

November 9, 2020

Commissioner Jessica Altman
Chairman, NAIC LTCI Reduced Benefit Options (EX) Subgroup
Pennsylvania Insurance Department

Dear Commissioner Altman,

The American Council of Life Insurers¹ (ACLI) and the American Association of Health Insurance Plans² (AHIP) support the work of the NAIC LTC (E) Task Force to achieve 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 appreciate the opportunity to comment on the “RBO Principles” and the “Principles on Long-Term Care Reduced Benefit Options Presented in Policyholder Notification Materials”, which were exposed by the Long-Term Care Insurance Reduced Benefit Options (RBO) (EX) Subgroup on October 9, 2020.

Our comments are premised on the following:

- Industry recognizes the concerns expressed by consumers and regulators regarding necessary LTC premium increases.
- While data supports that an overwhelming majority of LTC policyholders maintain their coverage, even in the face of a substantial increase, industry is committed to working with state regulators to consider options and solutions that are fair and equitable for consumers.
- Industry supports the establishment of consistent high-level principles to guide regulators in understanding the characteristics associated with a particular block of business and how these characteristics impact the choices provided to consumers.

We agree with the October 6, 2020, draft edits made to the “RBO Principles” and do not have additional comments. Our comments to the “Principles on Long-Term Care Reduced Benefit Options Presented in Policyholder Notification Materials” are separated into general comments and specific comments. Our general comments are provided below. Comments with respect to specific sections are contained in the attached chart.

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.

GENERAL COMMENTS

As discussed on previous public calls of the RBO Subgroup, the principles are intended to be viewed as considerations, rather than requirements, that carriers can choose to include in notifications to consumers regarding a rate increase on their LTC policy. The elements ultimately included in a rate increase notification letter will vary by carrier and by product. A grounding statement in the introduction section of the principles clarifying this intent would help with consistency in their use and avoid any future confusion in their application. We suggest the following statement, which is similar to one contained in the “Principles for Artificial Intelligence” recently adopted by the NAIC:

“This document is intended to establish consistent high-level guiding principles for long-term care reduced benefit options presented in policyholder notification materials. These principles are guidance and do not carry the weight of law or impose any legal liability.”

In addition, we believe it is important to recognize and acknowledge that including all the elements identified in the principles will result in a consumer notification letter that is lengthy, confusing, and overwhelming to consumers.

The NAIC Long-Term Care Model Regulation allows flexibility with respect to what must be included in consumer notices at the time of a rate increase. Any principles applied outside of the construct of the model regulation should not eliminate this flexibility.

Finally, carriers have dedicated, specially trained customer service teams in place to assist policyholders with any questions regarding their coverage, rate increases, available options, and claims. Carriers spend a significant amount of time training their customer service teams. Customer service teams understand that premium increases can be a financial burden on policyholders. Carriers ensure that customer service teams fully understand their products and are able to answer any policyholder questions. As a result, communications to policyholders regarding a rate increase should strongly encourage them to contact the carrier to discuss specific options that are available to them given the policyholder’s personal situation and their current benefit levels.

SPECIFIC COMMENTS

The attached chart contains our comments to specific sections of the “Principles on Long-Term Care Reduced Benefit Options Presented in Policyholder Notification Materials”, along with an explanation for suggested changes.

CONCLUSION

Thank you for the opportunity to provide these comments. ACLI and AHIP welcome the opportunity to discuss our comments with you in the future, and we would also welcome the opportunity to contribute to additional discussion regarding the comments raised in our letter.

Sincerely,



Jan M. Graeber
Senior Actuary, ACLI



Ray Nelson
AHIP Consulting Actuary

Attachment

Attachment – Specific Comments on “Principles on Long-Term Care Reduced Benefit Options Presented in Policyholder Notification Materials”
November 9, 2020

