

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 721 Session of
2001

INTRODUCED BY REINARD, MICOZZIE, CORRIGAN, HENNESSEY, BARD,
M. COHEN, GODSHALL, HARHAI, HERMAN, KENNEY, MARSICO, NICKOL,
RAYMOND, ROSS, STABACK, STEELMAN, VANCE, J. WILLIAMS AND
WILT, FEBRUARY 14, 2001

REFERRED TO COMMITTEE ON AGING AND OLDER ADULT SERVICES,
FEBRUARY 14, 2001

AN ACT

1 Establishing the Long-Term Care Partnership Program; and
2 conferring powers and duties on the Insurance Department, the
3 Department of Aging and the Department of Public Welfare.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Long-Term
8 Care Partnership Program Act.

9 Section 2. Definitions.

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

13 "Asset disregard." A concept which allows for one of the
14 following:

15 (1) The total assets an individual owns and may retain
16 under Medicaid and still qualify for benefits under Medicaid
17 at the time the individual applies for benefits if the

individual:

(i) is the beneficiary of a premium precertified long-term care policy which provides long-term care insurance for at least three years, with no less than \$150,000 worth of long-term care insurance for 1999, and which includes a provision under which the daily benefit increases by at least 5% per year, compounded at least annually;

(ii) meets requirements of section 5(a);

(iii) has exhausted the benefits of a premium precertified long-term care policy; and

(iv) does not reduce the limits of coverage below what is necessary for total asset disregard after initial purchase.

(2) A \$1 increase in the amount of assets an individual may retain under Medicaid for each \$1 of benefit paid out under the individual's long-term care policy for long-term care services if the individual:

(i) purchases a precertified long-term care policy;

and

(ii) meets the requirements of section 5(a).

"Contracting agency." A local office of aging, an area agency on aging or a nonprofit organization, which can assist the Insurance Department with the implementation of the program.

"Department." The Department of Public Welfare of the Commonwealth.

"Long-term care insurance." As defined in section 1103 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.

"Medicaid." The Federal medical assistance program

1 established under Title XIX of the Social Security Act (49 Stat.
2 620, 42 U.S.C. § 1396 et seq.).

3 "Precertified long-term care policy." A long-term care
4 insurance policy which is approved by the Insurance Department
5 under Article XI of the act of May 17, 1921 (P.L.682, No.284),
6 known as The Insurance Company Law of 1921, and which contains
7 provisions to:

8 (1) alert the purchaser of the availability of consumer
9 information provided through the Insurance Department or the
10 contracting agency;

11 (2) offer automatic inflation protection of at least 5%
12 per year compounded annually as long as the policy is in
13 force;

14 (3) provide for the keeping of records and an
15 explanation of benefit reports on insurance payments which
16 count toward asset disregard;

17 (4) provide the management information and reports
18 necessary to document the extent of asset disregard and to
19 evaluate the program;

20 (5) offer in-home or community-based long-term care
21 service benefits to be determined by the Insurance
22 Department; and

23 (6) provide a minimum daily long-term care benefit as
24 determined by the Insurance Department.

25 "Premium precertified long-term care policy." A long-term
26 care insurance policy which is approved by the Insurance
27 Department under Article XI of the act of May 17, 1921 (P.L.682,
28 No.284), known as The Insurance Company Law of 1921, and which
29 contains provisions to:

30 (1) provide coverage for \$150,000 of long-term care

1 insurance for at least three years, with no less than
2 \$150,000 worth of long-term care insurance for 1999;

3 (2) alert the purchaser of the availability of consumer
4 information provided through the Insurance Department or the
5 contracting agency;

6 (3) provide automatic inflation protection of at least
7 5% per year compounded annually as long as the policy is in
8 force;

9 (4) provide for the keeping of records and an
10 explanation of benefit reports on insurance payments which
11 count toward asset disregard;

12 (5) provide the management information and reports
13 necessary to document the extent of asset disregard and to
14 evaluate the program;

15 (6) offer in-home or community-based long-term care
16 service benefits to be determined by the Insurance
17 Department; and

18 (7) provide a minimum daily long-term care benefit as
19 determined by the Insurance Department.

20 "Program." The Long-Term Care Partnership Program
21 established in section 4.

22 Section 3. Administration.

23 (a) General rule.--This act shall be administered by the
24 department, the Insurance Department and the Department of
25 Aging.

26 (b) Department.--

27 (1) The department shall promulgate regulations to
28 administer the program. This paragraph includes:

29 (i) Amending Medicaid regulations and the State plan
30 to accomplish asset disregard under section 4(c).

