

Long-Term Care Insurance Study

A Report to the Governor and Lt. Governor

September 17, 2007

Prepared By:

The Iowa Insurance Division

Executive Summary

On June 19, 2007, Governor Culver directed the Iowa Insurance Division to conduct a study on issues relating to long-term care insurance. Further he instructed the Division to provide the Culver-Judge Administration with a report and recommendations to address any concerns raised throughout the study.

The Study was requested following concerns at both the state and national level concerning long-term care insurance policies. Alleged improper denials of claim payments, frequent and unusually high premium rate increases, questionable marketing practices and overall stability of the long-term care insurance market have led to concerns, studies and hearings throughout the country.

The Iowa Insurance Division commenced a series of public meetings to gather information from consumers, interested parties and stakeholders regarding long-term care insurance. The Division gathered information and data from a variety of state and national resources focused upon long-term care insurance. Closed complaint files were reviewed. A survey was sent to the top 20 insurance company writers of long-term care insurance requesting information in regard to specific long-term care insurance policy experience in Iowa. Insurance Division staff met with a variety of state governmental agencies and private trade associations to discuss long-term care and long-term care insurance. Consumers were contacted in regard to their concerns and issues.

After a three-month review process, the Iowa Insurance Division issues the following report including a series of Findings and Recommendations for consideration.

Background

Iowa's population is aging. There are over 554,000 persons 60 years or older living in Iowa. Iowa has the highest rate of older citizens living in nursing homes and assisted living facilities in the United States.

The costs associated with long-term care continue to increase. Medicaid, Medicare and out-of-pocket payment are the most prevalent methods of funding. Long-term care insurance is the newest form of payment mechanism and also pays the least amount of dollars-about four percent.

Long-term care insurance was created in the 1970s to cover nursing home care. Assisted living facilities were not widely established. Home healthcare was in its infancy. Today, long-term care insurance contracts offer for sale a wide range of services and facilities including assisted living facilities, in-home health care services, adult day care and, of course, nursing home care.

The cost of a policy is determined by the type of benefits and services covered by the contract. Policy provisions can include the type of facility covered, daily payment amounts, length of time the policy will pay benefits and length of elimination periods (or when policy benefits will begin to be paid following admission to the facility.) The policy also specifies when benefits will be paid. Policies provide certain "triggers" that must occur before benefits will be paid. The premium rate of a long-term care insurance policy is based upon the benefits of the plan, the age and health of the policyholder at the time of issue. Rates will not increase due to changes in the age or health conditions of the policyholder but can increase for an entire class of individual based upon the overall experience of the group. Rate stabilization rules that were implemented in 2003 have minimized the large rate increases incurred by older policy forms.

Before benefits are paid, the policyholder must meet the level of need specified in the policy, be in qualified facility as defined in the policy, receive care from a qualified person as required by the policy and meet the elimination period set forth in the policy. A policyholder cannot collect benefits until the criteria within the policy have been met. The Division has received complaints that policyholders have been denied benefits by insurance carriers based upon a difference of opinion on whether the policyholder has met the qualifications to receive benefits.

Eighty insurance carriers are licensed to sell long-term care insurance in Iowa. Yet, only about six carriers are currently writing new policies. There are currently 124,594 long-term care insurance policies in force in Iowa with about four to five percent of costs in facilities paid by long-term care insurance.

The Insurance Division receives approximately 2200 consumer complaints a year. About 5.5% of the annual written consumer complaints received by the Division concern long-term care insurance. There are a number of issues raised through these complaints including but not limited to premium rates, agent issues, delay in benefit payments, denials of claims and refunds.

Findings

Concerns relative to both external issues regarding long-term care insurance and internal issues regarding the operations of the Insurance Division were reviewed. Based upon the information gathered and reviewed by the Division, the Commissioner makes the following Findings:

1. Long-term care insurance is a new product that is not fully stabilized and developed.
2. Long-term care insurance carriers have done a poor job of making assumptions in regard to pricing long-term care insurance.

3. Long-term care insurance carriers have in many cases provided poor customer service.
4. The Iowa Insurance Division has increased its authority to provide assistance to consumers but still lacks authority to resolve some factual disputes.
5. The Division has missed opportunities to provide more assistance to consumers in the area of long-term care insurance.
6. There is a clear lack of understanding by consumers about long-term care insurance.
7. Survey results indicate low lapse rates and claim denials and rate increases in double digits.

Recommendations

The Iowa Insurance Division, upon studying all the information presented during the course of the long-term care insurance review, makes the following recommendations. Some of these recommendations are currently being implemented by the Division. Others will require legislative action. The Division believes, however, that these recommendations will strengthen the authority of the Division to protect consumers, enhance regulatory oversight and increase the overall education of interested parties and consumers. These recommendations will significantly change the way long-term care insurance is sold, administered, and regulated in Iowa.

1. Standardize long-term care insurance policy terminology and definitions.
This recommendation requires legislation.
2. Institute an additional premium rate review mechanism including consumer-initiated rate hearings.
The first part of this recommendation is being implemented. The rate hearing section will require legislation.
3. Implement the amendments to the 2006 NAIC Long-Term Care Insurance Model Act.
The Division is currently implementing this recommendation in part but some of the Model Act elements will require legislation.
4. Implement a prompt pay law for long-term care insurance claims.
This recommendation will require legislation.
5. Facilitate a meeting of insurance industry and the long-term care industry to discuss insurance claim issues.
No work has commenced on this recommendation.
6. Create an independent review system for claim denial.
This recommendation will require legislation.

