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S.230

Introduced by Senators Harrison, Lyons, Clarkson, Ram Hinsdale and  
Wrenner

Referred to Committee on

Date:

Subject: Health; Department of Financial Regulation; Medicare Advantage;  
Medicare supplemental plans

Statement of purpose of bill as introduced: This bill proposes to prohibit the  
inclusion of Medicare Advantage plans in the health coverage for State  
employees, limit the advertising and sale of Medicare Advantage plans, and  
require guaranteed issue of a Medicare supplemental plan under certain  
circumstances.

An act relating to Medicare Advantage and Medicare supplemental  
insurance plans

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 3 V.S.A. § 631 is amended to read:

§ 631. GROUP INSURANCE FOR STATE EMPLOYEES; SALARY  
DEDUCTIONS FOR INSURANCE, SAVINGS PLANS, AND  
CREDIT UNIONS

1 (a)(1) The Secretary of Administration may contract on behalf of the State  
2 with any insurance company or nonprofit association doing business in this  
3 State to secure the benefits of franchise or group insurance. The terms of  
4 coverage under the policy shall be determined under section 904 of this title,  
5 but it may include:

6 \* \* \*

7 (10) The Secretary of Administration shall not contract for any group  
8 hospital-surgical-medical expense insurance that provides a Medicare  
9 Advantage plan or similar plan established pursuant to Title XVIII of the  
10 Social Security Act ~~without the explicit agreement of all employee~~  
11 ~~organizations certified pursuant to chapters 27 and 28 of this title.~~

12 \* \* \*

13 Sec. 2. 3 V.S.A. § 925 is amended to read:

14 § 925. MEDIATION; FACT FINDING

15 \* \* \*

16 (i)(1) In the case of the Vermont State Colleges or the University of  
17 Vermont, if the dispute remains unresolved 20 days after transmittal of  
18 findings and recommendations to the parties or within a time frame mutually  
19 agreed upon by the parties that may be not more than an additional 30 days,  
20 each party shall submit as a single package its last best offer on all disputed  
21 issues to the Board. Each party's last best offer shall be filed with the Board

1 under seal and shall be unsealed and placed in the public record only when  
2 both parties' last best offers are filed with the Board. The Board shall hold one  
3 or more hearings. Within 30 days of the certifications, the Board shall select  
4 between the last best offers of the parties, considered in their entirety without  
5 amendment.

6 (2)(A) In the case of the State of Vermont or the Department of State's  
7 Attorneys and Sheriffs, if the dispute remains unresolved 20 days after  
8 transmittal of findings and recommendations to the parties or within a time  
9 frame mutually agreed upon by the parties that may be not more than an  
10 additional 30 days, each party shall submit as a single package its last best  
11 offer on all disputed issues to the Board, or upon the request of either party, to  
12 an arbitrator mutually agreed upon by the parties. If the parties cannot agree  
13 on an arbitrator, the American Arbitration Association shall appoint a neutral  
14 third party to act as arbitrator.

15 (B)(i) Each party's last best offer shall be filed with the Board or the  
16 arbitrator under seal and shall be unsealed and placed in the public record only  
17 when both parties' last best offers are filed with the Board or the arbitrator.

18 (ii) A party's last best offer shall not include a proposal to:

19 (I) provide alternative health coverage to retired State  
20 employees that has not been agreed to pursuant to the provisions of subdivision  
21 479(a)(2) of this title; or

1 (II) provide health coverage that includes a Medicare  
2 Advantage plan or similar plan established pursuant to Title XVIII of the  
3 Social Security Act ~~unless the inclusion of the plan has been agreed to by both~~  
4 ~~parties.~~

5 \* \* \*

6 Sec. 3. 3. V.S.A. § 1018 is amended to read:

7 § 1018. MEDIATION; FACT-FINDING; LAST BEST OFFER

8 \* \* \*

9 (i)(1) If the dispute remains unresolved 20 days after transmittal of findings  
10 and recommendations or within a period of time mutually agreed upon by the  
11 parties that may be not more than an additional 30 days, each party shall  
12 submit to the Board or, upon the request of either party, to an arbitrator  
13 mutually agreed upon by the parties its last best offer on all disputed issues as a  
14 single package. If the parties cannot agree on an arbitrator, the American  
15 Arbitration Association shall appoint a neutral third party to act as arbitrator.

