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BULLETIN 17-08

Date: September 8, 2017

To: Insurers and Nonprofit Health Service Plans That Offer, Issue, or Deliver Long-Term Care Policies, Contracts, or Certificates in Maryland (“Carriers”) and Producers

Re: Notice and Disclosure Requirements under House Bill 493

The purpose of this Bulletin is to provide guidance to carriers and producers regarding the new notice and disclosure requirements stated in House Bill 493, which was passed during the 2017 Session of the General Assembly.

Authority

Section 11-703 of the Insurance Article, Annotated Code of Maryland¹, requires carriers to file for and receive approval of all long-term care rates before charging an insured person that rate. Section 11-702 requires the Maryland Insurance Commissioner (“Commissioner”) to provide information on the Maryland Insurance Administration (“Administration”) website describing the process the Administration uses to review and approve long-term care premium rates. The website must also provide information on the specific factors the carriers use in developing their rates and that the Administration uses in reviewing and approving long-term care rates. Section 11-704 requires carriers to provide a one-time written notice to their insureds that an insured may access information about proposed rate increases on the Administration’s web site. Section 18-103 requires a long-term care insurance producer to advise a potential purchaser of long-term care insurance about the availability and benefits of a Qualified State Long-Term Care Insurance Partnership (“Partnership”) policy. The law also requires the producer to provide a disclosure statement about the Partnership to each applicant for long-term care insurance, and to make the disclosure statement available to the Commissioner for inspection.

¹ Unless otherwise noted, all statutory citations are to the Insurance Article of the Annotated Code of Maryland.

Rate Increase Notice Requirements

The one-time written notice required by § 11-704 shall be a general notice to individuals advising that the Administration publishes information about all proposed long-term care rate increases on its web site.² The notice shall be provided:

- At the time the policy/certificate is issued or delivered for policies/certificates issued or delivered on or after January 1, 2018; and
- No later than the next policy/certificate anniversary date after January 1, 2018 for policies/certificates that are in-force on January 1, 2018.

Partnership Disclosure Requirements

Section 18-103(d)(2) requires the Partnership disclosure statement to be approved by the Commissioner. Therefore, carriers will be required to file the disclosure statement on behalf of their producers for formal review and approval by the Commissioner. In accordance with § 2-112(a)(9) of the Insurance Article, a filing fee of \$125 will be required for each disclosure statement submitted for approval. The disclosure statement may be filed by paper or through the System for Electronic Rates and Forms Filing (SERFF). If the statement is submitted through SERFF, it must be identified by an appropriate type of insurance (“TOI”) and sub-TOI for long-term care insurance. Please note, however, that the “Partnership” sub-TOIs should not be used for the disclosure statement filings because the “Partnership” sub-TOIs are reserved in Maryland for filings intended to obtain certification of long-term care policies as partnership policies.

Because the statute provides no details about the required contents of the disclosure statement, the Administration has created the attached sample disclosure statement for carriers and producers to use, at their option. If a carrier or producer elects to use the sample disclosure notice, the notice is still required to be filed for approval, but the review will be expedited. To ensure that the Commissioner has an approved disclosure statement on file prior to the October 1, 2017 effective date of the law, it is recommended that carriers file the attached notice for review.

Section 18-103(d)(3) requires a long-term care insurance producer to make the disclosure statement required by § 18-103(d)(2) available to the Commissioner for inspection. Producers will be expected to maintain records demonstrating that the required disclosure statement was provided to each applicant for long-term care insurance.

Questions about this Bulletin may be directed to the Life/Health Section of the Maryland Insurance Administration at 410-468-2170.

signature on original

Robert D. Morrow Jr.
Associate Commissioner
Life and Health

Enclosure

² This notice is not required to be filed with the Commissioner for review.

[Carrier letterhead]

Important Disclosure Statement About the State of Maryland's Long-Term Care Insurance Partnership Program

(Please keep this Notice with Your Policy or Certificate)

The Qualified State Long-Term Care Insurance Partnership Program is an innovative partnership between Maryland and private insurers of long-term care insurance policies. The Qualified State Long-Term Care Insurance Partnership is established in accordance with the Deficit Reduction Act of 2005 (P.L. 109—171).

Long-term care is usually not covered by Medicare or a health benefit plan. It is covered by the Medicaid program, if you meet certain criteria. The criteria include limits on your assets. Using your assets to pay for your care is sometimes called the "spend-down."

Long-term care insurance is an important tool that helps individuals prepare for future long-term care needs. A Qualified State Long-Term Care Insurance Partnership policy provides an additional level of protection. Specifically, Partnership Policies permit individuals to protect additional assets from spend-down requirements under a Medicaid program if assistance under this program is ever needed and an individual otherwise qualifies for Medicaid.

With a Partnership Policy, the asset eligibility and recovery provisions of the Medicaid program of Maryland are applied by disregarding an additional amount of assets which is equal to the amount of long-term care insurance benefits an individual has received from a Partnership Policy.

For example:

- An individual receives \$200,000 of insurance benefits from a Partnership Policy.
- The individual generally would be able to retain \$200,000 of assets above and beyond the amount of assets normally permitted for Medicaid eligibility.
- Other Medicaid eligibility requirements apart from permissible assets must be met, including special rules that may apply if the equity in an individual's home exceeds limits set by the Medicaid program.

In addition to providing Medicaid asset protection, a Qualified State Long-Term Care Insurance Partnership policy will generally be subject to beneficial income tax treatment. (Please note that a policy can be a qualified long-term care insurance contract under Federal tax law, with the same beneficial income tax treatment, even if it is not a Partnership Policy.)

What to look for:

- The schedule page of a long-term care insurance policy is required to contain a notice if the policy is a Partnership Policy.
- The notice on the schedule page will indicate whether the policy is intended to meet the standards to be a Partnership Policy in Maryland.
- Under state law, the insurance company also is required to provide a separate notice, on its letterhead, that explains the benefits and the special rights of a Partnership Policy.

Companies wishing to sell Partnership long-term care policies are required to go through a stringent review process. The Maryland Insurance Administration maintains a list of approved companies and has published a Consumer Guide to the Maryland Long-Term Care Insurance Partnership Program. You may obtain a copy of the list and the Consumer Guide by contacting the Administration at 800-492-6116 or by visiting the Maryland Insurance Administration's website at www.insurance.maryland.gov.