7. Require insurance carriers to make a one-time offer of other types of long-term care benefits to policyholders who have only nursing home coverage.
This recommendation will require legislation.
8. Initiate a market conduct review of long-term care insurance carriers to determine the rate of compliance with Iowa's suitability and disclosure standards.
This recommendation has already been commenced. A letter has been sent to 55 carriers reporting long-term care insurance premium in 2006. The initial responses are due to the Division on September 19, 2007.
9. Encourage innovative long-term care products.
This recommendation has not been commenced.
10. Create a separate Enforcement Bureau within the Iowa Insurance Division.
This recommendation is currently being implemented.
11. Establish a statutory consumer protection requirement and create a separate consumer protection unit.
This recommendation will require legislation.
12. Require long-term care insurance carriers to provide policyholders with a clear and concise policy summary.
This recommendation has not been commenced.
13. Improve the consumer protection procedures of the Division to provide more thorough responses to consumers in explaining insurance issues and complaints.
This recommendation is currently being implemented.
14. Create a senior health insurance specialist to review health issues and trends of concern to Iowa's older population and make recommendations to the Commissioner.
This recommendation is being implemented. A staff member has been appointed to this position.
15. Implement continuing education training for insurance agents selling long-term care insurance.
This recommendation is currently being implemented through administrative rule.
16. Review the use of designations and titles by insurance agents especially in the area of sales to older Iowans and provide guidelines for their use.
This recommendation was implemented on September 7, 2007 through an Administrative Bulletin, 07-05.

17. Coordinate efforts with other state agencies to educate consumers about financial and long-term care issues concerning older Iowans.
This recommendation is already being implemented.
18. Adopt the "Own Your Future" Campaign for Iowa.
This recommendation is currently being implemented.
19. Adopt an in-house review system of complaints for more thorough analysis of issues including review of ongoing complaint files closed and completed complaints and enforcement actions.
This recommendation will be implemented with the establishment of the Enforcement Bureau and other internal Division changes.
20. Revise the method used to determine the conclusion of a complaint file and the documentation of funds retrieved or saved for the consumers.
This recommendation is currently being implemented.
21. Hire an additional SHIIP staff member to assist with outreach and education.
This recommendation will require legislation.
22. Establish regular meetings at least yearly with older Iowans and their families to seek input on insurance issues.
This recommendation has not been commenced.
23. Create a quarterly newsletter for consumers, agents, carriers and other interested parties.
This recommendation has not been implemented.
24. Create a consumer webpage dedicated to older Iowans.
This recommendation has not been implemented.
25. Review all marketing materials on long-term care insurance products prior to use by carriers and agents.
This recommendation may require legislation.
26. Establish regular meetings with other state agencies to share information concerning older Iowans.
This recommendation has not been implemented.
27. Commence a state-wide discussion on long-term care and its impact on Iowa's future.
This recommendation will require action by the Governor or Legislature.

Conclusion

The Division has reviewed a wide variety of issues in regard to long-term care insurance. While some of the early focus was on particular issues of claim denials and premium rates, other concerns arose throughout the three-month study. Long-term care insurance is a relatively new product in the insurance market. It is not an appropriate purchase for all Iowans. Iowa consumers should seek the advice from their insurance agents, financial advisors or family members and loved one before making any decisions involving long-term care insurance.

The combination of the adoption of several of these recommendations, particularly the statutory consumer protection requirement, establishment of a dedicated Enforcement Bureau, the implementation of an Independent Review process for long-term care insurance, the additional rate review processes, the application of Prompt Pay requirements to long-term care insurance, combined with the already-passed legislation permitting restitution and corrective actions by the Division will make the agency well-equipped to take strong positions and actions in defense of consumers.

While many of the recommendations are in the process of implementation, the Division believes that those recommendations requiring legislation or further action should be enacted. The Division stands ready to assist the Governor, Legislature and most importantly, Iowa consumers to move forward on these recommendations to maintain and enhance strong consumer protection.

This recommendation is currently being implemented.

11. Establish a statutory consumer protection requirement and create a separate consumer protection unit.

The Division has always handled consumer complaints. (For many years, the Market Regulation Bureau was called the Consumer Affairs Bureau.) Complaint and administrative actions against carriers and agents were administered through this Bureau. All violations of Iowa's insurance laws and regulations, unauthorized insurance transactions, unfair trade practices and other insurance violations have been enforced through this Bureau. However, there is no statutory language specifically creating a consumer protection requirement within the Insurance Division.

By statutorily requiring the Division to provide consumer protection and creating a distinct consumer protection unit, the Legislature and Governor would put the public and regulated entities on notice of their goal to protect consumers against violations of Iowa's insurance laws. The Consumer Protection Unit would handle all initial consumer complaints and would be separate and distinct from the proposed Enforcement Bureau. In addition, because the Division regulates other areas of Iowa law including securities, cemeteries, funeral homes and other regulated industries, statutory language should encompass all areas within the Division's authority.

This recommendation will require legislation.

12. Require long-term care insurance carriers to provide policyholders with a clear and concise policy summary.

Throughout this study, policyholders raised issues about the coverage benefits of their policy. Often times they had purchased policies many years ago and could not locate the policy or had difficulty understanding the policy language. For example, some policyholders and their families did not understand the difference between nursing homes and assisted living facilities, the licensing requirements and the services provided by each different facility.

While it is important that carriers provide a policy contract that accurately reflects the agreement, this language can often be quite detailed. The policy summary would be a one to two page document that would specifically relate the coverage to the policyholder. This summary would assist policyholders in understanding their benefits.

When benefits are changed, a revised explanation page should be provided to the policyholder. It is important that policyholders maintain current information for their records that is easy to read and understand. While policyholders are supposed to receive information when they purchase their policies that may be more general in nature, this information would pertain specifically to the coverage of their policies.