

Long-Term Care Insurance Rate Stabilization

*A report filed with
the Clerks of the Massachusetts Senate and House of Representatives
to be forwarded to
the President of the Senate,
the Speaker of the House of Representatives,
the Minority Leader of the Senate, and
the Minority Leader of the House of Representatives*



MAY 2013

JOSEPH G. MURPHY
COMMISSIONER OF INSURANCE

Acknowledgments

Kevin Beagan, Maryanne Walsh and Chet Lewandowski, staff members within the Health Care Access Bureau of the Division of Insurance (“Division”), have prepared this report to respond to Section 3 of Chapter 312 of the Acts of 2012 (“Chapter 312”) which was enacted on October 25, 2012, and became effective January 23, 2013.

Section 3 of Chapter 312 requires that a report be submitted to the Legislature to identify those methods that have been implemented along with recommendations to “stabilize rates and prevent exceptional rate increases.” In conducting its investigation, the Division is to review many sources and obtain input from a working group composed of members identified in the statute. This report presents the status of the Division’s existing work and proposals for future consideration.

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Executive Summary

On October 25, 2012, Chapter 312 of the Acts of 2012 (“Chapter 312”)ⁱ was enacted to create new regulatory requirements for long-term care insurance products issued in the Commonwealth of Massachusetts. The Division of Insurance (“Division”) is directed under section 3 of Chapter 312 to develop a report that investigates how to promote rate stabilization within the long-term care insurance markets and includes input from an advisory group composed of representatives from the following government, industry and consumer groups:

- Office of the Attorney General;
- Life Insurance Association of Massachusetts;
- Massachusetts Association of Health Underwriters;
- National Association of Insurance and Financial Advisers;
- Massachusetts Chapter of the National Academy of Elder Law Attorneys;
- American Academy of Actuaries; and
- American Association of Retired Persons.

Within the report, the Division is also to propose legislation, where appropriate, to address further rate stabilization measures.

This report is a summary of the existing market for long-term care insurance and a status report of the work plan that the Division is following as it develops the rate stabilization report and draft regulations to implement the provisions of M.G.L. c. 176U.

Based on the proposed work plan, it is the Division’s intent to issue a more complete rate stabilization report by July 2013.

Long-Term Care Insurance

Long-term care insurance (“LTCI”), which was classified prior to Chapter 312 as an accident and sickness policy in Massachusetts, covers particular non-medical services when an insured is unable to perform certain specified everyday tasks – often called Activities of Daily Living (“ADLs”) – due to a chronic illness or cognitive impairment. Once Chapter 312 is implemented, LTCI will have its own classification and be subject to the provisions of M.G.L. c. 176U and regulations promulgated by the Division to enforce M.G.L. c. 176U.

LTCI policies are not standardized and purchasers can choose plans based on the types of services covered (*e.g.*, nursing home, home health or chore care), level of coverage (usually a fixed dollar amount per day or month), duration of coverage (usually categorized by the number of years of covered benefits) and an elimination period (waiting period) before carrier payments begin. In addition to these features, consumers can add inflation protection, nonforfeiture benefits and additional services.

Insurance carriers sell LTCI coverage either on an individual basis or through group policies sponsored by employers or associations. Prior to the implementation of Chapter 312, group policies have not been subject to Massachusetts LTCI regulations, but individual policies have been obligated to meet the requirements of 211 CMR 65.00ⁱⁱ which includes policies issued must:

- Be guaranteed renewable or non-cancelable;
- Provide at least 730 days (or a comparable dollar amount) of coverage;
- Not include an elimination period (waiting period) of more than 365 days;
- Provide benefits based upon no more than two Activities of Daily Living (ADLs);
- Include alternate care provisions allowing coverage for unspecified services if agreed to by the insured, insurance company and health care practitioner and offer the applicant the option to purchase inflation protection and nonforfeiture benefits; and
- Offer at least one policy with home health care benefits and at least one policy that qualifies for certain MassHealth (Medicaid) exemptions.

