
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 506 Session of
1991

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MIHALICH, CAWLEY AND RICHARDSON, MARCH 11, 1991

REFERRED TO COMMITTEE ON AGING AND YOUTH, MARCH 11, 1991

AN ACT

1 Relating to long-term care insurance; providing for limits,
2 disclosure and performance standards; and prescribing powers
3 and duties of the Insurance Commissioner.

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8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Short title.

11 This act shall be known and may be cited as the Long-Term
12 Care Insurance Act.

13 Section 2. Statement of purpose.

14 The purpose of this act is to promote the public interest, to
15 promote the availability of long-term care insurance policies,
16 to protect applicants for long-term care insurance from unfair
17 or deceptive sales or enrollment practices, to establish
18 standards for long-term care insurance, to facilitate public
19 understanding and comparison of long-term care insurance
20 policies, and to facilitate flexibility and innovation in the
21 development of long-term care insurance coverage.

22 Section 3. Scope of act.

23 This act is not intended to supersede the obligations of
24 entities subject to this act to comply with the substance of
25 other applicable insurance laws insofar as they do not conflict
26 with this act, except that laws and regulations designed and
27 intended to apply to Medicare supplement insurance policies
28 shall not be applied to long-term care insurance. A policy which
29 is not advertised, marketed or offered as long-term care
30 insurance or nursing home insurance need not meet the

1 requirements of this act.

2 Section 4. Definitions.

3 The following words and phrases when used in this act shall
4 have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 "Applicant." All of the following:

7 (1) In the case of an individual long-term care
8 insurance policy, the person who seeks to contract for
9 benefits.

10 (2) In the case of a group long-term care insurance
11 policy, the proposed certificate holder.

12 "Certificate." Any certificate issued under a group long-
13 term care insurance policy which has been delivered or issued
14 for delivery in this Commonwealth.

15 "Commissioner." The Insurance Commissioner of the
16 Commonwealth.

17 "Functionally necessary." The appropriateness of services
18 directed to address the individual's inability to perform tasks
19 required for daily living, as defined through regulation, and
20 the individual's need for continuous care or supervision.

21 "Group long-term care insurance." A long-term care insurance
22 policy which is delivered or issued for delivery in this
23 Commonwealth and issued to any of the following:

24 (1) Employers or labor organizations or a trust or to
25 the trustees of a fund established by employers or labor
26 organizations, for employees or former employees, or for
27 members or former members, of the labor organizations.

28 (2) Any professional, trade or occupational association
29 for its members or former or retired members if the
30 association:

1 (i) is composed of individuals, all of whom are or
2 were actively engaged in the same profession, trade or
3 occupation; and

4 (ii) has been maintained in good faith for purposes
5 other than obtaining insurance.

6 (3) An association or a trust or the trustee of a fund
7 established or maintained for the benefit of members of
8 associations. The quality under this paragraph:

9 (i) The insurer of the association or associations
10 must file evidence with the commissioner that the
11 association or associations have at the outset a minimum
12 of 100 persons and have been organized and maintained in
13 good faith for purposes other than that of obtaining
14 insurance, have been in active existence for at least one
15 year, and have a constitution and bylaws which provide
16 that:

17 (A) the association or associations hold regular
18 meetings not less than annually to further purposes
19 of the members;

20 (B) except for credit unions, the association or
21 associations collect dues or solicit contributions
22 from members; and

23 (C) the members have voting privileges and
24 representation on the governing board and committees.

25 (ii) Thirty days after filing, the association or
26 associations will be deemed to satisfy organizational
27 requirements unless the commissioner makes a finding that
28 the association or associations do not satisfy those
29 organizational requirements.

30 (4) A group other than as described in paragraphs (1),

(2) and (3), subject to a finding by the commissioner that:

(i) the issuance of the group policy is not contrary to the best interest of the public;

(ii) the issuance of the group policy would result in economies of acquisition or administration; and

(iii) the benefits are reasonable in relation to the premiums charged.

"Long-term care insurance." Any insurance policy or rider advertised, marketed, offered or designed to provide coverage for not less than 12 consecutive months for each covered person on an expense-incurred, indemnity, prepaid or other basis for functionally necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance or personal care services provided in a setting other than an acute care unit of a hospital. The term includes group and individual policies or riders issued by insurers, fraternal benefit societies, nonprofit health, hospital and medical service corporations, prepaid health plans, health maintenance organizations or similar organizations. The term does not include any insurance policy which is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income protection coverage, accident-only coverage, specified disease or specified accident coverage or limited benefit health coverage.

"Medically necessary." As described in terms of appropriateness of treatment of the insured's condition, including nonmedical support services, based on current standards of acceptable medical practice. The term excludes

1 benefits for care or services which are primarily for the
2 convenience of the insured or the person's physician.

3 Section 5. Extraterritorial jurisdiction; group long-term care
4 insurance.

5 No group long-term care insurance coverage may be offered to
6 a resident of this Commonwealth under a group policy issued in
7 another state to a group described in paragraph (4) of the
8 definition of "group long-term care insurance" unless the
9 Commonwealth or another state having statutory and regulatory
10 long-term care insurance requirements substantially similar to
11 those adopted in this Commonwealth has made a determination that
12 such requirements have been met.

13 Section 6. Disclosure and performance standards for long-term
14 care insurance.

15 (a) General rule.--The commissioner may adopt regulations,
16 that include standards for full and fair disclosure setting
17 forth the manner, content and required disclosures, for the sale
18 of long-term care insurance policies, terms of renewability,
19 initial and subsequent conditions of eligibility, nonduplication
20 of coverage provisions, coverage of dependents, preexisting
21 conditions, termination of insurance, continuation or
22 conversion, probationary periods, limitations, exceptions,
23 reductions, elimination periods, requirements for replacement,
24 recurrent conditions and definitions of terms.

