
A BILL FOR AN ACT

RELATING TO LONG-TERM CARE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 **"CHAPTER**

5 **HAWAII PARTNERSHIP FOR LONG-TERM CARE PROGRAM**

6 § -1 **Purpose.** The purpose of the Hawaii partnership for
7 long-term care program is to combine funds from private long-
8 term care insurance and medicaid, or its successor program, to
9 finance long-term care. Under the program, an individual may
10 purchase a certified long-term care insurance partnership policy
11 in an amount commensurate with the individual's assets.
12 Notwithstanding any other law to the contrary, assets of the
13 individual purchasing a certified long-term care insurance
14 partnership policy shall not be considered by the department for
15 determination of eligibility for medicaid, or its successor
16 program, or for any other long-term care services administered
17 by the department. The program will reduce future medicaid

1 costs for long-term care by delaying or eliminating dependence
2 on medicaid by providing incentives for individuals to insure
3 against the potentially high costs of long-term care.

4 Currently, over twenty states, including California, Oregon, and
5 New York, offer long-term care insurance partnership policies.

6 § -2 **Definitions.** For the purposes of this chapter:

7 "Certified long-term care insurance partnership policy"
8 means a policy provided by a producer in accordance with chapter
9 431 and approved by the department that meets all of the
10 requirements of a qualified long-term care insurance policy as
11 defined in section 7702B(b) of the Internal Revenue Code and was
12 issued not earlier than the effective date of this chapter to
13 cover an insured who was a resident of Hawaii when coverage
14 first became effective under the policy.

15 "Department" means the department of human services.

16 "Medicaid" means the program for medical assistance
17 established under 42 United States Code sections 1396 through
18 1396v, or any successor program.

19 "Partnership" means a cooperative agreement between the
20 State and an approved long-term care insurance producer to
21 provide long-term care coverage to qualified individuals.

1 "State plan amendment" means the state medicaid plan
2 amendment made to the federal department of health and human
3 services that provides for the disregard of any assets or
4 resources in an amount equal to the insurance benefit payments
5 that are made to or on the behalf of an individual who is a
6 beneficiary under a certified long-term care insurance policy.

7 **§ -3 Eligibility for benefits; resources not considered.**

8 (a) An individual may purchase a certified long-term care
9 insurance partnership policy that covers long-term care services
10 in an amount equal to the resources the individual wishes to
11 protect, so long as the amount of insurance purchased exceeds
12 the minimum level set by the department pursuant to
13 section -6.

14 (b) Notwithstanding any other law to the contrary, an
15 individual who purchases a certified long-term care insurance
16 partnership policy and has resources above the eligibility
17 levels for receipt of medicaid shall be eligible to receive
18 medicaid benefits and any other long-term care services
19 specified by the department without regard to the individual's
20 resources. The resources not to be considered as provided by
21 this section shall be equal to, or in some proportion set by the

1 department pursuant to section -6 that is less than equal to,
2 the amount of long-term care insurance payments made.

3 § -4 **Amendments to medicaid rules and state plan.** (a)

4 The department shall prepare a state plan amendment to seek
5 appropriate amendments to its medicaid rules and state plan to
6 allow protection of resources and income pursuant to
7 section -3. The protection shall be provided to the extent
8 approved by the federal Centers for Medicare and Medicaid
9 Services for any purchaser of a certified long-term care
10 insurance partnership policy and shall last for the life of the
11 purchaser. The protection shall be provided under the medicaid
12 program. Any purchaser of a certified long-term care insurance
13 partnership policy shall be guaranteed coverage under the
14 medicaid program to the extent the individual meets all other
15 applicable eligibility requirements for the receipt of medicaid
16 not relating to the individual's resources.

17 (b) The department shall seek any federal waivers and
18 approvals necessary to accomplish the purposes of this chapter.

19 § -5 **Certification of policies or plans.** The department
20 shall only certify a policy as a certified long-term care
21 insurance partnership policy if it meets the requirements of

1 chapter 431, 42 United States Code 1396p, and section 7702B(b)
2 of the Internal Revenue Code.

3 § -6 **Rules.** The department shall adopt rules to
4 implement this chapter, including but not limited to rules
5 establishing:

- 6 (1) The population and age groups eligible to participate
7 in the long-term care partnership program;
- 8 (2) The minimum level of long-term care insurance or long-
9 term care coverage included in health care service
10 plan contracts that must be purchased to meet the
11 requirement of section -3;
- 12 (3) The amount and types of services that long-term care
13 insurance shall include in order to be considered a
14 certified long-term care insurance partnership policy;
- 15 (4) The reporting requirements for producers of certified
16 long-term care insurance partnership policies; and
- 17 (5) The percentage, if any, of an individual's resources
18 that may be considered in determining eligibility as
19 provided in section -3.

