ACLI
Financial Security for Life

AHIP

September 27, 2024

Paul Lombardo, Co-Chair, NAIC Long-Term Care Actuarial Working Group
Fred Andersen, Co-Chair, NAIC Long-Term Care Actuarial Working Group

Dear Paul and Fred,

The American Council of Life Insurers (ACLI)[1] and the America's Health Insurance Plans[2] (AHIP) appreciate the opportunity to comment on the NAIC Long-Term Care Actuarial Working Group (LTCAWG) request for comments on two proposals to adjust the Minnesota Approach "haircut percentages and cumulative rate increase ranges of the cost-sharing formula" as candidates for a Single LTCI Multistate Rate Review (MSRR) Approach. The adjustments are intended to address the "85/25/400" issue as discussed at the Working Group's August 12th meeting in Chicago.

We know that rate increases for policyholders present complex technical and public policy issues for both regulators and the industry. This remains a difficult issue to address, despite our collective efforts to find balanced solutions. We understand the public policy concerns regulators face when responding to company rate increase requests. Given the diverse nature of long-term care blocks of business—ranging from different coverage structures and rate stabilization requirements to varied rate approval histories—a one-size-fits-all approach is not feasible. While the MSRR framework may be suitable for some blocks of business, it may be unworkable for others. Just as states adapt model laws to fit their legal frameworks, the MSRR framework should allow flexibility to account for these differences across blocks and companies.

In response to the August 12th exposure, industry has the following four key requests of the LTCAWG:

1. Encourage the LTCAWG to Reject Proposal B: To support the financial sustainability of long-term care coverage, ACLI/AHIP encourage the LTCAWG to ensure that long-term care rate increases are based on actuarial science, rather than arbitrary caps like Proposal B.
2. Clarify the Intention and Transparency of Cost-Sharing in the MSRR Framework: To the extent that cost-sharing is incorporated into the Multi-State Actuarial (MSA) recommendation, clarify within the LTCI MSRR framework that cost-sharing is meant to address specific public policy challenges. In addition, the total amount of cost sharing, both implicitly and explicitly, should be transparent.
3. Allow for Tailored Solutions: Incorporate appropriate guardrails into the NAIC's MSRR framework to reflect the diversity and complexity of blocks of business, ensuring a balanced and fair approach to cost-sharing.

---

[1] The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

[2] AHIP is the national association whose members provide health care coverage, services, and solutions to hundreds of millions of Americans every day. We are committed to market-based solutions and public-private partnerships that make health care better and to help create a space where coverage is more affordable and accessible for everyone.

4. Address and Document Ambiguities in the Methodology: As noted in prior comment letters, there are ambiguities in the current methodology that should be addressed for all stakeholders to understand.

Encourage the LTCAWG to Reject Proposal B

The NAIC has taken a careful approach to addressing long-term care rate increases, focusing on balancing consumer protection with insurer financial harm. Through the adoption of the MSRR Framework, the NAIC highlighted the need for a more consistent state-based approach when evaluating long-term care insurance rate increase requests by insurers. Key objectives of the Framework are to educate and advise states on the appropriateness of actuarially based rates for policyholders' benefits, narrowing rate review practices and reducing inequities among policyholders[3].

Rate adjustments grounded in actuarial science align with the 2014 NAIC Long-Term Care Insurance Model Regulation (Model #641), which emphasizes the importance of actuarial justification for premium rate increases to ensure both fairness for policyholders and the financial stability of insurance companies. Sections 10 (Initial Filing Requirements), 20 (Premium Rate Schedule Increases), and 21 (Filing Requirement) of Model #641 support the principle that rates should be grounded in actuarial science, not arbitrary limits.

ACLI/AHIP encourage the LTCAWG to reject "Proposal B," which would add additional non-actuarial factors and complexity to the process. Specifically,

- "Adjustment a," which would require the cumulative rate increase to be no more than 600% after all adjustments, creates an arbitrary cap that is contrary to supporting the financial sustainability of long-term care coverage. In addition, this adjustment continues to reward states that have disapproved prior rate requests as these disapprovals result in higher future rate requests.
- "Adjustment b," which would require that each rate increase filing not increase the cumulative rate increase by more than 100% from that of the current rate, adds complexity of the calculation, especially if calculated on a seriatim basis.

Clarify the Intention and Transparency of Cost-Sharing

To maintain fairness and avoid perpetual adjustments, ACLI/AHIP propose clearly defining the role of cost-sharing within the regulatory framework. It is important to emphasize that cost-sharing should be recognized as a compromise to address public policy concerns, not a precedent for further limitations on rate increases. Any additional capping or restrictions by states beyond this agreed-upon mechanism would undermine the concessions that have already been made and could lead to further financial strain on insurers. This, in turn, could limit insurers' ability to provide adequate coverage to consumers in the long term. Clarification should be incorporated into the LTCI MSRR Framework as follows:

The paragraph titled "Future Non-Actuarial Considerations" under Subsection F (Non-Actuarial Considerations) of Section V (Actuarial Review), should be amended to read:

---

[3] https://content.naic.org/article/naic-membership-adopts-framework-address-long-term-care-insurance-rate-approvals

Future Non-Actuarial Considerations

The MSA Review will continue to develop and evolve as it is implemented. To achieve more consistency and minimize the number of differences across states in their application of other non-actuarial considerations in rate review criteria for LTCI rate filings, the LTCI MSA Framework was amended in 2024 to adjust the cost-sharing components within the Minnesota method to address specific public policy challenges, particularly around large increases for older-age policyholders, with longer durations. Further non-actuarial adjustments are inappropriate, however, the Task Force may ~~will~~ encourage its appointed Subgroup, or an appropriate NAIC actuarial committee or group, to collectively consider new future non-actuarial considerations, if ~~as~~ they arise. This process will provide for input and technical advice from actuaries to states as they exercise their authority in considering nonactuarial factors. States are therefore encouraged to discuss new and developing practices and/or recommendations in this area.

