Part 14
Long-Term Care Insurance Standards

31A-22-1401 Application.

(1) The requirements of this part apply to individual policies and to group policies and certificates marketed in this state on or after July 1, 2001.
(2) Entities subject to this part shall comply with other applicable insurance laws and rules unless they are in conflict with this part.
(3) The laws, regulations, and rules designed and intended to apply to Medicare supplement insurance policies may not be applied to long-term care insurance.
(4) Any policy or rider advertised, marketed, or offered as long-term care or nursing home insurance shall comply with the provisions of this part.

Amended by Chapter 193, 2019 General Session

31A-22-1402 Definitions.

Unless the context requires otherwise, the following definitions apply in this part:
(1) "Applicant" means:
(a) in the case of an individual long-term care insurance policy, the person who seeks to contract for benefits; and
(b) in the case of a group long-term care insurance policy, the proposed certificate holder.
(2) Notwithstanding Section 31A-1-301,"certificate" means a certificate issued under a group long-term care insurance policy if the group long-term care insurance policy is delivered or issued for delivery in this state.
(3) Notwithstanding Section 31A-1-301, "policy" means a policy, contract subscriber agreement, rider, or endorsement, if the policy, contract subscriber agreement, rider, or endorsement is delivered or issued:
(a) in this state; and
(b) by:
(i) an insurer;
(ii) a fraternal benefit society;
(iii) a nonprofit health, hospital, or medical service corporation;
(iv) a prepaid health plan;
(v) a health maintenance organization; or
(vi) an entity similar to an entity described in Subsections (3)(b)(i) through (v).

Amended by Chapter 116, 2001 General Session

31A-22-1403 Filing required for policies issued in another state.

Group long-term care insurance coverage may not be offered to a resident of this state under a group policy issued in another state unless the policy and certificate have been filed with the commissioner.

Enacted by Chapter 243, 1991 General Session

31A-22-1404 Rulemaking authority.

The commissioner may adopt rules that may permit or include:

(1) the increase of benefits over time;
(2) standards for full and fair disclosure of the manner, content, and required disclosures for the sale of long-term care insurance policies;
(3) terms of renewability;
(4) initial and subsequent conditions of eligibility;
(5) nonduplication of coverage provisions;
(6) coverage of dependents;
(7) termination of coverage;
(8) continuation or conversion;
(9) probationary periods;
(10) limitations, exceptions, and reductions of coverage;
(11) preexisting conditions;
(12) elimination and waiting periods;
(13) requirements for replacement;
(14) recurrent conditions;
(15) definition of terms;
(16) loss ratio requirements;
(17) post claim underwriting;
(18) waiver of premium;
(19) independent review of benefit determinations;
(20) inflation protection benefits; and
(21) premium rate filing and review.

Amended by Chapter 252, 2021 General Session

31A-22-1405 Restrictions on terms of coverage.

No long-term care insurance policy may:
(1) be canceled, nonrenewed, or otherwise terminated on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificate holder;
(2) contain a provision establishing a 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; or
(3) provide coverage for skilled nursing care only or provide significantly more coverage for skilled care in a facility than coverage for lower levels of care.

Enacted by Chapter 243, 1991 General Session

31A-22-1406 Preexisting conditions.

(1) A long-term care insurance policy or certificate may not use a definition of a 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) A long-term care insurance policy or certificate may not 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 preexisting condition periods provided in Subsections (1) and (2) as to specific age group categories in specific policy forms upon finding that the extension is in the best interest of the public.
(4)
(a) The definition of preexisting condition does not prohibit an insurer from using an application form designed to elicit the complete health history of an applicant and from underwriting in accordance with that insurer's established underwriting standards on the basis of the answers on that application.
(b) Unless otherwise provided in the policy or certificate, a preexisting condition, regardless of whether it is disclosed on the application, need not be covered until the waiting period described in Subsection (2) expires.
(c) A long-term care insurance policy or certificate may not exclude or use waivers or riders of any kind to exclude, limit, or reduce coverage or benefits for specifically named or described preexisting diseases or physical condition beyond the waiting period described in Subsection (2).

