



DOMESTIC/FOREIGN INSURERS BULLETIN NO. 63 (Revised)

TO: ALL INSURANCE COMPANIES THAT MARKET LONG TERM CARE INSURANCE IN DELAWARE

RE: Delaware Long-Term Care Insurance Partnership Program

DATED: July 15, 2013

UPDATED: October 7, 2019

BACKGROUND AND PURPOSE

The purpose of this bulletin is to provide guidance regarding the implementation of the Delaware Long-Term Care Insurance Partnership Program (the Partnership Program). The Delaware Long-Term Care Partnership Program was effective on November 1, 2011.

The purpose of the update to this bulletin is to update references to the Delaware Division of Medicaid & Medical Assistance ("DMMA"), update both the Delaware Department of Insurance's and the Medicaid Policy Administrator's contact information, and to add additional formatting to make the bulletin easier to read.

The Partnership program operates under the direction of the Delaware Division of Medicaid & Medical Assistance ("DMMA") in consultation with the Delaware Department of Insurance ("DOI") and these guidelines have been jointly issued by these departments. Note that:

- Federal enabling legislation pertaining to Long-Term Care Insurance Partnership Program is set forth in the Deficit Reduction Act of 2005, Pub. L. 109-171 (the "DRA"); and
- Implementing procedures are described in guidance issued by the Centers for Medicare and Medicaid Services ("CMS"). See State Medicaid Director's Letter (SMDL #06-019) dated July 27, 2006, issued by CMS.

Under the Delaware Long-Term Care Partnership Program, individuals who purchase long-term care insurance policies that meet certain requirements specified by the DRA ("Partnership Policies") can apply for Medicaid under special rules for determining financial eligibility and estate recoveries. (In the case of group insurance, each certificate that meets the DRA's requirements constitutes a Partnership Policy.) These special rules generally allow the individual to protect assets equal to the insurance benefits received from a Partnership Policy so that such assets will not be taken into account in determining financial eligibility for Medicaid and will not subsequently be subject to Medicaid liens and recoveries.

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 Delaware Department of Insurance if additional information is needed.

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A. Asset Protection Provided Through “Asset Disregard”

The Delaware Long-Term Care Partnership Program utilizes "Asset Disregard" when calculating a person's eligibility for Medicaid. Asset Disregard means that an amount of the policyholder's [certificate holder's] assets that are equal to the amount of long-term care insurance benefits received under a qualified Partnership Policy [Certificate] will be disregarded for the purpose of determining the insured's eligibility for Medicaid.

Asset Disregard generally allows a person to keep assets equal to the insurance benefits received under a qualified Partnership Policy [Certificate] without affecting the person's eligibility for Medicaid. All other Medicaid eligibility criteria will apply, and special rules may apply to persons whose home equity exceeds the current Medicaid thresholds. Asset Disregard is not available under a long-term care insurance policy [certificate] that is not a Partnership Policy [Certificate]. The purchase of a Partnership Policy does not automatically qualify you for Medicaid.

The Asset Disregard applies to all insurance benefits received from a Partnership Policy. Thus, for example:

- The Asset Disregard applies to insurance benefits paid on a reimbursement of long term care expenses basis, as well as benefits paid on a "per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate" (within the meaning of section 7702B(b)(2)(A) of the Internal Revenue Code of 1986 (26 U.S.C. 7702B(b)(2)(A))).
- Similarly, the Asset Disregard applies to all insurance benefits received from a Partnership Policy, regardless of whether such insurance benefits are in respect of costs for long-term care that would not be covered by Medicaid.
- Additionally, the Asset Disregard as of the month of Medicaid application equals the insurance benefits that have been received to that date from a Partnership Policy, even if additional insurance benefits may be received in the future from such Partnership Policy.

If a policy is received after the effective date of the Delaware Long-Term Care Partnership Program in exchange for a policy issued before such date, and the new policy qualifies as a Partnership Policy, the Asset Disregard will apply only with respect to insurance benefits received under such new Partnership Policy and thus will not include insurance benefits, if any, received under the predecessor policy.

Partnership Policies that cover more than one insured are treated as separate Partnership Policies, each of which covers a single insured. With respect to each such insured, the Asset Disregard equals the insurance benefits received from the Partnership Policy on account of such insured having become a chronically ill individual (within the meaning of section 7702B(c)(2) of the Internal Revenue Code of 1986 (26 U.S.C. 7702B(c)(2))).

