STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

Bulletin 2007-10
Issued this 8th day of October, 2007

TO: All Insurers Writing Long Term Care Insurance in Minnesota

SUBJECT: Long Term Care Partnership Inflation Protection Exchange Procedures and Notice Requirements

The Deficit Reduction Act of 2005 (Public Law 109-171) allows for the expansion of Qualified Long Term Care Insurance Partnership Programs by states. This bulletin instructs long-term care insurers on the Minnesota requirements relating to: inflation protection, exchange procedures and notice requirements for a Partnership policy. For purposes of this bulletin, the term "policy" also includes a certificate issued under a group long-term care policy.

I. Inflation protection acceptable for Partnership status

Minnesota law (Minn. Stat. §256.B.0571 Subd. 10 and Minn. Stat. §62S.23) requires that Minnesota Long Term Care Partnership coverage provide inflation protection based on an insured's age at the time the policy is issued. Accordingly, a long-term care policy intended to qualify for Minnesota's Long Term Care Partnership Program must provide at least the following levels of inflation protection:

A. For issue ages under 61

If a policy is sold to a person under the age of 61, it must provide compound annual inflation protection. Inflation protection must be continued until at least age 66 to be considered meaningful protection allowing the policy to maintain Partnership status.

B. For issue ages 61 through 75

If a policy is sold to a person aged 61 through 75, the policy must provide some level of inflation protection. Inflation protection must continue for the first five consecutive years following the date of purchase, or until age 76, whichever occurs first, to be considered meaningful protection allowing the policy to maintain Partnership status. After the first five years, a policy sold to a person aged 61 through 75 may, but is not required to, provide inflation protection to maintain Partnership status.

C. For issue ages 76 and over

If a policy is sold to a person aged 76 or older, the policy may, but is not required to, provide some level of inflation protection.

Additionally, for the years where inflation protection is required, the inflation protection within the long-term care policy must meet the following requirements in order to qualify for Partnership status:

(1) ADEQUATE LEVEL OF INFLATION PROTECTION: Inflation protection which increases policy benefits at a rate of at least 5% compounded annually will be considered meaningful to account for reasonably anticipated increases in the costs of long-term care services under Minn. Stat. §62S.23 and will therefore be considered adequate to qualify for Partnership status:

(2) OTHER LEVELS OF INFLATION PROTECTION SUBJECT TO REVIEW: Inflation protection in an amount less than 5% compounded annually and/or inflation protection tied to a particular index value will be subject to review by the Minnesota Department of Commerce before it will be considered adequate to qualify for Partnership status. The Minnesota Department of Commerce will consider the age range of purchasers and the types of long-term care services covered by the policy in determining whether the inflation protection is meaningful to account for reasonably anticipated increases in the costs of long-term care services and adequate to qualify for Partnership status under Minn. Stat. §62S.23.

(3) SCHEDULE OF BENEFIT INCREASES: Benefit increases for inflation protection must occur no less frequently than annually.

(4) INFLATION PROTECTION INCREASES NOT SUBJECT TO UNDERWRITING: Inflation protection increases cannot be contingent on the insured providing evidence of insurability or health status information. However, this does not alter the ability of an insurer to consider evidence of insurability or health status information at the time the policy or the inflation protection rider is initially underwritten.

(5) FLEXIBILITY IN PREMIUM STRUCTURE: The premium associated with the policy may be based on level premiums, premiums that increase annually or some other premium arrangement set forth in the contract. However, the additional premium for increased benefits must be no higher than the rate based on the insured's attained age at the time of each offer.

(6) ILLUSTRATION REQUIREMENT IF NOT LEVEL PREMIUM: If the prospective insured elects a premium option other than level premiums, a personalized illustration must be provided at the point of sale that demonstrates the expected pattern of future annual premiums needed to maintain Partnership status until at least age 100. The illustration must include a yearly comparison to the premium and the benefits for a policy that includes automatic compound annual inflation protection with level premiums.

. (7) INFLATION PROTECTION OFFERS, DISCLOSURE REQUIREMENTS & DISCONTINUATION OF INFLATION PROTECTION: The inflation protection may be automatic or the inflation protection may be provided as the result of an annual guaranteed offer by the company. During the previously outlined time frames for which inflation protection is required, each annual guaranteed offer of inflation protection must include disclosure language notifying the insured person of the effect on the policy's Partnership status if the insured fails to maintain inflation protection. Guaranteed offers must be structured so that the inflation protection required for

Partnership status is maintained unless the insured formally declines an offer of inflation protection in a written statement or on a form developed by the company for such purpose: In the written statement or form, the insured must acknowledge understanding that the decision to decline inflation protection will result in the loss of the policy's Partnership status, including the asset protections provided by a Partnership policy. A similar written acknowledgement is required if an individual elects to drop a rider that provides automatic inflation protection if such a change would result in the loss of Partnership status.