Although almost all LTCI coverage offered in Massachusetts is guaranteed renewable once issued, companies do medically underwrite policies and may turn down an applicant if the applicant does not meet the carrier’s underwriting criteria. Consequently, those buying LTCI plans are generally healthy and may hold their policies for decades before ever receiving plan benefits.

An LTCI policyholder’s premiums vary based upon the age of the individual when the policy is first bought and the level of benefits (*i.e.*, lifetime maximum benefit period, nursing home coverage, home health care coverage, inflation protection, federal tax-qualified status, MassHealth status, etc.) included in the coverage. Massachusetts plans cover a higher level of daily benefit and Massachusetts premiums are higher than those of national plans.

Long-Term Care Insurance Rate Stabilization

Average Annual Premium for Plans Sold in
Yearⁱⁱⁱ

	<u>2001</u>	<u>2004</u>	<u>2008</u>
<i>Massachusetts Individual Plans</i>	\$2,087.08	\$2,287.33	\$2,695.84
<i>National Individual Plans</i>	\$1,812.71	\$1,892.61	\$2,174.84

Massachusetts Persons with Long-Term Care Coverage

The Division has conducted a special examination survey of the market for long-term care insurance on an every three-year basis in order to understand emerging issues in the availability and cost of coverage being marketed in the Commonwealth.

As noted in the most recent survey report, as of December 31, 2008, **152,858** Massachusetts residents held LTCI plans - **97,644** (64%) held individual LTCI plans and **55,214** (36%) held coverage through group LTCI plans. The number of Massachusetts persons with LTCI coverage grew by 26,167 or 21% more than the 126,691 Massachusetts persons with LTCI coverage as of December 31, 2004.^{iv}

Massachusetts LTCI Membership

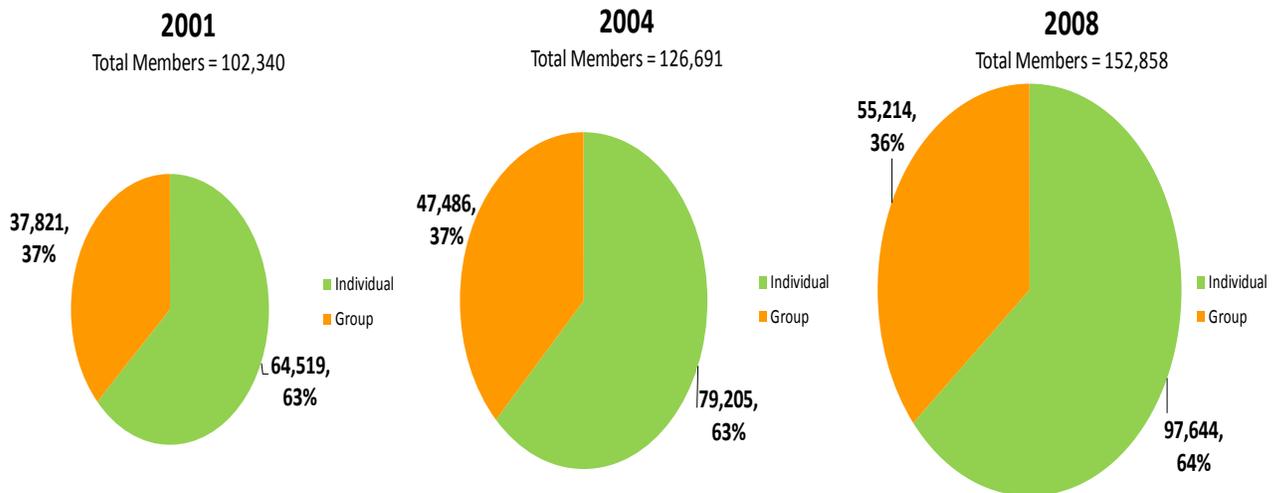


Exhibit 1'

In general, persons covered under group plans are younger than those who are covered under individually issued policies. As noted in the most recent survey report, the average individual policyholder is at or near retirement age, while those covered under group plans are closer to age 50.

