MARYLAND

INSURANCE ADMINISTRATION

Report on Nonforfeiture Benefits

House Bill 493

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Insurance Commissioner

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Executive Summary

In accordance with HB 493 Long-Term Care Insurance – Premium Rates, enacted during the 2017 legislative session, the Maryland Insurance Administration ("MIA") is providing: 1) an assessment of the impact of the existing regulation requiring a carrier to offer a nonforfeiture ("NF") benefit[1] on individual and group Long-Term Care ("LTC") insurance policyholders and carriers; and 2) an assessment of whether expanding the NF benefit is desirable.

Based on its analysis, the MIA believes that the regulation requiring a carrier to offer a NF benefit has had a positive impact on the marketplace. As outlined below, there are pros and cons as to whether it is desirable to expand the NF benefit in Maryland at this time. Doing so would have a positive financial impact on certain consumers, but due consideration should be given to the scope of application and terms of such an expansion, especially as to existing guaranteed renewable products that have already been priced. An expansion would be a deviation from the national standards set forth by the National Association of Insurance Commissioners' ("NAIC") Model Regulation on LTC insurance, and could have a chilling effect on a marketplace that is already sparse in the state. The legislature should explore each of these issues as it evaluates an expansion of NF benefits.

Introduction

LTC insurance reimburses a consumer for some or all of the consumer's LTC costs. LTC costs may include care management, rehabilitation services, adult day care, or hospice. These services may be delivered in an assisted living facility, at home or in a nursing home. At present, there are 19 carriers with approved LTC policies in Maryland and approximately 134,000 Marylanders enrolled in Individual and Group LTC plans. Of those 19 carriers, only a few are still open for new business (e.g., Genworth, Northwestern, N.Y. Life). As recently as November 2017, State Farm informed the MIA that it would stop selling LTC coverage across the country effective March 12, 2018.

COMAR 31.14.01.13B provides that an insurer may not deliver or issue a LTC policy in Maryland unless the option of purchasing a policy including a NF benefit has been offered. The NF benefit may be offered as an optional rider to the LTC policy, or may be part of the standard policy itself. A NF benefit is a benefit, for applicants that elect it, that allows a consumer to retain some value of their policy, should the policy lapse due to nonpayment of premiums. The NF benefit is equivalent to a reduced paid-up LTC contract. As required by COMAR 31.14.01.13F(4)(a), the standard NF benefit (paid-up amount) shall equal 100 percent of the sum of all premiums paid, including the premiums paid before any changes in benefits.[2] It is important to note that electing the NF benefit does not result in the insured receiving a cash

[1] A carrier may not deliver or issue a long-term care insurance policy in Maryland unless the option of purchasing a policy including a nonforfeiture benefit has been offered to the policyholder. See COMAR 31. 14.01.13.

[2] The minimum nonforfeiture credit may not be less than 30 times the daily nursing home benefit at the time of lapse. See COMAR 31.14.01.13F(4)(c).

refund or lump sum cash payment equal to the amount of aggregate premiums paid. Further, the standard NF benefit does not include any adjustments made for inflation.

ADDITIONAL CONSUMER PROTECTIONS

If an applicant rejects the offer of a NF benefit at time of application, or if for certain products,[3] the applicant accepts the NF benefit on a policy with a fixed or limited premium paying period, the carrier shall provide for "contingent benefit upon lapse." The "contingent benefit upon lapse" provision became effective on April 1, 2003, and is triggered whenever an insurer increases the premium rates to a level which results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insureds' initial annual premium as set forth in the table below[4]:

Issue Age	Percent Increase Over Initial Premium[5]	Issue Age	Percent Increase Over Initial Premium
29 and Younger	200%	72	36%
30-34	190%	73	34%
35-39	170%	74	32%
40-44	150%	75	30%
45-49	130%	76	28%
50-54	110%	77	26%
55-59	90%	78	24%
60	70%	79	22%
61	66%	80	20%
62	62%	81	19%
63	58%	82	18%
64	54%	83	17%
65	50%	84	16%
66	48%	85	15%
67	46%	86	14%
68	44%	87	13%
69	42%	88	12%
70	40%	89	11%
71	38%	90 and Older	10%

[3] Impacted products include any LTC insurance policy or certificate issued in Maryland on or after March 1, 2008, and any certificate issued under an employer group LTC insurance policy, if the certificate is issued on or after September 10, 2008. See COMAR 31.14.01.13D(2)-(3).
[4] See COMAR 31.14.01.13E(5).
[5] For any long-term care policy issued in Maryland on or after September 1, 2017:

(a) If the policy or certificate was issued at least 20 years before the effective date of the increase, a value of 0% shall be used in place of all values in this table;
(b) Values above 100% in the table shall be reduced to 100%.

