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Requirement to offer inflation protection

(1) An insurer may not offer a long-term care insurance policy unless the insurer also offers to the policyholder, in addition to any other inflation protection offered by the insurer, the option to purchase a policy that provides for benefit levels to increase with benefit maximums or reasonable durations that are meaningful to account for reasonably anticipated increases in the costs of long-term care services covered by the policy. An insurer must offer to each policyholder, at the time of purchase, the option to purchase a policy with an inflation protection feature no less favorable than a feature that does one of the following:

(a) Increases benefit levels annually in a manner so that the increases are compounded annually at a rate not less than three percent.

(b) Guarantees the insured individual periodically increased benefit levels without having to provide evidence of insurability or health status, unless the policyholder declines a periodic increase. The amount of the additional benefit shall be no less than the difference between the existing policy benefit and that benefit compounded annually at a rate of at least three percent for the period beginning with the purchase of the existing benefit and extending until the year in which the offer is made. The insurer shall notify the policyholder, at each periodic increase, that declining an inflation increase under this subsection will imperil the policy's partnership status.

(c) Covers a specified percentage of actual or reasonable charges and does not include a maximum specified indemnity amount or limit.

(2) When the policy is issued to a group, the required offer in section (1) of this rule shall be made to the group policyholder, except that if the policy is issued to a group defined in ORS 743.652 (3)(d) other than to a continuing care retirement community, the offering shall be made to each proposed certificate holder.

(3) The offer in section (1) of this section shall not be required of life insurance policies or riders containing accelerated long-term care benefits.

(4)(a) An insurer shall include the following information in or with the outline of coverage:

(A) A graphic comparison of the benefit levels of a policy that increases benefits by three percent compounded over the policy period with a policy that does not increase benefits. The graphic comparison shall show benefit levels over at least a 20-year period.

(B) Any expected premium increases or additional premiums to pay for automatic or optional benefit increases.

(b) An insurer may use a reasonable hypothetical, or a graphic demonstration, for the purposes of this disclosure.

(5) Inflation protection benefit increases under a policy that contains these benefits shall continue without regard to an insured's age, claim status or claim history, or the length of time the person has been insured under the policy.

(6) An offer of inflation protection that provides for automatic benefit increases shall include an offer of a premium that the insurer expects to remain constant. The offer shall disclose in a conspicuous manner that the premium may change in the future unless the premium is guaranteed to remain constant.

(7)(a) Inflation protection as provided in section (1)(a) of this rule shall be included in a long-term care insurance policy unless an insurer obtains a rejection of inflation protection signed by the policyholder as required in this section. The rejection may be either in the application or on a separate form.

(b) The rejection shall be considered a part of the application and shall state: I have reviewed the outline of coverage and the graphs that compare the benefits and premiums of this policy with and without inflation protection. Specifically, I have reviewed Plans _____, and I reject inflation protection.

(8) The following requirements apply to the inflation protection option described in section (1)(b) of this rule:

(a) The insurer must provide that benefit increases occur automatically unless the insured specifically rejects the option to increase.

(b) The option to increase must be offered every year through at least the insured's attained age 76, and the policy or certificate must guarantee the insured the opportunity to increase benefit levels on an annual basis without providing evidence of insurability or health status.

(c) The policy or certificate must be structured so that benefit levels increase annually and must otherwise satisfy the requirements of the Deficit Reduction Act of 2005. For example, compound inflation protection must be provided under policies purchased when the insured has not yet attained age 61. Benefit increases include, but are not limited to increases at a fixed interest rate or at a rate determined by an index-based formula.

(d) The additional premium for increased benefits may not be higher than the rate based on the insured's attained age at the time of each offer.

(e) All options through age 76 must be accepted to retain partnership policy status. Declination of an option may not operate to prevent the insured from accepting a later option.

(f) An insurer will continue to make offers regardless of the insured's age while the insured is in claim if the claim begins at or before age 76.

(g) The insurer or insurance producer must furnish an applicant a personalized illustration at the point of sale that shows the expected pattern of future premiums and benefits under the option compared to the premiums and benefits for a policy or certificate with automatic inflation protection that qualifies for partnership status.

Statutory Authority - ORS 731.244, 742.023, 743.013, 743.655, 743.656 & 746.240

Statutes Implemented - ORS 731.244, 742.003, 742.005, 742.009, 743.010(3), 743.013(3), 743.650, 743.653, 743.655, 743.656 & 746.240