20 § -7 **Long-term care partnership program outreach.** The
21 department shall establish an outreach program to educate
22 consumers about the need for long-term care, the mechanisms for

1 financing long-term care, the availability of long-term care
2 insurance, and asset protection provided under this chapter.
3 The department shall coordinate with the executive office on
4 aging to establish the program."

5 SECTION 2. Section 431:10H-221, Hawaii Revised Statutes,
6 is amended to read as follows:

7 **"§431:10H-221 Requirements for application forms and**
8 **replacement coverage.** (a) Application forms shall include
9 questions designed to elicit information as to whether, as of
10 the date of application, the applicant has another long-term
11 care insurance policy or certificate in force or whether a long-
12 term care policy or certificate is intended to replace any other
13 accident and health or sickness or long-term care policy or
14 certificate presently in force. A supplementary application or
15 other form to be signed by the applicant and producer, except
16 where the coverage is sold without a producer, containing the
17 questions may be used. With regard to a replacement policy
18 issued to a group defined by paragraph (1) under the definition
19 of "group long-term care insurance" in section 431:10H-104, the
20 following questions may be modified only to the extent necessary
21 to elicit information about accident and health or sickness and
22 long-term care insurance policies other than the group policy

1 being replaced; provided that the certificate holder has been
2 notified of the replacement:

3 (1) Do you have another long-term care insurance policy or
4 certificate in force (including a health care service
5 contract or health maintenance organization contract)?

6 (2) Did you have another long-term care insurance policy
7 or certificate in force during the last twelve months?

8 (A) If so, with which company?

9 (B) If that policy lapsed, when did it lapse?

10 (3) Are you covered by medicaid?

11 (4) Do you intend to replace any of your medical or
12 accident and health or sickness insurance coverage
13 with this policy (certificate)?

14 (b) Producers shall list any other accident and health or
15 sickness insurance policies they have sold to the applicant, and
16 the producer shall list policies sold that are still in force
17 and list policies sold in the past five years that are no longer
18 in force.

19 (c) Upon determining that a sale will involve replacement,
20 an insurer, other than an insurer using direct response
21 solicitation methods, or its producer, shall furnish the
22 applicant, prior to issuance or delivery of the individual long-

1 term care insurance policy, a notice regarding replacement of
2 accident and health or sickness or long-term care coverage. One
3 copy of the notice shall be retained by the applicant and an
4 additional copy signed by the applicant shall be retained by the
5 insurer. The required notice shall be provided in the same
6 manner as shown in section 14C of the April, 2002, NAIC Long-
7 Term Care Insurance Model Regulation.

8 (d) Insurers using direct response solicitation methods
9 shall deliver a notice regarding replacement of accident and
10 health or sickness or long-term care coverage to the applicant
11 upon issuance of the policy. The required notice shall be
12 provided in the same manner as shown in section 14D of the
13 April, 2002, NAIC Long-Term Care Insurance Model Regulation.

14 (e) Where replacement is intended, the replacing insurer
15 shall notify, in writing, the existing insurer of the proposed
16 replacement. The existing policy shall be identified by the
17 insurer, name of the insured, and policy number or address
18 including zip code. Notice shall be made within five working
19 days from the date the application is received by the insurer or
20 the date the policy is issued, whichever is sooner.

21 (f) Life insurance policies that accelerate benefits for
22 long-term care shall comply with this section if the policy

1 being replaced is a long-term care insurance policy. If the
2 policy being replaced is a life insurance policy, the insurer
3 shall comply with the replacement requirements for life
4 insurance policies. If a life insurance policy that accelerates
5 benefits for long-term care is replaced by another policy, the
6 replacing insurer shall comply with both the long-term care and
7 the life insurance replacement requirements.

8 (g) If authorized by federal law or a federal waiver is
9 granted with respect to the long-term care partnership program
10 as provided under chapter , issuers of long-term care
11 policies may voluntarily exchange a current long-term care
12 insurance policy for a long-term care partnership policy that
13 meets the requirements of 42 United States Code section 1396p
14 after the effective date of the state plan amendment
15 implementing the partnership program in the State."

16 SECTION 3. New statutory material is underscored.

17 SECTION 4. This Act shall take effect upon its approval.

Report Title:

Long-Term Care Partnership Program

Description:

Implements the long-term care partnership program, allowing individuals who have exhausted their private long-term care insurance coverage to qualify for medicaid coverage for continued long-term care prior to exhausting their resources.
(SD1)