

191—72.5(514H) Standards for marketing. No long-term care insurance policy or certificate which does not meet the requirements of this chapter and has not been approved by the division of insurance as a certified long-term care insurance policy or certificate may be advertised, solicited, or issued for delivery in this state as a certified long-term care insurance policy or certificate. Each issuer seeking to qualify a long-term care policy or certificate for participation in the Iowa long-term care asset preservation program must do the following:

72.5(1) Provide the consumer, prior to presentation of an application for long-term care insurance, information regarding the availability of consumer information and public education provided by the Senior Health Insurance Information Program using the form developed by the division.

72.5(2) Use applications to be signed by the applicant which indicate, as described as follows, that the applicant:

a. Received a complete description of the Iowa long-term care asset preservation program in a format prescribed by the commissioner, including an explanation of asset protection provided by the program and how it is achieved and the insurance division's Senior Health Insurance Information Program consumer information telephone number.

b. Received a description of the issuer's certified long-term care policy or certificate benefit option meeting the requirements of subrule 72.6(2).

c. Received a statement regarding Medicaid eligibility and benefits that shall be in the following format:

NOTICE TO APPLICANT
REGARDING MEDICAID ELIGIBILITY

I understand that eligibility for Medicaid is not automatic; an application is necessary. My insurance company will send me quarterly statements showing how much asset protection I have earned. This permanent asset protection is in addition to any asset exemptions available to any Iowan applying for Medicaid. I understand that should I wish to apply for public assistance it is my responsibility to apply for Medicaid. I further understand that before receiving Medicaid I will first have to use any additional assets I have not protected. I will also need to meet Medicaid's criteria for medical necessity which may be different from the eligibility criteria used by my private insurance. Once I become a Medicaid recipient, I understand that I may have to apply a portion of my income toward the cost of my care, and that Medicaid services at that time may not be the same services I was receiving under my private long-term care insurance.

(Signature of Applicant(s))

d. Agrees to the release of information by the issuer to the state as may be needed to evaluate the Iowa long-term care asset preservation program and document a claim for Medicaid asset protection, in the following format:

CONSENT AND AUTHORIZATION
TO RELEASE INFORMATION

I hereby agree to the release of all records and information pertaining to this long-term care policy or certificate by the [insert issuer name] to the Iowa department of human services for the purposes of documenting a claim for asset protection under the state Medicaid program, evaluating the Iowa long-term care asset preservation program, and meeting Medicaid audit requirements.

I understand that the information contained in these records will be used for no purpose other than those stated above, and will be kept strictly confidential by the state of Iowa.

(Signature of Applicant(s))

e. Received a description regarding mandatory inflation protection that shall be in the following format:

NOTICE TO APPLICANT REGARDING
MANDATORY INFLATION PROTECTION

In order for this long-term care policy [certificate] to remain certified by the state of Iowa and qualify to provide asset protection for the state Medicaid program, daily coverage benefits must meet or exceed standards established by the state of Iowa. Depending on the option you choose to automatically inflate daily coverage benefits, premiums may rise over the life of the policy [certificate]. [Insert issuer name] will provide you with a graphic comparison showing the differences in premiums and benefits, over at least a 20-year period, between a policy that increases benefits over the policy period and a policy that does not increase benefits. Failure to maintain the required daily coverage benefits will result in the policy [certificate] losing its certified status and no longer being allowed to provide asset protection. It is [insert issuer name]'s responsibility to automatically inflate coverage benefit levels in order to maintain certified status; it is your responsibility to make premium payments in order to maintain certified status.

f. Received a graphic comparison showing the differences in premiums and benefits, over at least a 20-year period, between a policy or certificate that increases benefits over the policy or certificate period and a policy or certificate that does not increase benefits.

72.5(3) Report to the commissioner of the division of insurance all sales involving replacement of existing policies and certificates by certified policies or certificates within 30 days of the issue date of the newly issued certified policy or certificate. The report shall include the following:

- a.* The name and address of the insured.
- b.* The name of the company whose policy or certificate is being replaced.
- c.* The name of the producer replacing the coverage.

This report shall also include a comparison of the coverage issued with that being replaced, including a comparison of premiums and an explanation of how the replacement was beneficial to the insured. The replacing issuer shall not cancel, nonrenew, or rescind a replacement policy or certificate for any reason other than nonpayment of premium, material misrepresentation, or fraud.

