

JAN 20 2012

A BILL FOR AN ACT

RELATING TO LONG-TERM CARE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 **HAWAII PARTNERSHIP FOR LONG-TERM CARE PROGRAM**

6 § -1 **Purpose.** The purpose of the Hawaii partnership for
7 long-term care program is to combine funds from private long-
8 term care insurance and medicaid, or its successor program, to
9 finance long-term care. Under the program, an individual may
10 purchase a certified long-term care insurance partnership policy
11 in an amount commensurate with the individual's assets.

12 Notwithstanding any other law to the contrary, assets of the
13 individual purchasing a certified long-term care insurance
14 partnership policy shall not be considered by the department in
15 making a determination of the individual's eligibility for
16 medicaid, or its successor program, or for any other long-term
17 care services administered by the department. The program is
18 intended to reduce future medicaid costs for long-term care by



1 delaying or eliminating dependence on medicaid by providing
2 incentives for individuals to insure against the potentially
3 high costs of long-term care.

4 § -2 **Definitions.** For the purposes of this chapter:

5 "Assets" means real and personal property, income, and any
6 other economic resources owned, earned, or attributable to an
7 individual.

8 "Certified long-term care insurance partnership policy"
9 means a policy provided by a producer in accordance with chapter
10 431 and approved by the department that:

11 (1) Meets all of the requirements of a qualified long-term
12 care insurance contract as defined in section 7702B(b)
13 of the Internal Revenue Code; and

14 (2) Was issued not earlier than the effective date of this
15 chapter to cover an insured who was a resident of
16 Hawaii when coverage first became effective under the
17 policy.

18 "Department" means the department of human services.

19 "Medicaid" means the program for medical assistance
20 established under 42 United States Code chapter 7, subchapter
21 XIX, or any successor program.



1 "Partnership" means a cooperative agreement between the
2 State and an approved long-term care insurance producer to
3 provide long-term care coverage to eligible individuals.

4 "State plan amendment" means the state medicaid plan
5 amendment made to the federal department of health and human
6 services that provides for the disregard of any assets in an
7 amount equal to the insurance benefit payments that are made to
8 or on the behalf of an individual who is a beneficiary under a
9 certified long-term care insurance policy.

10 § -3 **Hawaii partnership for long-term care program**
11 **established.** (a) The department shall establish a partnership
12 for long-term care program that enables an individual who has
13 assets that would otherwise disqualify the individual from
14 receiving medicaid benefits to continue receiving medicaid
15 benefits; provided that the individual purchases and maintains
16 long-term care insurance that is in compliance with this
17 chapter.

18 (b) All long-term care insurance plans authorized under
19 this chapter shall include a provision that specifies that the
20 long-term care insurance plan shall be the primary payer of
21 long-term care costs and that medicaid shall be the secondary
22 payer.



1 § -4 **Eligibility for long-term care benefits under**
2 **medicaid; assets not considered.** (a) An individual shall
3 purchase a certified long-term care insurance partnership policy
4 that provides long-term care services in an amount equal to or
5 greater than the minimum level of coverage set by the department
6 pursuant to section -7.

7 (b) Notwithstanding any other law to the contrary, an
8 individual who purchases a certified long-term care insurance
9 partnership policy and has assets above the eligibility levels
10 for receipt of medicaid benefits shall be eligible to receive
11 medicaid benefits and any other long-term care services
12 specified by the department without regard to the individual's
13 assets.

14 § -5 **Amendments to medicaid rules and state plan.** (a)
15 The department shall prepare a state plan amendment to seek
16 appropriate amendments to its medicaid rules and state plan to
17 allow protection of assets pursuant to section -4. The
18 protection shall be provided to the extent approved by the
19 federal Centers for Medicare and Medicaid Services for any
20 purchaser of a certified long-term care insurance partnership
21 policy and shall last for the life of the purchaser. The
22 protection shall be provided under the medicaid program. Any



1 purchaser of a certified long-term care insurance partnership
2 policy shall be guaranteed coverage under the medicaid program
3 if the individual meets all other applicable eligibility
4 requirements for the receipt of medicaid benefits that are not
5 related to the individual's assets.

6 (b) The department shall seek any federal waivers and
7 approvals necessary to accomplish the purposes of this chapter.

8 § -6 **Certification of policies or plans.** The department
9 shall certify a policy as a certified long-term care insurance
10 partnership policy only if it meets the requirements of chapter
11 431, 42 United States Code 1396p, and section 7702B(b) of the
12 Internal Revenue Code.

