Legislative Analysis

LONG-TERM CARE INSURANCE AMENDMENTS

Phone: (517) 373-8080
http://www.house.mi.gov/hfa

House Bill 4836 as introduced
Sponsor: Rep. Lisa Posthumus Lyons
Committee: Insurance
Complete to 9-8-15

Analysis available at
http://www.legislature.mi.gov

(Enacted as Public Act 198 of 2015)

SUMMARY:

The bill would amend the Insurance Code to:

- Add a new Chapter 39A to address long-term care partnership program insurance.

- Allow certain long-term care insurance already in place to be converted to or replaced with a long-term care partnership program policy.

- Revise the training requirements for those selling, soliciting, or negotiating long-term care insurance.

Long-term care partnership program insurance

The Social Welfare Act requires the creation of the state's long-term care partnership program in order to provide for the financing of long-term care through a combination of private insurance and Medicaid. The stated intent of the program is three-fold: (1) to provide incentives for individuals to insure against the cost of providing for their long-term care needs; (2) to provide a mechanism for individuals to qualify for coverage of the cost of long-term care needs under Medicaid without first being required to substantially exhaust their resources; and (3) alleviate the financial burden on the state's Medicaid program by encouraging the pursuit of private insurance.

House Bill 4836 creates a new chapter (39A) in the Insurance Code to address policies that meet the requirements of the long-term care partnership program. The provisions in this chapter would apply in addition to other applicable sections of Chapter 39, which currently regulates long-term care insurance policies generally.

Requirements for Partnership Program Policies
In addition to meeting the requirements of the Social Welfare Act and Chapter 39 of the Insurance Code, such a policy must:

- Cover an insured who was a resident of the state when coverage first became effective under the policy.
- Be either a qualified long-term care insurance contract under the federal Internal Revenue Service Code issued no earlier than the effective date of the bill, or a policy that has been converted or replaced under Section 3908. That section allows a policy delivered or issued for delivery after December 31, 2007, and before long-

term care partnerships are approved for sale in Michigan, to be converted to or replaced with a partnership program policy. Both the insurance customer and the insurance company must agree to any conversion or replacement.

- Meet the requirements of the model act and model regulations of the National Association of Insurance Commissioners (NAIC) listed in Title XIX of the federal Social Security Act (the Medicaid program).
- Provide inflation protection features, as follows:
  - If the policy is sold to an individual who has not reached age 61, then the policy must provide compound annual inflation protection.
  - If the policy is sold to an individual at least 61 but under 76, the policy *must* provide some level of inflation protection.
  - If the policy is sold to someone 76 or over, the policy *may* provide some level of inflation protection.

Sale of Partnership Policies

House Bill 4836 requires that an insurance company or agent who solicits or offers such a policy provide to a prospective applicant the notice required in Section 112c of the Social Welfare Act, or a similar notice approved by the Department of Insurance and Financial Services (DIFS). That section requires a "plain language" notice to consumers about how partnership policies are related to Medicaid eligibility. This notice must be provided along with the summary of coverage that Section 3933 of the Insurance Code requires to be provided.

A policy could not be delivered or issued for delivery unless it had been filed with DIFS and approved by the DIFS director. A policy submitted to the department for approval would have to be accompanied by a completed partnership certification form, or similar form, which also would require director approval. The certification form would also require DIFS approval.

Reports

An insurance company that issues a partnership policy would be required to provide copies of the regular report described in federal long-term care policy rules to the Michigan Department of Health and Human Services.

Licensing and Training Requirements

The bill amends Section 1204f of the Insurance Code to rewrite the provisions regarding the training required of producers (e.g., agents) who sell, solicit, or negotiate long-term care insurance. Under the bill, an individual would (1) have to be licensed as an insurance producer for accident and health or life; (2) have completed a one-time training course; and (3) complete ongoing training for every two-year continuing education compliance period after completing the one-time training course.

The insurance company would have to obtain verification that a producer has received the required training and make the verification available to the DIFS director on request.

An insurance producer selling, soliciting, or negotiating long-term care insurance on the date the bill took effect would have to complete the one-time training course within one year after that date in order to continue that work.

The one-time training could be provided in connection with other insurance producer training or separately. A program of instruction is required under current law, and the training requirements in House Bill 4836 are similar. The bill, however, requires the training course to be at least 8 hours, and the ongoing training to be at least four hours for every two-year compliance period. If applicable, the training would have to include long-term care partnership programs, in addition to other long-term care topics. Included among the topics that would have to be covered are state and federal regulations and requirements and the relationship between qualified state long-term care insurance partnership programs and other public and private coverage, including Medicaid.

The bill specifies that satisfying the training requirements in any state satisfies the training requirements for Michigan.

FISCAL IMPACT:

House Bill 4836 may have a small, but likely negligible, fiscal cost to the state's long-term care Medicaid benefit within DHHS.

The bill will not have a significant fiscal impact on the Department of Insurance and Financial Services (DIFS).

A May 2007 Government Accountability Office report (GAO-07-231) concludes that long-term care partnership programs "are unlikely to result in savings for Medicaid, and may increase spending. The impact, however, is likely to be small." The GAO report notes a small fiscal impact for two main reasons: (1) most long-term care policies are likely to cover all or most of a person's lifetime long-term care expense; and (2) most policyholders have income greater than Medicaid eligibility of 300% of federal Supplemental Security Income levels (annual income of around $27,000 for a single person). So in most instances this additional Medicaid asset disregard will not materialize into Medicaid eligibility, and Medicaid costs will remain unchanged.

Legislative Analyst: Chris Couch
Fiscal Analyst: Kevin Koorstra
Paul Holland