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Revised Inflation Protection Requirements for Long-Term Care Partnership Policies

(Supersedes Bulletin 369)

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 continuing need to make more affordable coverage options available. Insurers must also continue to provide consumers with the option to purchase higher levels of inflation protection as provided by Rule 425, § 13(A).

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 1%. We have reduced the required minimum rate from the amount specified in Bulletin 369 so that insurers can have greater flexibility in marketing more affordable coverage. 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 1% is also an acceptable option. There is no inflation protection requirement for those 76 and older.

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[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)).

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 exchange the policy for a Partnership Policy with a lower level of inflation protection. Similarly, with the consent of the insured, inflation protection in a Partnership Policy may be adjusted when the insured reaches a higher age band. 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.

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