

**40-2136. Same; duties of issuers of long-term care partnership policies; exchange of certain long-term policies.** Each issuer of qualified long-term care partnership program policies in this state shall: (a) Provide regular reports to both the secretary of the United States department of human services in accordance with federal law and regulations and to the secretary of health and environment and the commissioner of insurance as provided in section 6021 of the federal deficit reduction act of 2005, public law 109-171.

(b) Provide to consumers a notice explaining the benefits associated with a partnership policy and indicating that at the time issued, the policy is a qualified state long-term care insurance partnership policy at a time and in a manner to be determined by the commissioner of insurance.

(c) Submit a partnership certification form signed by an officer of the company with all policies submitted for certification as partnership policies.

(d) Obtain verification that producers receive training required by the commissioner of insurance before a producer is permitted to sell, solicit or negotiate the insurer's long-term care insurance products, maintain records of compliance, and make the verification available to the commissioner of insurance upon request.

(e) Maintain records with respect to the training of its producers concerning the distribution of its partnership policies that will allow the department of insurance to provide assurance to the department of health and environment that producers have received the training required by the commissioner of insurance and that producers have demonstrated an understanding of the partnership policies and their relationship to public and private coverage of long-term care, including medical assistance in this state. These records shall be maintained and made available to the commissioner of insurance upon request.

(f) (1) Offer, on a one-time basis, in writing, to all existing policyholders that were issued long-term care coverage of the type certified by the insurer on or after February 8, 2006, the option to exchange their existing long-term care coverage for coverage that is intended to qualify under Kansas' long-term care partnership program. The mandatory offer of an exchange shall only apply to products issued by the insurer that are comparable to the type of policy form, such as group policies and individual policies and on the policy series that the company has certified as partnership qualified;

(2) the offer shall remain open for a minimum of 45 days from the date of mailing by the insurer;

(3) the offer shall be made on a nondiscriminatory basis without regard to the age or health status of the insured. However, the insurer may underwrite if the policy is amended to provide additional benefits or the exchange would require the issuance of a new policy. Any portion of the policy that was issued prior to the exchange date shall be priced based on the policyholder's age when the policy was originally issued. Any portion of the policy that is added as a result of the exchange may be priced based on the policyholder's age at the time of the exchange;

(4) if there is no change in coverage material to the risk, policies exchanged under this provision shall not be subject to any medical underwriting;

(5) notwithstanding paragraphs (1) and (3), an insurer is not required to offer an exchange to an individual who is eligible for benefits within an elimination period, who is, or who has been in claim status or who would not be eligible to apply for coverage due to issue age or plan design limitations under the new policy. The insurer may require that policyholders meet all eligibility requirements, including plan design, underwriting, if applicable and payment of the required premium;

(6) policies issued pursuant to this section shall be considered exchanges and not replacements and are not subject to K.A.R. 40-4-37i; and

(7) a policy received in an exchange after the effective date of the long-term care partnership program act is treated as newly issued and is eligible for partnership policy status. For purposes of applying the medicaid rules relating to Kansas' long-term care partnership program, the addition of a rider, endorsement or change in schedule page for a policy may be treated as giving rise to an exchange.

**History:** L. 2008, ch. 51, § 5; L. 2009, ch. 83, § 25; L. 2012, ch. 102, § 17; July 1.