Section	Explanation of Requested Change	
	INTRODUCTION	
1	<p>This document seeks to provide guiding principles in answering this question:</p> <p>What are the recommendations for ensuring long-term care insurance policyholders have maximized opportunity to make reduced benefit decisions that are in their best interest?</p> <p>National Association of Insurance Commissioners (NAIC) Principles on Long-Term Care Reduced Benefit Options Presented in Policyholder Notification Materials</p> <p><u>This document is intended to establish consistent high-level guiding principles for long-term care reduced benefit options presented in policyholder notification materials. These principles are guidance and do not carry the weight of law or impose any legal liability.</u></p> <p><u>Recognizing that each component outlined in these principles will not apply in all circumstances:</u></p> <p>RECOMMENDS that insurance companies <u>take into consideration adhere to</u> these fundamental principles.</p> <p>CALLS ON all insurance companies to consider the following principles in communicating reduced benefit options available to consumers in the event of a rate increase.</p> <p>UNDERLINES the following principles are complementary and should be considered as a whole.</p> <p><u>ENCOURAGES flexibility in determining the information that is appropriate for the policies subject to the rate increase and in the consumers’ best interest.</u></p>	<p>Consistent with discussions on prior public calls of the RBO Subgroup and to avoid any future confusion regarding the application of these principles, we believe a grounding statement should be added to this section that acknowledges that these principles are intended to be considerations rather than requirements. We suggest a statement similar to one contained in the “Principles for Artificial Intelligence” recently adopted by the NAIC.</p> <p>In addition, Sections 9 and 27 of the NAIC Long-Term Care Model Regulation addresses elements that must be included in consumer notices at the time of a rate increase. The language contained in these sections allows carrier flexibility with respect to benefit reduction options that are consistent with the policy or certificate design or the carrier’s administrative processes. Any principles applied should not eliminate this flexibility.</p>

Section	Explanation of Requested Change	
Filing Rate Action Letters		
2	Insurers may should consider: <ul style="list-style-type: none"> • Sending rate actions after the state has approved the rate action filing. 	This change clarifies that these elements are considerations rather than requirements.
3	<ul style="list-style-type: none"> • Making the rate action effective on a policy anniversary date or regular billing date following required rate increase notification. 	Not all policyholders are billed on their anniversary date. This suggested change reflects consistency with the language contained in Section 9B(4)(a) of the NAIC Long-Term Care Model Regulation, which states that a general explanation for applying premium rate or rate schedule adjustments must include: <i>(a) A description of when premium rate or rate schedule adjustments will be effective (e. g. next anniversary date, next billing date, etc.);</i>
4	<ul style="list-style-type: none"> • Mailing rate increase notification letters at least 45-60 days prior to the date(s) a rate actions becomes effective, consistent with any applicable state requirements. 	This change reflects consistency with the language contained in Section 9E of the NAIC LTC Model Regulation, which states: <i>“An insurer shall provide notice of an upcoming premium rate schedule increase to all policyholders or certificate-holders, if applicable, at least [forty-five (45) days] prior to the implementation of the premium rate schedule increase by the insurer.”</i>
5	<ul style="list-style-type: none"> • Sending rate increase notifications each year for rate increases that are phased-in over multiple years. • Disclosing all associated future planned rate increases approved by the regulators in the initial and phased-in rate increase notification letters. 	
6	<ul style="list-style-type: none"> • Including a sample rate increase letter with the filing for informational purposes, if required by the state. Filing rate action letter templates in the SERFF rate increase filing to include statements of variability and sample letters highlighting the differences between the communications. 	We request that this consideration be revised to better reflect current state practices regarding inclusion of the consumer notice letter in a rate filing.

