A Medigap policy is health insurance sold by private insurance companies to fill the “gaps” in Original Medicare Plan coverage. Medigap policies help pay some of the health care costs that the Original Medicare Plan doesn’t cover.

Medicare beneficiaries aged 65 and older have the right to purchase any Medigap policy sold in their state when they are both aged 65 and older and enrolled in Part B. The right to guaranteed issue of a Medigap policy extends for the first six months after both of these conditions are met.

Insurance companies are not required by federal law to offer the same range of Medigap policies to Medicare beneficiaries with disabilities that they offer for sale to Medicare beneficiaries over age 65.

The right to guaranteed issue of Medigap policies only means that Medigap insurers cannot force individuals to prove their “insurability” by making them pass an insurance physical examination.

It does not protect beneficiaries against the application of pre-existing condition exclusions. Federal Medigap law follows the HIPPA requirements and allows Medigap insurers to exclude coverage of pre-existing conditions for up to six months if an individual did not have creditable coverage before their initial enrollment period.

As you know, the Affordable Care Act precludes insurers in the individual and group market from applying any pre-existing condition exclusions starting in 2014. Unfortunately, these protections do not extend to Medigap policies. Thus, Medigap policies will continue to be able to apply such exclusions to people age 65 and older who did not have other insurance for six months before their Medicare eligibility.

To be consistent with health insurance available to younger people, Medigap insurers should be precluded from applying pre-existing condition limitations to Medicare beneficiaries. 42 U.S.C. § 1395ss(s) should be modified to eliminate all references to pre-existing condition exclusions.

Thank you for your time. Please feel free to use any of us as a resource on questions related to elder law. We would be very happy to provide you with any information you may need.