Carriers should still provide notice to policyholders with January birthdays during their open enrollment period so they can take advantage of the “birthday rule” if they choose to.
 - a. This applies to Nevada policyholders who purchased a Medicare Supplement policy in this state and still live in Nevada; and to
 - b. Policyholders who purchased an out-of-state policy, but live in Nevada now. Note: The Division acknowledges that carriers may not have information about this group of people, but still expects the “birthday rule” to apply when carriers are made known of such individuals.
 - c. This does not apply to policyholders who purchased a plan in Nevada and now live out-of-state.

What Medicare Supplement Carriers cannot do:

1. Carriers cannot rate up policyholders who choose to participate in the “birthday rule.”
2. Carriers must charge existing rates to new policyholders and cannot charge them new rates until the renewal period.

How this affects Producers:

Medicare Supplement policies purchased during the open enrollment period provided by the “birthday rule” are considered replacement policies under NAC 687B.275(3) and commissions must be paid as such.

NAC 687B.275 Compensation of agents and other representatives and producers. ([NRS 679B.130](#), [687B.430](#))

1. An issuer or other entity may provide a commission or other compensation to an agent or other representative for the sale of a policy to supplement Medicare or a certificate only if the commission or other compensation for the first year is no more than 200 percent of the commission or other compensation paid for selling or servicing the policy or certificate in the second year or period.

2. The commission or other compensation provided in a subsequent renewal year must be:

(a) The same as that provided in the second year or period; and

(b) Provided for not less than 5 renewal years.

3. An issuer or other entity shall not provide to its agents or other producers, and an agent or producer shall not accept, compensation that is greater than the compensation for renewal that would have been paid by the replacing issuer on a renewal policy to supplement Medicare or a certificate if the existing policy or certificate is replaced.

4. As used in this section, “compensation” includes pecuniary or nonpecuniary remuneration of any kind relating to the sale or renewal of the policy to supplement Medicare or the certificate, including, but not limited to, any bonus, gift, prize, award or finders fee.

(Added to NAC by Comm’r of Insurance, 2-21-89, eff. 3-15-89; A 11-16-90; 7-16-92, eff. 7-30-92)

Additional Guidance:

1. AB 250 doesn’t address the effective date for new policies selected during the “birthday rule” and there is nothing in NAC 687B that addresses this. Consequently, the Division will allow carriers to choose the effective date as they already do with existing policies.
2. While AB 250 states that “an insurer shall not deny or condition the issuance or effectiveness, or discriminate in the price of coverage, of a Medicare supplemental policy based on the health status, claims experience, receipt of health care or medical condition of a person described in subsection 1.” However, there is no explicit guidance from the federal government or any other regulatory body whether discounts should be permitted for non-tobacco users during the open enrollment period.
3. Policyholders enrolling in a new Medicare Supplement plan under AB 250 are not considered “eligible persons” as described in NAC 687B.2053 – NAC 687B.2055; and as such, are not eligible for a guaranteed issue period as described in NAC 687B.2056.

I have a:	I can replace it with a:
1990 or 2010 Medigap Plan A 2020 Medigap Plan A	2010 Medigap Plan A ** and +
1990 or 2010 Medigap Plan B 2020 Medigap Plan B	2010 Medigap Plan A, B ** and +
1990 or 2010 Medigap Plan C	2010 Medigap Plan A, B, C, D, K, L, M or N +
1990 or 2010 Medigap Plan D 2020 Medigap Plan D	2010 Medigap Plan A, B, D, K, L, M or N ** and +
1990 Medigap Plan E	Any 2010 Medigap Plan
1990 or 2010 Medigap Plan F	Any 2010 Medigap Plan +
1990 or 2010 Medigap Plan F (HD)	2010 Medigap Plan F (HD) or 2020 Plan G (HD) +
1990 or 2010 Medigap Plan G 2020 Medigap Plan G	2010 Medigap Plan A, B, D, G, K, L, M, N, F (HD) or G (HD) ** and +
2020 Medigap Plan G (HD)	2020 Medigap Plan G (HD) ** and + 1990 and 2010 Medigap Plan F (HD) +
1990 Medigap Plan H	2010 Medigap Plan A, B, D, K, L, M or N
1990 Medigap Plan I	2010 Medigap Plan A, B, D, G, K, L, M or N
1990 Medigap Plan J	Any 2010 Medigap Plan
1990 Medigap High Plan J (HD)	2010 Medigap Plan F (HD)
1990 or 2010 Medigap Plan K 2020 Medigap Plan K	2010 Medigap Plan K ** and +
1990 or 2010 Medigap Plan L 2020 Medigap Plan L	2010 Medigap Plan K or L ** and +
2010 Medigap Plan M 2020 Medigap Plan M	2010 Medigap Plan M or N ** and +
2010 Medigap Plan N 2020 Medigap Plan N	2010 Medigap Plan N ** and +

(HD) – High Deductible

NOTE: Regardless of the dates, the key point to remember is that the birthday rule allows existing policyholders to change their current plan to one with equal or lesser benefits.

**Newly eligible for Medicare (age 65, due to 2 years of disability, end stage renal disease (ESRD) or amyotrophic lateral sclerosis (ALS)) on or after 1/1/20.

+Beneficiaries who were eligible for Medicare (age 65, due to 2 years of disability, end stage renal disease (ESRD) or amyotrophic lateral sclerosis (ALS)) prior to 1/1/20.

*Innovative benefits include benefits not contained in other standardized Medicare Supplement plans including, but not limited to, nurse advice lines, annual physical exams, preventive dental, vision and hearing care, drug discount cards and gym memberships. Innovative benefits must not be considered when determining whether a Medicare Supplement policy includes the same or lesser benefits than another such policy.

Note: Select plans are considered equal to the same plan type it is modifying.

++The Commissioner will update this matrix as often as necessary to comply with existing regulations.