

BULLETIN 369

Inflation Protection Requirements for Long-Term Care Partnership Policies

(Supersedes Bulletin 363)

The federal Deficit Reduction Act of 2005 (“DRA”) requires that a long-term care policy (including a certificate under a group long-term care contract) provide certain levels of inflation protection in order to qualify for a Long-Term Care Insurance Partnership Program. The DRA requires a Partnership Policy to provide “compound annual inflation protection” if sold to a person under the age of 61 and “some level of inflation protection” if sold to a person from 61 to 75 years old.¹ A qualifying policy may provide inflation protection if sold to a person aged 76 or older, but is not required to do so.

Because the DRA does not set any specific quantitative standards for inflation protection, it is left to state regulators to determine what benefit growth rate is considered sufficient. In reviewing whether Partnership Policy Forms are in compliance with this requirement, the Superintendent is guided by prevailing industry standards, experience in other Partnership states, and the need to provide meaningful protection while making a range of affordable coverage options available.

For policies sold to consumers under age 61, subject to the compound inflation protection requirement, there are two baseline standards currently in common use in the market. One is annual benefit growth at a fixed percentage, and the other is the consumer price index. Either approach is acceptable. If a fixed percentage is used, it must be at least 3%, which is the threshold used by a majority of the partnership states. The inflation index currently in common use is the CPI-U (“all urban consumers”). Any provision providing automatic benefit increases at a rate no less than the change in the CPI-U is acceptable as compound inflation protection, and other indices may also be used if specifically approved in advance for this purpose by the Superintendent.

Policies sold to consumers between ages 61 and 75 are subject to the lesser requirement of “some level” of inflation protection. For these consumers, in addition to either of the compound inflation protection options described above, simple interest at a rate of at least 3% is also an acceptable option.

It must be emphasized that these are minimum requirements, and more generous inflation protection options must also be made available as an alternative. Regardless of the age of the consumer, Bureau of Insurance Rule 425, § 13(A), requires all insurers to offer, at the time of purchase, the option to purchase a policy with an inflation protection feature no less favorable than one of the following:

1. Compounded annual benefit growth at a rate not less than 5%;

2. A right to increase benefit levels periodically, without providing evidence of insurability, to a level based on 5% compound interest; or
3. A policy that covers a specified percentage of actual or reasonable charges without any specified limit.

Thus, the minimum levels of inflation protection for a policy to qualify under Maine’s Long-Term Care Partnership Program are as follows. Alternative methodologies providing equal or greater protection are permitted with the Superintendent’s prior approval:

Age at time of sale or Partnership conversion request	Minimum inflation protection
All ages (optional)	Offer of 5% compound interest to policyholder or certificate holder, or alternative options as provided in Rule 425.
under 61 (mandatory)	3% compound interest or a rate based upon changes in the CPI.
61 through 75 (mandatory)	3% simple interest or any inflation option applicable to ages under 61.
76 and older	No inflation protection required.

If a policy already in force on the effective date of the Partnership Program is exchanged for a Partnership Policy, the level of inflation protection required is based on the insured individual’s age on the date of the conversion request. If the in-force policy provides for inflation protection in excess of the minimum requirements, the insured may agree to exchange the policy for a Partnership Policy with a lower level of inflation protection, but the insurer may not reduce or terminate the existing inflation protection benefit without the insured’s consent. Similarly, inflation protection in a Partnership Policy may be adjusted when the insured reaches a higher age band, but only by agreement between the insurer and the insured. However, a policy is only a Partnership Policy if it qualifies on the date when it is sold. If it lacks sufficient inflation protection to qualify as a Partnership Policy, it cannot become a Partnership Policy later when the insured reaches a higher age band, although it may be exchanged for a new Partnership Policy at that time.

¹ The requirement is codified in Social Security Act SSA § 1917(b)(1)(C)(iii)(IV) (42 U.S.C. § 1396p(b)(1)(C)(iii)(IV)).

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