The Asset Disregard does not include return of premium payments made upon the termination of a Partnership Policy (due to cancellation or death), since such payments do not represent insurance benefits.

Eligibility for benefits under Medicaid is subject to other eligibility requirements, such as applicable income limitations, home equity limitations and other applicable resource limitations.

B. Partnership Policies

A Partnership Policy is a long-term care insurance policy (including a certificate issued under a group insurance contract) that satisfies all of the following requirements:

1. Qualified under Federal tax law. The policy must be a qualified long-term care Insurance contract, as defined in section 7702B(b) of the internal Revenue Code of 1986 (26 U.S.C. 7702B(b)). Thus, a qualified long-term care insurance contract that provides insurance benefits on a reimbursement, cash benefit basis, indemnity insurance basis, or on a "per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate," within the meaning of section 7702B(b)(2)(A) of the Internal Revenue Code of 1986 (26 U.S.C. 7702B(b)(2)(A)), will be a Partnership Policy if it satisfies the DRA's other requirements applicable to Partnership Policies, as described herein. Similarly, a long-term care insurance rider or other provision of an insurance contract (such as a rider to a life insurance contract or, after December 31, 2009, a rider to an annuity contract) that constitutes a qualified long-term care insurance contract under section 7702B(e) of the Internal Revenue Code of 1986 (26 U.S.C. 7702B(e)) will be a Partnership Policy if it satisfies the DRA's other requirements applicable to Partnership Policies as described herein.

2. Issue date. The policy must be issued not earlier than the effective date of the Delaware Long-Term Care Partnership Program. The issue date is the effective date of coverage under the policy. Thus, for example, in the case of a certificate issued under a group insurance contract, the effective date of coverage with respect to such certificate is the issue date of the certificate. A non-partnership long-term care policy may be exchanged for a Partnership Policy. The Partnership Policy is treated as newly issued and thus is eligible for Partnership Policy status. Be advised that if an exchange occurs, the new Partnership Policy may be subject to underwriting criteria and the premium for the policy may be increased as opposed to the previously issued long-term care policy. The addition of a rider, endorsement, or change in schedule page, for the purpose of meeting Long-Term Care Partnership requirements, for a policy issued prior to the effective date of the Delaware Long-Term Care Partnership Program, may be treated as giving rise to an exchange. The policy is then treated as newly issued and thus is eligible for Partnership Policy status.

3. State of residence. The policy must cover an insured who was a resident of Delaware when coverage first became effective under the policy. In the case of an exchange, this requirement shall be applied based on the coverage of the first long-term care insurance policy that was exchanged. A certificate covering an insured who is a resident of Delaware may qualify as a Partnership Policy even if the situs of the group insurance contract under which such certificate is issued is in another State.

4. Consumer protection requirements. The Federal consumer protection requirements of section 1917(b)(1)(C)(iii)(III) of the Social Security Act (42 U.S.C. 1396p(b)(1)(C)(iii)(III)) must be met with respect to the policy. (See also the certification process with respect to this requirement described in C below.)

5. Inflation protection. With respect to inflation protection:

- (a) if the policy is sold to an individual who has not attained age 61 as of the date of purchase, the policy must provide compound annual inflation protection;
- (b) if the policy is sold to an individual who has attained age 61 but has not attained age 76 as of the date of purchase, the policy must provide some level of inflation protection; and
- (c) if the policy is sold to an individual who has attained age 76 as of the date of purchase, the policy may (but is not required to) provide some level of inflation protection.

In order for coverage to meet the requirements of (a) above, the required inflation protection shall:

- provide automatic annual compounded inflation increases at a rate not less than three percent (3%); or
- provide automatic annual compounded inflation increases at a rate based on changes in the consumer price index. "Consumer price index" means consumer price index for

all urban consumers, U.S. city average, all items, as determined by the Bureau of Labor Statistics of the United States Department of Labor.

The following inflation features meet the requirements of (b) above:

- an inflation feature that meets the requirements of (a); or
- an automatic inflation feature that provides annual simple inflation increases (not compounded) at a rate not less than three percent (3%).

Future purchase offers do not meet the inflation requirements for under age 76.

