

CHAPTER 16

(HB 259)

AN ACT relating to long-term care insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF SUBCHAPTER 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1, 2, 3, and 4 of this Act, unless the context requires otherwise:

- (1) *"Asset disregard" means a one dollar (\$1) increase in the amount of assets the policyholder may own and retain for each one dollar (\$1) of benefit paid under a long-term care partnership insurance policy qualified under Sections 1, 2, 3, and 4 of this Act when the policyholder applies for benefits of the Medicaid program;*
- (2) *"Kentucky Long-Term Care Partnership Insurance Program" means a joint Kentucky Medicaid and private long-term care insurance program established by Sections 1, 2, 3, and 4 of this Act that incorporates asset disregard and exempts a policyholder from estate recovery requirements of the Medicaid program up to the amount of the asset disregard if the policyholder receives Medicaid benefits while or after accessing the benefits of the qualified long-term care partnership policy;*
- (3) *"Long-term care" means necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital unless the hospital or unit is licensed or certified to provide long-term care services; and*
- (4) *"Long-term care partnership insurance" means insurance coverage or an insurance policy that meets the requirements of Section 2 of this Act. Long-term care partnership insurance benefits shall not include payment of coinsurance, deductibles, or premiums for services covered by other insurance policies, services covered by other insurance policies, or services covered by Parts A, B, or D of the Medicare program specified by 42 U.S.C. sec. 1395 et seq.*

➔SECTION 2. A NEW SECTION OF SUBCHAPTER 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Long-Term Care Partnership Insurance Program is established as a partnership between the Department for Medicaid Services and the Office of Insurance to:*
 - (a) *Provide incentives for an individual to insure against the cost of providing for his or her long-term care needs;*
 - (b) *Increase utilization of long-term care insurance policies;*
 - (c) *Assist in alleviating the financial burden of Kentucky's Medicaid program by encouraging the use of private insurance; and*
 - (d) *Provide a mechanism for individuals to qualify for Medicaid services for costs of long-term care without exhausting all of their assets and resources.*
- (2) *A long-term care partnership insurance policy shall:*
 - (a) *Provide coverage for expenses for at least twelve (12) months for each covered person on an expense-incurred, indemnity, or prepaid basis for one (1) or more long-term care services provided in a setting other than an acute care unit of a hospital;*
 - (b) *Be qualified under Section 7702B(b) of the Internal Revenue Code of 1986;*
 - (c) *Provide coverage for long-term care services for a policyholder who is a resident of a state with a qualified long-term care partnership program when coverage first became effective; and*
 - (d) *Not be issued prior to the effective date of an approved amendment to the State Medicaid Plan.*
- (3) *The Office of Insurance shall have responsibility to approve, pursuant to KRS 304.14-120, any long-term care partnership insurance policy available in Kentucky that meets and continues to meet all applicable federal and state laws and regulations. The state shall not impose any requirement affecting the terms or*

benefits of such a policy unless the state imposes such requirement on long-term care insurance policies without regard to whether the policy is covered under the partnership or is offered in connection with the partnership.

- (4) *The Office of Insurance shall ensure that any agent who sells a long-term care partnership insurance policy can demonstrate an understanding of long-term care partnership insurance and how it relates to other public and private coverage of long-term care expenses. The Department for Medicaid Services shall provide consultation, materials, and other information to the Office of Insurance to enable the Office of Insurance to facilitate the development and issuance of uniform training materials for agents who sell long-term care insurance policies. The Office of Insurance may contract with another entity to conduct agent training and testing. Training and certification may be conducted at the expense of the insurance agent.*
- (5) *Within sixty (60) days of notice of approval of the amendment to the State Medicaid Plan required under Section 4 of this Act, the Office of Insurance shall promulgate an administrative regulation pursuant to KRS Chapter 13A to implement the Kentucky Long-Term Care Partnership Insurance Program.*
- (6) *The Office of Insurance and the Department for Medicaid Services shall report no later than September 30 each year to the Interim Joint Committee on Banking and Insurance and the Interim Joint Committee on Health and Welfare on the number of partnership insurance policies sold in Kentucky, utilization of the partnership insurance policies, and expenditures and cost savings associated with implementation, utilization, and maintenance of the partnership program. If national data reporting standards become available, the report submitted to the federal agency shall meet the requirements of this subsection.*

➔SECTION 3. A NEW SECTION OF SUBTITLE 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *Each insurer or its agent, soliciting or offering to sell a policy that is intended to qualify as a partnership policy, shall provide each prospective applicant a Partnership Program Notice disclosing the availability of the Kentucky Long-Term Care Partnership Insurance Program as authorized in 42 U.S.C. sec. 6021 and outlining the requirements and benefits of a partnership policy.*
- (2) *The manner and content of the disclosure described in subsection (1) of this section shall be established through promulgation of administrative regulations by the Office of Insurance in coordination with the Cabinet for Health and Family Services.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

- (1) *By October 30, 2008, the Cabinet for Health and Family Services shall submit to the Center for Medicare and Medicaid Services an amendment to the State Medicaid Plan to permit the establishment of a Kentucky Long-Term Care Partnership Insurance Program that provides for the disregard of any assets or resources in an amount equal to the insurance benefit payments made to or on behalf of an individual who is a beneficiary of the partnership insurance program that meets the requirements of Sections 1 and 2 of this Act.*
- (2) *The secretary of the cabinet shall notify in writing the executive director of the Office of Insurance and the co-chairs of the Interim Joint Committee on Health and Welfare and the Interim Joint Committee on Banking and Insurance within two (2) business days of the submission of the plan amendment and of the receipt of the response by the federal agency.*
- (3) *Upon approval by the federal government of the state plan amendment, the Department for Medicaid Services, in conjunction with the Office of Insurance, shall establish the Kentucky Long-Term Care Partnership Insurance Program in accordance with Sections 1 and 2 of this Act.*
- (4) *The department shall:*
 - (a) *Provide consultation, information, and materials to the Office of Insurance to assist in the development and issuance of uniform training materials in accordance with subsection (4) of Section 2 of this Act; and*
 - (b) *Collaborate in the preparation of the report required in subsection (6) of Section 2 of this Act.*

Signed by Governor April 7, 2008.