Average Age of Massachusetts Insureds^{vi}

	<u>2001</u>	<u>2004</u>	<u>2008</u>
<i>Individual Market</i>	63.3	61.9	65.3
<i>Group Market</i>	49.8	47.7	50.4

Chapter 312

Chapter 312 of the Acts of 2012 makes significant changes to the regulation of long-term care insurance products that are marketed in the Commonwealth of Massachusetts. Chapter 312 was enacted on October 25, 2013 without an emergency preamble and became effective January 23, 2013.

Section 2 of Chapter 312 creates M.G.L. c. 176U that establishes new product, rate, agent training and disclosure standards that are based on a model act developed by the National Association of Insurance Commissioners. The Division is responsible to promulgate regulations that will implement the provisions of M.G.L. c. 176U.

In addition to promulgating regulations, section 3 of Chapter 312 directs the Division as follows:

The commissioner of insurance shall conduct an investigation to identify the best methods to stabilize rates and prevent exceptional rate increases and may undertake such methods including, but not limited to, those identified in the 2009 division of insurance survey of long-term care insurance, with input from a working group consisting of the attorney general, the Life Insurance Association of Massachusetts, the Massachusetts Association of Health Underwriters, the National Association of Insurance and Financial Advisers, the Massachusetts chapter of the National Academy of Elder Law Attorneys, the American Academy of Actuaries and the American Association of Retired Persons. The commissioner shall also seek information on the experience of other states relative to rate stabilization.

The commissioner shall report to the general court any rate stabilization methods implemented under this section and recommendations for additional long-term care insurance rate stabilization practices, if any, together with drafts of legislation necessary to carry those recommendations into effect, by filing the report and drafts with the clerks of the senate and the house of representatives who shall forward them to the president of the senate, the speaker of the house of representatives, the minority leader of the senate and the minority leader of the house of representatives not later than January 1, 2013.^{vii}

The Division is aware that it will need to do extensive research with the assistance of the noted working group members, other state insurance departments and the National Association of Insurance Commissioners.

Proposed Work Plan

The Division plans to carefully review rate stabilization provisions used within other state’s regulatory environments and monitor discussions being coordinated by the National Association of Insurance Commissioner about ways to improve the rate stabilization for long-term care insurance products.

The Division has contacted all the agencies who are identified in section 3 of Chapter 312 to be on a rate stabilization working group and these agencies have designated the following individuals to represent them:

- Monica Brookman, Office of the Attorney General
- Jenny Erickson, Life Insurance Association of Massachusetts
- Tobe Gerard, Massachusetts Association of Health Underwriters
- Susie Caspar, National Association of Insurance and Financial Advisers
- Timothy Loff, Massachusetts Chapter of the National Academy of Elder Law Attorneys
- Allen Schmitz, American Academy of Actuaries
- Jessica Constantino, AARP

Date	Action Steps
December 13, 2012	Contact working group organizations
January 24, 2013	Convened first meeting of working group
March 5, 2013	Convened second meeting of working group
March 14, 2013	Convened third meeting of working group
March 28, 2013	Convened fourth meeting of working group
April/May 2013	Develop draft report with working group
July 2013	File rate stabilization report with Legislature

Long-Term Care Insurance Rate Stabilization

Endnotes

ⁱ See An Act Establishing Standards for Long-Term Care Insurance, available at www.malegislature.gov/Laws/SessionLaws/Acts/2012/Chapter312.

ⁱⁱ A copy of 211 CMR 65.00 *Long-Term Care Insurance* can be found here: <http://www.mass.gov/ocabr/business/insurance/doi-regulatory-info/insurance-regulations-and-laws/doi-insurance-regulations.html>.

ⁱⁱⁱ Division of Insurance, *2010 Report of Long-Term Care Insurance in Massachusetts: Results of a 2008 Examination*, p. 7, available at <http://www.mass.gov/ocabr/government/oca-agencies/doi-lp/2010-long-term-care.html>.

^{iv} *Ibid.*, p. 9.

^v *Ibid.*, p. 9.

^{vi} *Ibid.* p. 7.

^{vii} See An Act Establishing Standards for Long-Term Care Insurance, available at www.malegislature.gov/Laws/SessionLaws/Acts/2012/Chapter312.