16 \* \* \*

17 (3)(A) A party's last best offer shall not include a proposal to:

18 (i) provide alternative health coverage to retired State employees  
19 that has not been agreed to pursuant to the provisions of subdivision 479(a)(2)  
20 of this title; or

1 (ii) provide health coverage that includes a Medicare Advantage  
2 plan or similar plan established pursuant to Title XVIII of the Social Security  
3 Act ~~unless the inclusion of the plan has been agreed to by both parties.~~

4 \* \* \*

5 Sec. 4. 8 V.S.A. § 4080e is amended to read:

6 § 4080e. MEDICARE SUPPLEMENTAL HEALTH INSURANCE  
7 POLICIES; COMMUNITY RATING; DISABILITY

8 \* \* \*

9 (e) A health insurance company, hospital or medical service corporation, or  
10 health maintenance organization offering a Medicare supplemental insurance  
11 policy shall guarantee acceptance of an individual's application for coverage,  
12 and shall not make any premium rate distinctions or charge any additional fees  
13 or penalty amounts, for an individual who meets the following requirements:

14 (1)(A) the individual was previously enrolled in a Medicare  
15 supplemental insurance policy but discontinued coverage to join a Medicare  
16 Advantage plan, as permitted under federal law; or

17 (B) the individual joined a Medicare Advantage plan when the  
18 individual first became eligible for Medicare;

19 (2) the individual has discontinued or wishes to discontinue coverage in  
20 the Medicare Advantage plan and has enrolled or reenrolled, or wishes to  
21 enroll or reenroll, in Medicare Part B; and

1 (3) the individual submits the application for Medicare supplemental  
2 insurance coverage within 60 days following the individual's birthday date.

3 Sec. 5. 8 V.S.A. § 4080f is added to read:

4 § 4080f. MEDICARE ADVANTAGE PLANS; ADVERTISING

5 (a) The Department of Financial Regulation shall undertake all measures  
6 not prohibited under federal law to regulate the advertising and marketing of  
7 Medicare Advantage plans in this State.

8 (b) No person shall advertise or sell a Medicare Advantage plan to an  
9 individual in this State who is enrolled in Medicaid or in a Medicare Savings  
10 Plan.

11 Sec. 6. 8 V.S.A. § 4796 is amended to read:

12 § 4796. COMMISSIONS; PAYMENT; ACCEPTANCE

13 \* \* \*

14 (e)(1) A person licensed under this chapter shall not accept a commission,  
15 service fee, brokerage, or other valuable consideration for selling, soliciting,  
16 negotiating, or otherwise orchestrating the sale, enrollment, membership, or  
17 other connection between a Vermont resident and any arrangement involving  
18 the sharing of health-related expenses that is not insurance as defined in  
19 section 3301a of this title.

20 (2) A person licensed under this chapter shall not accept a commission,  
21 service fee, brokerage, or other valuable consideration for selling, soliciting,

1 negotiating, or otherwise orchestrating the sale, enrollment, or other  
2 participation of a Vermont resident in a Medicare Advantage plan or similar  
3 plan established pursuant to Title XVIII of the Social Security Act.

4 Sec. 7. 8 V.S.A. § 4804 is amended to read:

5 § 4804. LICENSE DENIAL; NONRENEWAL; OR TERMINATION

6 CAUSES

7 (a) The Commissioner may suspend, revoke, or refuse to continue or renew  
8 any license issued under this chapter if, after notice to the licensee and to the  
9 insurer represented, and opportunity for hearing, ~~he or she~~ the Commissioner  
10 finds as to the licensee any one or more of the following conditions:

11 \* \* \*

12 (8) The licensee has committed any unfair trade practice or fraud as  
13 defined in this title. It shall be an unfair practice under this section for a  
14 licensee to:

15 (A)(i) ~~Set~~ sell, solicit, or negotiate the purchase of health insurance  
16 in this State through an advertisement that makes use directly or indirectly of  
17 any method of marketing that fails to disclose in a conspicuous manner that a  
18 purpose of the method of marketing is solicitation of insurance, and that  
19 contact will be made by an insurance agent or insurance company;

20 (ii) ~~Use~~ use an appointment that was made to discuss Medicare  
21 products or to solicit the sale of Medicare products to solicit sales of any other

1 insurance products unless the consumer requests the solicitation, and the  
2 products to be discussed are clearly identified to the consumer in writing at  
3 least 48 hours in advance of the appointment;

4 (iii) ~~Solicit~~ solicit the sale of Medicare products door-to-door prior  
5 to receiving an invitation from a consumer; or

6 (iv) sell, solicit, or negotiate the purchase of a Medicare Part C  
7 plan, also known as a Medicare Advantage plan, to an individual who is  
8 enrolled in Medicaid or in a Medicare Savings Plan.

9 (B) As used in this subdivision (8), the term “Medicare products”  
10 includes Medicare Part A; Medicare Part B; Medicare Part C, also known as  
11 Medicare Advantage; Medicare Part D; and Medicare supplement plans;

12 \* \* \*

13 Sec. 8. EFFECTIVE DATE

14 This act shall take effect on July 1, 2024.