



Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

MEMORANDUM

TO: IIPRC Management Committee

FROM: Linda J. Sheppard, Director, Accident & Health Division

DATE: May 13, 2010

RE: *Kansas Areas of Concern and Suggested Language to IIPRC on LTC Standards*

A side-by-side comparison of the proposed IIPRC LTC standards and Kansas specific standards and language is attached for your review and consideration. In addition to the language comparison please be advised that we continue to have concerns regarding the IIPRC Rate Filing Standards and the loss of KID's direct authority and responsibility for reviewing rates for policies sold to Kansas consumers.

cc: Commissioner Sandy Praeger

“Long-term care insurance” is any insurance policy, rider, endorsement or amendment advertised, marketed, offered or designed to provide coverage for not less than twelve (12) consecutive months for each covered person on an expense incurred, indemnity, prepaid or other basis; for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance or personal care services, provided in a setting other than an acute care unit of a hospital. The term includes: * individual annuities, disability income and life insurance policies, riders, endorsements or amendments that provide directly or supplemental long-term care insurance; * policies, riders, endorsements or amendments that provide for payment of benefits based upon cognitive impairment or the loss of functional capacity; and * qualified long-term care insurance policies The term shall not include any insurance policy that is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage; basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income or related asset-protection coverage, accident only coverage, specified disease or specified incident coverage, or limited benefit health coverage.	“Long-term care insurance” is any insurance policy, rider, endorsement or amendment advertised, marketed, offered or designed to provide coverage for not less than twelve (12) consecutive months for each covered person on an expense incurred, indemnity, prepaid or other basis; for one or more necessary or diagnostic, preventive, therapeutic, rehabilitative, maintenance or personal care services, provided in a setting other than an acute care unit of a hospital. Such term includes group and individual policies or riders whether issued by insurers, fraternal benefit societies, nonprofit medical and hospital service corporations, prepaid health plans, health maintenance organizations, or any similar organization. Long-term care insurance shall not include any insurance policy which is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income protection coverage, accident-only coverage, specified disease or specified accident coverage, or limited benefit health coverage, but the inclusion or attachment of long-term care insurance coverage to one of the foregoing policies shall not exempt it from the requirements of this act. (K.S.A. 40-2227)
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(t) All providers of services, including but not limited to “skilled nursing facility,” “extended care facility,” “convalescent nursing home,” “personal care facility,” “specialized care providers,” “assisted living,” and “home care agency” shall be defined in relation to the services and facilities required to be available and the licensure, certification, registration or degree supervising the services in the state where the policy was issued. When the definition requires that the provider be appropriate licensed, certified or registered, it shall also state what requirements a provider shall meet in lieu of licensure, certification or registration when the state in which the service is to be furnished does not require a provider of such services to be licensed, certified or registered, or if the state licenses, certifies or registers the provider of services under another name.	(3) “Nursing facility” means a home, residence, or institution, other than a hospital, that is primarily engaged in providing nursing care and related services on an in-patient basis under a license issued by the appropriate licensing agency. A nursing facility may be a freestanding facility, including the following: (A) Nursing facility; (B) skilled nursing home; (C) intermediate nursing care home; (D) assisted living facility; and (E) residential health care facility. Each definition of a nursing facility shall adhere to the above definition unless otherwise approved by the commissioner of insurance. (K.A.R. 40-4-37)
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L. ENTIRE CONTRACT (1) The policy shall contain a provision regarding what constitutes the entire contract between the company and the insured (owner if there is one designated under the policy.) No document may be included by reference. (2) The entire contract provision shall state that the application is part of the contract.	(A) <i>Required provisions.</i> Except as provided in paragraph (c) of this section every such policy delivered or issued for delivery to any person in this state shall contain the provisions specified in this subsection in the words in which the same appear in this section, . . . (1) A provision as follows: “<i>Entire contract; changes:</i> This policy, including the endorsement and the attached papers, if any, constitutes the entire contract of insurance No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No agent has authority to change this policy or to waive any of its provisions.” (K.S.A. 40-2203)
