

SENATE BILL 206

C4, C3, J1

8lr0703

By: **Senator Manno**

Introduced and read first time: January 18, 2018

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Long-Term Care Insurance – Premium Rates and Benefits**

3 FOR the purpose of prohibiting the Maryland Department of Health from considering
4 certain benefits and distributions for purposes of determining allowable yearly
5 income under the Maryland Medical Assistance Program; prohibiting a certain
6 carrier from increasing a certain premium under a policy or contract of long-term
7 care insurance between certain dates; authorizing a certain carrier to increase a
8 certain premium beginning on a certain date only if certain conditions are met;
9 requiring a certain carrier to provide certain notice of a certain premium increase
10 within a certain number of days before the increase becomes effective; requiring a
11 certain notice to include certain options and a certain referral; prohibiting a certain
12 premium rate increase from being imposed on certain insureds or certificate holders;
13 authorizing a certain insured or certificate holder to convert the coverage of
14 long-term care insurance to a certain status and receive certain benefits under
15 certain circumstances; authorizing a certain insured or certificate holder to retain
16 certain benefit amounts under certain circumstances; making stylistic and
17 conforming changes; providing for the application of this Act; and generally relating
18 to long-term care insurance.

19 BY repealing and reenacting, with amendments,
20 Article – Health – General
21 Section 15–109(b)
22 Annotated Code of Maryland
23 (2015 Replacement Volume and 2017 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article – Insurance
26 Section 11–703 and 11–704
27 Annotated Code of Maryland
28 (2017 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
 2 Article – Insurance
 3 Section 18–116.1 and 18–116.2
 4 Annotated Code of Maryland
 5 (2017 Replacement Volume)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 7 That the Laws of Maryland read as follows:

8 **Article – Health – General**

9 15–109.

10 (b) **(1)** Except as provided in § 15–103(a)(2)(ii) of this subtitle **AND SUBJECT**
 11 **TO PARAGRAPH (2) OF THIS SUBSECTION**, to determine eligibility under the Program,
 12 the Department annually shall set the allowable yearly income levels in amounts at least
 13 equal to the following:

14 [(1)] **(I)** Family of 1 – \$2,500[.];

15 [(2)] **(II)** Family of 2 – \$3,000[.];

16 [(3)] **(III)** Family of 3 – \$3,500[.];

17 [(4)] **(IV)** Family of 4 – \$4,000[.]; **AND**

18 [(5)] **(V)** Family of 5 or more – \$4,500 plus an increase of \$500 for each
 19 family member in excess of 5.

20 **(2) FOR PURPOSES OF DETERMINING ALLOWABLE YEARLY INCOME**
 21 **LEVELS, THE DEPARTMENT MAY NOT CONSIDER:**

22 **(I) BENEFITS PAID OUT TO AN INDIVIDUAL AFTER THE**
 23 **COVERAGE OF A POLICY OR CONTRACT FOR LONG–TERM CARE INSURANCE**
 24 **CONVERTS TO A PAID–UP STATUS, AS AUTHORIZED UNDER § 18–116.2 OF THE**
 25 **INSURANCE ARTICLE; OR**

26 **(II) DISTRIBUTIONS PAID OUT FROM A 401K PLAN INTO WHICH**
 27 **AN EMPLOYER MADE CONTRIBUTIONS.**

28 **Article – Insurance**

29 11–703.

30 (a) A carrier may not charge a premium to an insured under a policy or contract

1 of long-term care insurance before the applicable premium rate is filed with and approved
2 by the Commissioner.

