

**Agenda Item 2. Continue discussion of the IIPRC Office Report and Recommendation to the Product Standards Committee for Uniform Standards Subject to Phase 6 of the 5-Year review (Long-term Care Insurance).**

- (a) **Finalize questions for public call regarding Substantive Change Item #1 - Misstatement of Age Provision.** The PSC heard a summary of the discussion on May 10<sup>th</sup> regarding the request from the Industry Advisory Committee (IAC) to amend the Misstatement of Age Provision to allow insurers to cancel coverage and refund premiums if the actual age is outside of the issue age range. They reviewed the questions they had compiled for the public call including whether there is a consistent maximum issue age for Long-term Care products; how often companies encounter circumstances where issue age is misstated; the circumstances surrounding such misstatements (typographical error, agent error, knowing misrepresentation, etc.) and what underwriting practices are used to verify age. Oregon suggested asking whether all LTC insurers use MIB to verify age. It was noted that the MIB website indicates that MIB does not maintain consumer files unless the person applied for individually underwritten (not group) life or health insurance from a MIB member insurer within the last 7 years, so MIB may not cover all applicants.

The Committee discussed and supported a suggestion by Pennsylvania to establish parameters around the time period when an insurer can cancel coverage for misstatement of age in order to provide consumer protection, place some responsibility on the insurer to underwrite and to prohibit post claim underwriting. The PSC agreed to expose language limiting such cancellation to two years from policy issuance and only if the insured is not on claim.

- (b) **Discuss Substantive Change Item #2 – Allowance for Non-Duplication of Benefits.** IIPRC staff provided an overview of the comments that were received from the IAC, Consumer Advisory Committee (CAC) and Northwestern Mutual regarding the industry request to add a provision under Limitations and Exclusions to allow a non-duplication of benefits provision stating that the benefits from all the applicable policy forms shall not exceed the actual expenses incurred.

The Committee discussed how states are currently handling provisions for non-duplication. Most states noted that coordination of benefits laws or regulations do not include long-term care, and most states' laws do not specifically address non-duplication. New Jersey stated that they permit provisions that are in accordance with statutory requirements for "Other insurance with this insurer and/or "Insurance with other insurers" and that are appropriately worded for LTC insurance.

The Committee raised concerns about how non-duplication provisions would be coordinated, given the broad proposed language for the standard stating that "the provision shall describe how the ratio will be calculated to determine the proportional benefits that would be paid on a pro-rata basis under the policy form." They questioned what would happen if two companies had very different methods of determining the pro-rata benefit or if one company had a provision and the other company did not, and whether the proposed language allowed the company to require the consumer to submit a claim for benefits under other policies or

riders. Some members expressed the view that proper underwriting at the point of sale and suitability would be the preferred way to address instances where more than one policy is in effect, while others stated that they understood the concern expressed by Industry; however as written, the consumer is caught in the middle. The Committee noted that if the provision applied to long-term care riders as well as policies, the consumer might be forced to utilize rider provisions that decrease the death benefits on a life policy because another company had a provision allowing for only a pro-rata portion of a long-term care expense.

The Chair noted that it appears that states do not prohibit some sort of coordination or non-duplication provision and the absence of something addressing the issue in the standards may encourage state by state filings. Some members commented that they would consider a provision that established more specific parameters, allowed the consumer the option of submitting a claim to more than one insurer so the consumer could control when benefits are exhausted and planning for future long-term care needs, and was limited to the same or affiliated insurers so the provisions in the policy would be more likely to coordinate.

Members were asked to reflect on the discussion and advise [Anne Marie](#) if they had specific additional recommendations or questions for public comment. The Chair noted that it would be helpful if Industry could provide more specific detail about how they coordinate benefits now and how they would address the concerns expressed by the PSC.

### **Agenda Item 3. Any other matters.**

The Chair noted that due to the length of the discussion on the non-duplication of benefits provision, the Committee was not able to discuss Substantive Change Item #3 Rate Requirements for Dollar-For-Dollar Long-Term Care Benefits. She noted that representatives from the Kentucky Department of Insurance and their actuarial consultants would be asked to attend the next PSC call and that item would be first on the agenda.

Ms. Mealer also noted that IIPRC staff has begun preparing call summaries for the Actuarial Working Group that are posted under About the IIPRC, Actuarial Working Group on the IIPRC website. She encouraged members to review those call summaries to follow the discussion about long-term care items that have been referred to that working group by the PSC.

The Product Standards Committee will meet on June 7th to continue discussions about the 5-Year Review of the Long-Term Care Uniform Standards. A public call is planned for June 21<sup>st</sup>.