Maryland General Assembly
Department of Legislative Services

Proposed Regulation
Maryland Insurance Administration

(DLS Control No. 16-017)

Overview and Legal and Fiscal Impact

The regulation requires each long-term care partnership policy issued to an individual who is younger than 61 years of age to provide at a minimum a 1% compound annual inflation protection benefit.

The regulation presents no legal issues of concern.

Minimal increase in special fund revenues for the Maryland Insurance Administration (MIA) in fiscal 2017 from the $125 rate and form filing fee. Expenditures are not affected.

Regulation of COMAR Affected

Maryland Insurance Administration:
Long-Term Care: Long-Term Care Partnership: COMAR 31.14.03.05

Legal Analysis

Background

The Maryland Long-Term Care Insurance Partnership Program is a partnership between Maryland and private insurance companies that issue long-term care insurance policies. A policy sold under the Long-Term Care Insurance Partnership Program, by law, must meet the same standards as a long-term care policy not sold under the program. In addition, a partnership policy must meet certain specific federal and state requirements, and be certified as a "long-term care partnership policy" by the Maryland Insurance Commissioner. Partnership policies provide an additional level of protection, when compared to a regular long-term care insurance policy. Specifically, partnership policies allow individuals to protect additional assets from spend-down requirements under Maryland's Medicaid program if assistance under this program is ever needed and the individual qualifies.

The asset eligibility and recovery provisions of the Medicaid program are applied by disregarding an additional amount of assets equaling the amount of insurance benefits an individual has received from a partnership policy. For example, if an individual has received $200,000 of insurance benefits from a partnership policy at the time of application for Medicaid, the individual generally would be able to retain $200,000 of assets above and beyond the amount of assets normally allowed for Medicaid eligibility.

By law, to qualify as a Partnership Policy, the policy must be a qualified long-term care insurance contract under federal tax law, and as such, the insurance benefits an individual receives from the policy generally will be subject to beneficial income tax treatment. In addition, if an individual is under age 76 when the individual purchases a partnership policy, it must provide inflation protection to help protect against potential future increases in the cost of long-term care.

Summary of Regulation

The regulation requires each partnership policy issued to an individual who is younger than 61 years of age to provide at a minimum a 1 percent compound annual inflation protection benefit. The existing regulation requires a 3 percent compound annual inflation protection benefit.

Legal Issues

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The Maryland Insurance Administration cites §§ 18-102, 18-106, and 18-107 of the Insurance Article and § 15-407 of the Health-General Article as statutory authority for the regulation.

Section 18-102 of the Insurance Article requires the Commissioner to adopt regulations about long-term care insurance. Section 18-106 requires a carrier to provide each applicant for long-term care insurance with an outline of coverage and a buyer's guide. The outline of coverage must include any expected premium increases or additional premiums to pay for automatic or optional benefit increases. Section 18-107 requires a certificate issued under group long-term care insurance to include, among other information, a statement as to whether the policy or contract is intended to quality as a partnership policy.

Section 15-407 of the Health – General Article requires the Department of Health and Mental Hygiene and the Commissioner to jointly adopt regulations to carry out the provisions of law relating to the Qualified State Long-Term Care Insurance Partnership.

Although not cited by the administration, § 18-114 of the Health – General Article describes an inflation protection option that carriers must offer to applicants for policies of long-term care insurance. The inflation protection feature provides that benefit levels will increase with benefit maximums or reasonable durations that are meaningful to account for reasonably anticipated increases in the costs of long-term care services provided under the policy.

With the addition of § 18-114 of the Health – General Article, this authority is correct and complete. The regulation complies with the legislative intent of the law.

Fiscal Analysis

Minimal increase in special fund revenues for the Maryland Insurance Administration (MIA) in fiscal 2017 from the $125 rate and form filing fee. Expenditures are not affected.

Agency Estimate of Projected Fiscal Impact

MIA advises that special fund revenues increase by a minimal amount from the $125 rate and form filing fee, which must be paid by each insurer that offers a partnership policy with inflation protection of 1%. As few insurers offer long-term care insurance in Maryland, MIA anticipates that any additional revenues will be minimal. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

MIA advises that the regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Contact Information

Legal Analysis: Marie H. Razulis – (410) 946/(301) 970-5350
Fiscal Analysis: Jennifer B. Chasse – (410) 946/(301) 970-5510