

**DATE:** March 17, 2017  
**TO:** IIPRC Product Standards Committee (PSC)  
**FROM:** Industry Advisory Committee  
**SUBJECT:** IIPRC 5 Year Review For Phase 6:

***IIPRC Draft Dated March 2017 For New LTC Provision:  
“Other Insurance With This Company”***

***Product Standards Committee (PSC) Public Call on March 14, 2017***

In response to the various regulator and consumer representatives comments made during the call, we wish to provide the following comments:

As we noted at the outset of the IIPRC 5 Year Review for the Individual LTC Standards, the NAIC Long-term Care Insurance Model Regulation #641 (“the Model”) already has a provision which addresses this issue.

The Model’s Section 6.B. Limitations and Exclusions on pages 6-7, states that “a policy may not be delivered or issued for delivery ...if the policy limits or excludes coverage....., except as follows:

***(6) expenses for services or items available or paid under another long-term care insurance or health insurance policy”.***

The majority of the states on the Product Standards Committee (16 out of 20, including Minnesota) have adopted this Model Limitation/Exclusion.

This provision was the starting point for the IAC’s initial proposal. As we’ve gone through the standards review process, we have revised our proposal in response to comments and concerns expressed by the IIPRC’s PSC and Management Committee, as well as the consumer representatives. The proposed draft most recently prepared by the IIPRC staff is consistent with the Model’s approach, with additional provisions and standards which we believe further appropriately address concerns that have been raised. These include restricting application of the provision to policies sold by the same company and its affiliates, and allowing the insured to select how they would like to have their benefits paid from among their multiple policies. The result is a provision that simply looks at the total coverage of the insured for a company and its affiliates and allows the insured to determine from which policies they would like the expenses reimbursed, while ensuring that the insured is not reimbursed more than the actual expenses incurred. If the insured is unable to, or simply does not, state a preference, the policy provision outlines a process for determining how the expenses will be reimbursed, rather than allowing the company to dictate the process at time of claim.

As stated in our March 10, 2017 comments on the IIPRC staff draft, we support and appreciate that effort, and offer the attached suggested revisions for clarification, and to address the comments on the IIPRC draft from Utah.

We have reviewed Utah's comments and we agree that in the IIPRC staff draft separate provisions were written to address specific concerns, and that some provisions may be redundant in some respects. Item 3 specifically addresses long term care (LTC) insurance policies, which implies that item 5 is redundant. Item 4, however, addresses policies that may not be considered LTC policies, so it should probably be retained.

We believe Utah makes a good point regarding the "pro-rata" language, and we would suggest some generalization in items 6-8 and the final drafting note, as indicated in the attached.

Finally, Utah raises an issue regarding administration of multiple policies with different elimination periods. While this is a valid question, it exists now, and it exists whether or not policies have the provisions in question. Although we agree with Utah that this is how the respective elimination periods would be administered with multiple policies, we don't think this is necessarily an issue that needs to be addressed in the proposed standard.

As most of us are aware, LTC insurance is a challenging business with a broad array of issues. Fortunately, however, very few of those issues pertain to our desire to limit reimbursements from multiple LTC expense reimbursement policies to the full amount of expenses incurred for qualifying long term care services. Comments and concerns continue to be raised by some parties which we believe reflect a misunderstanding of how the product is purchased and priced, and how benefits would be paid under multiple policies. On the issue of whether there would have to be a premium reduction for subsequent policies after an initial policy is purchased, as we have previously demonstrated, the cost of the coverage is the same, regardless of whether someone chooses to buy two \$100 per day policies, or one \$200 per day policy. As long as the appropriate suitability requirements are met for the total amount of coverage that is purchased, the number of policies should not impact the premiums charged for that total coverage.

In addition, as explained in our March 10, 2017 written comments and testimony, under current policy designs offered in the market, the consumer is purchasing coverage that provides a total maximum pool of benefits that may be used for the duration of the policy (or policies). Therefore, to the extent that a portion of a particular policy's maximum daily limit was not used to reimburse a given day's expense, ***that unused portion is not lost; it continues to be available in the benefit pool to reimburse future expenses, effectively extending the period of coverage that benefits could be available.*** Therefore, there is no portion of the premium which is paid for coverage that would not be available for benefits under the policies that were purchased, and no "unused" premium to return.

