

DATE: April 7, 2017
TO: IIPRC Management Committee
FROM: Industry Advisory Committee
SUBJECT: IIPRC 5 Year Review For Phase 6: Long-term Care Insurance

Product Standard Committee (“PSC”) Response to Comments Regarding Proposed Amendments to the Individual Long-Term Care Insurance Uniform Standards, Dated April 7, 2017 (“Response”)

We are submitting the comments below to clarify the record regarding the history of the exclusion for services paid by “...another long-term care insurance or health insurance policy.”

We respectfully question the following statements made in the PSC’s Response relating to the intent implied in the *3rd Quarter 1999 NAIC Proceedings*:

“The PSC notes that the *3rd Quarter 1999 NAIC Proceedings* indicate that this limitation may have been added to the Model regulation to conform the model to the requirements of the *Health Insurance Portability and Accountability Act of 1996 (HIPAA)*... related to prohibiting duplication of Medicare Supplement plans.

“The PSC believes that the proposal by the IAC exceeds the intent of the addition of this language to Model #641...”.

We have reviewed the legislative history in the 3rd Quarter 1999 NAIC Proceedings. While §6B(6) of the Model Regulation #641 was adopted at the same time as a number of changes that were made for conformance with the HIPAA tax qualification requirements, we can find no discussion of the specific intent behind §6B(6) and no indication that it was specifically directed at nonduplication with Medicare Supplemental Benefits Plans, as opposed to long-term care insurance. *That interpretation would be in direct conflict with the language of the Model.* We see nothing in the plain language of the Model Regulation provision or the cited NAIC history to indicate the provision was intended to be limited to nonduplication with Medicare Supplemental Plans.

The PSC Report quotes a section of law enacted by HIPAA which does not directly address a limitation in the terms used in §6B of the Model Regulation that allows for exclusion or limitation for “expenses for services or items available or paid under another long-term care insurance or health insurance policy.” On its face, the Model Limitation applies specifically to “long-term care insurance” which is a defined term, as well as other health insurance.

Because the current Model Limitation specifically allows outright exclusion of services paid for by another “long term care insurance” policy issued by any company, our proposal for benefits

from all policies issued by a single company and its affiliates to be limited to the actual expenses incurred does not exceed the intent of that provision.

We feel it is important that decisions made on this issue remain grounded in facts. ***We feel the facts indicate that the Model Limitation is not an innovative idea, but has been allowed in most state regulations for nearly two decades.***

We support the current IIPRC draft. If a decision needs to be deferred, we believe that this should be referred back to the PSC where some legal analysis can be made to ascertain the accuracy of the PSC's interpretation of the 1999 NAIC Proceedings in question.

We appreciate the opportunity to contribute to these discussions.

Submitted by the Industry Advisory Committee:

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