3 (b) [A] **SUBJECT TO SUBSECTIONS (C) AND (D) OF THIS SECTION, A carrier**
4 **may not change the premium charged to an insured under a policy or contract of long-term**
5 **care insurance until the applicable premium rate change has been filed with and approved**
6 **by the Commissioner.**

7 (c) (1) **FROM JUNE 1, 2018, TO DECEMBER 31, 2019, BOTH INCLUSIVE, A**
8 **CARRIER MAY NOT INCREASE A PREMIUM CHARGED TO AN INSURED UNDER A**
9 **POLICY OR CONTRACT OF LONG-TERM CARE INSURANCE.**

10 (2) **BEGINNING JANUARY 1, 2020, A CARRIER MAY INCREASE A**
11 **PREMIUM CHARGED TO AN INSURED UNDER A POLICY OR CONTRACT OF LONG-TERM**
12 **CARE INSURANCE ONLY IF:**

13 (i) **THE PREMIUM RATE INCREASE HAS BEEN FILED WITH AND**
14 **APPROVED BY THE COMMISSIONER IN ACCORDANCE WITH THIS SECTION; AND**

15 (ii) **FOR A PREMIUM RATE INCREASE OF MORE THAN 20%**
16 **DURING THE DURATION OF THE POLICY OR CONTRACT, THE CARRIER IMPOSES**
17 **OFFSETTING REDUCTIONS IN COMPANY EXPENSES.**

18 [(c)](D) (1) Any applicable premium rate or premium rate change of a carrier
19 shall be filed with the Commissioner in accordance with regulations adopted by the
20 Commissioner.

21 (2) (i) The Commissioner shall disapprove or modify a proposed
22 premium rate filing if the proposed premium rates appear, based on actuarial analysis and
23 reasonable assumptions, to be inadequate, unfairly discriminatory, or excessive in relation
24 to benefits.

25 (ii) In determining whether to disapprove or modify a premium rate
26 filing of a carrier, the Commissioner shall consider, to the extent appropriate:

27 1. past and prospective loss experience in and outside the
28 State;

29 2. underwriting practice and judgment;

30 3. a reasonable margin for reserve needs;

31 4. past and prospective expenses, both countrywide and
32 those specifically applicable to the State; and

33 5. any other relevant factors in and outside the State.

1 (3) (i) Each premium rate filing and any supporting information filed
2 under this subtitle shall be open to public inspection as soon as filed.

3 (ii) A carrier may request a finding by the Commissioner that certain
4 information filed with the Commissioner be considered confidential commercial
5 information under § 4-335 of the General Provisions Article and not subject to public
6 inspection.

7 (iii) On request and payment of a reasonable fee, a person may obtain
8 copies of a premium rate filing and any supporting information.

9 **[(d)](E)** (1) Except as provided in paragraph (2) of this subsection, at least
10 quarterly, the Commissioner shall hold a public hearing to review long-term care insurance
11 rate filings received by the Commissioner during the preceding 3-month period.

12 (2) A public hearing is not required if the Commissioner has not received a
13 long-term care insurance rate filing during the preceding 3-month period.

14 **[(e)](F)** The Commissioner shall provide all individuals present at a public
15 hearing held under this subtitle who wish to testify an opportunity to do so, but may limit
16 repetitious testimony.

17 **[(f)](G)** Each decision or finding of the Commissioner about premium rates
18 made under this subtitle is subject to judicial review in accordance with Subtitle 5 of this
19 title.

20 11-704.

21 (a) A carrier shall provide a one-time written notice to its insureds that an
22 insured may access information about proposed rate increases on the Administration's Web
23 site **AS SPECIFIED IN SUBSECTION (B) OF THIS SECTION**.

24 (b) (1) For a policy or contract issued or delivered on or after January 1, 2018,
25 the one-time written notice shall be provided at the time the policy or contract is issued or
26 delivered.

27 (2) For a policy or contract issued or delivered before January 1, 2018, the
28 one-time written notice shall be provided no later than the next policy or contract
29 anniversary date after January 1, 2018.