On the March 14, 2017 public PSC call, Minnesota stated that several of their statutes already require a premium discount for a second policy, but based on our review of the citations provided, ***we respectively suggest that none of those laws are applicable to the proposed standard.*** The cited statutes either apply to group conversions to individual policies; coverage in

excess of a stated maximum limit determined by the company; altering existing policies; true coordination of benefit provisions (which this proposal expressly is not); or reasonable relationship of benefits to premiums (explained above). ***In fact, we believe many states would find it discriminatory to charge one person a higher premium simply because they bought their total coverage in one policy rather than two.***

With regard to proper disclosure of the proposed provision, as noted in the IAC's original proposal, we believe the current IIPRC standards (IIPRC-LTC-I-3-OC [Outline of Coverage Standards] Section 10. LIMITATIONS AND EXCLUSIONS, Item (e)) already would require this if this provision is included in the LTC standards, but clarification could be added if it is felt necessary.

We respectfully submit that the balance of the significant comments that have been raised in opposition to the proposed standard have been fully addressed in the IAC's previous written and oral comments during the extended review process.

We have never argued that there are too many multiple policies out there today and this is why we need a non-duplication of benefits provision. The repeated request to quantify how many multiple policies have been issued to date is not relevant to the argument that we have been making: over time consumers may want to buy more than one LTC policy to better fund for their future LTC needs, that it is a good public policy to encourage consumers to be more financially responsible for their LTC costs, and that the industry and regulators should support such responsible behavior. In order to increase the sales of multiple policies, the companies need a non-duplication of benefits provision.

In its final decision making consideration for allowing the LTC standards to include the proposed nonduplication of benefits provision, we encourage the PSC to focus on the NAIC Model provision allowing a nonduplication of benefits provision, consumers' ability and desire to purchase incremental policies to fund for their future LTC needs as they can afford to do so, and the companies' need to have a nonduplication provision to be able to sell more multiple policies.

We thank you for the opportunity to submit these comments.

***Submitted by the Industry Advisory Committee:***

Hugh Barrett, Mass Mutual Life  
Jason Berkowitz, IRI  
Brian Deleget, Nationwide  
Michael Hitchcock, Pacific Life  
Angela Schaaf, Northwestern Mutual  
Steve Kline, NAIFA  
Amanda Matthiesen, AHIP  
Rod Perkins, ACLI

**NOTE:** The Product Standards Committee is seeking public input on a proposed provision requested by the Management Committee to document the type of provision being requested by the Industry Advisory Committee and filing companies with respect to the issue of “non-duplication of benefits” or “management of benefits”. Please note this draft provision was prepared by the Compact Office at the request of the Product Standards Committee and the Product Standards Committee has not made a decision with respect to whether to bring forward this provision in response to the Management Committee’s request for language or whether to change its original recommendation for no change to the uniform standards.

*DRAFT PREPARED BY COMPACT OFFICE FOR  
PRODUCT STANDARDS COMMITTEE CONSIDERATION  
AND PUBLIC COMMENT*

New Provision under § 3 POLICY PROVISIONS of the CORE STANDARDS FOR  
INDIVIDUAL LONG-TERM CARE INSURANCE POLICIES

OTHER LONG-TERM CARE INSURANCE WITH THIS COMPANY

1. The policy may include a provision addressing payment of benefits when the insured has more than one long-term care insurance policy originally issued by a this company or its affiliates that provide reimbursement of actual expenses incurred for the covered services or items.

**Drafting Note:** This does not include policies that were assumed by company or its affiliates through merger, sale or other transaction. This provision shall not be permitted if the policy provides indemnity coverage for a daily or monthly amount rather than reimbursement of actual expenses incurred.

2. The provision shall include a statement that the benefits payable for allowable expenses under all long-term care reimbursement insurance policies that ~~include such a provision~~, cover the same insured and were issued by the same or affiliated company shall not exceed the actual expenses incurred for the covered services or items;

Not clear to us what public policy concern this addresses. If someone now has one policy that does not have such a provision, they would have a right to full benefits under that policy. A second policy with such a provision could be used to reimburse expenses in excess of the coverage limits of the first policy. Our preference would be to delete that provision, but we might be able to help craft refined language if we better understood the concern.