Additionally, COMAR 31.14.01.36 requires that every LTC insurance policy include a provision that allows the policyholder to reduce coverage and lower the premium by reducing the maximum benefit or by reducing the daily, weekly, or monthly benefit amount. A carrier may also offer reduction options other than the above, if the reduction options are consistent with the policy or certificate design or the carrier's administrative processes. These alternatives include adjustments to a product's elimination period or inflation benefits. Many consumers have availed themselves of benefit reduction options as a means to offset premium rate increases that consumers determined were not affordable.

IMPACT OF THE EXISTING REGULATION REQUIRING A CARRIER TO OFFER A NONFORFEITURE BENEFIT

Based on the MIA's review of carrier rate filings and a Society of Actuaries (SOA) study from November 2016 entitled "Long Term Care Insurance: The SOA Pricing Project," most LTC carriers are observing an "ultimate voluntary lapse rate" of approximately 1.0%. The largest LTC carrier in Maryland, Genworth, advised that if an insured is faced with a significant rate increase (e.g., greater than 30% over two years), 80% will renew, 15% will reduce their benefits to offset the rate increase (if offered), and 5% will lapse. Assuming that a typical LTC insured holds their policy for 30 years, a voluntary lapse at 15 years would result in accumulated paid-up premiums purchasing benefits that are reduced by approximately 67%.

For those who are eligible and who can no longer afford to pay their premiums, the NF requirement provides a much needed opportunity for a policyholder to maintain their LTC coverage without having to pay any additional premiums on a go-forward or prospective basis.

WHETHER TO EXPAND THE NF BENEFIT

The first reader of HB 493 from the 2017 Session included the following language, which was later stricken and replaced with the requirement to write this report:

> **A CARRIER SHALL PROVIDE AN INSURED WHO HAS MAINTAINED A CONTRACT OR POLICY OF LONG–TERM CARE INSURANCE THROUGH THE CARRIER FOR AT LEAST 10 YEARS AND HAS PAID ALL PREMIUMS FOR THE CONTRACT OR POLICY IN FULL, A NONFORFEITURE BENEFIT THAT IS:**
>
> **(1) EQUIVALENT TO AT LEAST THE ACCUMULATED VALUE OF ALL PREMIUMS PAID BY THE INSURED; AND**
>
> **(2) ADJUSTED FOR INFLATION BASED ON THE CONSUMER PRICE INDEX FOR THE WASHINGTON–BALTIMORE METROPOLITAN AREA, AS COMPUTED BY THE U.S. DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS.**

The primary policy goal of expanding the NF benefit would seem to be crediting an inflation adjustment on the accumulated premiums for purchasing paid-up benefits. The proposed index to adjust for inflation is the Consumer Price Index for all urban consumers (CPI-U) of the Washington-Baltimore Metropolitan area (DC-MD-VA-WV), as computed by the U.S. Department of Labor's Bureau of Labor Statistics. In our analysis below, we use the CPI-U (urban consumers) as opposed to CPI-W (urban wage earners and clerical workers) to illustrate an example, because CPI-U represents 88% of the workforce versus 28% represented by CPI-W.

To illustrate how the NF calculation works, consider an example in which premiums of $3,000 are paid annually for 15 years beginning 01/01/2008 and the policy is lapsed on 12/31/2022. As shown, the crediting of an inflation adjustment on premiums gives the consumer 16.2% more dollars with which to purchase paid-up, reduced benefits.

Duration	Year	CPI-U	Current Premium	New Premium	CPI-U Cumul.
1	2008	4.9%	$3,000	$4,053	**1.351**
2	2009	1.0%	$3,000	$3,863	1.288
3	2010	2.6%	$3,000	$3,825	1.275
4	2011	2.3%	$3,000	$3,728	1.243
5	2012	2.7%	$3,000	$3,644	1.215
6	2013	1.8%	$3,000	$3,548	1.183
7	2014	1.9%	$3,000	$3,486	1.162
8	2015	0.0%	$3,000	$3,421	1.140
9	2016	1.4%	$3,000	$3,421	1.140
10	2017	1.7%	$3,000	$3,374	1.125
11	2018	2.0%	$3,000	$3,317	1.106
12	2019	2.0%	$3,000	$3,251	1.084
13	2020	2.0%	$3,000	$3,186	1.062
14	2021	2.0%	$3,000	$3,123	1.041
15	2022	2.0%	$3,000	$3,061	1.020
	TOTAL		**$45,000**	**$52,301**	
	Δ			16.2%	
	Δ			$7,301	

Under the current regulation, the required NF benefit is $45,000. Expanding the NF benefit to account for CPI-U inflation would increase the overall NF benefit required to be held for each policy to $52,301. Importantly, this change would also increase the present value of potential overall future claims, which will in turn increase the premiums necessary in order to ensure that future claims are adequately funded. Therefore, expanding the NF benefit to account for inflation must be weighed in conjunction with the cost of concurrent increases in LTC premium rates.