13 § -7 **Rules.** The department shall adopt rules pursuant
14 to chapter 91 to implement this chapter, including but not
15 limited to rules establishing:

16 (1) The population and age groups eligible to participate
17 in the long-term care partnership program;

18 (2) The minimum level of long-term care insurance or long-
19 term care coverage included in health care service
20 plan contracts required to be purchased to determine
21 eligibility as provided in section -4;



(3) The amount and types of services that long-term care insurance shall include to be considered a certified long-term care insurance partnership policy;

(4) The reporting requirements for producers of certified long-term care insurance partnership policies; and

(5) The percentage, if any, of an individual's assets that may be considered to determine eligibility as provided in section -4.

§ -8 Long-term care partnership program outreach. The department shall establish an outreach program to educate consumers about the need for long-term care, the mechanisms for financing long-term care, the availability of long-term care insurance, and asset protection provided under this chapter. The department shall coordinate with the executive office on aging to establish the program."

SECTION 2. Section 431:10H-221, Hawaii Revised Statutes, is amended to read as follows:

"§431:10H-221 Requirements for application forms and replacement coverage. (a) Application forms shall include questions designed to elicit information as to whether, as of the date of application, the applicant has another long-term care insurance policy or certificate in force or whether a long-



1 term care policy or certificate is intended to replace any other
2 accident and health or sickness or long-term care policy or
3 certificate presently in force. A supplementary application or
4 other form to be signed by the applicant and producer, except
5 where the coverage is sold without a producer, containing the
6 questions may be used. With regard to a replacement policy
7 issued to a group defined by paragraph (1) under the definition
8 of "group long-term care insurance" in section 431:10H-104, the
9 following questions may be modified only to the extent necessary
10 to elicit information about accident and health or sickness and
11 long-term care insurance policies other than the group policy
12 being replaced; provided that the certificate holder has been
13 notified of the replacement:

14 (1) Do you have another long-term care insurance policy or
15 certificate in force (including a health care service
16 contract or health maintenance organization contract)?

17 (2) Did you have another long-term care insurance policy
18 or certificate in force during the last twelve months?

19 (A) If so, with which company?

20 (B) If that policy lapsed, when did it lapse?

21 (3) Are you covered by medicaid?



1 (4) Do you intend to replace any of your medical or
2 accident and health or sickness insurance coverage
3 with this policy (certificate)?

4 (b) Producers shall list any other accident and health or
5 sickness insurance policies they have sold to the applicant, and
6 the producer shall list policies sold that are still in force
7 and list policies sold in the past five years that are no longer
8 in force.

9 (c) Upon determining that a sale will involve replacement,
10 an insurer, other than an insurer using direct response
11 solicitation methods, or its producer, shall furnish the
12 applicant, prior to issuance or delivery of the individual long-
13 term care insurance policy, a notice regarding replacement of
14 accident and health or sickness or long-term care coverage. One
15 copy of the notice shall be retained by the applicant and an
16 additional copy signed by the applicant shall be retained by the
17 insurer. The required notice shall be provided in the same
18 manner as shown in section 14C of the April, 2002, NAIC Long-
19 Term Care Insurance Model Regulation.

20 (d) Insurers using direct response solicitation methods
21 shall deliver a notice regarding replacement of accident and
22 health or sickness or long-term care coverage to the applicant



1 upon issuance of the policy. The required notice shall be
2 provided in the same manner as shown in section 14D of the
3 April, 2002, NAIC Long-Term Care Insurance Model Regulation.

4 (e) Where replacement is intended, the replacing insurer
5 shall notify, in writing, the existing insurer of the proposed
6 replacement. The existing policy shall be identified by the
7 insurer, name of the insured, and policy number or address
8 including zip code. Notice shall be made within five working
9 days from the date the application is received by the insurer or
10 the date the policy is issued, whichever is sooner.

11 (f) Life insurance policies that accelerate benefits for
12 long-term care shall comply with this section if the policy
13 being replaced is a long-term care insurance policy. If the
14 policy being replaced is a life insurance policy, the insurer
15 shall comply with the replacement requirements for life
16 insurance policies. If a life insurance policy that accelerates
17 benefits for long-term care is replaced by another policy, the
18 replacing insurer shall comply with both the long-term care and
19 the life insurance replacement requirements.

20 (g) If authorized by federal law or a federal waiver is
21 granted with respect to the long-term care partnership program
22 as provided under chapter , issuers of long-term care



1 policies may voluntarily exchange a current long-term care
2 insurance policy for a long-term care partnership policy that
3 meets the requirements of 42 United States Code section 1396p
4 after the effective date of the state plan amendment
5 implementing the partnership program in the State."

6 SECTION 3. New statutory material is underscored.

7 SECTION 4. This Act shall take effect upon its approval.

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Report Title:

Long-Term Care Partnership Program

Description:

Implements the long-term care partnership program, allowing individuals to qualify for medicaid coverage for continued long-term care prior to exhausting their assets.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

