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## TRANSMITTAL MEMORANDUM

**TO:** Insurance Compact Management Committee

**FROM:** Product Standards Committee

**DATE:** June 29, 2021

**SUBJECT:** Proposed Options to Remove the 15% Threshold for Approval of In-Force Rate Increase Requests on Individual Long-Term Care Insurance Rate Schedules Approved by the Compact Office

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At the joint meeting of the Management Committee and Insurance Compact Commission on December 4, 2020, the Management Committee requested the Product Standards Committee (“PSC”) consider a request from South Carolina Director Raymond G. Farmer to lower or eliminate the 15% threshold for Compact Office approval of in-force rate increase requests on Compact-approved individual long-term care insurance products. The PSC has outlined options, along with associated pros and cons, for further discussion and consideration by the members of the Management Committee and Commission.

Pursuant to the current *Rate Filing Standards for Individual Long-Term Care Insurance Policies* (the *Rate Filing Standard*), the Compact Office has authority to review and approve on behalf of its participating member states, in-force rate increases on Compact-approved individual long-term care insurance products that do not exceed 15%. Over that amount, the increase is subject to advisory review by the Compact Office and formal state review and action. The Compact performs review for compliance with the Uniform Standard regardless of the requested rate increase amount. Please note the *Rate Filing Standard* does not allow a company to seek a rate increase below the amount that is actuarially justified to re-establish sufficient margins for moderately adverse experience, and it does not allow a company to seek small amounts of increase over multiple periods.

The PSC held a public call on May 18, 2021, to receive public comments on the proposed options.

Option 1 is to keep the status quo by maintaining the 15% threshold and requires no change to the Rate Filing Standard.

Option 2 is to remove the threshold and subject all in-force rate requests on Compact-approved products to an advisory review, and then subject to the applicable approval authority of each Compacting State.

The PSC presents two alternate approaches if the 15% threshold is removed. Option 2(A) provides a structure for each Compacting State to establish its own threshold percentage, which may be more or less than the existing 15% in the *Rate Filing Standards*, which will apply to the maximum rate increase the Compact Office is authorized to approve on behalf of the Compacting State.

Option 2(B) provides a structure for each Compacting State to indicate after a specific advisory review has been performed whether it wants the Compact Office to approve the filing or, to direct as a default, for the rate increase request to be filed with the Compacting State for state action following advisory review.

Suggested language for Options 2, 2(A) and 2(B) are attached as Appendix A. The South Carolina request is attached as Appendix B.

The PSC is available to respond to any questions to assist the Management Committee.

## **PROPOSED OPTIONS**

### **1. Keep 15% threshold for Compact approval of in-force rate increases**

**Pros:** Allows Compacting States to rely on Compact review and approval for smaller rate increases and frees up state resources to review larger rate increases or multiple rates increases on legacy blocks.

Maintains uniformity among Compacting States in terms of amount and implementation of smaller in-force rate increases.

**Cons:** Does not address concern voiced by South Carolina that the department review and approve all in-force rate increases which may lead South Carolina (and possibly other states) to opt out of entire individual long-term care insurance product line.

### **2. Remove threshold and make all in-force rate reviews on Compact-approved products advisory<sup>1</sup>**

**Pros:** States that have opted out or considering opting out of the entire individual long-term care insurance product line due to Compact's current approval authority may reconsider and participate or continue to participate.

Does not change the approach of the Compact review team in performing a thorough review of the in-force rate increase request under the Uniform Standards.

States have the flexibility to approve the rate increase request based on the Compact advisory review.

A significant portion of Compacting States may embrace and approve the Compact advisory review based on efficient use of state resources.

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<sup>1</sup> Please note the PSC determined it would not be useful to include an option to lower, rather than eliminate, the threshold amount as the concern presented by South Carolina would likely not be fully addressed.

**Cons:** Opens up possibility of continued non-uniformity in state-approved rate increases especially for smaller rate increases, which if not approved as requested could result in larger rate increases long-term.  
Promotes duplicative work for companies and increased workload for states.  
Removes uniformity on the timing of the rate increase approval.

**NOTE:** If the Commission decides to remove the threshold as provided in this Option, it could consider the following changes to the structure of the advisory review:

2(a). **Provide a structure for each Compacting State to establish its own threshold percentage at which the Compact Office either performs an advisory review or approves on its behalf in-force rate increase requests for Compact-approved products.**

**Pros:** Provides flexibility to each Compacting State to determine what level of in-force increase percentage, if any, it wants the Compact to review and approve on its behalf and what level, if any, it wants for Compact advisory reviews.

