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Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup

Conference Call

August 24, 2020

The Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup met via conference call Aug. 24, 2020. The following Subgroup members participated: Jessica K. Altman, Chair (PA); Lori K. Wing-Heier (AK); Perry Kupferman (CA); Phillip Barlow (DC); Trinidad Navarro (DE); Andria Seip (IA); Rich Piazza (LA); Karen Dennis (MI): Fred Andersen (MN); Rhonda Ahrens (NE); Hodgen Mainda (TN); Jaakob Sundberg (UT); Scott A. White (VA); Anna Van Fleet (VT); Michael Bryant (WA); and Tim Sigman (WV).

1. Discussed Comments Received on a Draft Reduced Benefit Options Principles Document

Commissioner Altman presented comment letters from the American Council of Life Insurers (ACLI) and America’s Health Insurance Plans (AHIP) (Attachment One), California Health Advocates (CHA) (Attachment Two, Attachment Three), and the Center for Economic Justice (CEJ) (Attachment Four) that were submitted in response to the public exposure of a draft Reduced Benefit Options Principles Document (Attachment 5).

Bonnie Burns (CHA) gave a summary of CHA’s comments. Commissioner Altman said the Subgroup is working on a set of principles that is specific to long-term care insurance (LTCI) consumer notices, and the points made in CHA’s comment letter will be addressed. She asked Ms. Burns if she has seen reduced benefit options (RBOs) that she thought were not in the policyholder’s best interest or would not provide meaningful benefits. Ms. Burns said she has seen a notice that has a series of RBO offerings in chart form. She said insurance agents questioned whether the amount the premium was reduced was proportional to the decrease in benefits. She said another insurance agent told her of a consumer notice that, on the third page of the notice, showed a series of percentage increases to rates that the insurer planned to request approval of by state insurance departments. She said the insurance agent saw this, but the policyholder did not. She said being aware of future rate increases is important to the policyholder when making decisions about electing an RBO. She said a policyholder may reduce their benefits so much that there will be no room to make further reductions in the event of a rate increase.

In reference to CHA’s comment that “in no circumstances should insurers be allowed to claw back current inflated benefits if inflation protection is modified or dropped,” Ms. Ahrens said that some LTCI contracts stipulate that this is allowed. Ms. Burns said she thinks that this should never be allowed and that she thinks there are conditions in the *Long-Term Care Insurance Model Act* (#640) that prohibit such contractual language in the future. She said state insurance regulators should pursue elimination of this contractual provision for new business.

Ray Nelson (AHIP) gave an overview of the ACLI and AHIP’s comments. Mr. Barlow said he thinks actuarial equivalence is an appropriate measure of RBO value, and he asked Mr. Nelson to explain why he thinks actuarial equivalence is not appropriate. Mr. Nelson said the standard recommended by the ACLI and AHIP is one of reasonableness, as creating actuarial equivalence for each policyholder for each reduction in benefit is not feasible. He said definitions of actuarial equivalence may vary from state to state. He said one measure of reasonableness is for the premium charged for the benefits package associated after an RBO is elected to match that of a similarly situated policyholder with the same benefits package using the new set of rates.

Mr. Barlow said if reasonableness is to be used as the RBO evaluation standard instead of actuarial equivalence, the Subgroup should attempt to develop a definition of it. Mr. Sundberg said he agrees that ensuring actuarial equivalence is difficult. He said that he thinks using actuarial equivalence as the standard will make LTCI rate reviews impractical. Mr. Andersen said the uncertainty associated with LTCI pricing assumptions makes determining actuarial equivalence an uncertain activity. He said requiring actuarial equivalence for RBOs may cause harm to policyholders that do not elect an RBO. Ms. Ahrens said contractually available RBOs that policyholders can elect at any time are not necessarily actuarially equivalent. She said ensuring actuarial equivalence in any given pricing cell is a complex procedure, and reasonableness as it relates to value to the policyholder offered by the RBO is instead used as a measure of fairness and equity in the Reduced Benefit Options Principles Document.

Birny Birnbaum (CEJ) gave an overview of the CEJ’s comments.

Silvia Yee (Disability Rights Education and Defense Fund—DREDF) said age-related diseases of the eyes can make reading and understanding RBO communications from insurers difficult for some policyholders. She said these communications should include a phone number to call where a large-font version of the letter or an electronic version that can be enlarged on-screen can be requested.

Ms. Burns said the Subgroup should investigate any taxation issues that may arise from policyholder election of RBOs.

Having no further business, the Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup adjourned.

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