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BULLETIN

TO: All Licensed Insurers and Insurance Producers in the Business of Selling Long-Term Care Insurance Products

FROM: Leslie A. Newman, Commissioner
Department of Commerce and Insurance

Leslie A. Newman

RE: Requirements and Responsibilities Brought About by the Adoption of the Long-Term Care Partnership in Tennessee

DATE: September 22, 2008

On May 13, 2008, the Centers for Medicare and Medicaid Services (CMS) approved a State Plan Amendment filed by the Department of Finance and Administration, Bureau of TennCare, effective October 1, 2008, which will allow Tennessee to participate in the Long-Term Care Partnership program. The purpose of this Bulletin is to inform insurance companies and producers of the basics of the Partnership and also provide certain relevant information which will assist in a successful implementation of the Partnership in Tennessee. Specifically, this Bulletin will address issues of Partnership qualification, the exchange of previously existing plans for those which will be partnership qualified, the requisite inflation protection in relation to the age of the policy owner, producer education and state to state reciprocity of training, requirements for insurers intending to make these plans available, reciprocity of plans, and whether Tennessee will require its residents to exhaust their long-term care policy benefits before being able to apply for Medicaid.

Partnership Qualified Products. The Long-Term Care Insurance Partnership is a public-private venture designed to encourage and reward Tennesseans who take an active role in planning ahead for future long-term care needs. The Partnership allows Tennesseans to maintain some level of asset protection because for every dollar that a Partnership-qualified policy pays out in benefits, a dollar of personal assets can be protected when applying for long-term care coverage under TennCare.

In order for a long-term care insurance policy to be Partnership-qualified, it has to meet three (3) basic requirements:

1. The policy must have the same provisions as set forth in the National Association of Insurance Commissioner's (NAIC) model law. All plans sold in Tennessee must comply with the model and be approved by the Tennessee Department of Commerce and Insurance prior to use.
2. The policy must be tax-qualified. This means the Internal Revenue Service (IRS) does not tax the policy's benefits; and

3. The policy must contain certain inflation protection provisions at the time it is sold:

Age	**Level of Inflation Protection**
Less than 61	Policy must have compound annual inflation protection at some level.
61 – 75	Some level of inflation protection must apply. No minimum level is established.
Over 75	Policy may provide inflation protection, but none is required.

Partnership Exchanges. A person that currently owns a long-term care insurance policy that would otherwise meet the requirements of a Partnership qualified policy is entitled to exchange his/her policy for a Partnership policy as long as the policy was purchased on or after February 8, 2006.

Filings. In order for an insurance company to offer or exchange a Partnership-qualified policy, the company must have a policy or rider filed and approved by the Department. All policy forms or riders filed for approval must be accompanied by an Issuer Certification Form. In the event that a company wishes to use a previously approved policy form as a Partnership-qualified policy, the company shall notify the Department of such and such notice shall be accompanied by a completed Issuer Certification Form. A template Issuer Certification Form can be found on the Department's website at http://www.state.tn.us/commerce/insurance/companyRes.html.

Notices and Disclosures. At the time the Partnership-qualified policy is offered or solicited, a Long-Term Care Insurance Partnership Program Notice must be given to the customer. In addition, the Department with, with the assistance of the Bureau of TennCare and the Department of Human Services have developed a handout (with a pamphlet forthcoming) explaining rules concerning TennCare eligibility which must be given at the time of the solicitation. Likewise, when a Partnership-qualified policy is issued or delivered, a Long-Term Care Insurance Partnership Disclosure Notice must be given to the purchaser. The Department is in the process of promulgating rules which provide examples of these disclosures to be used by companies and producers. The handout entitled, "Introduction to the Long-term Care Partnership Program, as well as the template disclosure statements that may be used by the company or producer can be found on the Department's website at http://tn.gov/commerce/insurance/companyRes.html.

Producer Education and Reciprocity of Training. In order to sell a Partnership qualified long-term care insurance policy, a producer must first receive a license from the Department to sell accident and health or sickness and life insurance products. Because of the complex nature of these plans and because of the Medicaid eligibility components, producers must receive education and training which will given them a basic understanding of Medicaid eligibility rules. Producers, who were as of July 1, 2008 licensed to sell long-term care insurance may continue selling long-term care products, including partnership policies, but they must complete an eight (8) hour, Department approved long-term care course by July 1, 2009. Producers who have not completed the eight (8) hour course by July 1, 2009 may not continue to sell long-term care products after that date. Producers not licensed to sell long-term care insurance on or before July 1, 2008, must complete the eight (8) hour course prior to selling Partnership-qualified policies. Note that the eight (8) hour course will count toward any continuing education requirement which the producer must meet for that renewal period.

In addition to the initial eight (8) hour course, producers that are not otherwise exempt from having to take continuing education must take at least four (4) hours of continuing education related to the selling of long-term care policies every twenty-four (24) months starting with the first renewal period after he/she took the eight (8) hour course. Thus, a person receiving a license on September 1, 2008 to sell long-term care insurance must take the eight (8) hour course prior to selling a Partnership-qualified policy. He/she will also be required to take an additional four (4) hours by his/her renewal date in 2012, and every two years thereafter.

It is important to note that even those producers that are exempt from continuing education requirements are required to complete the initial eight (8) hour class by July 1, 2009. However, such individuals are exempt from the subsequent four (4) hour requirement every two (2) years.

Non-resident insurance producers that comply with the education requirements to sell Partnership qualified policies in his/her home state shall be deemed to comply with the requirements of this State.

Note that it is the insurance company's responsibility to verify that its producers receive the required training before allowing them to sell these products on its behalf. Companies should maintain some record that they performed such verification and make that record available to the Department upon request.

Reciprocity of Plans. The Bureau of TennCare will recognize the Partnership qualified status of plans purchased in other states. Thus, benefits paid under a Partnership qualified policy purchased in another state will be recognized for purposes of determining eligibility in Tennessee.

Exhaustion of Benefits. Policyholders will not be required to completely exhaust all of his/her benefits under the Partnership qualified policy before being able to apply for TennCare. Thus, once a person meets the eligibility requirements, he/she may obtain TennCare long-term care coverage even if he/she still has unused benefits under their commercial policy.

In order to qualify for TennCare, the applicant must at the time of application provide the Department of Human Services, the agency charged with determining TennCare eligibility, information concerning the amount of long-term care benefit dollars received. The Department of Human Services will then use that number to determine the dollar amount available for asset protection. Again, an applicant will be able to protect one (1) dollar of assets for every dollar of benefits received under a Partnership –qualified long-term care policy as of the date of the application for Medicaid eligibility.

Any questions about the positions set forth in or the intent of this Bulletin should be directed to the Insurance Division, Fourth Floor, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee, 37243, and/or telephone number 1-800-342-4029.

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