**Cons:** May still not allow sufficient flexibility if the Compacting State has a concern in the future with its chosen threshold or the circumstances of a specific product or company.  
May cause confusion for Compacting States, companies, and consumers as to whether an in-force rate request was approved by the Compact or the Compacting State.  
May be difficult to administer.

2(b). **Provide a structure for each Compacting State to indicate after an advisory review has been performed if the State wants the Compact Office to approve the filing on the Compacting State's behalf, or to direct as a default, for all in-force rate increase requests to be filed with the Compacting State for state action following advisory review.**

**Pros:** Provides flexibility to the Compacting State if upon review of the Compact Office's advisory review, to choose to allow the Compact Office to approve the filing on their behalf.  
Saves time, resources, and duplication if the Compacting State is comfortable with the advisory review.

**Cons:** Introduces uncertainty as to the final approving authority on a per-request basis.  
May cause confusion for Compacting States, companies, and consumers as to whether an in-force rate request was approved by the Compact or the Compacting State.  
May be difficult to administer.

## APPENDIX A

### **OPTION 1: Keep 15% threshold for Compact approval of in-force rate increases**

This would require no change to the *Rate Filing Standards for Individual Long-Term Care Insurance*.

### **OPTION 2: Remove threshold and make all in-force rate reviews on Compact-approved products advisory**

Section 4(A) (1 – 6) shall be replaced with the following:

#### A. APPLICABLE AUTHORITY, REVIEW AND APPROVAL OF RATE SCHEDULE INCREASES

- (1) The Interstate Insurance Product Regulation Commission will review on an advisory basis only all rate schedule increase requests for individual long-term care insurance rate schedules initially approved by the Interstate Insurance Product Regulation Commission.
- (2) A rate schedule increase filing for individual long-term care insurance rate schedules approved by the Interstate Insurance Product Regulation Commission shall be initially filed with the Interstate Insurance Product Regulation Commission for an advisory review for compliance with subsections B and C of this Section and other applicable Rules of the Interstate Insurance Product Regulation Commission.
- (3) The Interstate Insurance Product Regulation Commission shall issue its advisory review report to the Compacting States included on the rate schedule filing initially approved by the Interstate Insurance Product Regulation Commission. The advisory review report shall be included in the rate schedule increase filing and upon conclusion, the filing shall be considered a withdrawn filing of the Interstate Insurance Product Regulation Commission.
- (4) Upon issuance of the advisory review report, the filer shall file a corresponding rate schedule increase filing with each Compacting State as applicable before implementing the rate schedule increase request. The entire rate schedule increase filing shall be subject to each Compacting State's applicable state laws and regulations including benefit options associated with the rate schedule increase and policyholder communications.
- (5) A Compacting State is not required to give deference or weight to the advisory review report in performing its applicable review. A Compacting State shall not require the filer submit or make changes to the forms or rate schedules initially approved by the Interstate Insurance Product Regulation Commission to which the rate schedule increase request applies.
- (6) Any subsequent rate schedule increase requests on rate schedule increase filings previously subject to advisory review shall be filed directly with each applicable Compacting State and subject to the review and approval or disapproval of each Compacting State under its respective

state laws and regulations. Any Compacting State may request the Interstate Insurance Product Regulation perform an advisory review of a subsequent rate schedule increase filing for compliance with the *Rate Filing Standards for Individual Long-Term Care Insurance*.

**OPTION 2(a): Provide a structure for each Compacting State to establish its own threshold percentage at which the Compact Office either performs an advisory review or approves on its behalf in-force rate increase requests for Compact-approved products.**

**A. APPLICABLE AUTHORITY, REVIEW AND APPROVAL OF RATE SCHEDULE INCREASES**

- (1) Rate schedule increase filings for individual long-term care insurance rate schedules approved by the Interstate Insurance Product Regulation Commission shall be initially filed with the Interstate Insurance Product Regulation Commission for review for compliance with subsections B and C of this Section and other applicable Rules of the Interstate Insurance Product Regulation Commission.
- (2) Each Compacting State shall provide written notice to the Interstate Insurance Product Regulation Commission authorizing the maximum rate increase for which the Commission will be authorized to approve any rate schedule increase request on behalf of the Compacting State provided the rate schedule increase meets the requirements under this Uniform Standard and other applicable Rules of the Interstate Insurance Product Regulation Commission.
- (3) The Interstate Insurance Product Regulation Commission shall publicly maintain a chart listing the maximum rate increase authorized by each participating Compacting State. A Compacting State may change its authorized maximum rate increase by providing at least 120 days written notice to the Interstate Insurance Product Regulation Commission.
- (4) The Interstate Insurance Product Regulation Commission shall issue its written advisory review report to the Compacting States included on the rate schedule filing initially approved by the Interstate Insurance Product Regulation Commission.
- (5) No sooner than thirty (30) days after issuing its advisory review report to the Compacting States, the Interstate Insurance Product Regulation Commission shall approve the rate schedule increase request for only those Compacting States where the maximum rate increase identified in the advisory review report does not exceed the maximum rate increase authorized by the Compacting State for approval by the Interstate Insurance Product Regulation Commission on its behalf.
- (6) Upon issuance of the advisory review report, the filer shall seek approval from those Compacting States, as applicable, before implementing the rate schedule increase request, where the percentage identified in the advisory review report exceeds the maximum rate increase authorized by the respective Compacting State for the Interstate Insurance Product Regulation Commission to approve the rate schedule increase on its behalf.

