

National Association of Insurance Commissioners

Summary

Long Term Care Partnership Provisions of Deficit Reduction Act of 2005

This bill provides for the expansion of the long term care (LTC) Partnership program to any state that desires to implement it. The state can accomplish this by obtaining a state Medicaid plan amendment that “provides for the disregard of any assets or resources in an amount equal to the insurance benefit payments...” In other words, the state must use the “dollar for dollar” model. The following requirements must be met:

1. The insured was a resident of the state when coverage became effective;
2. The policy is tax-qualified;
3. The policy meets certain specified consumer protection requirements of the NAIC Long Term Care Insurance Model Act and Regulation;
4. The policy contains specified inflation protection if sold to an individual under age 76;
5. The state Medicaid agency provides information and technical assistance to the state insurance department (DOI) on the DOI’s role of assuring that producers of partnership policies are trained;
6. The issuer provides regular reports to the Secretary of the Department of Health and Human Services (HHS)(to be set by the Secretary in regulation); and
7. The state does not impose any requirements on a partnership policy that it does not impose on other LTC policies.

The state plan amendment must provide that the state insurance commissioner certifies that the partnership policy meets the specified consumer protection requirements of the NAIC Long Term Care Insurance Model Act and Regulation.

Partnership policies existing prior to the law satisfy the requirements of the law if the Secretary determines that the state Medicaid plan amendment provides consumer protections that are no less stringent than those in effect under the plan amendment as of Dec. 31, 2005.

The Secretary has to do several things in consultation with NAIC, state insurance commissioners, insurers, states and consumers:

1. Develop regulations for the reports required under 6 above (type and format of data and frequency of reporting);
2. Develop recommendations for Congress to authorize and fund a uniform minimum data set to be reported electronically by all partnership policy issuers; and
3. Develop standards for uniform reciprocal recognition of partnership policies among partnership states. These standards must be developed by Jan. 1, 2007.

(This piece does not include consultation with state insurance commissioners.)
A state can elect to be exempt from these standards.

Any time the NAIC makes changes to the specified consumer protection requirements of the NAIC Long Term Care Insurance Model Act and Regulation, the Secretary has 12 months to review the changes, determine whether incorporating the changes would improve partnerships, and incorporate them if the determination is affirmative.

The Secretary shall report to Congress annually on the partnerships and analyze whether they expand or limit access to long term care, and analyze the impact on state and federal expenditures under Medicare and Medicaid.

The Secretary shall establish a National Clearinghouse for Long Term Care Information. The Clearinghouse serves an educational function, and is to provide objective information and assistance to consumers.

Three million dollars is appropriated regarding the Clearinghouse. One million dollars is appropriated for everything else.

What a state must do to allow for a partnership:

The state must file a Medicaid plan amendment and get it approved (by CMS, presumably).

Does a state need to enact the current NAIC Long Term Care Insurance Model Act and Regulation?

Technically, no. The state insurance commissioner must certify that the partnership policies provide the specified consumer protection requirements of the NAIC Long Term Care Insurance Model Act and Regulation. The issuers of partnership policies can so provide without being required to under state law. However, the state DOI has a role in assuring that producers of partnership policies are trained. Perhaps the easiest way to accomplish this is to adopt producer training requirements under state law. These amendments to the NAIC Long Term Care Insurance Model Act have been drafted and all constituencies agree on the language, although it has not yet been formally adopted by NAIC.

Following are the specified consumer protection requirements of the NAIC Long Term Care Insurance Model Act and Regulation cited in the bill:

Model Regulation:

“(i) In the case of the model regulation, the following requirements:

“(I) Section 6A (relating to guaranteed renewal or noncancellability), other than paragraph (5) thereof, and the requirements of section 6B of the model Act relating to such section 6A.

- “(II) Section 6B (relating to prohibitions on limitations and exclusions) other than paragraph (7) thereof.
- “(III) Section 6C (relating to extension of benefits).
- “(IV) Section 6D (relating to continuation or conversion of coverage).
- “(V) Section 6E (relating to discontinuance and replacement of policies).
- “(VI) Section 7 (relating to unintentional lapse).
- “(VII) Section 8 (relating to disclosure), other than sections 8F, 8G, 8H, and 8I thereof.
- “(VIII) Section 9 (relating to required disclosure of rating practices to consumer).
- “(IX) Section 11 (relating to prohibitions against postclaims underwriting).
- “(X) Section 12 (relating to minimum standards).
- “(XI) Section 14 (relating to application forms and replacement coverage).
- “(XII) Section 15 (relating to reporting requirements).
- “(XIII) Section 22 (relating to filing requirements for marketing).
- “(XIV) Section 23 (relating to standards for marketing), including inaccurate completion of medical histories, other than paragraphs (1), (6), and (9) of section 23C.
- “(XV) Section 24 (relating to suitability).
- “(XVI) Section 25 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).
- “(XVII) The provisions of section 26 relating to contingent nonforfeiture benefits, if the policyholder declines the offer of a nonforfeiture provision described in paragraph (4).
- “(XVIII) Section 29 (relating to standard format outline of coverage).
- “(XIX) Section 30 (relating to requirement to deliver shopper’s guide).

Model Act

- “(ii) In the case of the model Act, the following:
 - “(I) Section 6C (relating to preexisting conditions).
 - “(II) Section 6D (relating to prior hospitalization).
 - “(III) The provisions of section 8 relating to contingent nonforfeiture benefits.
 - “(IV) Section 6F (relating to right to return).
 - “(V) Section 6G (relating to outline of coverage).
 - “(VI) Section 6H (relating to requirements for certificates under group plans).
 - “(VII) Section 6J (relating to policy summary).
 - “(VIII) Section 6K (relating to monthly reports on accelerated death benefits).
 - “(IX) Section 7 (relating to incontestability period).