72.5(4) Provide producer training as follows:

a. Provide written evidence to the division of insurance that procedures are in place to ensure that no producer will be authorized to market, sell, solicit, or otherwise contact any person for the purpose of marketing a certified long-term care insurance policy or certificate unless the producer has completed training covering at least the division's eight-credit outline on the Iowa long-term care asset preservation program.

b. Issuers shall provide written evidence to the division of insurance that procedures are in place to ensure that no producer will be authorized to market, sell, solicit, or otherwise contact any person for the purpose of marketing a certified long-term care insurance policy or certificate unless, on an annual basis, the producer completes two hours of continuing education training specifically covering the Iowa long-term care asset preservation program and Medicaid.

c. Issuers shall use only curriculum and instructors approved by the division of insurance. Coursework must be completed in a classroom setting and may not be completed on a "take-home" basis.

d. Issuers shall submit training courses used for continuing education for approval to the outside vendor under contract with the division of insurance at least 30 days prior to the beginning of the course. Requests received later may be disapproved.

72.5(5) Include a statement on the outline of coverage, the policy or certificate application, and the front page of the policy or certificate in bold type and in a separate box as follows: "THIS POLICY [CERTIFICATE] QUALIFIES UNDER THE IOWA LONG-TERM CARE INSURANCE PROGRAM FOR MEDICAID ASSET PROTECTION. THIS POLICY [CERTIFICATE] MAY PROVIDE BENEFITS IN EXCESS OF THE ASSET PROTECTION PROVIDED IN THE IOWA LONG-TERM CARE ASSET PRESERVATION PROGRAM."

72.5(6) Long-term care insurance policies or certificates sold after July 1, 1994, that are not certified under the Iowa long-term care asset preservation program must include a statement on the outline of coverage, the policy or certificate application, and the front page of the policy or certificate in bold type and in a separate box as follows: "THIS POLICY [CERTIFICATE] DOES NOT QUALIFY FOR MEDICAID ASSET PROTECTION UNDER THE IOWA LONG-TERM CARE ASSET PRESERVATION PROGRAM. HOWEVER, THIS POLICY [CERTIFICATE] IS AN APPROVED LONG-TERM CARE INSURANCE POLICY [CERTIFICATE] UNDER STATE INSURANCE

REGULATIONS. FOR INFORMATION ABOUT POLICIES AND CERTIFICATES QUALIFYING UNDER THE IOWA LONG-TERM CARE ASSET PRESERVATION PROGRAM, CALL THE SENIOR HEALTH INSURANCE INFORMATION PROGRAM OF THE DIVISION OF INSURANCE AT 1-800-351-4664.”

72.5(7) Provide that no qualified long-term care policy or certificate form shall be sold, transferred, or otherwise ceded to another issuer without first having obtained approval from the commissioner.

72.5(8) Except as provided in this subrule, an issuer shall continue to make available for purchase any qualified policy form or certificate form issued that has been approved by the commissioner. A policy form or certificate form shall not be considered to be available for purchase unless the issuer has actively offered it for sale in the previous 12 months. The following describe the process and result of discontinuing the availability of a policy form or certificate form:

An issuer may discontinue the availability of a policy form or certificate form if the issuer provides the commissioner, in writing, its decision at least 30 days prior to discontinuing the availability of the form of the policy or certificate. The following shall be considered a discontinuance of the availability of a policy form or certificate form:

a. The sale or other transfer of a qualified policy form or certificate form to another issuer.
b. A change in the rating structure or methodology unless the issuer complies with the following requirements.

(1) The issuer provides an actuarial memorandum, in a form and manner prescribed by the commissioner, describing the manner in which the revised rating methodology and resultant rates differ from the existing rating methodology and resultant rates.

(2) The issuer does not subsequently put into effect a change of rates or rating factors that would cause the percentage differential between the discontinued and subsequent rates as described in the actuarial memorandum to change. The commissioner may approve a change to the differential which is in the public interest.

(3) An issuer that discontinues the availability of a policy form or certificate form under this subrule shall not file for approval of a new long-term care policy form or certificate form for a period of five years after the issuer provides notice to the commissioner of the discontinuance. The period of discontinuance may be reduced if the commissioner determines that a shorter period is appropriate. This clause does not apply if: an issuer discontinues a policy form or certificate form as the result of changes to this rule; or all existing policyholders and certificate holders of a discontinued policy form or certificate form are given the opportunity to purchase the new policy form or certificate form without regard to health status, claims experience, or age. Issuers are not required to make this offer to policyholders or certificate holders receiving benefits under the discontinued policy form or certificate form.

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