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(Plus all the volunteer  
help we can get)

May 18, 1999

**NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE**

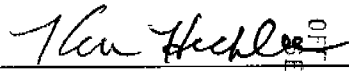
**AGENCY: INSURANCE COMMISSION**

**RULE: SERIES 24, AMENDMENTS, MEDICARE SUPPLEMENT INSURANCE**

**DATE FILED AS AN EMERGENCY RULE: APRIL 6, 1999**

**DECISION NO. 3-99**

Following review under WV Code 29A-3-15a, it is the decision of the Secretary of State that the above emergency rule is **approved**. A copy of the complete decision with required findings is available from this office.

  
KEN HECHLER  
Secretary of State

OFFICE OF THE SECRETARY OF STATE  
STATE OF WEST VIRGINIA  
MAY 18 10 05 AM '99

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**EMERGENCY RULE DECISION**  
**(ERD 3-99)**

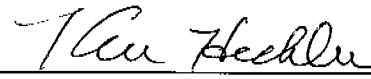
**AGENCY: INSURANCE COMMISSION**  
**RULE: 24, AMENDMENTS, MEDICARE SUPPLEMENT INSURANCE**  
**FILED AS AN EMERGENCY RULE: APRIL 6, 1999**

- par. 1 The Insurance Commission (Commission) has filed the above amendments to an existing rule as an emergency rule.
- par. 2 West Virginia Code 29A-3-15a requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule: 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.
- par. 3 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [29A-3-15a].
- par. 4 (A) Procedural Compliance: WV Code 29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).
- par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the emergency rule decision is issued or the expiration of the forty-two day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.

- par. 6 The Commission filed this emergency rule with supporting documents with the Secretary of State April 6, 1999 and with the LRMRC April 6, 1999.
- par. 7 It is the determination of the Secretary of State that the Commission has complied with the procedural requirements of WV Code §29A-3-15 for adoption of an emergency rule.
- par. 8 (B) Statutory Authority -- WV Code §33-2-10 reads:  
  
*The Commissioner is authorized to promulgate and adopt such rules and regulations relating to insurance as are necessary to discharge his duties and exercise his powers and to effectuate the provisions of this chapter and to protect and safeguard the interests of policyholders and the public of this State.*
- par. 9 It is the determination of the Secretary of State that the Commission has not exceeded its statutory authority in promulgating this emergency rule.
- par. 10 (C) Emergency -- WV Code 29A-3-15(f) defines "emergency" as follows:  
  
*(f) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest.*
- par. 11 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the circumstances creating at least one of the above three emergency categories.
- par. 12 The facts and circumstances as presented by the Commission are as follows:  
  
This proposed emergency rule adopts minimum federal standards for Medicare Supplement Insurance policies as mandated by the Balanced Budget Act of 1997. This rule amends and replaces the Insurance Commissioner's existing Series 24. States are required to make requisite changes to their regulatory programs by April 19, 1999 to maintain approval as meeting minimum federal standards. If the federal minimum standards are not implemented, Medicare Supplement Insurance policies may not be sold in this State.
- par. 13 It is the determination of the Secretary of State that this proposal qualifies under the definition of an emergency as defined in §29A-3-15(f). . . federal time limitation.

par. 14

This decision shall be cited as Emergency Rule Decision 3-99 or ERD 3-99 and may be cited as precedent. This decision is available from the Secretary of State and has been filed with the Insurance Commission, the Attorney General and the Legislative Rule Making Review Commission.



KEN HECHLER  
Secretary of State

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OFFICE OF THE SECRETARY OF STATE  
COMMONWEALTH OF VIRGINIA

MAY 18 10 05 AM '99

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