- (7) When the rate schedule increase filing is not within the authority of the Interstate Insurance Product Regulation Commission's authority to approve on behalf of the Compacting State, the rate increase filing shall be subject to each Compacting State's applicable state laws and regulations including benefit options associated with the rate schedule increase and policyholder communications.
- (8) When a rate schedule increase filing is subject to the approval of the Compacting State herein, the Compacting State is not required to give deference or weight to the advisory report in performing its applicable review. A Compacting State shall not require the filer submit or make changes to the forms or rate schedules initially approved by the Interstate Insurance Product Regulation Commission to which the rate schedule increase request applies.
- (9) Any subsequent rate schedule increase requests on rate schedule increase filings previously subject to advisory review shall be filed directly with each applicable Compacting State and subject to the review and approval or disapproval of each Compacting State under its respective state laws and regulations. Any Compacting State may request the Interstate Insurance Product Regulation perform an advisory review of a subsequent rate schedule increase filing for compliance with the *Rate Filing Standards for Individual Long-Term Care Insurance*.

**2(b). Provide a structure for each Compacting State to indicate after an advisory review has been performed if the State wants the Compact Office to approve the filing on the Compacting State's behalf, or to direct as a default, for all in-force rate increase requests to be filed with the Compacting State for state action following advisory review.**

**A. APPLICABLE AUTHORITY, REVIEW AND APPROVAL OF RATE SCHEDULE INCREASES**

- (1) Rate schedule increase filings for individual long-term care insurance rate schedules approved by the Interstate Insurance Product Regulation Commission shall be filed with the Interstate Insurance Product Regulation Commission for review for compliance with subsections B and C of this Section and other applicable Rules of the Interstate Insurance Product Regulation Commission.
- (2) The Interstate Insurance Product Regulation Commission shall issue its written advisory review report to the Compacting States included on the rate schedule filing initially approved by the Interstate Insurance Product Regulation Commission.
- (3) No sooner than sixty (60) days after issuing its advisory review report to the Compacting States, the Interstate Insurance Product Regulation Commission shall identify a date for each Compacting State to provide written notice of whether it authorizes the Interstate Insurance Product Regulation Commission to approve the rate schedule increase on its behalf in

accordance with the advisory review report. If a Compacting State does not provide written notice or provides written notice declining to authorize the Interstate Insurance Product Regulation Commission to approve the rate schedule on its behalf, the Interstate Insurance Product Regulation Commission shall not approve the rate schedule increase for the Compacting State.

- (4) If a Compacting State does not provide written authorization for the Interstate Insurance Product Regulation Commission to approve the rate schedule increase on their behalf in accordance with the advisory review report, the filer shall seek approval directly from the Compacting State as applicable before implementing the rate schedule increase request in the respective Compacting State.
- (5) When the rate schedule increase filing is not within the authority of the Interstate Insurance Product Regulation Commission's authority to approve on behalf of the Compacting State as provided herein, the rate increase filing shall be subject to each Compacting State's applicable state laws and regulations including benefit options associated with the rate schedule increase and policyholder communications.
- (6) When a rate schedule increase filing is subject to the approval of the Compacting State as provided herein, the Compacting State is not required to give deference or weight to the advisory report in performing its applicable review. A Compacting State shall not require the filer submit or make changes to the forms or rate schedules initially approved by the Interstate Insurance Product Regulation Commission to which the rate schedule increase request applies.
- (7) Any subsequent rate schedule increase requests on rate schedule increase filings previously subject to advisory review shall be filed directly with each applicable Compacting State and subject to the review and approval or disapproval of each Compacting State under its respective state laws and regulations. Any Compacting State may request the Interstate Insurance Product Regulation perform an advisory review of a subsequent rate schedule increase filing for compliance with the *Rate Filing Standards for Individual Long-Term Care Insurance*.