Nonforfeiture Benefit Requirements with Respect to Long-Term Care Policies

This Act prohibits an insurer, including an insurance company, fraternal benefit society, hospital or medical service corporation, and HMO, from issuing or delivering a long-term care policy on or after July 1, 2008 unless it had offered the prospective insured an optional nonforfeiture benefit during the policy solicitation or application process. The offer may form a rider to the policy. If the nonforfeiture option is declined, the insurer must give the insured a contingent benefit if the policy lapses (i.e., terminates because the insured stops paying the premium). The contingent benefit must be available to the insured for a period of time after any substantial premium increase.

The bill requires the insurance commissioner to adopt regulations by July 1, 2008 to implement the nonforfeiture option and contingent benefit requirements. The regulations must specify the nonforfeiture benefit standards and type; the time period a contingent benefit must be available; what constitutes a substantial premium increase; and be in accordance with the National Association of Insurance Commissioners' long-term care insurance model regulation.

Submitted as:
Connecticut
Public Act No. 07-28
Status: Enacted into law in 2007.

Suggested State Legislation

(Title, enacting clause, etc.)

Section 1. [*Short Title*.] This Act shall be cited as “An Act Concerning Nonforfeiture Benefit Requirements With Respect To Long-Term Care Policies.”

Section 2. [*Definitions*.]

(a) As used in this section, “long-term care policy” means any individual health insurance policy, delivered or issued for delivery to any resident of this state on or after [July 1, 1986], which is designed to provide, within the terms and conditions of the policy, benefits on an expense-incurred, indemnity or prepaid basis for necessary care or treatment of an injury, illness or loss of functional capacity provided by a certified or licensed health care provider in a setting other than an acute care hospital, for at least [one year] after a reasonable elimination period. A long-term care policy shall provide benefits for confinement in a nursing home or confinement in the insured's own home or both. Any additional benefits provided shall be related to long-term treatment of an injury, illness or loss of functional capacity. “Long-term care policy” shall not include any such policy which is offered primarily to provide basic Medicare supplement coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income protection coverage, accident only coverage, specified accident coverage or limited benefit health coverage.

(b) No insurance company, fraternal benefit society, hospital service corporation, medical service corporation or health care center may deliver or issue for delivery any long-term care policy which has a loss ratio of less than [sixty per cent] for any individual long-term care policy. An issuer shall not use or change premium rates for a long-term care insurance policy unless the rates have been filed with and approved by the [Insurance Commissioner]. Any rate filings or rate revisions shall demonstrate that anticipated claims in relation to premiums when combined with actual experience to date can be expected to comply with the loss ratio requirement of this section.

(c) No such company, society, corporation or center may deliver or issue for delivery any long-term care policy without providing, at the time of solicitation or application for purchase or sale of such coverage, full and fair disclosure of the benefits and limitations of the policy.

(d) No such company, society, corporation or center may deliver or issue for delivery any long-term care policy on or after [July 1, 2008], without offering, at the time of solicitation or application for purchase or sale of such coverage, an option to purchase a policy that includes a nonforfeiture benefit. Such offer of a nonforfeiture benefit may be in the form of a rider attached to such policy. In the event the nonforfeiture benefit is declined, such company, society, corporation or center shall provide a contingent benefit upon lapse that shall be available for a specified period of time following a substantial increase in premium rates. Not later than [July 1, 2008], the [Insurance Commissioner] shall adopt regulations to implement the provisions of this subsection. Such regulations shall specify the type of nonforfeiture benefit that may be offered, the standards for such benefit, the period of time during which a contingent benefit upon lapse will be available and the substantial increase in premium rates that trigger a contingent benefit upon lapse and in accordance with the Long-Term Care Insurance Model Regulation adopted by the National Association of Insurance Commissioners.

(e) The [Insurance Commissioner] shall adopt regulations, in accordance with which address:

(1) the insured's right to information prior to his replacing an accident and sickness policy with a long-term care policy,

(2) the insured's right to return a long-term care policy to the insurer, within a specified period of time after delivery, for cancellation, and

(3) the insured's right to accept by his signature, and prior to it becoming effective, any rider or endorsement added to a long-term care policy after the issuance date of such policy.

(f) The [Insurance Commissioner] may, upon written request by any such company, society, corporation or center, issue an order to modify or suspend a specific provision of this section or any regulation adopted pursuant thereto with respect to a specific long-term care policy upon a written finding that:

(1) the modification or suspension would be in the best interest of the insureds;

(2) the purposes to be achieved could not be effectively or efficiently achieved without such modification or suspension; and

(A) the modification or suspension is necessary to the development of an innovative and reasonable approach for insuring longterm care,

(B) the policy is to be issued to residents of a life care or continuing care retirement community or other residential community for the elderly and the modification or suspension is reasonably related to the special needs or nature of such community, or

(C) the modification or suspension is necessary to permit long-term care policies to be sold as part of, or in conjunction with, another insurance product.

(g) Whenever the commissioner decides not to issue such an order to modify or suspend provisions of this Act or regulations adopted pursuant to this Act, he shall provide written notice of such decision to the requesting party in a timely manner.

(h) Upon written request by any such company, society, corporation or center, the [Insurance Commissioner] may issue an order to extend the preexisting condition exclusion period, as established by regulations adopted pursuant to this section, for purposes of specific age group categories in a specific long-term care policy form whenever he makes a written finding that such an extension is in the best interest of the public.

(i) Whenever the [commissioner] decides not to issue such an to extend the preexisting condition exclusion period as established by regulations adopted pursuant to this section, he shall provide written notice of such decision to the requesting party in a timely manner.

(j) The provisions of [insert citation] shall be applicable to any such requesting party aggrieved by any order or decision of the [commissioner] made pursuant to subsections (f) and (h) of this section.

Section 3. [*Severability*.] [Insert severability clause.]

Section 4. [*Repealer*.] [Insert repealer clause.]

Section 5. [*Effective Date*.] [Insert effective date.]