Section		Explanation of Requested Change
		In addition, we suggest a sample letter, rather than a template with statements of variability, be provided for better readability.
7	<ul style="list-style-type: none"> Presenting innovative options to the state regulators prior to filing new reduced benefit options. This enables the regulators to evaluate potential anti-selection, adverse morbidity, and implications to the consumer and future claims experience. 	
Readability and Accessibility		
8	<p>Insurers mayshould consider:</p> <ul style="list-style-type: none"> Drafting a rate action letter that is easy to follow, flows logically, and displays the essential information and/or the primary action first, followed by the nonessential information. Presenting the reduced benefit options in a way that is comprehensible, memorable, and adjusted to the needs of the audience. The letter should consider the use of plain language, headers, maximized white space, appropriate font size and reading level for the intended audience. Utilizing illustrative tools, such as bullets or illustrations, and graphs or charts, as appropriate, enabling a side-by-side comparison. Including definitions of complex terms and if a term, subject, or warning is repeated throughout the communication, consider making the language consistent throughout the document. - it Including Q&A's that are succinct but answer the commonly asked questions in plain language. Providing appropriate accommodations for policyholders with disabilities or for Providing accessibility of its online and written material to all interested parties, to include those with disabilities such as blindness or low vision, deafness and hearing loss, learning disabilities, cognitive limitations, limited movement, speech disabilities, photosensitivity and combinations of these. Offering translation services for policyholders for whom English is not a first language. 	<p>Providing fair and meaningful options to consumers starts with recognizing that not all LTC policies are the same. These variations in LTC insurance products were designed to provide policyholders flexibility to choose the product that best fits their personal situation. As a result, coverage can vary significantly between policyholders within the same block of business. Notification letters to policyholders regarding a rate increase should focus on general information that is applicable to all policyholders rather than information that must be customized to reflect each policyholder's specific situation. Notification letters include a statement encouraging the policyholder to contact the company to discuss options specific to the policyholder.</p>
Identification		
9	Insurers should consider drafting the reduction benefit communication in a way that assist s ances the policyholder in understanding:	

Section	Explanation of Requested Change	
<ul style="list-style-type: none"> • What is happening? • Why it is happening to them? • Ensure the letter does not negatively reference the department of insurance • When is it happening? • What can they do about it? • How do they take action? 		
Communication Touch and Tone		
10	<p>Insurers mayshould consider:</p> <ul style="list-style-type: none"> • Drafting the communication in a way that helps the policyholder envision or reflect on the reason(s) why they purchased a long-term care insurance policy. • Conveying as much empathy as possible regarding the impact a rate action(s) may have on the policyholder(s). • Presenting all the reduced benefit options fairly, refraining from the use of bolding, repeating, or emphasizing one option over another. • Displaying the ability to maintain current benefits and pay the increased premium before other options. • Using word choices that appreciates how those words could influence a policyholder’s decision. <ul style="list-style-type: none"> • For instance, consider using “Now” instead of “Must” or “Mitigation Options”, “Offset Premium Impact” or “Manage an Increase” instead of “Avoid an Increase” 	<p>The requested change clarifies that not every option available to the policyholder will be presented in the policyholder rate increase notification letter.</p>
Consultation and Contact Information		
11	<p>The insurer mayshould consider listing multiple contacts in the communication in an easy to identify location to include, when available, the phone number, email address, and website information when available. For example:</p> <ul style="list-style-type: none"> • Customer Service • Lapse Notifier • The Producer • Department of Insurance 	<p>Contact information for parties other than the policyholder should be limited to information that is applicable to all policyholders subject to the rate increase, such as the carrier’s customer service department or the state Department of Insurance. Information that is unique to each policyholder and would require</p>

Section	Explanation of Requested Change
	<ul style="list-style-type: none"> • Area Agency on Aging • State Health Insurance Assistance Program (SHIP)
12	<p>The insurer should <u>may</u> consider suggesting the policyholder consult <u>a family member or other trusted advisor, with one or more sources, such as:</u></p> <ul style="list-style-type: none"> Family members Lapse Notifier The Producer Financial Advisor Certified Personal Accountant or Tax Advisor (in the event there are cash buy-outs offered)
Understanding Policy Options	
13	<p>Insurers should consider the presentation of the communication by:</p> <ul style="list-style-type: none"> • Identifying what necessitated the communication on the first page. <ul style="list-style-type: none"> • For example, the header could say, “Your Long-Term Care Premiums Are Increasing”. • Including the reduced benefit options with the rate action letter. • Limiting the number of options displayed on the letter to no more than four or five. • Identifying which reduced benefit option(s) have limited timeframes. • Advising they can ask about reducing their benefits at any time regardless of a rate increase. • Providing enough information in the communication to make a decision. <ul style="list-style-type: none"> • If supplemental materials (e.g. insurer’s website) are provided, they would enhance the policyholder’s understanding, but not be necessary to use when making a decision.
14	<p>Insurer should consider indicating the window of time to act by:</p> <ul style="list-style-type: none"> • Clearly indicating what the policyholder’s premium will increase to and by when. • Displaying the due date(s) in an easy to identify location and repeat it multiple times throughout the document. • Clearly differentiating due date(s) for each reduction option if available for a limited time.
15	<p>Insurers should consider including disclosures regarding rate increase history:</p> <ul style="list-style-type: none"> • Disclosing that future rate actions could occur
	<p>Carriers should have flexibility to provide information that is most helpful and relevant</p>

