



COMMONWEALTH OF MASSACHUSETTS
Office of Consumer Affairs and Business Regulation
DIVISION OF INSURANCE

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BULLETIN 2013-11

TO: Insurance Companies Issuing or Renewing Long-Term Care Insurance Products, Life Insurance or Annuity Products With Long-Term Care Benefits or Life Insurance Products With Provisions Permitting An Insured to Accelerate Death Benefits to Pay for Long-Term Care Services in Massachusetts

FROM: Joseph G. Murphy, Commissioner of Insurance

DATE: December 17, 2013

RE: Transition Rules for Long-Term Care Insurance Offered on and after January 1, 2013

The Division of Insurance ("Division") is issuing this Bulletin regarding the October 25, 2012 enactment of Chapter 312 of the Acts of 2012 ("Chapter 312"). The statute and this Bulletin applies to all insurance companies that issue long-term care insurance products, as well as those that issue life insurance or annuity products with long-term care benefits and life insurance products with provisions permitting an insured to accelerated death benefits to pay for long-term care services ("Carriers"). Chapter 312 creates a new Chapter 176U of the General Laws, as well as other statutory provisions, that apply to the offer or renewal of long-term care insurance products in the Commonwealth on and after January 1, 2013.

Although the newly created M.G.L. c. 176U applies to products issued on or after January 1, 2013, the Division is sending this bulletin to update Bulletin 2012-13. The Division considers the period from January 1, 2013 through July 1, 2014 to be a transition period ("Transition Period") with respect to the general requirements of the statute while the Division continues with its work to complete all appropriate regulations that are impacted by this statute. The Division will promulgate changes to existing regulations, including, but not limited to, 211 CMR 55.00, *Disclosure Requirements for Life Insurance Policies with Accelerated Benefit Provisions and Annuity Contracts with Waivers of Surrender Charges for Early Withdrawal of Annuity Proceeds in the Event of Total and Permanent Disability* and 211 CMR 65.00, *Long-Term Care Insurance* during the Transition Period and sufficiently in advance of July 1, 2014 to enable Carriers to meet the requirements of the revised regulations.

Transition Period Rules

Changes to Existing Products

During the Transition Period, Carriers and their insurance producers will be permitted to continue to offer existing products, provided that all such offers are made consistent with existing regulations and the special requirements outlined in this Bulletin. Carriers will not be required to submit changes to existing long-term care insurance policies prior to July 1, 2014, except to come into compliance with this Bulletin.

The Division also will permit existing group long-term care insurance products, group life and annuity products with long-term care benefits and those life insurance products with accelerated death benefits used to finance the cost of qualified long-term care services to be offered through July 1, 2014, even though such products have not been approved by the Division as long-term care insurance products for offer in the Commonwealth. Carriers will need to make changes to existing products necessary to implement the provisions of Chapter 312 and consistent with the forthcoming revised regulations prior to July 1, 2014.

Insurance Producer Training

Section 6 of M.G.L. 176U creates new training requirements for those producers marketing long-term care insurance products, including the completion of a one-time eight-hour course and at least four hours of ongoing training every 24 months. Section 4 of Chapter 312 further clarifies that producers currently marketing long-term care insurance products will have satisfied the one-time training requirements of M.G.L. c. 176U as long as they complete such one-time training by July 1, 2014 and complete the ongoing training requirements in the 24 month period beginning the day following the completion of the one-time training.

For an insurance producer not currently marketing long-term care insurance, the Division will consider that the producer will be in compliance with the producer training requirements necessary to market such products on and after January 1, 2013 if, as noted in M.G.L. c. 176U, the producer completes the required one-time training by July 1, 2014 and, complete the ongoing training requirements in the 24-month period beginning the day following the completion of the one-time training. The Division will take steps during the Transition Period to identify and approve courses that meet the one-time and ongoing training requirements.

MassHealth Eligibility and Recovery Disclosures

The Division requires by regulation, 211 CMR 65.09(1)(e)(3), that policies with long-term care benefits properly disclose whether the policy meets certain MassHealth (Medicaid) minimum coverage standards. Section 1 of Chapter 312 amends M.G.L. c. 118E, § 33 by changing the requirement for a long-term care insurance policy to meet certain MassHealth standards based upon *benefits available at the time the policy was purchased*. Based upon this change, the

Division rescinds Bulletin 2004-03, including the notice that was required to be given to prospective insureds at the time of application.

Carriers shall now be considered to be in compliance with the pertinent provisions of 211 CMR 65.00 and to have properly described the relevant MassHealth standards if they forward the notice identified in the attachment to this Bulletin to insurance producers who are marketing or have marketed their long-term care insurance products and those active policyholders or group certificate holders who bought such coverage between January 1, 2000 and December 31, 2012 that was intended to meet certain MassHealth standards.

If you have any questions about this Bulletin, please contact Kevin Patrick Beagan, Deputy Commissioner, Health Care Access Bureau within the Division of Insurance at (617) 531-7323.



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Long-Term Care Insurance Policies Issued in Massachusetts
Intended to Qualify Insureds for Certain MassHealth Exemptions

The purpose of this notice is to inform Massachusetts' long-term care policyholders of recent changes to the law regarding potentially qualifying for exemptions from some MassHealth recovery rules. These changes went into effect on January 23, 2013. The Commissioner of Insurance has instructed all long-term care insurance carriers to provide this notice in order to clarify the coverage requirements associated with MassHealth exemptions. **This notice replaces any prior notices that you may have received about the application of MassHealth minimum coverage requirements.**

To potentially qualify for certain exemptions from some MassHealth recovery rules, **MassHealth will now look to see whether your policy met the minimum coverage requirements that existed when you purchased the policy rather than as of the date you entered the nursing facility.**

The minimum coverage requirements have not changed at this time, and you still must be covered under a policy when you enter a nursing home. Please note that this notice does not change any contractual obligations under any existing long-term care insurance policies issued in Massachusetts. Qualifying for insurance benefits is independent from qualifying for an exemption under the MassHealth law. For more information, contact your agent or company representative.

Please be aware that laws may change and the exemptions and the MassHealth minimum coverage requirements that exist today may change, or may be eliminated, in the future.