1 (ii) Eligibility of applicants.

2 (iii) Coverage requirements for long-term care
3 benefits.

4 (2) No regulation of the department shall prohibit the
5 issuance of a premium precertified long-term care policy
6 which provides for asset disregard.

7 (3) Obtain Federal approvals necessary for the program.

8 (c) Insurance department.--

9 (1) The Insurance Department has the following powers
10 and duties:

11 (i) Make an annual report to the General Assembly on
12 the following:

13 (A) The success in implementing the program.

14 (B) The number of precertified and premium
15 precertified long-term care policies.

16 (C) The number of individuals seeking consumer
17 information services.

18 (D) The extent and type of benefits paid under
19 precertified and premium long-term care policies
20 which could count toward asset disregard.

21 (E) Estimates of impact on present and future
22 asset disregard.

23 (F) Cost-effectiveness of the program.

24 (G) A determination regarding the
25 appropriateness of continuing the program.

26 (2) No regulation of the Insurance Department shall
27 prohibit a precertified or premium precertified long-term
28 care policy from being a "tax-qualified" long-term care
29 insurance policy as provided in section 7702B of the Internal
30 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 7702B).

(d) Powers and duties.--The Department of Aging or a contracting agency has the following powers and duties:

(1) Provide counseling services under the program.

(2) Make available to individuals interested in participating in the program information on Medicaid, the program, long-term care insurance policies, Medicare supplemental policies, parts A and B of the Medicare premium under Title XVIII of the Social Security Act (49 Stat. 620, 42 U.S.C. § 1395 et seq.) and health maintenance organizations that are contracted with Medicare.

Section 4. Program.

(a) Establishment.--There is established the Long-Term Care Partnership Program, to be administered by the department with the assistance of the Insurance Department and the Department of Aging, to do the following:

(1) Provide incentives for individuals to insure against the costs of providing for their long-term care needs.

(2) Provide a mechanism for individuals to qualify for coverage of the cost of their long-term care needs under Medicaid without first being required to substantially exhaust their resources.

(3) Provide counseling services to individuals planning for their long-term care needs.

(4) Alleviate the financial burden on the State's medical assistance program by encouraging the pursuit of private initiatives.

(b) Operation.--Upon exhausting a precertified or premium precertified long-term care insurance policy certain resources of an individual, as described in subsection (c), shall not be considered by the department as a determination of any of the

1 following:

2 (1) Eligibility for Medicaid.

3 (2) Amount of any Medicaid payment.

4 (3) Any subsequent recovery by the Commonwealth of a
5 payment for medical services.

6 (c) Asset disregard.--Only upon the repeal of the
7 restrictions to asset protection contained in the Omnibus Budget
8 Reconciliation Act of 1993 (Public Law 103-66, 107 Stat. 312),
9 may the department promulgate amendments to its Medicaid
10 regulations and Commonwealth plan to allow for asset disregard.
11 Asset disregard shall be provided, to the extent approved by the
12 Federal Health Care Financing Administration, for any purchasers
13 of either a precertified or a premium precertified long-term
14 care policy delivered, issued for delivery or renewed after
15 December 31, 1999. The department shall count insurance benefits
16 toward asset disregard to the extent the payments are for any of
17 the following:

18 (1) The lower of the actual charge or the amount paid by
19 the insurance company.

20 (2) Nursing home care or formal services delivered to
21 insureds in the community.

22 (3) Services provided after the individual meets the
23 coverage requirements for long-term care benefits established
24 by the department.

25 (d) Prohibited policy provision.--No precertified long-term
26 care or premium precertified long-term care policy shall require
27 a prior hospitalization or a prior stay in a nursing home as a
28 condition of providing benefits.

29 Section 5. Specific eligibility.

30 (a) Individuals.--An individual who is a beneficiary of a

1 precertified or a premium precertified long-term care policy is
2 eligible for assistance under Medicaid using the asset disregard
3 under section 4(c).

4 (b) Discontinuance.--If the program is discontinued, an
5 individual who purchased a precertified or a premium
6 precertified long-term care policy prior to the date the program
7 is discontinued shall be eligible to receive asset disregard.

8 (c) Reciprocity.--The department may enter into reciprocal
9 agreements with other states to extend the asset disregard to
10 residents of this Commonwealth who purchase long-term care
11 policies in another state which has a substantially similar
12 asset disregard program to the program under section 4.

13 Section 6. Effective date.

14 This act shall take effect in 60 days.