

IDAPA 18.01.60 s 027

Standards for marketing and producer training

Former Citations IDAPA 18.01.60 s 022; IDAPA 18.01.60 s 021

01. General Provisions. Every Insurer, Fraternal Benefit Society, Managed Care Organization or other similar organization marketing long-term care insurance coverage in this state, directly or through its producers, shall:

- a. Establish marketing procedures and producer training requirements to assure that any marketing activities, including any comparison of policies by its producers will be fair and accurate.
- b. Establish marketing procedures to assure excessive insurance is not sold or issued.
- c. Display prominently by type, stamp or other appropriate means, on the first page of the outline of coverage and policy the following: "Notice to buyer: This policy may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations."
- d. Provide copies of the disclosure forms required in Subsection 009.10.
- e. Provide an explanation of contingent benefit upon lapse as provided for in Subsection 032.04.b. and if applicable, the additional contingent benefit upon lapse provided to policies with fixed or limited premium paying period in Subsection 032.04.c.
- f. Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance already has accident and sickness or long-term care insurance and the types and amounts of any such insurance, except that in the case of qualified long-term care insurance contracts, an inquiry into whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance is not required.
- g. Establish auditable procedures for verifying compliance with Subsection 027.01.
- h. At solicitation, provide written notice to the prospective policyholder and certificate holder that Senior Health Insurance Benefits Advisors/SHIBA the program is available and the name, address and telephone number of the program.
- i. For long-term care insurance policies and certificates, use the terms "noncancellable" or "level premium" only when the policy or certificate conforms to Subsection 011.01.c. of this chapter.

02. Prohibited Practices. In addition to the practices prohibited in Chapter 13, Title 41, Idaho Code, Trade Practices and Frauds, the following acts and practices are prohibited:

- a. Twisting . Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on or convert any insurance policy, or to take out a policy of insurance with another insurer.
- b. High Pressure Tactics . Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.
- c. Cold Lead Advertising . Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance producer or insurance company.
- d. Misrepresentation . Misrepresenting a material fact in selling or offering to sell a long-term care insurance policy.

03. Associations. With respect to the obligations set forth in Subsection 027.03, the primary responsibility of an association, as defined in Section 41-4603(4)(b), Idaho Code, when endorsing or selling long-term care insurance shall be to educate its members concerning long-term care issues in general so that its members can make informed decisions. Associations shall provide objective information regarding long-term care insurance policies or certificates endorsed or sold by such associations to ensure that members of such associations receive a balanced and complete explanation of the features in the policies or certificates that are being endorsed or sold.

- a. The insurer shall file with the insurance department the following material:
 - i. The policy and certificate;
 - ii. A corresponding outline of coverage; and
 - iii. All advertisements to be utilized.
- b. The association shall disclose in any long-term care insurance solicitation:
 - i. The specific nature and amount of the compensation arrangements (including all fees, commissions, administrative fees and other forms of financial support) that the association receives from endorsement or sale of the policy or certificate to its members; and
 - ii. A brief description of the process under which the policies and the insurer issuing the policies were selected.

- c. If the association and the insurer have interlocking directorates or trustee arrangements, the association shall disclose that fact to its members.
- d. The board of directors of associations selling or endorsing long-term care insurance policies or certificates shall review and approve the insurance policies as well as the compensation arrangements made with the insurer.
- e. The association shall also:
 - i. At the time of the association's decision to endorse, engage the services of a person with expertise in long-term care insurance not affiliated with the insurer to conduct an examination of the policies, including its benefits, features, and rates, and update the examination thereafter in the event of material change;
 - ii. Actively monitor the marketing efforts of the insurer and its producers; and
 - iii. Review and approve all marketing materials or other insurance communications used to promote sales or sent to members regarding the policies or certificates.
 - iv. Subsections 027.03.e.i. through 027.03.e.iii. shall not apply to qualified long-term care insurance contracts.
- f. No group long-term care insurance policy or certificate may be issued to an association unless the insurer files with the state insurance department the information required in Section 027.
- g. The insurer shall not issue a long-term care policy or certificate to an association or continue to market such a policy or certificate unless the insurer certifies annually that the association has complied with the requirements set forth in Section 027.
- h. Failure to comply with the filing and certification requirements of Section 027 constitutes an unfair trade practice in violation of Chapter 13, Title 41, Idaho Code, Trade Practices and Frauds.

04. Producer Training Requirements. An individual may not sell, solicit or negotiate long-term care insurance unless the individual is licensed as an insurance producer for life and disability (accident and health insurance) and has completed a one-time training course by or before November 1, 2007, and ongoing training every twenty-four (24) months thereafter. The training shall meet the requirements set forth in this Subsection 027.04. Such training requirements may be approved as continuing education course under IDAPA 18.01.53 "Continuing Education."

- a. The one-time training required by this section shall be no less than eight (8) hours and the ongoing training required by this Subsection 027.04 shall be no less than four (4) hours.
- b. The training required under Subsection 027.04.a. shall consist of topics related to long-term care insurance, long-term care services and qualified state long-term care insurance partnership program, including, but not limited to:

- i. State and federal regulations and requirements and the relationship between qualified state long-term care insurance partnership programs and other public and private coverage of long-term care services, including Medicaid;
 - ii. Available long-term care services and providers;
 - iii. Changes or improvements in long-term care services or providers;
 - iv. Alternatives to the purchase of private long-term care insurance;
 - v. The effect of inflation on benefits and the importance of inflation protection; and
 - vi. Consumer suitability standards and guidelines.
- c. The training required by Subsection 027.04. shall not include any sales or marketing information, materials, or training, other than those required by state and federal law.
- d. Insurers subject to this rule shall obtain verification that a producer receives training required by Subsection 027.04 before a producer is permitted to sell, solicit or negotiate the insurer's long-term care insurance products, maintain records subject to the state's record retention requirements, and make that verification available to the director upon request. An insurer shall maintain records with respect to the training of its producers concerning the distribution of its long-term care Partnership policies that will allow the Department of Insurance to provide assurance to the Division of Medicaid that the producers have received the training as required by Subsection 027.04 and that producers have demonstrated an understanding of the Partnership policies and their relationship to public and private coverage of long term care including Medicaid in this state. These records shall be maintained in accordance with the state's record retention requirements and shall be made available to the director upon request.
- e. The satisfaction of these training requirements in any state shall be deemed to satisfy the training requirements of this state.