II. Notice & Exchange Procedures for Partnership Policies

Minnesota law (Minn. Stat. §62S.24 Subd. 8 and Minn. Stat. §256B.0571 Subd. 8a) allows for the exchange of existing long-term care insurance policies for a policy that qualifies for Partnership status if authorized by federal law or waiver. Guidance from the Federal Centers for Medicare and Medicaid Services (CMS) allows states to determine whether policies sold before the effective date of Partnership programs qualify for the program. The phased implementation of the Partnership program has resulted in two classes of persons for whom notice or exchange procedures must be addressed:

A. Persons who purchased a long-term care insurance policy and the policy met or will meet Partnership criteria;
B. Persons who purchased a long term care insurance policy but the policy did not meet Partnership criteria;

The following outlines the notice and exchange procedures that long-term care insurers are asked to follow for each of these two classes of persons:

A. Persons who purchased a long-term care insurance policy and the policy met or will meet Partnership criteria.

Long-term care insurers are asked to identify such persons and send the "Notice of Long Term Care Partnership Status" form to any insured whose long-term care insurance policy met or will meet the following criteria:

(1) They had coverage that complied with Minn. Stat. §62S and was tax-qualified, as defined in Section 7702B(b) of the Internal Revenue Code of 1986, on July 1, 2006 or the coverage effective date, whichever is later;
(2) They had coverage that met the regulations and requirements of the NAIC Model Regulations and Act of 2000 and the company has complied with all requirements of Minnesota Bulletin 2007-5 for the certification of the policy form;
(3) The coverage was purchased for an individual who was a resident of Minnesota on the date of purchase; and
(4) The coverage meets tile minimum inflation protection requirements stated in section I above as of the date of purchase.

Long-term care insurers who elect to have long-term care policies forms certified as Partnership policies are required to send the Notice of Long Term Care Partnership Status to policyholders who meet the criteria listed above by December 31, 2008, or within 30 days of the company starting to market Partnership policies if later.

B. Persons who purchased a long term care insurance policy but the policy did not meet Partnership criteria.

Minnesota law provides that long-term care insurers may voluntarily exchange qualified long-term care policies for Partnership policies and Minnesota encourages long-term care insurers to do so. If a policyholder needs to purchase additional coverage or features for the policy to qualify as Partnership, evidence of insurability may be required by the insurer and premium adjustments may apply.

III. Effect of Aging on Inflation Protection Requirements

Except as provided in Section II above, policyholders whose coverage does not meet the Partnership criteria as of the effective date of their policies will not be allowed to achieve Partnership status simply because there are lesser inflation protection requirements at their attained age. For example, a person without inflation protection will not be able to become Partnership-qualified when they turn age 76 just because inflation protection is not required at that age.

Persons who purchase long-term care insurance policies which meet Partnership criteria, however, may adjust their inflation protection as they age. Their policies will maintain Partnership status as long as the inflation protection continues to meet the minimum requirements for their attained age.

Notice of Long Term Care Partnership Status

Date____________________________

Insured's name: ______________________________

Policy or certificate number:______________________

Partnership issue date: _________________________

Please Note: Your long-term care coverage has been identified as qualifying for inclusion in Minnesota's new Long Term Care insurance Partnership program.

Q: What is the Partnership program?

The Minnesota Long Term Care Partnership is a public/private arrangement between private long-term care insurers and Minnesota's Medicaid/Medical Assistance program. It enables people who purchase certain long-term care insurance policies to have more of their assets protected if they later need to have the state pay for their long-term care. For example, if you receive $100,000 in benefits under your long-term care insurance, you may be allowed to protect an additional $100,000 in assets at the time you apply for Medicaid/Medical Assistance.

Q: Do I have to take any action now?

No. You don't need to take any additional steps until you apply for Medicaid/Medical Assistance. At that time, you may be asked to provide information about your coverage and your insurer should be able to assist you.

Q: Will this have any affect on my premiums?

No. This new status will not affect your premiums.

Q: What could affect my Partnership status?

Your coverage may lose its Partnership status or your Partnership benefits may be altered if:

1. You change your inflation protection. Whether your coverage qualifies for Partnership depends in part on your age and the type of inflation protection you select and maintain. Therefore, before you make any change to your inflation protection, be sure to ask your insurer how a change may affect your Partnership status.
2. You move to a state that does not have a Partnership program or does not agree to provide reciprocity with Minnesota.
3. State and federal laws change.

Q: Where do I find out more?

For questions regarding your coverage, please contact:

For questions regarding the Partnership program, please contact:

Minnesota Long Term Care Partnership, www.mnltcpartnership.org,
Phone: 1-800/333-2433 Email: senior.linkage@state.mn.us