Section	Explanation of Requested Change	Explanation of Requested Change
	<ul style="list-style-type: none"> • Providing information about Advising if prior rate actions have or have not occurred to include: • Policy form(s) impacted • Calendar year(s) the policy form(s) was available for purchase • Percent of increase approved to include the minimum and maximum if it varied by benefit type • Reminding policyholders that their policy is guaranteed renewable 	to the policyholder. Much of the information in the draft bullets is already required at the time of application or policy delivery.
16	<p>Insurers should consider advising policyholders of their current benefits:</p> <ul style="list-style-type: none"> • For example, the communication could disclose the policyholder’s current benefits to include: <ul style="list-style-type: none"> • Daily maximum amount • Inflation option • If Partnership protection applies 	Partnership protection is addressed below and should be removed from this section
17	<ul style="list-style-type: none"> • Description of benefitsCurrent pool of benefits (reflective of approximate amount available for claim) • If inflation applies, also include the projected pool of benefits five and fifteen years into the future. 	Inclusion of these suggestions becomes challenging due to the wide variety of products and benefit limits that depend on the nature of care received. Not all policies have a “pool of benefits”. If a policy does have a “pool of benefits”, this is a calculated amount that is dependent on factors such as where care is received, past and future benefits paid, and elected benefit changes. Inclusion of a “pool of benefits” or a projection of the pool can be misleading and result in policyholders making current or future decisions that are not in their best interest. We strongly recommend that this consideration be revised.
18	<p>Insurers may should consider personal needs decision making by:</p> <ul style="list-style-type: none"> • Only listing reduced benefit options that are available to the policyholder. • Calling on the policyholder to reflect on how each option could impact them personally. 	Consumer notification letters should be as generalized as possible and not contain numerous elements that are unique or specific to each policyholder, which requires

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	<ul style="list-style-type: none"> Prompting the policyholder to consider their unique situation to include their current age, health conditions, financial position, availability of caregivers, spouse or partner impacts, and the potential need for institutionalized care. <u>Reminding the policyholder to consider the cost of care in the area and setting where they expect to receive care.</u> <ul style="list-style-type: none"> The average cost of care for in-home care, assisted living, and nursing home in their area. The inflation rate of the cost of care for in-home and nursing home care in their area. The average age and duration of a long-term care claim for in-home and nursing home care. Factors that influence the age, duration, and cost of a claim. Disclosing when a reduction option falls below the cost of care in their area. Calculating the number of days or months a paid-up option could cover based on the cost of care in their area. 	<p>special modification to carrier administrative systems.</p> <p>Where a policyholder actually receives care and the cost of that care will vary based on each policyholder's unique situation and could be different than where the policyholder currently resides.</p> <p>Carriers should encourage the policyholder to consider circumstances specific to them and avoid the use of averages.</p>
19	<ul style="list-style-type: none"> Buy Out or Cash Out Disclosures <ul style="list-style-type: none"> The cash offerings, <u>if any</u>, should disclose to the policyholder that the option could result in a taxable event and they should consult with their certified personal accountant or tax advisor before electing this option 	
20	<p>Insurers should consider the value of each option by:</p> <ul style="list-style-type: none"> Disclosing if the reduced benefit options <u>may not be of equal value and are dependent on the unique situation of each policyholder, are not actuarially equivalent.</u> 	<p>The suggested change reflects consistency with the language required in Section 27H of the NAIC LTC Model Regulation:</p> <p><i>“A premium increase notice required by Section 9E of this regulation shall include:</i> <i>(1) An offer to reduce policy benefits provided by the current coverage consistent with the requirements of this section;</i> <i>(2) A disclosure stating that all options available to the policyholder may not be of equal value; and</i> <i>(3) In the case of a partnership policy, a disclosure that some benefit reduction options may result in a loss in partnership</i></p>

