

May 24, 2021

Commissioner Michael Conway
Chairman, NAIC LTCI Multi-State Rate Review (EX) Subgroup
Colorado Insurance Department

Dear Commissioner Conway and Subgroup Members,

The American Council of Life Insurers¹ (ACLI) and the American Association of Health Insurance Plans² (AHIP) strongly support the work of the NAIC Long-Term Care (EX) Task Force in achieving its charge of developing a consistent national approach for reviewing long-term care (LTC) rates and identifying options for consumers to modify benefits when faced with a premium increase on their LTC policy. We applaud the commitment of state insurance commissioners and LTC subject matter experts from state insurance departments for their time and effort spent on addressing this important issue. As an industry, we understand that the work has presented challenges and we remain committed to working with you to address these challenges.

Thank you for the opportunity to comment on the draft Operational Section of the Long-Term Care Insurance Multi-State Rate Review Framework (Framework), exposed by the NAIC LTC (EX) Task Force on April 9, 2021. While we appreciate this opportunity to comment, it is difficult to provide complete comments without the ability to review the document in its entirety, specifically, the Actuarial Section, which we believe will be the core of the Framework document. As a result, our comments at this time are more conceptual in nature. We look forward to an opportunity to provide more detailed comments when the entire Framework document is complete.

Executive Summary

We strongly support the Multi-State Rate Review (MSRR) concept as a strategy to address the challenges facing industry, consumers, regulators and the overall LTC market. Our comments are grouped into the following areas, which are key to the stability of the LTC market and paramount to the success of the Task Force in achieving its charge.

1. Transparency and Consistency of:
 - the Multi-state Actuarial (MSA) Review Process, and

¹ The American Council of Life Insurers advocates on behalf of 280 member companies dedicated to providing products and services that promote consumers' financial and retirement security. Ninety million American families depend on our members for life insurance, annuities, retirement plans, long-term care (LTC) insurance, disability income insurance, reinsurance, dental, vision, and other supplemental benefits. ACLI represents member companies in state, federal and international forums for public policy that supports the industry marketplace and the families that rely on life insurers' products for peace of mind. ACLI members represent 95 percent of industry assets in the United States.

² AHIP is the national association whose members provide coverage for health care and related services to hundreds of millions of Americans every day. Through these offerings, we improve and protect the health and financial security of consumers, families, businesses, communities and the nation. We are committed to market-based solutions and public-private partnerships that improve affordability, value, access, and well-being for consumers.

- the methodology for determining actuarially appropriate rate increases that achieve and preserve equity among policyholders in all states;
2. State and Insurer Participation in the MSA Review Process
 3. Confidentiality of the Insurer's Rate Increase Proposal

We believe it is important to view each of the above areas in light of, and assessed against the Task Force's charge to:

*Develop a consistent national approach for reviewing LTCI rates that **results in actuarially appropriate increases** being granted by the states **in a timely manner** and **eliminates cross-state rate subsidization**.*

Transparency and Consistency

Insurers best protect their policyholders when they can fulfill the obligations they made to these policyholders. This is accomplished when insurers have some level of predictability in their ability to effectively manage their LTC business over time. At its core, this level of predictability can only be achieved through transparency and consistency within the MSA Review Process. We encourage the MSRR subgroup to include elements for achieving greater transparency and predictability within the Framework document. We have identified the following elements that will enhance transparency and predictability within the MSA Review Process:

Insurer Receipt of the MSA Advisory Report and Recommendation.

The MSA Review Process will present significant challenges if the insurer does not receive the MSA Advisory Report. Without receipt of the recommendation and report, there will be an inequality in the parties' knowledge about the actuarial analysis used and, therefore, potentially, confidence in the recommended rate table. Without understanding the actuarial analysis underlying the MSA Team recommendation, insurers will be unable to engage in a meaningful, productive dialogue with the MSA Team and participating states about the application of that analysis to the insurer's particular block of business.

Insurer and MSA Team Engagement

Insurers are in the best position to provide insights and information about their blocks of business. We encourage the MSRR subgroup to include an opportunity for insurers to review the recommendation and interact with the MSA Team recommendation before it is final. Without this step, if an insurer disagrees with the MSA Team recommendation, it will be necessary for the insurer to appeal to each individual state. This will add a significant amount of time to the entire process and reduce efficiency.

In addition, including industry in the webinars with other participating states will enable questions to be addressed in a consistent and efficient manner.

We suggest language consistent with the language below, be added to *Section IV, Subsection B – Completion of the MSA Review Process*

Information Sharing Between the MSA Team and the Insurer

Throughout the MSA Team review, the MSA Team will communicate with the insurer and address any questions from the insurer about the MSA Team's analysis and review. Prior

to finalizing the MSA Advisory Report and Recommendation, the insurer will be given an opportunity to review the report and recommendation. If the MSA Team recommendation differs from the rate proposal submitted by the insurer, the insurer will be given the opportunity to provide additional feedback and support of its proposal.

State Reliance on the MSA Team Recommendation

We recognize that the MSA recommendation is that – a recommendation –and that each state retains its ability to review or approve an insurer’s rate increase filing. Yet, the process should enable insurers to understand which states are relying on the MSA recommendation and to what extent. If a state deviates from the MSA recommendation, the reason should be clearly explained to the insurer. At a minimum, this level of disclosure will provide insight into the consistencies (or inconsistencies) across states compared to the MSA recommendation, resulting in a higher level of transparency and consistency within the process.

