



August 20, 2015

Minnesota Department of Commerce
Attn: Long-term Care Hearing Public Comments
85 7th Place East, Suite 500
Saint Paul, MN 55101
contact.commissioner@state.mn.us

Statements of California Health Advocates and United Policyholders
Public Hearing: Minnesota Department of Commerce - Long-Term Care - Rate
Increases and Policyholder Protections

August 27, 2015

Dear Commissioner Rothman:

Thank you for the opportunity to comment on this important topic. California Health Advocates (CHA) is the leading Medicare advocacy and education non-profit organization in California providing information, education, policy advocacy, and technical assistance to beneficiaries, their families and other Medicare professionals. Our work includes information and advocacy on long-term care insurance as elders and their families seek assistance with finding services and paying for long-term care.

United Policyholders, (UP) is a national non-profit that has been educating and advocating for consumers with regard to long term care products and claims since establishing an online long-term care insurance information clearinghouse in 2002. In concert with California Health Advocates, UP is striving to help consumers and regulators contend with the crippling rate increases and marketplace changes that are undermining the utility and viability of long-term care insurance products.

The United States, and state governments are faced with some sobering facts. Many more Americans are living beyond age 65 to advanced ages when care is likely to be needed. The earliest wave of baby boomers is turning 65 at a rate of 10,000 a day, a rate that will continue over the next 17 years. Approximately one quarter of the U.S. population is expected to be 60 or older in just two decades, creating a tsunami of long-term care needs.

More than half of everyone living past retirement will require some long-term care services during their lifetime, some will need high cost lengthy care in a nursing home prior to their death. Today families, daughters and daughters-in-law, struggle with providing care at the early stages of need, but are soon swamped between the demands of their families, employment, and caregiving.

Baby boomers have had fewer children than their parents, have higher rates of poverty, and are more likely than their parents to be divorced, leaving them with fewer potential caregivers when they need care.

Long-term care insurance has not found firm footing in the growing national need to help finance older Americans' demand for long-term care services. While the product has made a slow evolution from covering only the catastrophic costs of long nursing home stays to one that also covers home and community based services, it has come at a cost. Based on actual versus expected claims, companies have seen the flaws in their assumptions and increased premiums on in-force coverage and re-priced new offerings.

Very few middle class people can now afford the newer premiums. Women, in particular, have been priced out of the market with gender pricing, and many applicants of both genders cannot qualify under the newer underwriting standards. Pricing women out of a way to pay for long-term care will result in more and more older women becoming dependent on public resources. Many of these women have cared for and outlived their spouse, only to find themselves without the resources to pay for a live-in caregiver and no option but to end their lives receiving substandard care in an institutional setting.

Background

Only 7.4 million policies are in-force nationwide as of 2014.¹ The sale of these policies peaked in the late 1990's during the marketing frenzy following the passage of the 1996 Health Insurance Portability and Accountability Act (HIPAA) and the creation of tax qualified long-term care insurance. State regulation of long-term care insurance has responded to various defects in marketing, sales, benefit design and pricing as they have surfaced through complaints, often years after policies were issued. Today multiple generations of policies are in-force, each policy dependent on the rules that existed in the year they were issued.

In the hyper competitive marketplace of the mid 1990's following the introduction of tax-qualified policies, companies often used premium prices to compete for market share. That strategy later proved unsustainable due to faulty assumptions of lapse and utilization, and the low return on investments and reserves. Those faulty assumptions led to large, and often multiple premium increases that companies, consumers and regulators have been dealing with over the last ten years. Three times over the last 20 years regulators have tried to prevent future rate increases by changing the pricing requirements companies must meet. Yet another pricing dilemma is still making its way through the regulatory process.

Rate Increases

The recommendations that follow are the result of CHA and UP helping policyholders contend with rate increases they cannot afford.

State regulation of these products should include meaningful options for consumers when they are subject to a rate increase.

A clearly written notice of a rate increase should include:

¹ See: <http://www.ahip.org/Epub/The-Benefits-of-LTC/>

California Health Advocates: 21 Locke Way, Scotts Valley, CA 95066 (Satellite Office)
831-438-6677 (office) 408-497-8403 (Cell) 831-43-2441 (Fax) bburns@cahealthadvocates.org Website: <http://www.cahealthadvocates.org>

United Policyholders: 381 Bush St., 8th Fl. San Francisco, CA 94104
Email: amy.bach@uphelp.org Tel. 415-393-9990 Fax: 415-677-4170 Website: www.uphelp.org

- A clear description of the options to reduce the increased amount
- An 800 number for contacting the company that does not require the use of a phone tree
- A customer service representative who can readily compute the difference in premium for each option or combination of options the insured wishes to exercise
- Information if a rate increase is staggered over a series of years
- Information on future potential rate increases
- A caution notice about reducing benefits if future rate increases are known or anticipated

Rate increase notices should also be sent to the 3rd party selected to receive a cancellation notice, and contact information for the state's SHIP to ensure that an insured receives as much help as possible to keep some amount of coverage in-force.

