

DATE: May 18, 2010
TO: IIPRC Management Committee
FROM: Industry Advisory Committee
SUBJECT: Product Standards Committee (PSC) Recommendations Dated May 7, 2010: Long Term Care Standards

I. Rate Filing Standards

We applaud the PSC for its extensive research of state rate filings and taking the time to identify alternatives and respective pros and cons. This was a monumental task but a necessary one.

While some believe that it was ambitious for the IIPRC to take on the jurisdiction for long term care standards and the related rate filings, from industry's perspective it was the right thing to do in an effort to bring some uniformity to a product that, more than others, is subject to significant state specific requirements for forms, advertising and rate filings. Today, the 50-state filing preparation alone consumes several months since the various state specific requirements need to be included. Once the filings are submitted, the filing review process is long. Once approval is secured, the next hurdle is implementing the advertising campaigns, systems changes and training. The cost of implementing an LTC product on a state by state specific basis is significant, as well as the time and resources it takes companies to get approved forms and rates to market. *The prospect of one filing based on one national standard to be approved for use in 36 states (soon to be 37) within 30-60 days is very appealing to the industry.*

For these reasons, we encourage the Compacting States to work with the PSC to enable as many states as possible to stay with the IIPRC for some LTC product component filings. The success of the IIPRC will be measured by its ability to establish national product standards that all its Compacting States can support. If we accept the suggestion that states need to opt out, regardless of what standard is involved, we begin to accept the fact that the IIPRC experiment may fail. Industry is committed to the success of the IIPRC and its failure is not an option for us.

The comments received from some states have illuminated the difficulty of arriving at one satisfactory standard for all. States have different opinions about what is best for their consumers, and some believe that the filing of rate increases should remain a "local" jurisdiction. The PSC has argued that "the current state specific approach is not the most equitable approach for consumers nationwide."

Back in April, we supported the PSC approach of leaving the rate standards “bundled”. If the rate standards remained “bundled”, a state that wanted to opt out of the rate increase filings would be forced to opt out of all LTC filings with the IIPRC, and such an opt out may cause some states to reconsider the opt out. Since then, we have reached out to some of the states and came to the realization that some states issues are serious enough for the states to opt out of all LTC filings, an outcome that we would want to avoid.

We have some serious concerns how well the process will work if states opt out of the rate increase filings for their state: what guarantees will industry have that subsequent rate increase filings made directly with the opt out states would not get into second guessing by these states of what the IIPRC approved for the initial rate filing? Would these states punish companies for what the IIPRC approved by not allowing increases requested even though these are justified?

We considered supporting ***Alternative #2 on page 4***. This would appear to accommodate those states that want to keep the jurisdiction over rate increase filings for their states and not result in a true “opt out” process. However, technically, it is an opt out. We then realized that if it was that easy to place your state on the “no rate increase filing” column, there is a possibility that states that have not objected to the IIPRC handling rate increase filings may also choose to add their state to the column. ***For this reason, this would not be our choice.***

We also considered ***Alternative #3 on page 6***. The key question here is what threshold is set and if the Compacting States can establish one that is agreeable to all. If the threshold is established at 25%, we would find that acceptable. A clarification may be needed that the threshold is per filing. In addition, notwithstanding the threshold, it should be made very clear that any increase is based on the rate stability requirements of the standards.

In summary, we would support Alternative #3 on page 6.

II. Partnership Issues

We do not believe that an Operating Procedure is needed. We agree that this is an education issue. The current ***Drafting Note on page 3 of the policy*** standards could be revised to say:

“If a company intends to use a policy approved by the Interstate Insurance Product Regulation Commission to provide Partnership coverage in a state with an operational Partnership program, the company shall comply with the state Partnership procedures required for allowing such use of the policy in the state. The Interstate Insurance Product Regulation Commission policy approval shall not be deemed as approval for use to provide Partnership coverage, nor does such approval exempt companies from complying with the state specific Partnership requirements with respect to certification, disclosures, exchanges, inflation protection requirements, etc.”

III. State Specific Disclosure Comments, Page 9

Each of the 36 Compacting States could identify several requirements in their states that should be reflected in the LTC standards. But if this happened, we would never get to the goal of one national standard. As noted earlier in our comments, an LTC product filing generates significant state variations to all components of the filing. We believe that the standards deliberations process was a thorough, competent and fair one. For the most part, the standards reflect the Model, which was the logical approach to get to a national standard since most states have adopted it.

We have reviewed the information available regarding the Kentucky and Massachusetts issues and have the following comments:

Kentucky

The four issues identified do not rise to the level of requiring changes in the standards – Kentucky’s intent with their state variation requirements are accommodated in the standards, but in a different way. What should matter most is that the intent is addressed.

The “***CAUTION***” statement should be a non-issue. The KY variation is to add the words “to the best of my knowledge and belief” which are not required by the Model. The AGREEMENT section of the application standards, ItemK.1.(b) on page 9, includes these words. Is it really necessary to repeat this again for the CAUTION statement, when the AGREEMENT section speaks for the entire application?

The ***Disclosure of Costs*** should be a non-issue. The IIPRC standards require this in the Outline of Coverage, as per the Model. The Outline is issued at the time of application and at the time of policy issue, so a person would see this twice.

The ***Fraud Notice*** should not be an issue. All other Compacting States found a way to live with the national standard and so should Kentucky.

We do not have enough information about the ***Suitability Letter*** mentioned, but this should also be a non-issue. As stated in the PSC recommendations on page 9, this is a Model requirement which is addressed in the standards.

Massachusetts

We agree that ***items a., b. and e.*** are unique requirements that would not be pre-empted by the IIPRC standards. What we propose is that:

1. MA prescribe the required language and that if a company were to certify that they are using the prescribed language, no form filing would be required.
2. MA allow the prescribed language to be handled via separate attachment to the policy. This would allow a company to file a “national standard” policy for approval and certify that the required MA disclosures (a., b. and e.) would be attached at issue.
3. if MA insists on form filings, that MA allow the IIPRC to be the conduit for these with the policy filings, so that a separate MA filing would not be required.

With regard to ***items c. and d.***, we believe that the IIPRC standards already address d., and that for ***c.*** MA accept the requirements in the standards

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