We suggest that language consistent with the following be added to *Section I. Subsection F. - Governing Body and Role of the NAIC Long-Term Care Insurance (EX) Task Force*:

At least semi-annually, the Task Force will disclose a list of the rate increase filings reviewed to all stakeholders, along with the following information for each:

- *Identification of the states that participated in the MSA Review Process for each filing, and*
- *A description of the general manner in which each participating state utilized the MSA Team’s review and recommendation to make decisions on an insurer’s rate increase filing, e.g., **Adoption** (adoption of the MSA Team’s review and recommendation); **Consideration** (active consideration of the MSA Team’s review and recommendation as a supplement to the state’s separate review process); **Receipt Only** (no reliance on MSA Team’s review and recommendation in the state’s review process).*

At least annually, and with input from state regulators, industry, and other stakeholders, the Task Force will review the Framework document and amend it, as necessary, to refine the MSA Review Process.

We believe that this level of transparency could serve as a first step in encouraging the participation of both states and insurers.

Methodology Used in the MSA Team Recommendation

The Framework states that the MSA Team’s review of rate proposals will resemble a state-specific rate review process utilizing consistent actuarial standards and methodologies. In addition, the MSA Team will apply the Minnesota (Blended If-Knew/Make-Up) and Texas (Prospective Present Value) approaches, as described in the 2018 NAIC LTC Pricing Subgroup’s paper – “Long-term Care Insurance Approaches to Reviewing Premium Rate Increases”, to calculate recommended, approvable rate increases. We suggest that the Actuarial Section of the final Framework document outline specific reasons for use of one method over another.

A primary component leading to the success of the MSA Review Process is achieving an adequate rate level for policyholders in all states. As proposed, the process also gives states the discretion to continue to apply state-specific non-actuarial restrictions and caps on rate

increase amounts. Again, we recognize the independence of each state's authority, but allowing states to impose artificial rate caps on what the MSA Team has determined to be an actuarially justified rate could perpetuate the historical discrepancies between states, which will not address cross-state inequities. It will also undermine the Task Force's charge to develop "a consistent national approach" to achieve "actuarially appropriate increases."

To ensure the success of the MSA Review Process and ensure that the Task Force achieve its charge, the MSA Team should set forth its expectation that a state will follow the MSA recommendation and not impose artificial, state-specific rate restrictions or caps unless the state justifies those requirements as being actuarially justified and necessary, or specifically mandated by state law.

It should be recognized that state restrictions or caps to actuarially justified rate increases will require future increases to be filed and will result in higher actuarially justified ultimate premium rates for insureds in that state in order to maintain equity over the life of the policy.

In addition, the methodology used by the MSA Team in determining its recommendation must be actuarially sound and acknowledge an insurer's ability to achieve and preserve equity among policyholders in all states over the lifetime of the policy. Transparency in this piece of the process will result in greater consistency and confidence in outcomes, which is key to the Task Force achieving its charge.

State and Insurer Participation

An adequate level of participation from both insurers and states is central to the success of the MSA Review Process and to the Task Force achieving its charge to ensure a more consistent national approach to reviewing and approving actuarially justified rate increases on LTC blocks of business. Without sufficient state commitment and participation in the MSA Review Process, along with state reliance on the information provided to and reviewed by the MSA Team, there is no incentive for insurers to use the MSA Review Process. Increased insurer participation will result if there is a commitment by states to participate in the MSA Review Process and rely on the MSA Team recommendation.

Lack of state and insurer participation could result in failure of the MSA Review Process and the Task Force charge. Failure of the Task Force charge will result in continued significant inconsistencies in state level actions on rate increases and an increased potential for future insolvencies and market disruption. We hope that there are not future insolvencies, but the need to act broadly and strategically to reduce that risk should not be ignored. Any future insolvency could have significant ramifications to state based regulation.

Confidentiality

All materials submitted by the insurer to the MSA Team, along with communications between the insurer and the MSA Team, the MSA Team's analysis, recommendation and Advisory Report should be maintained as confidential. Once finalized, the MSA Advisory Report and Recommendation should be submitted directly by the MSA Team to each participating state where the insurer files its rate increase request. Once submitted to each participating state, the MSA Advisory Report and Recommendation should be maintained by each state as confidential. Any materials submitted directly to the participating state by the insurer in support of its rate increase request, should be afforded the same level of confidentiality as LTC increase requests submitted to that state outside of the MSA Review Process.

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CONCLUSION

We share your fundamental concern of ensuring that policyholders receive the benefit of their insurance policies when they need it. Maintaining a guaranteed renewable product with limited or no rate adjustment flexibility is not sustainable. Insurers want to be part of a stable and vibrant market, one where insurers are willing to stay in the market, and hopefully one where others want to return to or join the market.

We recognize that the MSA Review Process is new and lessons learned over time will serve to improve and refine the overall process. We appreciate the MSRR subgroup's hard work and analysis to identify and develop key parameters for an MSA Review Process to review and approve actuarially justified rate increases. Success of the MSA Review Process will help to ensure market stability.

Thank you for the opportunity to provide these comments. We will submit more detailed comments once the Framework document is exposed in its entirety. ACLI/AHIP welcomes the opportunity to discuss our comments with you, and we welcome the opportunity to contribute to additional discussion regarding the comments raised in our letter.

Sincerely,



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