3. ~~The method of calculation of benefit payments, including any pro-rata calculation used, shall be stated in the policy~~ The policy shall specify that at the time of claim, a the company shall provide an explanation of the payment of benefits to an the insured or claimant who shall have

the option to choose the order of payment of benefits under one or more long-term care insurance policy(ies) provided the amount of benefits shall not exceed the actual expenses incurred for the covered services or items. The default method of calculation of benefit payments, including any pro-rata calculation used, shall be stated in the policy in the case no insured or claimant choice is made.

4. The provision shall state that ~~an the~~ insured is not required to use benefits from a life insurance policy or rider or an annuity contract or rider issued by ~~a that~~ company that includes long-term care benefits only in the form of an acceleration of the death benefit or cash value before or in lieu of using the benefits available under one or more individual long-term care insurance policy(ies) issued by ~~theat~~ company.

~~5. The provision shall state the insured is not required to use benefits from a long term care insurance policy that is not tax qualified before or in lieu of using the benefits available under one or more individual long term care insurance policy(ies) that are tax qualified.~~

56. The provision shall state that if the ~~amount of~~ benefits ~~are paid is pro-rated~~ among more than one policy as permitted herein, the maximum total amount of benefits payable for the duration of the policy shall not be reduced.

67. The provision shall state that when the benefits payable under a policy have been ~~paid prorated~~ among more than one policy as permitted herein, the benefit period of the policy shall not limit the company's obligation to pay the maximum total amount of benefits payable under the policy.

~~8. The use of the term "coordination of benefits" shall not be acceptable in describing this provision.~~

79. The provision shall state that ~~a company will not limit benefits if~~ the maximum daily benefit ~~or and~~ the maximum total amount of benefit under more than one policy that can be subject to pro-ration ~~shall not exceed~~s the highest maximum daily benefit ~~or and the~~ maximum total amount of benefit that ~~the a~~ company ~~was is~~ authorizing under a single policy to an insured in the same or similar circumstances on the date the most recent policy subject to management of benefits is issued.

We believe we understand that this paragraph is saying that the last policy sold should not have exceeded a company's issue limits at that time. This is presumably to protect against over-insurance through multiple policies, as well as suitability. As we had indicated in our prior written comments, companies do underwrite already for the existence of other LTC coverage and apply internal maximum coverage limits to protect against over-insurance. These same limits are applied regardless of whether one or multiple policies are issued.

We would suggest that this not be a policy provision, but rather a sales practice, unless exceeding the issue limits is in some way going to impact the administration of the provision. If the PSC insists that it must be a policy provision, we have suggested changes above.

**Drafting Note:** This provision only applies when an insured has more than one long-term care insurance policy issued by the same company or its affiliates and does not apply to the management ~~or pro-ratio~~ of benefits under multiple policies issued to the insured by different companies. The provision is intended to be administered in a manner most beneficial to the insured.

8. The use of the term “coordination of benefits” shall not be acceptable in describing this provision.

As per the IDI draft, this item should be last.

#### FOR ADDITIONAL CONSIDERATION:

Minnesota Department of Commerce is requesting a provision be added to the Rate Filing Standards for Individual Long-Term Care Insurance Policies (both versions) in Section 2, Additional Submission Requirements for Initial Rate Filings as follows:

When a policy includes a provision for payment of benefits in accordance with Core Standards for Individual Long-Term Care Insurance Policies, § 3\_\_\_, Other Long-Term Care Insurance With this Company, the company shall demonstrate that it will charge a reduced premium to an insured that purchases a second or successive policies with the company compared to the premium for the same policy when it is the first policy purchased by the insured with the company for purposes of reflecting the fact that the insured already has other coverage with the same company and that second policy includes a **non-duplication of coverage** provision.

The proposed PSC provision is entitled “Other Long-Term Care Insurance With This Company”.

We are greatly concerned with the Minnesota request to include a rate reduction for subsequent policies, which seems to reflect a recurring pricing misunderstanding. We would consider it discriminatory to charge a lower rate for someone buying a second policy relative to someone obtaining the same level of coverage in one policy. We have heard many pricing-related statements made during these discussions, and feel there are still some fundamental misconceptions. We would welcome an opportunity to have formal or informal discussions on these pricing issues to establish factual statements on which all could agree and rely upon.