

**§5075. Required provisions; prohibitions; loss ratio standards for long-term care insurance**

**1. Prohibitions.** A long-term care insurance policy or certificate may not:

A. Be canceled, nonrenewed or otherwise terminated on the grounds of the age or the deterioration of the mental or physical health of the insured individual; [PL 1999, c. 292, §2 (NEW).]

B. Contain a provision establishing a new waiting period in the event existing coverage is converted to or replaced by a new or other form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder; or [PL 1999, c. 292, §2 (NEW).]

C. Provide coverage for skilled nursing care only or provide significantly more coverage for skilled care in a facility than for lower levels of care. [PL 1999, c. 292, §2 (NEW).]

[PL 1999, c. 292, §2 (NEW).]

**2. Preexisting condition.** A long-term care insurance policy or certificate must provide coverage for preexisting conditions in accordance with the following.

A. A policy or certificate may not define "preexisting condition" in a manner that is more restrictive than the following: "Preexisting condition" means a condition for which medical advice or treatment was recommended by or received from a provider of health care services within 6 months preceding the effective date of coverage of an insured person. [PL 1999, c. 292, §2 (NEW).]

B. A policy or certificate may not exclude coverage for a loss or confinement that is the result of a preexisting condition unless such loss or confinement begins within 6 months following the effective date of coverage of an insured person. [PL 1999, c. 292, §2 (NEW).]

C. The definition of "preexisting condition" in paragraph A does not prohibit an insurer from using an application form designed to elicit the complete health history of an applicant and, on the basis of the answers on that application, from underwriting in accordance with that insurer's established underwriting standards. Unless otherwise provided in the policy or certificate, a preexisting condition, regardless of whether it is disclosed on the application, need not be covered until the waiting period described in paragraph B expires. A long-term care insurance policy or certificate may not exclude, or use waivers or riders of any kind to exclude, limit or reduce, coverage or benefits for specifically named or described preexisting diseases or physical conditions beyond the waiting period described in paragraph B. [PL 1999, c. 292, §2 (NEW).]

D. The superintendent may extend the limitation periods set forth in paragraphs A and B with regard to specific age group categories in specific policy forms upon findings that the extension is in the best interest of the public. [PL 1999, c. 292, §2 (NEW).]

[PL 1999, c. 292, §2 (NEW).]

**3. Prior hospitalization or institutionalization.** A long-term care insurance policy or certificate that contains provisions regarding prior hospitalization or institutionalization must comply with the following requirements.

A. A long-term care insurance policy or certificate may not be delivered or issued for delivery in this State if the policy:

- (1) Conditions eligibility for any benefits on a prior hospitalization requirement;
- (2) Conditions eligibility for benefits provided in an institutional care setting on the receipt of a higher level of institutional care; or
- (3) Conditions eligibility for any benefits other than waiver of premium, post-confinement, post-acute care or recuperative benefits on a prior institutionalization requirement. [PL 1999, c. 292, §2 (NEW).]

B. A long-term care insurance policy or certificate containing post-confinement, post-acute care or recuperative benefits must clearly label such limitations or conditions, including any required number of days of confinement, in a separate paragraph of the policy or certificate entitled "Limitations or Conditions on Eligibility for Benefits." [PL 1999, c. 292, §2 (NEW).]

C. A long-term care insurance policy, certificate or rider that conditions eligibility of noninstitutional benefits on the prior receipt of institutional care may not require a prior institutional stay of more than 30 days. [PL 1999, c. 292, §2 (NEW).]

D. The superintendent may adopt rules further restricting the use of prior institutionalization requirements. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. [PL 1999, c. 292, §2 (NEW).]

[PL 1999, c. 292, §2 (NEW).]

**4. Free-look provision.** Applicants for long-term care insurance have the right to return the policy or certificate within 30 days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. A long-term care insurance policy or certificate must have a notice prominently printed on the first page or attached to the policy or certificate stating in substance that the applicant has the right to return the policy or certificate within 30 days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason.

[PL 1999, c. 292, §2 (NEW).]

**5. Benefit payment status report on long-term care benefits.** Any time a long-term care benefit that is funded through a life insurance policy or certificate by the acceleration of the death benefit is in benefit payment status, a monthly report must be provided to the policyholder or certificate holder. The report must include:

A. Any long-term care benefits paid out during the month; [PL 1999, c. 292, §2 (NEW).]

B. An explanation of any changes in the policy, including changes in death benefits or cash values, due to long-term care benefits being paid out; and [PL 1999, c. 292, §2 (NEW).]

C. The amount of long-term care benefits existing or remaining. [PL 1999, c. 292, §2 (NEW).]

[PL 1999, c. 292, §2 (NEW).]

**6. Loss ratios.** The superintendent may adopt rules establishing loss ratio standards for long-term care insurance policies if a specific reference to long-term care insurance policies or certificates is contained in the rules. Any loss ratio standards for employer groups as described in section 2804 and labor union groups as described in section 2805 apply to the group policy and not to certificates. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

[PL 1999, c. 292, §2 (NEW).]

**7. Marketing as long-term care or nursing home insurance.** This chapter applies to any policy, certificate or rider advertised, marketed or offered as long-term care or nursing home insurance.

[PL 1999, c. 292, §2 (NEW).]

## SECTION HISTORY

PL 1999, c. 292, §2 (NEW).

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