The Delaware Insurance Commissioner (the "Commissioner") may also approve an alternative inflation method (including an alternative index) so long as such method is submitted to the Department with an explanation and demonstration as to how the alternative method provides for benefit levels to increase with benefit maximums or reasonable durations which are meaningful to account for reasonably anticipated increases in the costs of long-term care services covered by the policy. No alternative method may be used until the Commissioner has approved such method.

For purposes of applying this inflation requirement, the date of purchase means the effective date of coverage under the policy. Thus, for example, the date of purchase of a certificate issued under a group insurance contract means the effective date of coverage under such certificate. In the case of an exchange, the date of purchase is the effective date of coverage under the new policy, i.e., the determination is made without regard to any predecessor policy. If the insured and the policyholder or certificate holder under a policy are different, the insured should be considered the individual to whom a policy is sold for purposes of applying the inflation protection requirements.

C. Certification Process

Pursuant to section 1917(b)(5)(B)(iii) of the Social Security Act (42 U.S.C. 1396p(b)(5)(B)(iii)), a long-term care insurance policy shall be deemed to meet the consumer protection requirements of section 1917(b)(1)(C)(iii)(III) of the Social Security Act (42 U.S.C. 1396p(b)(1)(C)(iii)(III)) if the plan amendment provides that the Commissioner certifies, in a manner satisfactory to the Secretary of the U.S. Department of Health & Human Services (the "Secretary"), that the policy meets such requirements. In addition, the State Medicaid Director's Letter (SMDL #06019) dated July 27, 2006, issued by CMS, provides that the Commissioner must certify that a policy meets these consumer protection requirements in order for a policy to be a Partnership Policy.

In accordance with the safe harbor procedure specified in section 1917(b)(5)(B)(iii) of the Social Security Act (42 U.S.C. 1396p(b)(5)(B)(iii)) and subject to any guidance from the Secretary that may be issued providing otherwise, policies shall be considered certified pursuant to section 1917(b)(5)(B)(iii) of the Social Security Act (42 U.S.C. 1396p(b)(5)(B)(iii)) and therefore will be deemed to meet such consumer protection requirements if the issuer:

- (i) identifies the policy forms on which such policies are issued, and
- (ii) certifies that the consumer protection requirements of section 1917(b)(1)(C)(iii)(III) of the Social Security Act (42 U.S.C. 1396p(b)(1)(C)(iii)(III)) are met by such policies. An issuer's identification and certification of policies must be made to the Commissioner using the "Issuer Certification Form" attached as Attachment B. As appropriate, the Commissioner shall, in turn, certify to the Secretary the compliance of such policies with such consumer protection requirements using the "Delaware Certification Form" attached as Attachment A.

Issuers requesting to make use of a previously approved policy form as a Partnership Policy shall submit to the Commissioner the "Issuer Certification Form" referenced directly above. This form shall be required for each policy form submitted for partnership qualification.

An issuer and the Commissioner may submit supplemental Issuer Certification Forms and State Certification Forms, respectively, that identify additional policy forms on which policies are issued that satisfy the consumer protection requirements of section 1917(b)(1)(C)(iii)(III) of the Social Security Act (42 U.S.C. 1396p(b)(1)(C)(iii)(III)). Copies of the Delaware Insurance Commissioner's certifications to the Secretary shall be provided to DMMA and the issuer of the policies subject to such certification.

If there is a change made by the Secretary, pursuant to section 1917(b)(5)(C) of the Social Security Act (42 U.S.C. 1396p(b)(5)(C)), which affect the provisions of Delaware's Long-Term Care Insurance law (18 *Del. C.* Ch. 71) or Regulation 1404 Long-Term Care Insurance (18 *DE Admin. Code* §1404) that apply to new policies covered by Partnerships, appropriate modifications will be made to the Issuer Certification Form to reflect the new requirements.

D. Partnership Disclosure Requirements:

- Notice of Partnership Program. An issuer or its producer, soliciting or offering to sell a policy that is intended to qualify as a Partnership Policy, shall provide to each prospective applicant a "Partnership Program Notice", attached as Attachment C. outlining the requirements and benefits of a Partnership Policy. A similar notice may be used for this purpose if filed and approved by the Delaware Insurance Commissioner. The Partnership Program Notice shall be provided with the required Outline of Coverage.
- Notice of Partnership Policy Status. A Partnership Policy issued or issued for delivery in Delaware shall be accompanied by the "Partnership Status Disclosure Notice," attached as Attachment D. explaining the benefits associated with a Partnership Policy and indicating that at the time issued, the policy is a Partnership Policy. A similar notice may be used if filed and approved by the Delaware Insurance Commissioner. In the case of a group insurance contract, such Notice must be provided to the insured under a certificate upon the issuance of the certificate. In determining whether to provide this Notice with respect to a policy, the issuer of the policy may rely upon a statement by the policyholder, certificate holder or insured that the insured is a resident of Delaware.