Amended by Chapter 297, 2011 General Session

31A-22-1407 Restricted conditional terms.
(1) A long-term care insurance policy may not contain a provision that conditions eligibility:
(a) for any benefits on a prior hospitalization requirement;
(b) for benefits provided in an institutional care setting on the receipt of a higher level of institutional care; or
(c) for any benefits on a prior institutionalization requirement except for eligibility for:
(i) waiver of premium;
(ii) post confinement;
(iii) post-acute care; or
(iv) recuperative benefits.
(2) A long-term care insurance policy containing post confinement, post-acute care, or recuperative benefits shall clearly label the limitations or conditions, including any required number of days of confinement in a separate paragraph of the policy or certificate that is entitled "Limitations or Conditions on Eligibility for Benefits."
(3) A long-term care insurance policy or rider that conditions eligibility of noninstitutional benefits on the prior receipt of institutional care may not require a prior institutional stay of more than 30 days.

Amended by Chapter 116, 2001 General Session

31A-22-1408 Right of return -- Notice.
Individual long-term care insurance policyholders and certificate holders other than employee and labor union certificate holders have the right to return the policy within 30 days of its delivery and to have the premium refunded if the policyholder is not satisfied for any reason after examination of the policy. Individual long-term care insurance policies shall have a notice prominently printed on the first page of the policy or attached to the policy stating in substance that the policyholder has the right to return the policy within 30 days of its delivery and to have the premium refunded if the policyholder is not satisfied for any reason after examination of the policy.

Enacted by Chapter 243, 1991 General Session

31A-22-1409 Statements of coverage.

(1) An outline of coverage shall be delivered to a prospective applicant for long-term care insurance at the time of initial solicitation through means which prominently direct the attention of the applicant to the document and its purpose.

(2) The commissioner may prescribe a standard format of an outline of coverage, including style, arrangement, and overall appearance, and the content.

(3) In the case of agent solicitations an agent shall deliver the outline of coverage prior to the presentation of any application or enrollment form.

(4) In the case of direct response solicitations, the outline of coverage shall be presented in conjunction with any application or enrollment form.

(5) An outline of coverage under this section 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 terms under which the policy or certificate, or both, may be continued in force or discontinued, including any reservation in the policy of a right to change premium;

(d) a specific description of continuation or conversion provisions of group coverage;

(e) a statement that the outline of coverage is not a contract of insurance but a summary only and that the policy or group master policy contains governing contractual provisions;

(f) a description of the terms under which the policy or certificate may be returned and premium refunded;

(g) a brief description of the relationship of cost of care and benefits; and

(h) a statement that discloses to the policyholder or certificate holder whether the policy is intended to be a federally tax-qualified, long-term care insurance contract under Section 7702B(b), Internal Revenue Code.

(6) 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:

(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 that the group master policy determines governing contractual provisions; and

(d) a statement that any long-term care inflation protection option required by rule is not available under the policy.

(7) If an application for a long-term care contract or certificate is approved, the issuer shall deliver the contract or certificate of insurance to the applicant no later than 30 days after the date of approval.

(8) At the time of policy delivery, a policy summary shall be delivered for an individual life insurance policy which provides long-term care benefits within the policy or by rider. In the case of direct response solicitations, the insurer shall deliver the policy summary upon the applicant's request. However, the insurer shall deliver the summary to the applicant no later than at the time of policy delivery regardless of request. In addition to complying with all applicable requirements, the summary shall also include:

(a) an explanation of how the long-term care benefit interacts with other components of the policy, including deductions from death benefits;

(b) an illustration for each covered person of the amount of benefits, the length of benefit, and the guaranteed lifetime benefits if any;

(c) any exclusions, reductions, and limitations on benefits of long-term care; and

(d) if applicable to the policy type, the summary shall also include:

(i) a disclosure of the effects of exercising other rights under the policy;

(ii) a disclosure of guarantees related to long-term care costs of insurance charges; and
(iii) current and projected maximum lifetime benefits.
(9) The provisions of the policy summary required under Subsection (8) may be incorporated into:
(a) a basic illustration; or
(b) the life insurance policy summary required to be delivered in accordance with rule.

