



OKLAHOMA INSURANCE DEPARTMENT  
STATE OF OKLAHOMA

March 19, 2010

Director Mary Jo Hudson (OH), Chair  
Ohio Department of Insurance  
50 West Town Street  
Third Floor, Suite 300  
Columbus, OH 43215

RE: IIPRC Long Term Care Standards for Rate Review

Dear Director Hudson:

During development of the Long Term Care Insurance Standards, the Product Standard Committee discussed whether or not the Compact should have the authority to review rate increases as well as initial rates. The discussion was essentially deferred during the development of the standards in order that the states could consider the standards in their entirety and how they would work together. It is now time for states to have a frank discussion of whether the Compact should review initial rate filings alone or be permitted to review rate adjustment filings as well. For Oklahoma's part, I have to voice serious concerns about allowing rate adjustment filings to be made with the Compact.

The Product Standards Committee decided that initial and rate increases should be combined in one standard in order to achieve uniformity. The goal is to bring rate stability to a higher level than state specific; that is, approval will not be based on what state the rate is filed in. There will be no "negotiation" over rate filings, although an insurer will have to justify the assumptions made in the actuarial certification. Because the Long Term Care standards do not allow mix and match, products initially approved by the Compact will return to the Compact for any rate adjustments. It is contemplated that each long term care rate filing will be done by a primary reviewer with secondary review by an actuary. The Compact is now assessing its workload and resources with an eye toward hiring another primary reviewer and perhaps another actuary reviewer.

The Compact's standards are largely the NAIC Model's rate stability provisions. The PSC apparently believes that the actuarial certification required by these provisions will provide sufficient data for a Compact reviewer to determine whether or not the filing should be approved. This approach is commendable, but based on Oklahoma's experience with rate stability it is not realistic, particularly for rate adjustment filings.

Oklahoma adopted the Model's rate stability language in 2001; it was one of the first states to do so. We have seen rate adjustment filings on products that were initially filed pursuant to our rate stability rule. Although the rule requires that a rate adjustment filing must include a certification that the adjusted rate is adequate under moderately adverse experience, so that no future rate increases are expected, that is not what we have seen. We have seen filings in which the insurer requested rate adjustments that the insurer acknowledged were less than rate stability would require, and filings in which the insurer stated that the filing would enhance rate adequacy but that further rate action might be necessary. There is no reason to think that the filings would be more compliant if they were filed with the Compact. Thus, the Compact will either find itself rejecting a large number of rate adjustment filings or will have to negotiate with the insurers for the necessary information and/or certifications.

Further, in a proper rate adjustment filing, there will be instances in which the only rate adjustment that the filing actuary can certify will not require further rate increases is one that raises rates by a substantial amount. The Industry Advisory Committee's comment of March 9, 2010 recognizes this when it states that the certification "would not always be possible if there were a limit on the percentage increase and the company fully recognizes the anticipated future adverse experience."

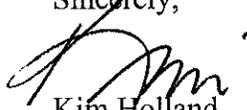
Experience also shows us that when an insured receives a rate increase, they express their concerns to their state insurance departments and in turn to their state legislators. It is a political reality that a legislator responding to a consumer unhappy about a rate increase is going to first ask the state insurance department how and why that increase was approved. Although the enabling legislation authorizes the Compact to approve rate filings for long term care insurance that satisfy the applicable uniform standard, that language does not clearly include authority for rate adjustment filings as well as the initial filing of the product. Thus, states must closely examine this language and any applicable legislative history to determine whether their state's legislature did in fact delegate the authority for rate adjustment filings to the Compact.

No rate filing is a simple matter. Even if all of the elements required by the applicable law are recited on the face of the filing, those elements cannot be taken at face value. We all know now that the early assumptions about long term care experience and lapse rates were wrong. States must evaluate an insurer's current assumptions and make a judgment as to whether they believe the current assumptions are any more correct than the early assumptions. That judgment is an exercise of discretion. Although the Compact reviewers are accountable to all members of the Compact, the vigorous discussions over this issue that took place during the Product Standards Committee meetings demonstrate that many states make these judgments differently. It seems unrealistic that the Compact could be accountable to all the differing viewpoints at the same time.

NAIC Officers  
Page 3  
March 19, 2010

I do want to acknowledge and applaud the Product Standards Committee for the enormous amount of work they have done to bring the standards to this point. The discussions that this letter will engender at the March 25, 2010 meeting are an important part of finishing that work and I look forward to our meeting.

Sincerely,



Kim Holland  
Commissioner

KH/sd

cc: Ms. Karen Shutter, Executive Director  
Interstate Insurance Product Regulation Commission  
444 North Capitol Street, NW  
Hall of the States, Suite 701  
Washington, DC 20001

Commissioner Sean Dilweg (WI), Vice-Chair  
Commissioner Paulette Thabault (VT), Secretary-Treasurer