E. Limitation on Partnership Policy Specific Rules

In accordance with section 1917(b)(1)(C)(iii)(VII) of the Social Security Act (42 U.S.C. 1396p(b)(1)(C)(iii)(VII)), apart from the requirements described in B above that are specified by the DRA, no requirement affecting the terms or benefits of a Partnership Policy may be imposed unless such requirement is imposed on long-term care insurance policies without regard to whether the policy is a Partnership Policy. This limitation does not affect Delaware's ability to generally regulate the terms and sale of long-term care insurance policies where Delaware imposes requirements without regard to whether policies are Partnership Policies.

F. Reporting Requirements

Issuers of Partnership Policies must provide regular reports to the Secretary in accordance with 45 CFR Part 144.

G. Producer Training

The DRA and the State Medicaid Director's Letter (SMDL #06-019) dated July 27, 2006, issued by CMS, require the Commissioner to provide assurance that any producer who sells, solicits or negotiates "a policy under a Partnership receives training and demonstrates an understanding of Partnership policies and their relationship to public and private coverage to long-term care." Issuers are to maintain records, subject to the state's record retention requirements, that verify its producers who sell, solicit, or negotiate long-term care insurance products on their behalf have received the training required for Partnership policies and that they demonstrate an understanding of the policies and their relationship to public and private long-term care coverage.

H. Coordination between Departments

DMMA must provide information and technical assistance to the DOI to enable the Commissioner to fulfill his/her obligations as set forth in SMDL #06-019.

I. Reciprocity

The Delaware Long-Term Care Partnership Program shall provide reciprocity with respect to long-term care insurance policies covered under other state long-term care insurance partnerships (i.e., Partnerships and Medicaid plan amendments approved as of May 14, 1993, providing for a long-term care insurance partnership).

With reciprocity, the amount of the Asset Disregard provided with respect to a policy purchased under the State long-term care insurance partnership of another State shall equal the Asset Disregard that would apply to a Partnership Policy covered directly by the Delaware Long-Term Care Partnership Program. Such reciprocity shall be provided to all States that maintain a State long-term care insurance partnership that provides similar reciprocity for Partnership Policies issued under the Delaware Long-Term Care Partnership Program. The provision of reciprocity under the Delaware Long-Term Care Partnership Program does not affect eligibility requirements for Medicaid benefits that apply apart from those pertaining to permissible assets and resources. After the issuance of guidance by the Secretary pursuant to section 6021(b) of the DRA, the Delaware Medicaid Agency, if it elects to be exempt from such standards, shall notify the Secretary in writing of such election within the period of time prescribed under such guidance.

J. Federal Long Term Care Insurance Program.

It is recognized that the enabling law for the creation of the Federal Long Term Care Insurance Program ("FLTCIP") set forth at 5 U.S.C. 9001-9009 provides for the preemption of state laws with respect to this program. Therefore, where the Director of the U.S. Office of Personnel Management has certified that a certificate issued pursuant to the FLTCIP meets the requirements of section 1917(b)(1)(C)(iii) of the Social Security Act (42 U.S.C. 1396p(b)(1)(C)(iii)), such certificate shall be deemed to qualify for the Asset Disregard.

For more information contact:

Delaware Department of Insurance at consumer@delaware.gov

OR

Medicaid Policy Administrator
Delaware Health and Social Services
Division of Medicaid & Medical Assistance
Planning & Policy Development Unit
Telephone: (302) 255-9628

This Bulletin shall be effective immediately and shall remain in effect unless withdrawn or superseded by subsequent law, regulation or bulletin.


