

Adopted by the Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup, 11/30/20

REDUCED BENEFIT OPTIONS ASSOCIATED WITH LONG-TERM CARE INSURANCE (LTCI) RATE INCREASES

Guiding Principles to Ensure Quality Consumer Notices of Rate Increases and Reduced Benefit Options

AUTHORITY

The Long-Term Care Insurance Reduced Benefit Options (RBO) (EX) Subgroup is composed of regulators from 17 state insurance departments. It has been tasked with assisting the Long-Term Care Insurance (EX) Task Force in completing the following charge:

Identify options to provide consumers with choices regarding modifications to long-term care insurance (LTCI) contract benefits where policies are no longer affordable due to rate increases.

The workstream members have established the following as part of the work plan to complete the charge:

- Evaluate the quality of consumer notices and RBO materials presented to policyholders.
- Consider the relevant lessons learned and consumer focus group studies from the Penn Treaty liquidation.
- Review existing RBO consumer notice checklists or principle documents from multiple states (i.e., Nebraska, Pennsylvania, Texas and Vermont).
- Address pertinent comments submitted on the RBO principles document.

INTRODUCTION

This document seeks to provide guiding principles in answering this question:

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?

National Association of Insurance Commissioners (NAIC) Guiding Principles on Long-Term Care Insurance
Reduced Benefit Options Presented in Policyholder Notification Materials

This document is intended to establish consistent high-level guiding principles for long-term care insurance 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.

Recognizing that each component outlined in these principles will not apply in all circumstances:

RECOMMENDS that insurance companies recognize these fundamental principles.

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.

UNDERLINES that the following principles are complementary and should be considered as a whole.

Filing Rate Action Letters

Insurers should consider:

- Sending rate actions after the state has approved the rate action filing.
- Making the rate action effective on a policy anniversary date, recognizing that the *Long-Term Care Insurance Model Regulation* (#641) allows for the next anniversary date or next billing date.
- Mailing rate increase notification letters at least 45 days prior to the date(s) a rate action becomes effective, consistent with any applicable state laws and/or regulations.
- 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 regulators in the initial and phased-in rate increase notification letters.
- Filing rate action letter templates in the NAIC System for Electronic Rate and Form Filing (SERFF) rate increase filing to include statements of variability and sample letters highlighting the differences between the communications, consistent with any applicable state laws and/or regulations.
- Presenting innovative options to state insurance regulators prior to filing new reduced benefit options.
 - This enables regulators to evaluate potential anti-selection, adverse morbidity, and implications to consumers and future claims experience.

Readability and Accessibility

Insurers should consider:

- 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.
- Using cover pages, a table of contents, glossaries, plain language, headers, maximized white space, and appropriate font size and reading level for the intended audience.
- Using illustrative tools, such as bullet points or illustrations as appropriate, and graphs or charts 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.
- Including a question-and-answer section that is succinct but answers the commonly asked questions in plain language.
- Providing appropriate accommodations for policyholders with disabilities or for policyholders for whom English is not a first language.

Identification

Insurers should consider drafting the RBO communication in a way that helps policyholders understand:

- What is happening?
- Why it is happening to them?
 - Ensure the letter does not negatively reference the state insurance department.
- When is it happening?
- What can they do about it?
- How do they take action?

Communication Touch and Tone

Insurers should consider:

- Drafting the communication in a way that helps policyholders 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 policyholders.
- Presenting reduced benefit options fairly, refraining from the use of bolding, repeating or emphasizing one option over another.
- Displaying the policyholder's ability to maintain current benefits by paying the increased premium.
- Using word choices that appreciate how those words could influence a policyholder's decision.
 - For instance, consider using "now" instead of "must"; or "mitigation options," "offset premium impact" or "manage an increase" instead of "avoid an increase."

Consultation and Contact Information

The insurer should consider listing multiple contacts in the communication in an easy-to-identify location to include: when available; phone number; email address; and website. For example:

- Customer service.
- Lapse notifier.
- Insurance producer.
- State insurance department.
- State Health Insurance Assistance Program (SHIP).

The insurer should consider suggesting policyholders consult a family member or other trusted advisor, such as:

- Lapse notifier.
- Insurance producer.
- Financial advisor.
- Certified personal accountant or tax advisor (in the event cash buyouts are offered).

Understanding Policy Options

Insurers should consider the presentation of the communication by:

- Identifying what necessitated the communication on the first page.
 - 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 time frames.
- Advising policyholders that 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.
 - 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.

Insurers should consider indicating the window of time to act by:

- 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 repeating it multiple times throughout the document.
- Clearly differentiating due date(s) for each RBO, if available for a limited time.

Insurers should consider including disclosures regarding rate increase history:

- Disclosing that future rate actions could occur.
- 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.
 - Percentage of increase approved to include the minimum and maximum, if they vary by benefit type.
- Reminding policyholders that their policy is guaranteed renewable.

Insurers should consider advising policyholders of their current benefits:

- For example, the communication could disclose the policyholder's current benefits to include:
 - Daily maximum amount.
 - Inflation option.
 - Current pool of benefits for policies with a limited pool of benefits.

Insurers should consider personal needs decision-making by:

- Only listing reduced benefit options that are available to the policyholder.
- Calling on policyholders to reflect on how each option could impact them personally.
- Prompting policyholders 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.
- Reminding policyholders to consider the cost of care in the area and setting where they expect to receive care.
- Informing policyholders of factors that impact long-term care costs, such as:
 - The average cost of care for in-home care, assisted living, and nursing home care 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 to policyholders when an RBO falls below the cost of care in their area.
- Calculating for policyholders the number of days or months a paid-up option could cover based on the cost of care in their area.
 - Buyout or cash-out disclosures.
 - The cash offerings, if any, should disclose to policyholders that the option could result in a taxable event and they should consult with their certified personal accountant and/or tax advisor before electing this option.

Insurers should consider the value of each option by:

- Disclosing if the RBOs may not be of equal value and are dependent on the unique situation of each policyholder.

Insurers should consider communicating the impact of options by:

- Displaying the options in a way that enables policyholders to compare options, including details such as:
 - Daily/monthly benefit.
 - Benefit period.
 - Inflation option.
 - Maximum lifetime amount.
 - Premium increase percentage and/or new premium.
 - Nonforfeiture (NFO) or contingent nonforfeiture (CNF) amount.
 - If the policy is Partnership qualified, changes to benefits may impact Partnership status.
 - Current premium.

- Providing a series of questions to help policyholders contemplate the implications of each action, such as:
 - What will happen if they take no action?
 - What will happen 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 buyout, 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 that their asset protection may be removed or reduced.

When rate actions span over multiple years, insurers should consider:

- 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 at least 45 days in advance of each phase of the rate increase, consistent with any applicable state laws and/or regulations .