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	(13) A provision as follows: “Cancellation by insured: The insured may cancel this policy at any time by written notice delivered or mailed to the insurer, effective upon receipt of such notice or on such later date as may be specified in such notice. In the event of cancellation or death of the insured, the insurer will promptly return the unearned portion of any premium paid. The earned premium shall be computed by the use of the short-rate table last filed with the state official having supervision of insurance in the state where the insured resided when the policy was issued. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation.” . . . (K.S.A. 40-2203)
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AA. RIGHT TO EXAMINE POLICY (1) The Right to Examine policy provision appearing on the cover page or that is visible without opening the policy shall include the following: (a) A minimum of 30 days to examine the policy. The 30 days shall begin on the date the policy is received by the insured (or owner if there is one designated under the policy); (b) A requirement for the return of the policy to the company or an agent of the company. Policy is considered void from the beginning and the parties shall be in the same position as if no policy has been issued; and (c) A statement that the premium shall be refunded if the policy is returned. (2) The company shall refund any premium paid within 30 days of the return, directly to the payer, if the policy is returned.	(b) Right to return--free look provision. Long-term care insurance policies or certificates shall have a notice printed on or attached to the first page of the policy stating that the policyholder shall have the right to return the policy within 30 days of its delivery and to have the premium refunded if, after examination of the policy, the insured person is not satisfied for any reason. Any refund made pursuant to this section shall be paid directly to the applicant or named insured by the insurer within 10 business days following receipt of the returned policy by the insurer or its agent. The notice required by this section shall be printed in bold face type or in some other manner which distinguishes it from the print otherwise appearing in the policy.
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	Outline of coverage requirements (3) The agent or insurer shall provide to the prospective purchaser before or with the delivery of a contract, a dated outline of coverage describing the elements of the contract including: (A) The name and signature of the insurance agent, or if no agent is involved, the name of the employee of the insurer who assumes responsibility for completing the outline. (E) the premiums for the accident and sickness insurance policy and a separate listing of the premiums for each optional or supplemental benefit provided by the contract; . . . (K.A.R. 40-4-23)
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R. LIMITATIONS AND EXCLUSIONS (1) The policy shall contain a provision indicating that benefits may not be limited or excluded by type of illness, treatment, medical condition or accident, except under conditions no less favorable to the insured than the following: (a) Loss occurring within six months with respect to a preexisting condition or disease. A “preexisting condition” means a condition for which medical advice or treatment was recommended by, or received from, a provider of health care services, within six months preceding the effective date of an insured’s coverage. (b) If a long-term care insurance policy or certificate contains any limitations with respect to preexisting conditions, the limitations shall appear as a separate paragraph of the policy and shall be labeled as “Preexisting Condition Limitations.” (c) Alcoholism and drug addition. (d) Illness, treatment or medical condition arising out of any of the following: (I) Declared or undeclared war or act of war; (ii) Participation in a felony, riot or insurrection . . . (iii) Active duty in the armed forces of any nation . . . (iv) Suicide, attempted suicide . . . (v) Aviation . . .	A policy shall not be advertised, described, solicited, delivered or issued . . . in this state as long-term care insurance if the policy, contract . . . limits or excludes coverage b y type of illness, treatment, medical condition or accident, except for the following: (a) Mental or nervous disorders without demonstrable organic disease. This provision shall not exclude coverage for loss which results from organic brain disease, including Alzheimer’s disease or senile dementia. (b) alcoholism and drug addiction; (c) illness, treatment, medical condition or accident arising from; (1) Participation in a felony, riot or insurrection; (2) suicide, attempted suicide . . . (3) aviation; or (4) war or act of war . . . (d) benefits provided under medicare or governmental programs other than medicaid, any state or federal workers’ compensation or employer’s liability or occupational disease law; (e) services performed by a member of the covered person’s immediate family; and (f) services for which no charge is normally made in the absence of insurance. (K.A.R. 40-4-37b)
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(e) Treatment provided in a government facility (unless otherwise required by law), services . . . (f) Expenses for services or items available or paid under another long-term care insurance or health insurance policy. (g) In the case of a qualified long-term care insurance policy, expenses for services or items to the extent that the expenses are . . . (h) Items (a) through (i) are not intended to prohibit exclusions and limitations by type of provider. (i) Items (1)(a) through (i) are not intended to prohibit territorial limitations.	
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