Trinidad Navarro
Delaware Insurance Commissioner

Attachment A. Delaware State Certification Form

DELAWARE STATE CERTIFICATION FORM (Relating to Qualified State Long-Term Care Insurance Partnership)

Under section 1917(b)(5)(B)(iii) of the Social Security Act (42 U.S.C. 1396p(b)(5)(B)(iii)), the State Insurance Commissioner of a State implementing a qualified State long-term care insurance partnership (“Qualified Partnership”) may certify that long-term care insurance policies (including certificates issued under a group insurance contract) covered under the Qualified Partnership meet certain consumer protection requirements, and policies so certified are deemed to satisfy such requirements. These consumer protection requirements are set forth in section 1917(b)(5)(A) of the Social Security Act (42 U.S.C. 1396p(b)(5)(A)) and principally include certain specified provisions of Delaware’s Long-Term Care Insurance law (18 *Del.C.* Ch. 71) or Regulation 1404 Long-Term Care Insurance (18 *DE Admin. Code* §1404).

This State Certification Form should be used by the State Insurance Commissioner to provide the certification under section 1917(b)(5)(B)(iii) of the Social Security Act. In providing this certification, the State Insurance Commissioner may reasonably rely upon the certification of issuers of the policies that is made in accordance with the Issuer Certification Form (see Attachment B). The Issuer Certification Form is not intended, however, to preclude the State Insurance Commissioner from requesting such further information from issuers of policies as the State Insurance Commissioner determines may be needed in order to reach a determination that such policies are in compliance with the provisions of Delaware’s Long-Term Care Insurance law (18 *Del.C.* Ch. 71) or Regulation 1404 Long-Term Care Insurance (18 *DE Admin. Code* §1404) that are applicable under section 1917(b)(5)(A) of the Social Security Act.

A State Insurance Commissioner may supplement its certification from time to time to include new policies that are certified.

I. POLICY FORMS COVERED BY CERTIFICATION

The policies to which this certification applies are those issued on the policy forms identified on the attached Exhibit 1 that are intended to be covered by the Qualified Partnership. Once a certification is issued with respect to a policy form under this State Certification Form, such certification will continue to apply to policies issued on such form that are intended to be covered by the Qualified Partnership until such time that: (a) the State Insurance Commissioner revokes such certification, or (b) there is a change made by the U.S. Secretary of Health and Human Services (the “Secretary”), pursuant to section 1917(b)(5)(C) of the Social Security Act (42 U.S.C. 1396p(b)(5)(C)), in the provisions of the NAIC’s long-term care insurance models that apply to policies covered by the Qualified Partnership.

Any such change in requirements made pursuant to section 1917(b)(5)(C) of the Social Security Act (42 U.S.C. 1396p(b)(5)(C)) shall apply prospectively only (or in accordance with any effective date rule promulgated by the Secretary in connection with such change), so that policies issued prior to such change will be unaffected (i.e., they will continue to be deemed to satisfy the requirements of section 1917(b)(5)(A) of the Social Security Act). For example, if a new requirement is imposed under section 1917(b)(5)(C) of the Social Security Act and the Secretary specifies that such change will apply to policies issued after a certain date, then partnership policies issued on or prior to such date on policy forms covered by this State Certification Form will be treated as certified and will be unaffected by such new requirement. Also, if the policy form is covered by a new State Certification Form that reflects a change in the long-term care insurance model requirements and the new State Certification Form is made effective as of the effective date of such change, then partnership policies issued under such policy form after such date also will be treated as certified.

II. CERTIFICATION

I hereby certify that, to the best of my knowledge and belief, the partnership policies issued on the policy forms identified in Exhibit 1 to this State Certification Form comply with the requirements of section 1917(b)(5)(A) of the Social Security Act (42 U.S.C. 1396p(b)(5)(A)).

Date: _____

Name of State Insurance Commissioner
(or authorized delegate)

+

Signature of State Insurance Commissioner
(or authorized delegate)

**Attachment A: Exhibit 1
(To State Certification Form)**

Issuer: _____

Policy forms covered by certification: _____

Issuer: _____

Policy forms covered by certification: _____

Issuer: _____

Policy forms covered by certification: _____

Issuer: _____

Policy forms covered by certification: _____

Issuer: _____

Policy forms covered by certification: _____

Issuer: _____

Policy forms covered by certification: _____

Attachment B. Issuer Certification Form

**ISSUER CERTIFICATION FORM
(Relating to Qualified State Long-Term Care Insurance Partnership)**

Under section 1917(b)(5)(B)(iii) of the Social Security Act (42 U.S.C. 1396p(b)(5)(B)(iii)), the State Insurance Commissioner of a State implementing a qualified State long-term care insurance partnership ("Qualified Partnership") may certify that long-term care insurance policies (including certificates issued under a group insurance contract) covered under the Qualified Partnership meet certain consumer protection requirements, and policies so certified are deemed to satisfy such requirements. These consumer protection requirements are set forth in section 1917(b)(5)(A) of the Social Security Act (42 U.S.C. 1396p(b)(5)(A)) and principally include certain specified provisions of Delaware's Long-Term Care Insurance law (18 *DE C. Ch. 71*) or Regulation 1404 Long-Term Care Insurance (18 *DE Admin. Code* §1404).