30 **(C) (1) IN ADDITION TO PROVIDING THE NOTICE REQUIRED UNDER**
31 **SUBSECTION (A) OF THIS SECTION, A CARRIER SHALL PROVIDE A WRITTEN NOTICE**
32 **OF EACH APPROVED PREMIUM INCREASE TO ITS INSUREDS AT LEAST 90 DAYS**
33 **BEFORE THE INCREASE BECOMES EFFECTIVE.**

1 **(2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS**
2 **SUBSECTION SHALL INCLUDE:**

3 **(I) THE OPTIONS AVAILABLE TO THE INSURED UNDER §**
4 **18-116.2 OF THIS ARTICLE AND ANY OTHER OPTIONS AVAILABLE TO ALTER THE**
5 **LONG-TERM CARE INSURANCE OR RECEIVE BENEFITS IN LIGHT OF THE INCREASE;**
6 **AND**

7 **(II) A REFERRAL FOR AN IN-PERSON COUNSELING SESSION**
8 **WITH THE MARYLAND STATE HEALTH INSURANCE ASSISTANCE PROGRAM.**

9 **18-116.1.**

10 **A PREMIUM RATE INCREASE MAY NOT BE IMPOSED ON THE FOLLOWING**
11 **INSUREDS OR CERTIFICATE HOLDERS OF LONG-TERM CARE INSURANCE:**

12 **(1) AN INSURED OR A CERTIFICATE HOLDER WHO AGREED TO THE**
13 **REDUCTION OF:**

14 **(I) THE DAILY BENEFIT AMOUNT OF LONG-TERM CARE**
15 **INSURANCE TO AN AMOUNT LESS THAN 70% OF THE CURRENT COST OF NURSING**
16 **HOME CARE; OR**

17 **(II) THE DURATION OF THE LONG-TERM CARE INSURANCE;**

18 **(2) AN INSURED OR A CERTIFICATE HOLDER WHO:**

19 **(I) IS AT LEAST 70 YEARS OLD; AND**

20 **(II) HAS HELD THE LONG-TERM CARE INSURANCE FOR AT**
21 **LEAST 10 YEARS; AND**

22 **(3) AN INSURED OR A CERTIFICATE HOLDER WHO IS AT LEAST 80**
23 **YEARS OLD.**

24 **18-116.2.**

25 **(A) (1) IF A PREMIUM RATE INCREASE IS APPROVED FOR LONG-TERM**
26 **CARE INSURANCE AND THE INSURED OR CERTIFICATE HOLDER HAS HELD THE**
27 **LONG-TERM CARE INSURANCE FOR AT LEAST 10 YEARS, THE INSURED OR**
28 **CERTIFICATE HOLDER MAY CONVERT THE COVERAGE OF THE LONG-TERM CARE**
29 **INSURANCE TO A PAID-UP STATUS AND ELECT TO RECEIVE BENEFITS EQUAL TO THE**
30 **PREVIOUSLY PAID PREMIUMS.**

1 **(2) ANY BENEFITS PAID OUT AFTER THE LONG-TERM CARE**
2 **INSURANCE CONVERTS TO THE PAID-UP STATUS MAY NOT BE CONSIDERED**
3 **AVAILABLE INCOME FOR PURPOSES OF ELIGIBILITY FOR THE MARYLAND MEDICAL**
4 **ASSISTANCE PROGRAM.**

5 **(B) IF THE INSURED OR CERTIFICATE HOLDER OF LONG-TERM CARE**
6 **INSURANCE DROPS THE INFLATION PROTECTION FEATURE OF THE POLICY OR**
7 **CERTIFICATE AS DESCRIBED UNDER § 18-114(B)(2) OF THIS TITLE, THE INSURED**
8 **OR CERTIFICATE HOLDER MAY RETAIN THE:**

9 **(1) INFLATED DAILY BENEFIT AMOUNT; AND**

10 **(2) THE INFLATED LIFETIME BENEFIT AMOUNT PROVIDED UNDER**
11 **THE POLICY OR CERTIFICATE ON THE DATE THE INFLATION PROTECTION FEATURE**
12 **WAS DROPPED BY THE INSURED OR CERTIFICATE HOLDER.**

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all:

14 (1) policies, contracts, or certificates of long-term care insurance issued,
15 delivered, or in effect in the State on or after the effective date of this Act; and

16 (2) rate filings submitted to the Maryland Insurance Commissioner on or
17 after the effective date of this Act.

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June
19 1, 2018.