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COMMISSIONER OF INSURANCE

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Bulletin 14-01

To: All Insurance Companies Administering Long Term Care Insurance in the State of Iowa
From: Nick Gerhart, Iowa Insurance Commissioner
RE: Alternate Plans of Care in Long Term Care Insurance Policies
Date: March 25, 2014

The Iowa Insurance Division (the Division) has reviewed insurance company practices involving “alternate plans of care” provision in long term care insurance policies issued in Iowa. After review, the Division has concluded that although language may differ among insurers, these provisions will require the mutual agreement of the insurer, insured and the physician at the time that the claim for coverage is made. When such agreement is reached after consideration during the claim process of all the information required to determine the acceptability of the proposed alternate plan of care, alternative coverage may be provided under the policy. So while the intent of such provisions is to permit some flexibility in administering long term care insurance claims, because it intended to describe benefits not yet contemplated at the time of policy purchase, the inclusion of these provisions may lead policyholders to believe they are entitled to an alternative plan benefit, when, in fact, such a benefit may not be provided. Insufficient explanations at the time of sale of such provisions may lead to confusion and uncertainty among policyholders.

The Division also reviewed Iowa Insurance Code Section 507B.4, et. seq. which requires, among other things, insurance carriers to provide policyholders with reasonable explanations of the basis for claim decisions. The purpose of this bulletin is to provide guidance regarding reasonable application of procedures in administering alternate plans of care and to require prompt and complete communication with policyholders when administering such provisions.

Background

Alternate plans of care are not required to be included in long term care insurance policies in Iowa; the Division notes that most long term care insurance policies do include such provisions. (The Division notes that not all such provisions are called “Alternate Plans of Care”; however, the Bulletin is intended to apply to provisions that function as described in this Bulletin, regardless of how the provision is titled.)

While the language of each insurance company’s alternate plan of care provision varies, the intent of such a provision is to allow an insured to request a company to consider an alternative benefit other than those specifically described in the policy. However, insurers must use reasonable diligence to adequately train appointed producers. Insurers must use reasonable diligence to prevent producers from improperly describing the alternative plan of care provision.

The Division recognizes that proper administration of such provisions is very fact specific and will change depending on an individual’s facts and circumstances at the time that a request for an alternate plan of care is under consideration. However, the Division will require insurance companies, in complying with Iowa Insurance Code Section 507B.4, to follow and document the following guidelines for administration of such provisions.

Minimum Guidelines

The Division finds that companies administering alternate plans of care must ensure and document that the services approved under an alternate plan of care:

1. Are in accordance with the policyholder's specific policy provision;
2. Are clearly specified in a written agreement of the policyholder, physician and insurer to be submitted during the claims process;
3. Constitute a qualified long term care expense under the terms of applicable Internal Revenue Code sections;
4. Are not in excess of applicable policy maximums, and could be less than the policy maximums;
5. Are subject to periodic review that could result in modification or discontinuation if facts or circumstances change; and
6. Are not intended to pay for coverage that was available for purchase but not elected by the policyholder.

Insurance companies must maintain written guidelines for purposes of adjudication of the alternate plan of care requests for coverage and make such guidelines available to the Division on request.

Communication

The Division requires insurance companies administering a request for coverage under an alternative plan of care provision to:

1. Consider all policy provisions in reviewing any alternative plan of care suggested by the policyholder or provider, and communicate in writing within 60 days as required by Iowa Insurance Code Section 514G.105(12), which services will or will not be approved under an alternate plan of care;
2. Provide the policyholder sufficient time to respond to any communication;
3. Promptly and fully respond to questions by the policyholder; and
4. If agreement for an alternative plan of care is reached, prepare and deliver to the policyholder and the provider a written document describing the terms of the agreed upon plan of care.

For questions or clarifications with regard to this Bulletin, please contact Doug Ommen at doug.ommen@iid.iowa.gov.