In order to provide each State Insurance Commissioner with information necessary to provide a certification for policies, this Issuer Certification Form requests information and a certification from issuers of long-term care insurance policies with respect to policy forms that may be covered under the Qualified Partnership of Delaware.

An insurance company may request certification of policies from time to time and, accordingly, may supplement this issuer certification for, e.g., as it introduces new long-term care insurance policy forms for issuance.

I. GENERAL INFORMATION

A. Name, address and telephone number of issuer:

B. Name, address, telephone number, and email address (if available) of an employee of issuer who will be the contact person for information relating to this form:

C. Policy form number(s) (or other identifying information, such as certificate series) for policies covered by this Issuer Certification Form:

Specimen copies of each of the above policy forms, including any riders and endorsements, shall be provided upon request.

II. QUESTIONS REGARDING APPLICABLE PROVISIONS OF DELAWARE'S LONG-TERM CARE INSURANCE LAW OR REGULATION

Please answer each of the questions below with respect to the policy identified in section I.C above. For purposes of answering the questions below, any provision Delaware's Long-Term Care Insurance law or regulation listed below shall be treated as including any other provision of such law or regulation necessary to implement the provision.

Are the following requirements of Delaware's Regulation 1404 Long-Term Care Insurance (18 *DE Admin. Code* §1404) met with respect to all policies (including certificates issued under a group insurance contract) intended to be covered under the Qualified Partnership that are issued on each of the policy forms identified in section I.C above?

- | | | | | |
|---------|--------|---------|----|--|
| Yes ___ | No ___ | N/A ___ | A. | Section 6.1 (relating to guaranteed renewal or non-cancellability), other than section 6.1.3 thereof, and the requirements of section 6.2 of Delaware's Regulation 1404 relating to such section 6.1. |
| Yes ___ | No ___ | N/A ___ | B. | Section 6.2 (relating to prohibitions on limitations and exclusions) other than section 6.2.8 thereof. |
| Yes ___ | No ___ | N/A ___ | C. | Section 6.3 (relating to extension of benefits). |
| Yes ___ | No ___ | N/A ___ | D. | Section 6.4 (relating to continuation or conversion of coverage). |
| Yes ___ | No ___ | N/A ___ | E. | Section 6.5 (relating to discontinuance and replacement of policies). |
| Yes ___ | No ___ | N/A ___ | F. | Section 9.0 (relating to unintentional lapse). |
| Yes ___ | No ___ | N/A ___ | G. | Section 7.0 (relating to disclosure), other than sections 7.6, 7.6.2, and 7.7 thereof. |
| Yes ___ | No ___ | N/A ___ | H. | Section 8.0 (relating to required disclosure of rating practices to consumer). |
| Yes ___ | No ___ | N/A ___ | I. | Section 11.0 (relating to prohibitions against post-claims underwriting). |
| Yes ___ | No ___ | N/A ___ | J. | Section 12.0 (relating to minimum standards). |
| Yes ___ | No ___ | N/A ___ | K. | Section 14.0 (relating to application forms and replacement coverage). |
| Yes ___ | No ___ | N/A ___ | L. | Section 15.0 (relating to reporting requirements). |
| Yes ___ | No ___ | N/A ___ | M. | Section 23.0 (relating to filing requirements for marketing). |
| Yes ___ | No ___ | N/A ___ | N. | Section 24.0 (relating to standards for marketing), including inaccurate completion of medical histories. |
| Yes ___ | No ___ | N/A ___ | O. | Section 25.0 (relating to suitability). |
| Yes ___ | No ___ | N/A ___ | P. | Section 27.0 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates). |
| Yes ___ | No ___ | N/A ___ | Q. | The provisions of section 29.0 relating to contingent non-forfeiture benefits, if the policyholder declines the offer of a non-forfeiture provision described in section 7702B(g)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 7702B(g)(4)). |
| Yes ___ | No ___ | N/A ___ | R. | Section 22.0 (relating to standard format outline of coverage). |
| Yes ___ | No ___ | N/A ___ | S. | Section 28.0 (relating to requirement to deliver shopper's guide). |

Are the following requirements of Delaware's Long-Term Care Insurance law (18 *Del.C.* Ch. 71) met with respect to all policies (including certificates issued under a group insurance contract) intended to be covered under the Qualified Partnership that are issued on each of the policy forms identified in section I.C above?

