

**40-2228. Same; rules and regulations; prohibitions; preexisting condition provisions; delivery of outline of coverage upon application required.** (a) The commissioner may adopt reasonable rules and regulations:

(1) To establish specific standards for policy provisions of long-term care insurance policies. Such standards shall be in addition to and in accordance with applicable laws of this state, and shall address terms of renewability, initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, preexisting conditions, termination of insurance, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions and definitions of terms, except that no regulation shall limit the number of days contained in an elimination period of confinement in a nursing facility or for all confinements in a nursing facility which are due to the same or related causes and separated from each other by less than 180 days; and

(2) to specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair or unfairly discriminatory to any person insured under a long-term care insurance policy.

(b) Rules and regulations adopted by the commissioner shall:

(1) Recognize the unique, developing and experimental nature of long-term care insurance; and

(2) recognize the appropriate distinctions necessary between group and individual long-term care insurance policies.

(c) The commissioner may adopt rules and regulations establishing loss-ratio standards for long-term care insurance policies if a specific reference to long-term care insurance policies is contained in the rules and regulations.

(d) No long-term care insurance policy may:

(1) Be canceled, nonrenewed, or otherwise terminated solely on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificateholder; or

(2) contain a provision establishing any new waiting period in the event existing coverage is converted to or replaced by a new or other form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder.

(e) (1) No long-term insurance policy or certificate shall use a definition of preexisting condition which is more restrictive than the following: "Preexisting condition" means a condition for which medical advice or treatment was recommended by, or received from a provider of health care services, within six months preceding the effective date of coverage of an insured person.

(2) No long-term care insurance policy shall exclude coverage for a loss or confinement which is the result of a preexisting condition unless such loss or confinement begins within six months following the effective date of coverage of an insured person.

(3) The commissioner may extend the limitation periods set forth in subsections (e)(1) and (e)(2) above as to specific age group categories or specific policy forms upon finding that the extension is not contrary to the best interest of the public.

(4) The definition of preexisting condition shall not prohibit an insurer from using an application form designed to elicit the complete health history of an applicant, and, on the basis of the answers on that application, from underwriting in accordance with that insurer's established underwriting standards.

(f) No long-term care insurance policy shall require prior institutionalization as a condition precedent to the payment of benefits.

(g) In order to provide for fair disclosure in the sale of long-term care insurance policies:

(1) An outline of coverage shall be delivered to an applicant for a long-term care insurance policy at the time of application. In the case of direct response solicitations, the insurer shall deliver the outline of coverage upon the applicant's request, but regardless of request, shall make such delivery no later than at the time of policy delivery. Such outline of coverage shall include:

(A) A description of the principal benefits and coverage provided in the policy;

(B) a statement of the principal exclusions, reductions and limitations contained in the policy;

(C) a statement of the renewal provisions, including any reservation in the policy of a right to change premiums; and

(D) a statement that the outline of coverage is a summary of the policy issued or applied for, and that the policy should be consulted to determine governing contractual provisions.

(2) A certificate issued pursuant to a group long-term care insurance policy which policy is delivered or issued for delivery in this state shall include the information required by subsection (g)(4) of K.S.A. 40-2209, and amendments thereto.

(h) No policy shall be advertised, marketed or offered as long-term care insurance unless it complies with the provisions of this act.

**History:** L. 1987, ch. 156, § 4; L. 1997, ch. 190, § 5; L. 1998, ch. 174, § 11; L. 2002, ch. 168, § 1; July 1.