**20:06:13:32.  Requirements concerning application forms and replacement coverage.** Application forms must include the following statements and questions which are designed to elicit information as to whether, as of the date of the application, the applicant currently has Medicare supplement, Medicare Advantage, Medicaid coverage, or another health insurance policy or certificate in force, or whether a Medicare supplement policy or certificate is intended to replace any other accident and sickness policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent containing such questions and statements may be used. Unless coverage is direct marketed, the agent must ask and record the answers to all questions on the forms. In the case of a direct response issuer, a copy of the application or supplemental form, signed by the applicant and acknowledged by the issuer, must be returned to the applicant by the issuer upon delivery of the policy.

 In lieu of the agent's recording all of the applicant's responses, an insurer may record or make contractual arrangements for persons other than agents to record the applicant's responses. Prior to issuance of coverage, the insurer, agent, or contractor involved in the application process must ask all remaining application questions and such persons must accurately record the applicant's responses to each of the applicable questions in the application. The insurer is responsible for any failure to ask and accurately record the applicant's responses to each applicable question. The privacy requirements outlined in chapter 20:06:45 and the Medicare Supplement marketing restrictions outlined in § 20:06:13:58 apply to such arrangements.

 Nothing in this section may be construed to prohibit the insurer from denying an incomplete application or to require that further questions be asked of the applicant once the response to a question clearly indicates the applicant is ineligible for coverage.

 Nothing in this section in any way modifies the requirement for a person to hold an insurance agent license if that person sells, solicits, or negotiates Medicare Supplement insurance or any other kind of insurance.

 While assisting the applicant, a non-licensed person is prohibited from attempting to sell or to interest the applicant in purchasing any product, insurance related or otherwise.

 The required statements and questions are as follows:

STATEMENTS

 (1)  You do not need more than one Medicare supplement policy.

 (2)  If you purchase this policy or certificate, you may want to evaluate your existing health coverage and decide if you need multiple coverages.

 (3)  You may be eligible for benefits under Medicaid and may not need a Medicare supplement policy.

 (4)  If, after purchasing this policy, you become eligible for Medicaid, the benefits and premiums under your Medicare supplement policy can be suspended, if requested, during your entitlement to benefits under Medicaid for 24 months. You must request this suspension within 90 days after becoming eligible for Medicaid. If you are no longer entitled to Medicaid, your suspended Medicare supplement policy (or, if that is no longer available, a substantially equivalent policy) will be reinstituted if requested within 90 days after losing Medicaid eligibility. If the Medicare supplement policy provided coverage for outpatient prescription drugs and you enrolled in Medicare Part D while your policy was suspended, the reinstituted policy will not have outpatient prescription drug coverage, but will otherwise be substantially equivalent to your coverage before the date of the suspension;

 (5)  If you are eligible for, and have enrolled in a Medicare supplement policy by reason of disability and you later become covered by an employer or union-based group health plan, the benefits and premiums under your Medicare supplement policy can be suspended, if requested, while you are covered under the employer or union-based group health plan. If you suspend your Medicare supplement policy under these circumstances, and later lose your employer or union-based group health plan, your suspended Medicare supplement policy or if that is no longer available, a substantially equivalent policy will be reinstituted if requested within 90 days of losing your employer or union-based group health plan. If the Medicare supplement policy provided coverage for outpatient prescription drugs and you enrolled in Medicare Part D while your policy was suspended, the reinstituted policy will not have outpatient prescription drug coverage, but will otherwise be substantially equivalent to your coverage before the date of the suspension.

 (6)  Counseling services may be available in your state to provide advice concerning your purchase of Medicare supplement insurance and concerning medical assistance through the state Medicaid program, including benefits as a qualified Medicare beneficiary (QMB) and a specified low-income Medicare beneficiary (SLMB).

QUESTIONS

 If you lost or are losing other health insurance coverage and received a notice from your previous insurer stating that you were eligible for guaranteed issue of a Medicare supplement insurance policy, or that you had certain rights to buy such a policy, you may be guaranteed acceptance in one or more of our Medicare supplement plans. Please include a copy of the notice from your previous insurer with your application. PLEASE ANSWER ALL QUESTIONS.

 [Please mark YES or NO below with an "X"]

 To the best of your knowledge,

 (1)  (a)  Did you turn age 65 in the last 6 months?

 Yes \_\_\_\_\_\_ No \_\_\_\_\_\_

   (b)  Did you enroll in Medicare Part B in the last 6 months?

 Yes \_\_\_\_\_\_ No \_\_\_\_\_\_

   (c)  If yes, what is the effective date? \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (2)  Are you covered for medical assistance through the state Medicaid program? [NOTE TO APPLICANT: If you are participating in a "spend-down program" and have not met your "share of cost," please answer NO to this question.]

 Yes \_\_\_\_\_\_ No \_\_\_\_\_\_

   If yes,

   (c)  Will Medicaid pay your premiums for this Medicare supplement policy?

 Yes \_\_\_\_\_\_ No \_\_\_\_\_\_

   (d)  Do you receive any benefits from Medicaid OTHER THAN payments toward your Medicare part B premium?

 Yes \_\_\_\_\_\_ No \_\_\_\_\_\_

 (3)  (a)  If you had coverage from any Medicare plan other than original Medicare within the past 63 days (for example, a Medicare Advantage plan, or a Medicare HMO or PPO), fill in your start and end dates below. If you are still covered under this plan, leave "END" blank.

 START \_\_\_/\_\_\_/\_\_\_ END \_\_\_/\_\_\_/\_\_\_

 (b)  If you are still covered under the Medicare plan, do you intend to replace your current coverage with this new Medicare supplement policy?

 Yes \_\_\_\_\_\_ No \_\_\_\_\_\_

 (c)  Was this your first time in this type of Medicare plan?

 Yes \_\_\_\_\_\_ No \_\_\_\_\_\_

 (d)  Did you drop a Medicare supplement policy to enroll in the Medicare plan?

 Yes \_\_\_\_\_\_ No \_\_\_\_\_\_

 (4)  (a)  Do you have another Medicare supplement policy in force?

 Yes \_\_\_\_\_\_ No \_\_\_\_\_\_

 (b)  If so, with what company, and what plan do you have [optional for direct mailers]?

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (c)  If so, do you intend to replace your current Medicare supplement policy with this policy?

 Yes \_\_\_\_\_\_ No \_\_\_\_\_\_

 (d)  If so, what is the paid-to or expiration date of your policy: \_\_\_/\_\_\_/\_\_\_

 (5)  Have you had coverage under any other health insurance within the past 63 days? (For example, an employer, union, or individual plan?)

   (a)  If so, with what company and what kind of policy?

   \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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   (b)  What are your dates of coverage under the other policy?

 START \_\_\_/\_\_\_/\_\_\_ END \_\_\_/\_\_\_/\_\_\_

   (If you are still covered under the other policy, leave "END" blank.)

 **Source:** 8 SDR 174, effective July 1, 1982; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 16 SDR 174, effective May 2, 1990; transferred from § 20:06:13:32.01, 18 SDR 225, effective July 17, 1992; 22 SDR 107, effective February 18, 1996; 23 SDR 236, effective July 13, 1997; 28 SDR 157, effective May 19, 2002; 31 SDR 214, effective July 6, 2005; 36 SDR 209, effective July 1, 2010; 37 SDR 215, effective May 31, 2011; 39 SDR 10, effective August 1, 2012.

 **General Authority:** SDCL 58-17A-2(3)(7).

 **Law Implemented:** SDCL 58-17A-2(3)(7).