In addition, the Commissioner should have the option to order companies to provide an option for a paid-up policy in the amount of premiums paid after taking into account the age range of the pool and the impact of a single or staggered increase on policyholders of advanced age affected by that rate increase.

In tandem with the pricing problems attached to freestanding long-term care insurance policies companies have fled that market, leaving behind only about a dozen companies that continue to sell the freestanding policies. Insurance companies today focus on selling short-term long-term care policies hoping to escape state regulation as a long-term care product, and life and annuity products linked to long-term care benefits that are appropriate only for higher net worth buyers. Over the next ten years regulators will likely learn of problems associated with these products as they evolve and more people have these insurance products.

Life and Annuity Products

Deception and abuses in the sale of unsuitable and inherently flawed annuity products to seniors are so rampant that a regulator recently stated publicly at a conference in New York City; "We are overwhelmed and outmatched." An annuity industry spokesperson at the same conference admitted that his clients are competing so aggressively to get agents to push their annuities that they are constantly coming out with new products, many of which will never pay benefits in a consumer's lifetime.

Applicants often don't have a good grasp of the life insurance they buy when the product is a life insurance or annuity with benefits that can be accelerated by a variety of triggers, including the need for long-term care. Combining the complexity of long-term care benefits with a complex financial product leaves most consumers befuddled about what they are buying. Illustrations of these products should be simplified and graded on their readability. Illustrations full of charts and graphs that results in volumes of paper don't help consumers understand what they are buying or how each piece of two complex products will work when they need those benefits.

Consumers need clear, understandable documents associated with the sale of a long-term care product, regardless of its structure or underlying design. Consumers should be able to easily find information about the tax status of benefits and whether any benefits received could be subject to taxes later on. There should be ample information if any part of that transaction can result in a requirement to pay more premiums in the future, as well as any other charges that will or do apply to the benefits they've purchased.

Short-Term Long Term Care Products

These products are being promoted as a solution for people who can't qualify for a long-term care policy, or to back fill the waiting period of an existing long-term care insurance policy. The benefits sold can be for as little as 3 months and as long as 360 days, in an effort to avoid meeting the more stringent state requirements for long-term care insurance. The underwriting relies on answers to a few health questions much like those of the old legacy long-term care policies written in the past that now require huge rate increases. One of these products is not guaranteed renewable, allowing the company to cancel coverage at any time. A closer look at these products and their utility is long overdue. Since these only provide benefits for short periods of time a consumer may ultimately pay more in premium over time than they can get in benefits. These products need closer scrutiny by regulators to ensure that they work well for consumers, are properly priced for the risk they are assuming, and serve a legitimate public purpose.

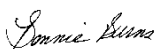
Claims

Too often adult children who are faced with filing a claim for an impaired parent or family member face incredible amounts of paperwork requirements and a protracted claims process that seems designed to discourage pursuit of a claim. Regulators need to do more to ensure that people who bought benefits can use those benefits when they are needed. Regulators should make greater use of targeted market conduct exams to uncover unnecessarily complex claims requirements by an insurance company or their 3rd party administrator.

In closing, it should be obvious by now that clustering insureds in insurance pools of varying sizes and coverage within varying numbers of companies is not an efficient or workable way to finance long-term care for the majority of Americans. This is a problem that will only be solved through a combination of public and private approaches, coordination, and financing. Without that partnership and coordination, families will continue to struggle with paying for care until the resources run out, and higher net worth purchasers will continue to pay for products they hope that many years from now will meet their needs for long-term care.

Thank you for the opportunity to comment on these important consumer issues.

Sincerely,



Bonnie Burns
California Health Advocates



Amy Bach
United Policyholders

California Health Advocates: 21 Locke Way, Scotts Valley, CA 95066 (Satellite Office)
831-438-6677 (office) 408-497-8403 (Cell) 831-43-2441 (Fax) bburns@cahealthadvocates.org Website: <http://www.cahealthadvocates.org>

United Policyholders: 381 Bush St., 8th Fl. San Francisco, CA 94104
Email: amy.bach@uphelp.org Tel. 415-393-9990 Fax: 415-677-4170 Website: www.uphelp.org