Some further advantages and disadvantages of expanding the NF benefit are as follows:

Advantages

1. A business proposition whereby an institution offers to hold one's money for 10 or more years and then return it without any interest credited may be considered unfair or unattractive for the consumer.

2. With only 1.0% of consumers lapsing voluntarily (or perhaps 2.0% due to "shock lapse" induced by large rate increases, or 5.0% induced by also crediting inflation protection), the rate impact to the carrier assuming voluntary lapses at duration 15 could be relatively low at approximately 0.2%, 0.3%, and 0.8%, respectively (i.e., the required additional premium needed in initial pricing). In contrast, the impact to the lapsing consumer could be approximately a 16% increase in benefits.

3. As previously indicated, assuming that a typical LTC insured holds their policy for 30 years, a voluntary lapse at 15 years would result in accumulated, paid-up premiums purchasing benefits that are reduced by approximately 67%. By crediting an inflation adjustment, this reduction could be improved by 5% to a reduction in benefits of 62%.

Disadvantages

1. Current NF benefits mirror the NAIC's *Long-Term Care Insurance Model Regulation (#641).* Expanding the NF benefit in Maryland to adjust for inflation will no longer correspond with the NAIC Model Regulation, and make Maryland an outlier in requiring that the NF benefit be calculated in such a way. This may negatively impact Maryland's ability to retain the few LTC carriers who are still accepting new business, and to encourage new LTC carriers to enter the Maryland market, as a carrier would need to develop a rating process that is unique to Maryland in order to accommodate the expanded NF benefit.

2. LTC insurance is guaranteed renewable. This means that once a policy is issued, the LTC insurer cannot cancel a policy because of health or claim status of the insured and must continue to offer coverage to each insured on an annual basis. It is the decision of the insured whether or not to continue coverage. When these products are initially priced, all current laws and regulations are taken into account (including the NF benefit in its current form). Expanding the NF benefit on policies already issued and in force will result in larger premium increases being sought because the expanded NF benefit was not considered at initial time of pricing. This concern could be mitigated by applying the expansion prospectively only, to new policies and certificates issued subsequent to enactment.

3. LTC insurance is a long-term product. This means that a significant portion of the claims are not expected to occur until approximately 10 years after issuance. In the early years,

premiums are collected and those premium dollars are used to earn investment income. The investment income earned plus the premiums collected are then used to fund future claims. Expanding the NF benefit to include inflation would reduce the LTC carrier's investment income. As a result, the company would need to increase their premium rates to account for the extended NF benefit. This would make LTC products even more cost prohibitive, and potentially make more Marylanders dependent on Medicaid for their LTC needs.

4. The more recent LTC products appear to be more stabilized products. The probability of newer products requiring a significant rate increase is significantly less than the older products. By allowing for an expanded NF benefit at time of issue, the LTC carrier will be required to make assumptions as to what CPI-U inflation rates will be 20 to 30 years into the future in order to accommodate and price for the expanded NF benefit. If these assumptions turn out to be incorrect, this could destabilize the market for the more recent products, as large increases could be sought on the more recent blocks of LTC business. A way to protect against this uncertainty may be to put a ceiling on the CPI-U adjustor for any given year.

Conclusion

The NF benefit provides an overall positive impact on the market. It protects consumers who are unable to afford increased premium amounts. The requirement that a carrier offer an NF benefit has been in effect in Maryland for many years and mirrors the NAIC's *Long-Term Care Insurance Model Regulation (#641).*

Expanding the NF benefit to include inflation may be in the best interest of policyholders who utilize the benefit, as it would result in a greater benefit should the policyholder decide to lapse their policy. If the legislature decides to pursue this option, limiting the expansion to business sold after the effective date of the legislation will mitigate the financial impact on carriers' existing blocks of business, negating the need to raise these premiums to account for this change. Additionally, the legislature might also consider expanding the mandated offer of a nonforfeiture benefit at COMAR 31.14.01.13B to include an offer of a nonforfeiture benefit with CPI-U inflation. Such an optional benefit would create an enhanced product for consumers that want it, without a substantial impact to rates for consumers that do not.

As the legislature explores this issue, it should also consider that expanding the NF benefit may discourage the limited number of LTC carriers in Maryland from offering new business, as rating business in Maryland would be unique, as compared to their national portfolio. Additionally, expanding the NF benefit prospectively would require insurers to make assumptions about future CPI-U inflation rates, which if incorrect, may cause a disruption in an LTC marketplace that may be nearing stabilization. As noted above, a ceiling on the CPI-U adjustor for any given year may mitigate this concern.

We encourage the legislature to seek further feedback from stakeholders on this policy question, to provide a more holistic picture on what the expansion of the NF benefit would mean to the Maryland LTC market and its consumers.