Section		Explanation of Requested Change
21	<ul style="list-style-type: none"> Including a value indicator for each option that shows the value of expected benefits in relation to premium. 	<p><i>status that may reduce policyholder protections.”</i></p> <p>Inclusion of any sort of value indicator constitutes policyholder steering and should not be included in a rate increase notification letter. In addition, it is not clear how the values would be determined, which results in inconsistency across the LTC market.</p>
22	<ul style="list-style-type: none"> Limiting reduced benefit options that have lower value to policy holders, such as eliminating the option to reduce the daily benefit amount. Consumer studies show policy holders would only reduce the daily amount as a last option to keep their policy affordable (Penn Treaty). 	<p>Actual carrier experience shows that a reduction in the daily benefit is a commonly elected benefit reduction option and is not an inappropriate option.</p>
23	<ul style="list-style-type: none"> Reminding the policy holder if reducing to the lowest option available, they may have limited options to mitigate future rate increases. 	<p>This statement could discourage a policyholder from making a decision that might be the most appropriate and in their best interest. Depending on an individual’s specific situation, this might be the best option for them.</p>
24	<p>Insurers should consider communicating the impact of <u>each options</u> by:</p> <ul style="list-style-type: none"> Displaying the options in a way that enables the policyholder to compare <u>each options side-by-side</u> to include details such as: <ul style="list-style-type: none"> Daily/Monthly Benefit Benefit Period Inflation Option Maximum Lifetime Amount Value Indicator Premium Increase Percent <u>and/or New Premium</u> Benefit Decrease Percent NFO or CNF Amount If <u>the policy is Still Partnership Qualified, changes to benefits may impact Partnership status.</u> Current Premium New Premium 	<p>Companies should have the flexibility to format the letter in a way that is the most appropriate for the options presented to their policyholders and the most conducive with their administrative systems.</p> <p>Not all benefit reduction options, such as a reduction in inflation protection or benefit period, have a defined benefit decrease percent.</p>

Section		Explanation of Requested Change
25	<ul style="list-style-type: none"> ● Projecting how a reduction of the inflation protection could impact the premium and future coverage amounts by: <ul style="list-style-type: none"> ● Illustrating the change in the benefit pool out five and fifteen years into the future revealing how the inflation is being recalculated if going back to original benefit amount. 	<p>Any future projections can be misleading and result in a policyholder making a decision that is not in their best interest. For example, if any benefits are received, depending on policy design, the future “pool of benefits” might be reduced. See our previous comment regarding “pool of benefits”.</p>
26	<ul style="list-style-type: none"> ● Providing a series of questions to help policy holders contemplate the pros and cons of each option, such as: <ul style="list-style-type: none"> ● What will happen if they take no action? ● What happens if they make no payment before the policy anniversary date? ● If they accept the full increase without reducing their benefits, how will they handle potential future rate increases? ● If they elect the cash buy out, there could be tax implications. ● If they elect a paid up nonforfeiture option, how long will the reduced benefit last if they had a claim? ● If they were to increase their elimination period from 30 days to 100 days, do they have enough funds to cover those expenses? ● Partnership policies: Will reducing the benefits remove partnership qualification? If so, the letter should explain how their asset protection is removed or reduced. 	<p>Pros and cons of benefit reduction options can be different for different policyholders. Including generalized pros and cons could constitute steering.</p> <p>The considerations listed are redundant with prior considerations in other sections and their inclusion makes the letter overwhelming, confusing, and could result in poor policyholder decisions.</p>
27	<p>When rate actions span over multiple years, insurers may<u>should</u> consider:</p> <ul style="list-style-type: none"> ● Disclosing the full rate increase amount, how it is spread out across multiple years, and all associated future planned rate increases approved by regulators. ● Specifying if the premium increase referenced is the first, second, third, last, etc. ● Offering contingent nonforfeiture based on the full increase amount and offered with each phase of the rate action. ● Notifying policyholders <u>at least 45-60</u> days in advance of each phase of the rate increase, <u>consistent with any applicable state requirements.</u> 	<p>This change reflects consistency with the language contained in Section 9E of the NAIC LTC Model Regulation, which states: “An insurer shall provide notice of an upcoming premium rate schedule increase to all policyholders or certificate-holders, if applicable, <u>at least [forty-five (45) days] prior to the implementation of the premium rate schedule increase by the insurer.</u>”</p>