# BULLETIN 381

## Long-Term Care Partnership Exchanges

The Maine Legislature has enacted An Act to Require Insurance Companies to Reissue Qualifying Long-term Care Partnership Policies, effective September 28, 2011.[1] The new law requires long-term care insurers to provide notice to policyholders that they may be able to exchange their policies in order to participate in Maine's Long-Term Care Partnership Program. This Bulletin explains the exchange process.

The law applies to all insurers actively marketing individual or group long-term care "partnership policies" in Maine on and after September 28, 2011. The law defines partnership policies as policies "offered with the intent to meet the requirements of the Long-term Care Partnership Program."[2] Requirements for partnership policies in Maine are spelled out in more detail in Bulletins 368 and 369.

Insurers marketing partnership policies in one or both markets are required to review all of the "qualified" long-term care policies (policies designed to meet Internal Revenue Code requirements) that they have issued between July 1, 2004, and the date they began actively marketing partnership policies in the same market in Maine. This review must be conducted in order to identify eligible policyholders and to determine which of their policy forms meet partnership policy requirements - except for issue date - as described in Bulletin 368.

Insurers currently marketing partnership policies in Maine must offer a policy exchange or amendment to eligible policyholders no later than September 28, 2012. Insurers that begin marketing partnership policies after September 28, 2011, will have one year from the date they begin actively marketing partnership policies in Maine. Insurers must also make the exchange offer to any eligible policyholder who was issued coverage before July 1, 2004, and who makes an affirmative request for review on or before September 28, 2012.

The nature of the offer the insurer is required to make depends on which type of existing policy the policyholder has:

**For policies meeting the requirements of Bulletin 368,** the insurer must issue to each policyholder with that policy the "Important Notice Regarding Your Policy's Long-Term Care Insurance Partnership Status" contained in Appendix A of Bulletin 368, as well as a policy amendment reflecting the effective date of the policy's partnership status. The insurer may not medically underwrite due to the exchange or charge additional premium for the amendment.

**For policies not meeting the requirements of Bulletin 368,** the insurer must notify the policyholder that the policy may be exchanged for a partnership policy. The new partnership policy may be subject to underwriting and additional premium based on the policyholder's age on the date of the exchange. If the policyholder does not accept the offer within 60 days, the insurer is not required to make the exchange.

The requirements of the law apply separately to an insurer's individual business and its group business. Insurers that offer partnership policies only to individuals, but also have existing group business, are not required to offer exchanges to group policyholders, and *vice versa*.[3] For employer groups, the employer, not the individual employee, is the policyholder entitled to notice and the opportunity for a policy exchange.

A policyholder is not eligible for an exchange while receiving benefits or in a waiting period to receive benefits, or for one year afterwards, but may request review after one year has elapsed from the end of any benefit payment or waiting period.

[1] P.L. 2011, ch. 198 (LD. 642), *enacting* 24-A M.R.S.A. § 5082.

[2] 24-A M.R.S.A. § 5082(1)(D).

[3] 24-A M.R.S.A. § 5082(6). If the insurer subsequently re-enters the other market, it has one year from that date to offer exchanges to policyholders in that market.

August 24, 2011

Eric A. Cioppa
Acting Superintendent of Insurance

NOTE: This Bulletin is intended solely for informational purposes. It is not intended to set forth legal rights, duties, or privileges, nor is it intended to provide legal advice. Readers should consult applicable statutes and rules and contact the Bureau of Insurance if additional information is needed.