

**Bulletin 11-B-06**

TO: All Insurers Writing Long-Term Care Insurance Business in North Carolina

FROM: Wayne Goodwin  
Commissioner of Insurance

DATE: April 29, 2011

RE: Establishment of the Long-Term Care Partnership Program; Requirements for Certification of Partnership Policies and Notice to Consumers

This bulletin is being issued to provide guidance about the North Carolina Long-Term Care Partnership Program.

**I. Establishment of the Long-Term Care Partnership Program:**

The North Carolina Long-Term Care Partnership Program was approved January 7, 2011 to become effective January 1, 2011 and operationally available for marketing March 7, 2011.

Under the Partnership Program, an individual who purchases a qualified Long Term Care Partnership policy, and has utilized benefits from the policy, is allowed a Special Resource disregard when applying for LTC Medicaid and also a resource protection at Medicaid estate Recovery after death. This permits individuals to protect assets from spend-down requirements, if Medicaid assistance is ever needed. This program is authorized by the Deficit Reduction Act of 2005 (the "DRA").

**II. Requirements for Certification of Partnership Policies and Request for Notice to Consumers:**

Partnership Policies, like all policies, are subject to approval by the Department of Insurance pursuant to NCGS 58-3-150.

To qualify as a Partnership Policy, the policy must:

- (1) Contain the consumer protection provisions required by 42 U.S.C. section 1396p(b)(1)(C)(iii)(III) and 42 U.S.C. section 1396p(b)(5)(A).
- (2) Be a tax-qualified contract under the requirements of 26 U.S.C. section 7702(B)(b).
- (3) Provide compound annual inflation protection, if issued to a person under the age of 61 or provide some level of inflation protection, if issued to a person between the ages of 61 and 76

as required by 42 U.S.C. section 1396p(b)(C)(iii)(V) inflation protection may be offered but is not required.

In reviewing requests for approval of a long-term care individual or group insurance policy or certificate as a Partnership Policy, the Department will rely on a certification from the insurer of compliance with the consumer protection requirements of the DRA signed by an officer of the insurer. An Issuer Certification Form template that meets this requirement is attached hereto. It is essential that the Issuer Certification Form be filled out completely and accurately and submitted with the SERFF form filing. False or inaccurate information may result in denial of the filing and or the certification as a Partnership Policy.

Insurers may want to have some policies or certificate forms and rates that are currently approved and being marketed in North Carolina certified as meeting the requirements for Partnership Policies. To do this, the insurer should file an Issuer Certification Form via SERFF that clearly identifies the previously approved policies and rates and accurately certifies compliance with the required consumer protections. After receipt of an Issuer Certification Form that is determined to be complete, the Department will acknowledge to the carrier in writing that the policy and certificate forms are authorized for use as a Partnership Policy.

The NC law authorizing partnership requires that issuers of Partnership Policies provide specific worded disclosures to consumers of the Partnership Program. The disclosures can be an attachment and must appear on the front of the policy or certificate form. The form of the Asset Disregard Notice for Long-Term Care Partnership Policies attached hereto is suggested. For policy forms that have already been approved for use in North Carolina, the Department requests that the carrier file the Notice with the Department as an endorsement to the forms, clearly identify the policy or certificate forms and the SERFF or State filing numbers to which the filing applies, and explain how the Notice will be incorporated into the policy or certificate.

All advertising that is specific to Long-Term Care Partnership Policies must be filed for approval by the North Carolina Department of Insurance.

### **III. Inflation Protection:**

The Department will apply the language of the DRA and specific NC law to require a specific level of automatic compound annual inflation if a policy is sold to a person under the age of 61 and some level of automatic annual inflation protection if the policy is sold to a person age 61 to 75. See 11 NCAC 12.1030 attached hereto.

No inflation protection will be required, if the policy is sold to a person 76 or older. Inflation protection requirements will not be considered to have been met for purposes of the North Carolina Long-Term Care Partnership Program by an option to purchase additional coverage.

Notwithstanding the above, purchasers of qualified long-term care insurance policies may adjust their inflation protection as they age. However, their policies shall continue to be qualified long-term care insurance policies as long as the inflation protection in the qualified policies continues to meet the minimum requirements for the insured's attained age.

#### **IV. Producer Training for Sale of Policies Qualifying for the North Carolina Long-Term Care Partnership Program:**

The DRA requires the Commissioner of Insurance to provide assurance that any producer who sells, solicits or negotiates a policy under the North Carolina Long-Term Care Partnership Program receives appropriate training and demonstrates an understanding of Partnership Policies and their relationship to public and private coverage for long-term care. At this immediate time, producers already authorized for Long Term Care insurance sales in NC will not be required to undergo specific education requirements to begin marketing partnership plans. However, there are continuing education requirements producers must meet going forward.

#### **V. Exchange of non-partnership policies**

Pursuant to NCGS 58-55-75. Exchange of long-term care policies for long-term care partnership policies, an insurer shall offer, on a onetime basis, in writing, to all existing policyholders that were issued a long-term care policy on or after February 8, 2006, the option to exchange their existing long-term care coverage for coverage that is intended to qualify under North Carolina's Long-Term Care Partnership Program.

The insurer shall provide notification of this onetime offer within 180 days from the date on which the company begins to offer partnership coverage in the State. The mandatory offer of an exchange shall only apply to products issued by the insurer that are comparable to the type of policy form, such as group policies and individual policies, and on the policy series that the company has certified as partnership qualified. This exchange may be subject to underwriting and premium adjustment. A policy received in an exchange after the effective date of North Carolina's Long-Term Care Partnership Program is treated as newly issued and is eligible for qualified policy status.

For purposes of applying the Medicaid rules relating to qualified long-term care partnership policies, the addition of a rider, endorsement, or change in schedule page for a policy may be

treated as giving rise to an exchange. The effective date of the long-term care partnership policy shall be the date the policy was exchanged.

#### **VI. Future Notice of New Developments:**

The Department anticipates there will be additional developments for insurers and producers who participate in the Long-Term Care Partnership Program as this new market in NC evolves. As it occurs, the Department will post the information on our web site.

#### **VII. Contact Information:**

Questions regarding certification of Long-Term Care Partnership Policies should be directed to the Accident and Health Division, North Carolina Insurance Department, **by email to:** [L&Hinbox@ncdoi.gov](mailto:L&Hinbox@ncdoi.gov)

Questions regarding Long-Term Care Partnership Program producer training requirements may be obtained from: [http://www.ncdoi.com/LH/LH\\_Hot\\_Topics.aspx](http://www.ncdoi.com/LH/LH_Hot_Topics.aspx)