25 (b) Prohibitions.--No long-term care insurance policy may:

26 (1) be canceled, nonrenewed or otherwise terminated on
27 the grounds of the age or the deterioration of the mental or
28 physical health of the insured individual or certificate
29 holder;

30 (2) contain a provision establishing a new waiting

1 period, in the event existing coverage is converted to or
2 replaced by a new or other form within the same company,
3 except with respect to an increase in benefits voluntarily
4 selected by the insured individual or group policyholder; or

5 (3) contain coverage for skilled nursing care only or
6 contain coverage that provides significantly more skilled
7 care in a facility than coverage for lower levels of care.

8 (c) Preexisting condition.--

9 (1) No long-term care insurance policy or certificate
10 may use a definition of "preexisting condition" which is more
11 restrictive than a definition of "preexisting condition" that
12 means a condition for which medical advice or treatment was
13 recommended by or received from a provider of health care
14 services, within six months preceding the effective date of
15 coverage of an insured person.

16 (2) No long-term care insurance policy may exclude
17 coverage for a loss or confinement which is the result of a
18 preexisting condition unless such loss or confinement begins
19 within six months following the effective date of coverage of
20 an insured person.

21 Section 7. Commissioner's duties.

22 The commissioner may extend the limitation periods set forth
23 in section 6 as to specific age group categories in specific
24 policy forms upon findings that the extension is in the best
25 interest of the public.

26 Section 8. Underwriting standards.

27 The definition of the term "preexisting condition" under
28 section 6(c) does not prohibit an insurer from using an
29 application form designed to elicit the complete health history
30 of the applicant, and, on the basis of the answers on that

1 application, from underwriting in accordance with that insurer's
2 established underwriting standards. Unless otherwise provided in
3 the policy or certificate, a preexisting condition, regardless
4 of whether it is disclosed on the application, need not be
5 covered until the waiting period described in section 6(c)(2)
6 expires. No long-term care insurance policy or certificate may
7 exclude or use waivers or riders of any kind to exclude, limit
8 or reduce coverage or benefits for specifically named or
9 described preexisting diseases or physical conditions beyond the
10 waiting period described in section 6(c)(2).

11 Section 9. Prior institutionalization.

12 No long-term care insurance policy may condition any benefits
13 on a prior stay in an institution or a prior chronic condition.

14 Section 10. Loss ratios.

15 The commissioner may adopt regulations establishing loss
16 ratio standards for long-term care insurance policies provided
17 that a specific reference to long-term care insurance policies
18 is contained in the regulation.

19 Section 11. Right to return; free look provision.

20 Individual long-term care insurance policyholders and group
21 certificate holders who contribute to the cost of their long-
22 term care coverage shall have the right to return the policy
23 within 30 days of its delivery and to have the premium refunded
24 if, after examination of the policy or certificate, the
25 policyholder or certificate holder is not satisfied for any
26 reason. Long-term care insurance policies and applicable group
27 certificates shall have a notice, prominently printed on the
28 first page of the policy or certificate, stating in substance
29 that the policyholder or certificate holder shall have the right
30 to return the policy or certificate within 30 days of its

1 delivery and to have the premium refunded if, after examination
2 of the policy or certificate, the policyholder or certificate
3 holder is not satisfied for any reason.

4 Section 12. Outline of coverage provisions.

5 (a) Requirement.--An outline of coverage shall be delivered
6 to a prospective applicant for long-term care insurance at the
7 time of initial solicitation through means which prominently
8 direct the attention of the recipient to the document and its
9 purpose.

10 (b) Format.--The commissioner shall prescribe a standard
11 format, including style, arrangement and overall appearance, and
12 the content of an outline of coverage.

13 (c) Agent solicitations.--In the case of agent
14 solicitations, an agent must deliver the outline of coverage
15 prior to the presentation of an application or enrollment form.

16 (d) Direct response solicitations.--In the case of direct
17 response solicitations, the outline of coverage must be
18 presented in conjunction with any application or enrollment
19 form.

20 (e) Contents of outline.--The outline of coverage shall
21 include all of the following:

22 (1) A description of the benefits and coverage provided
23 in the policy.

24 (2) A statement of the exclusions, reductions and
25 limitations contained in the policy.

26 (3) A statement of the terms under which the policy or
27 certificate may be continued in force or discontinued,
28 including any reservation in the policy of a right to change
29 premium. Continuation or conversion provisions of group
30 coverage shall be specifically described.

1 (4) A statement that the outline of coverage is a
2 summary only, not a contract of insurance, and that the
3 policy or group master policy contains governing contractual
4 provisions.

5 (5) A description of the terms under which the policy or
6 certificate may be returned and premium refunded.

7 (6) A brief description of the relationship of cost of
8 care and benefits.

9 Section 13. Marketing and advertising prohibited.

10 No policy may be advertised, marketed or offered as long-term
11 care or nursing home insurance unless it complies with the
12 provisions of this act.

13 Section 14. Severability.

14 The provisions of this act are severable. If any provision of
15 this act or its application to any person or circumstance is
16 held invalid, the invalidity shall not affect other provisions
17 or applications of this act which can be given effect without
18 the invalid provision or application.

19 Section 15. Applicability.

20 This act shall apply to all policies delivered or issued for
21 delivery in this Commonwealth on or after the effective date of
22 this act.

23 Section 16. Effective date.

24 This act shall take effect in 60 days.