HB 493

Department of Legislative Services

Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 493 (Delegate Kramer, *et al.*)
Health and Government Operations Finance

Long-Term Care Insurance - Premium Rates

This bill prohibits a carrier from charging a premium to an insured under a long-term care policy or contract or changing the premium charged before the premium rate or rate change has been filed with and approved by the Insurance Commissioner. The Commissioner must provide specified information about long-term care insurance premium rates on the Maryland Insurance Administration (MIA) website. The bill also establishes specified duties for long-term care insurance carriers and insurance producers. MIA must conduct an assessment regarding a nonforfeiture benefit and report to specified committees of the General Assembly by January 1, 2018.

The bill applies to all policies, contracts, or certificates of long-term care insurance issued, delivered, or in effect in the State, and rate filings submitted to the Commissioner on or after October 1, 2017.

Fiscal Summary

State Effect: MIA special fund expenditures increase by a minimal amount due to administrative expenses associated with holding quarterly public hearings and for contractual assistance to conduct the required assessment. Special fund revenues increase minimally from the $125 rate and form filing fee in FY 2018 only.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: For purposes of the bill, "carrier" means an insurer, a nonprofit health service plan, or a preferred provider organization that offers, issues, or delivers a policy, contract, or certificate of long-term care insurance in the State.

Premium Rate Approval Process: A carrier may not charge a premium to an insured under a long-term care policy or contract or change the premium charged before the applicable premium rate or rate change has been filed with and approved by the Commissioner.

A premium rate or rate change must be filed with the Commissioner in accordance with regulations adopted by the Commissioner. Each premium rate filing and any supporting information is open to public inspection as soon as it is filed. However, a carrier may request a finding by the Commissioner that certain information be considered confidential commercial information not subject to public inspection. On request and payment of a reasonable fee, a person may obtain copies of a premium rate filing and any supporting information.

The Commissioner must disapprove or modify a proposed premium rate filing if, based on actuarial analysis and reasonable assumptions, the rate appears to be inadequate, unfairly discriminatory, or excessive in relation to benefits. In determining whether to disapprove or modify a premium rate filing, the Commissioner must consider (1) past and prospective loss experience inside and outside of the State; (2) underwriting practice and judgment; (3) a reasonable margin for reserve needs; (4) past and prospective expenses, nationally and in Maryland; and (5) any other relevant factors. Each decision or finding of the Commissioner about premium rates is subject to judicial review.

At least quarterly, the Commissioner must hold a public hearing to review long-term care insurance rate filings received during the preceding three-month period; a public hearing is not required if no rate filings have been received during the preceding three months. The Commissioner must provide all individuals present at a public hearing an opportunity to testify but may limit repetitious testimony.

Required Website Information and Related Duty of a Carrier: The Commissioner must provide information on the MIA website describing the factors carriers use to determine premium rates for long-term care insurance and the process and factors MIA uses in reviewing and approving such rates. A carrier must provide one-time written notice to its insureds that an insured may access information about proposed rate increases on the MIA website. For a policy or contract issued after January 1, 2018, the written notice must be provided at the time the policy or contract is delivered. However, for a policy or contract issued before January 1, 2018, the written notice must be provided no later than the next anniversary date after January 1, 2018.

Duty of an Insurance Producer: An insurance producer who offers or sells long-term care insurance in the State must (1) advise an individual considering the purchase of a long-term care insurance policy or contract about the availability and benefits of a policy that qualifies under the Qualified State Long-Term Care Insurance Partnership; (2) provide a disclosure statement, approved by the Commissioner, to each applicant for long-term care insurance about the partnership; and (3) make the disclosure statement available to the Commissioner for inspection.

Assessment and Report: MIA must assess the impact on long-term care insurance policyholders and carriers of the existing regulation requiring carriers to offer a nonforfeiture benefit, determine whether expanding the requirement may be desirable, and report to the Senate Finance and House Health and Government Operations committees on its assessment and determination by January 1, 2018.

Current Law: A carrier may impose an across-the-board premium increase on policies and contracts of long-term care insurance after the carrier's actuarial memorandum in support of the proposed premium increase has been approved by the Insurance Commissioner. Under Code of Maryland Regulations 31.14.01.04, except under exceptional circumstances, a carrier may not raise long-term care insurance premiums by more than 15% in any 12-month period.

Per Bulletin 17-01, effective January 3, 2017, a carrier that files a rate increase must attend a public rate hearing before a decision is made on the request. The corresponding actuarial memorandum will be posted to the MIA website for public review, along with information pertaining to any such rate hearings.

MIA promulgated regulations, which took effect in February 2017, that update long-term care insurance regulations to reflect changes to the National Association of Insurance Commissioners' Long-Term Care Model Regulation. Among other things, the regulations require carriers to submit an annual actuarial certification regarding the sufficiency of the current premium rate structure (in order to encourage carriers to file rate increases when needed rather than delay and necessitate larger rate increases later) and strengthen consumer disclosure requirements at the time of rate increases.

Background: According to MIA, approximately 150,000 Marylanders are covered by long-term care insurance. Twenty-one carriers are authorized to sell approved individual long-term care insurance policies in Maryland (although they may or may not be currently selling them). Consumers and other stakeholders have expressed concerns with large premium rate increases. MIA advises that, when long-term care insurance policies were initially introduced across the country in the late 1970s and early 1980s, they were the first of their kind. Insurance companies had no prior data from which to draw assumptions and make predictions about how the insurance market would behave 30 to 40 years into the future. MIA reports that many of these assumptions and predictions were inaccurate and resulted in companies being unable to price the long-term care insurance products appropriately. As a result, long-term care insurers are now raising premiums to ensure that they will be sufficient to pay future claims.

In 2016, the Insurance Commissioner convened a Workgroup on Long-Term Care Insurance to study the issues associated with the current state of the long-term care marketplace in Maryland. The workgroup met four times in 2016 and discussed ways to establish transparency for consumers during the rate review process, the 15% cap on rate increases, ways to improve communications between carriers and policyholders, and the long-term care tax credit.

State Expenditures: MIA special fund expenditures increase by a minimal amount each year due to administrative expenses associated with holding quarterly public hearings to review long-term care insurance rate filings received during the preceding three-month period, in addition to the hearings the Commissioner must hold before issuing a rate order. MIA also advises that, as it has only two staff assigned to long-term care insurance, it will hire a consultant to conduct the required assessment regarding a nonforfeiture benefit. This study is estimated to cost less than $10,000 in fiscal 2018 only.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Budget and Management; Department of Health and Mental Hygiene; Maryland Insurance Administration; Department of Legislative Services

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