- | | | | | |
|---------|--------|---------|----|--|
| Yes ___ | No ___ | N/A ___ | A. | 18 <i>Del.C.</i> § 7105(c) (relating to preexisting conditions). |
|---------|--------|---------|----|--|

- | | | | | |
|---------|--------|---------|----|---|
| Yes ___ | No ___ | N/A ___ | B. | 18 <i>Del.C.</i> § 7105(d) (relating to prior hospitalization). |
| Yes ___ | No ___ | N/A ___ | C. | The provisions of 18 <i>Del.C.</i> § 7106 relating to contingent non-forfeiture benefits. |
| Yes ___ | No ___ | N/A ___ | D. | 18 <i>Del.C.</i> § 7105(f) (relating to right to return). |
| Yes ___ | No ___ | N/A ___ | E. | 18 <i>Del.C.</i> § 7105(g) (relating to outline of coverage). |
| Yes ___ | No ___ | N/A ___ | F. | 18 <i>Del.C.</i> § 7105(h) (relating to requirements for certificates under group plans). |
| Yes ___ | No ___ | N/A ___ | G. | 18 <i>Del.C.</i> § 7105(i) (relating to policy summary). |
| Yes ___ | No ___ | N/A ___ | H. | 18 <i>Del.C.</i> § 7105(j) (relating to monthly reports on accelerated death benefits). |

In order for a policy to be covered under the Qualified Partnership of Delaware, the answers to all questions above should be "Yes" (or "N/A" where all requirements with respect to a provision above are not applicable). If answers differ between policy forms (e.g., a requirement would be answered "Yes" for one form and "N/A" for another), you should use separate Issuer Certification Forms for such policies.

III. CERTIFICATIONS

I hereby certify that the answers, accompanying documents, and other information set forth herein are, to the best of my knowledge and belief, true, correct, and complete.

Date _____

Name and title of Officer of the Issuer

Signature of Officer of the Issuer

Attachment C. Partnership Program Notice

PARTNERSHIP PROGRAM NOTICE

Important Consumer Information Regarding the Delaware Long-Term Care Insurance Partnership Program

Some long-term care insurance policies [certificates] sold in Delaware may qualify for the Delaware long-Term Care Insurance Partnership Program (the Partnership Program). The Partnership Program is a partnership between state government and private insurance companies to assist individuals in planning their long-term care needs. Insurance companies voluntarily agree to participate in the Partnership Program by offering long-term care insurance coverage that meets certain State and Federal requirements. Long-term care insurance policies [certificates] that qualify as Partnership Policies [Certificates] may protect the policyholder's [certificate holder's] assets through a feature known as "Asset Disregard" under Delaware's Medicaid program.

Asset Disregard means that an amount of the policyholder's [certificate holder's] assets equal to the amount of long-term care insurance benefits received under a qualified Partnership Policy [Certificate] will be disregarded for the purpose of determining the insured's eligibility for Medicaid. This generally allows a person to keep assets equal to the insurance benefits received under a qualified Partnership Policy [Certificate] without affecting the person's eligibility for Medicaid. All other Medicaid eligibility criteria will apply and special rules may apply to persons whose home equity exceeds \$500,000. Asset Disregard is not available under a long-term care insurance policy [certificate] that is not a Partnership Policy [Certificate]. Therefore, you should consider if Asset Disregard is important to you, and whether a Partnership Policy meets your needs. The purchase of a Partnership Policy does not automatically qualify you for Medicaid.