In addition, the following reviewer note should be added before Step 7 of the Minnesota Approach outlined in Appendix C of the LTCI MSRR Framework:

> *Reviewers note: The blending of the if-knew and makeup premiums (Step 5) and the cost-sharing formula (Step 6) were reviewed and updated in 2024 to address specific public policy challenges, particularly around large increases for older-age policyholders, with longer durations. Additional cost-sharing or other non-actuarial adjustments to address these challenges are inappropriate.*

Allow for Tailored Solutions

While there is mutual agreement between regulators and the insurance industry that a one-size-fits-all approach is not appropriate for addressing long-term care premium increases, the regulatory view that the current process will work for "most" companies does not go far enough. The diverse nature of long-term care blocks—each with varying assumptions, benefit structures, and policyholder demographics—means that even if the process works for some blocks, significant gaps remain for other companies.

A process that works for some but not all can inadvertently lead to unfair outcomes for certain blocks of business, especially those with unique challenges such as prior delayed, limited, or denied rate approvals, longer-duration policies, or varying benefit designs. To ensure a truly fair and equitable system, it is crucial to implement appropriate guardrails that address these differences, preventing the imposition of excessive cost sharing where it is inappropriate and allowing for tailored solutions that reflect the specific characteristics of each block.

Incorporating appropriate guardrails into the NAIC's long-term care premium increase process is essential to ensuring a balanced and fair approach to cost-sharing. While cost-sharing adjustments within the formula are intended to address public policy concerns, these adjustments must be applied in a way that accounts for the diversity and complexities of long-term care blocks of business.

Without potential limitations and tailored flexibility, insurers may face undue financial strain, and the long-term viability of long-term care coverage could be compromised. Guardrails would not only

protect insurers from disproportionate burdens but also ensure a transparent, predictable process that regulators and companies can rely on, fostering a stable insurance market that benefits both policyholders and the industry.

ACLI/AHIP encourage regulators to consider adding guardrails for cost-sharing in the MSRR framework to reflect the diversity and complexity of blocks of business. Potential guardrails include:

1. Block-Specific Flexibility: Introduce flexibility that allows for customized cost-sharing adjustments based on the unique characteristics of a block (e.g., block age, benefit richness, timing of past rate approvals) to reflect the diversity of long-term care insurance portfolios.
2. Adjustment for Delayed or Reduced State Approvals: Establish a mechanism to reduce or eliminate cost-sharing for older blocks where previously delayed, limited, or denied rate approvals by states have contributed to financial strain, acknowledging that timely approvals could have prevented the need for large, accumulated increases.
3. Cost Sharing Transparency: Allow companies to clearly outline the degree of cost-sharing being applied, helping regulators understand how much of the needed premium increase has already been absorbed by the insurer versus passed to the policyholders.
4. Recognition of Block Profitability: Include considerations for newer, leaner blocks, where excessive cost-sharing could result in unreasonably low profitability, potentially discouraging insurers from entering in the long-term care market or leading them to exit.
5. Monitoring and Periodic Review: Establish a process for the periodic review of cost-sharing measures to assess their impact on insurers and policyholders and to determine if future adjustments to the framework are necessary based on evolving market conditions and block performance.

Address and Document Ambiguities in the Methodology

As stated in our August 2nd comment letter, ACLI and AHIP strongly encourage the LTCAWG to address the ambiguity in current methodology, including the complex layers of cost-sharing embedded within the Minnesota Method. This will promote clarity, transparency, and alignment with actuarial integrity, ensuring fairness to both policyholders and insurers.

Specifically, we recommend that the working group review and respond to the questions, proposals, and alternatives presented by the ACLI/AHIP and other stakeholders. This will ensure all perspectives are considered and foster a transparent decision-making process.

We urge the LTCAWG to clarify its stance on key recommendations, particularly in the context of how the MSA team will consider these outstanding issues in their review of long-term care filings. Specific feedback should clarify areas of agreement or disagreement by the MSA team. If not in agreement, the reasons should be documented to guide further refinement.

Conclusion

As previously stated, the inclusion of non-actuarial factors in the rate review process opens the door for allowing political or social considerations to override actuarial principles and sets a dangerous precedent that could lead to unintended consequences. Insurers have a fundamental responsibility to ensure the financial sustainability of their products, and actuarially sound rates are critical to this goal. While addressing affordability concerns for older policyholders is important, premiums must be set fairly and reflect actuarial justification to protect both consumers and insurers. Consumer protection efforts should focus on empowering individuals to make informed

decisions based on their financial situation and risk tolerance, while timely approval of actuarially justified rate increases is essential to maintaining market stability and protecting consumers from sudden premium hikes or lapses in coverage.

By addressing these issues, we can create a more predictable and consistent process for all parties involved, which will help encourage insurers to remain or enter the market.

Thank you for considering these critical issues.

Sincerely,

Jan Graeber
Senior Actuary, ACLI

Ray Nelson
Consultant for AHIP