Amended by Chapter 297, 2011 General Session

31A-22-1410 Report to policyholder.

A monthly report shall be provided to the policyholder any time a long-term care benefit funded through a life insurance vehicle by the acceleration of the death benefit is in benefit payment status. The report shall include:
(1) any long-term care benefits paid out during the month;
(2) an explanation of any changes in the policy due to long-term care benefits being paid out such as death benefits or cash values; and
(3) the amount of long-term care benefits existing or remaining.

Enacted by Chapter 243, 1991 General Session

31A-22-1411 Incontestability period.

(1) For a policy or certificate that has been in force for less than six months, an insurer may rescind a long-term care insurance policy or certificate upon a showing of misrepresentation that is material to the acceptance for coverage.
(2) For a policy or certificate that has been in force for at least six months but less than two years, an insurer may rescind a long-term care insurance policy or certificate upon a showing of misrepresentation that:
(a) is material to the acceptance for coverage; and
(b) pertains to the condition for which benefits are sought.

Enacted by Chapter 344, 1995 General Session

31A-22-1412 Nonforfeiture benefits.

(1)
(a) A long-term care insurance policy or certificate may not be delivered or issued for delivery in this state unless the policyholder or certificate holder has been offered the option of purchasing a policy or certificate including a nonforfeiture benefit.
(b) The offer of a nonforfeiture benefit under Subsection (1)(a) may be in the form of a rider that is attached to the policy.
(c) If the policyholder or certificate holder declines the nonforfeiture benefit offered under this Subsection (1), the insurer shall provide a contingent benefit upon lapse of the policy or certificate that is available for a specified period of time following a substantial increase in premium rates.
(d)
(i) Except as provided in Subsection (1)(d)(ii), if a group long-term care insurance policy is issued, the offer required in this Subsection (1) shall be made to the group policyholder.
(ii) If the policy is issued to a group authorized under Section 31A-22-509, the offer required under this Subsection (1) shall be made to each proposed certificate holder.
(2) The commissioner shall make rules:

(a) specifying the types of nonforfeiture benefits to be offered as part of a long-term care insurance policy or certificate;
(b) specifying the standards for nonforfeiture benefits; and
(c) regarding contingent benefits upon lapse, including a determination of:
(i) the specified period of time during which a contingent benefit upon lapse will be available as provided in Subsection (1); and
(ii) the substantial premium rate increase that triggers a contingent benefit upon lapse as provided in Subsection (1).

Amended by Chapter 116, 2001 General Session

31A-22-1413 Claim information.

If a claim under a long-term care insurance contract is denied, within 60 days of the date a written request by the policyholder or a representative of a policyholder is filed with the insurer, the insurer shall:
(1) provide a written explanation of the reason for the denial; and
(2) make available all information directly related to the denial.

Enacted by Chapter 116, 2001 General Session

31A-22-1414 Marketing.

A policy or rider shall comply with this part if it is advertised, marketed, or offered as:
(1) long-term care insurance; or
(2) nursing home insurance.

Enacted by Chapter 116, 2001 General Session

31A-22-1415 Living organ donor coverage.

(1) For the purposes of this section, "living organ donor" means the same as that term is defined in Section 31A-22-655.
(2) An insurer may not:
(a) deny eligibility for coverage or limit coverage of a individual under a long-term care insurance policy or contract solely due to the status of the individual as a living organ donor;
(b) preclude an individual from donating all or part of an organ as a condition of receiving or continuing to receive coverage under a long-term care insurance policy or contract; or
(c) discriminate in the offering, issuance, cancellation, amount of coverage, price, or any other condition of a long-term care insurance policy or contract for an individual based upon the status of the individual as a living organ donor without any additional actuarial risk.
(3) The commissioner shall make educational materials available to insurers and the public on the access of living organ donors to insurance.
(4) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this section.

Enacted by Chapter 128, 2020 General Session