What are the Requirements for a Partnership Policy [Certificate]? In order for a policy [certificate] to qualify as a Partnership Policy [Certificate], it must, among other requirements:

- be issued to an individual after [insert effective date of state partnership program];
- cover an individual who was a Delaware resident when coverage first becomes effective under the policy;
- to be a tax-qualified policy under Section 7702(B)(b) of the Internal Revenue Code of 1986;
- meet stringent consumer protection standards and
- meet the following inflation requirements:
 - For ages 60 or younger - provides compound annual inflation protection
 - For ages 61 thru 75 - provides some level of inflation protection
 - For ages 76 and older - no purchase of inflation protection is required

If you apply and are approved for long-term care insurance coverage, [carrier name] will provide you with written documentation as to whether or not your policy [certificate] qualifies as a Partnership Policy [Certificate].

What Could Disqualify a Policy [Certificate] as a Partnership Policy? Certain types of changes to a Partnership Policy [Certificate] could affect whether or not such policy [certificate] continues to be a Partnership Policy [Certificate]. If you purchase a Partnership Policy [Certificate] and later decide to make any changes, you should first consult with [carrier name] to determine the effect of a proposed change. In addition, if you move to a state that does not maintain a Partnership Program or does not recognize your policy [certificate] as a Partnership Policy [Certificate], you would not receive beneficial treatment of your policy [certificate] under the Medicaid program of that state. The information contained in this disclosure is based on current Delaware and Federal laws. These laws may be subject to change. Any change in law could reduce or eliminate the beneficial treatment of your policy [certificate] under Delaware's Medicaid program.

Additional Information. If you have questions regarding long-term care insurance policies [certificates] please contact [carrier name]. If you have questions regarding current laws governing Medicaid eligibility, you should contact the Delaware Division of Medicaid & Medical Assistance.

Attachment D. Partnership Status Disclosure Notice

PARTNERSHIP STATUS DISCLOSURE NOTICE Important Information Regarding Your [Policy's] [Certificate's] Long-Term Care Insurance Partnership Status

This disclosure notice is issued in conjunction with your long-term care policy:

Some long-term care insurance policies [certificates] sold in Delaware qualify for the Delaware Long-Term Care Insurance Partnership Program. Insurance companies voluntarily agree to participate in the Partnership Program by offering long-term care insurance coverage that meets certain State and Federal requirements. Long-term care insurance policies [certificates] that qualify as Partnership Policies [Certificates] may be entitled to special treatment, and in particular an "Asset Disregard," under Delaware's Medicaid program.

Asset Disregard means that an amount of the policyholder's [certificate holder's] assets equal to the amount of long-term care insurance benefits received under a qualified Partnership Policy [Certificate] will be disregarded for the purpose of determining the insured's eligibility for Medicaid. This generally allows a person to keep assets equal to the insurance benefits received under a qualified Partnership Policy [Certificate] without affecting the person's eligibility for Medicaid. All other Medicaid eligibility criteria will apply and special rules may apply to persons whose home equity exceeds \$[500,000]. Asset Disregard is not available under a long-term care insurance policy [certificate] that is not a Partnership Policy [Certificate]. The purchase of a Partnership Policy does not automatically qualify you for Medicaid.

Partnership Policy [Certificate] Status. Your long-term care insurance policy [certificate] is intended to qualify as a Partnership Policy [Certificate] under the Delaware Long-Term Care Partnership Program as of your Policy's [Certificate's] effective date.

What Could Disqualify Your [Policy] [Certificate] As A Partnership Policy? If you make any changes to your [policy] [certificate], such changes could affect whether your [policy] [certificate] continues to be a Partnership Policy. Before you make any changes, you should consult with [insert name of carrier] to determine the effect of a proposed change. When a policyholder requests a change to his or her policy that will result in the loss of partnership status, the insurer shall provide an explanation in writing of how such action impacts the insured. The policyholder shall also be advised how to retain partnership status if possible. If a partnership plan subsequently loses partnership status, the insurer shall explain to the policyholder in writing the reason for the loss of status. In addition, if you move to a State that does not maintain a Partnership Program or does not recognize your [policy] [certificate] as a Partnership Policy [Certificate], you would not receive beneficial treatment of your [policy] [certificate] under the Medicaid program of that State. The information contained in this Notice is based on current State and Federal laws. These laws may be subject to change. Any change in law could reduce or eliminate the beneficial treatment of your [policy] [certificate] under Delaware's Medicaid program.

Additional Information. If you have questions regarding your insurance policy [certificate] please contact [insert name of carrier]. If you have questions regarding current laws governing Medicaid eligibility, you should contact the Delaware Division of Medicaid & Medical Assistance.