

CHAPTER 51

SENATE BILL No. 443°

AN ACT concerning the long-term care partnership program.

Be it enacted by the Legislature of the State of Kansas:

Section 1. Sections 1 through 6, and amendments thereto, shall be known and may be cited as the “long-term care partnership program act.”

Sec. 2. As used in sections 2 through 6, and amendments thereto:
(a) “Asset disregard” means, with regard to the state’s medical assistance program, disregarding any assets or resources in an amount equal to the insurance benefit payments that are made to or on behalf of an individual who is a beneficiary under a qualified long-term care insurance partnership policy.

(b) “Long-term care insurance policy” means a policy as defined in K.S.A. 40-2227 and amendments thereto.

(c) “Long-term care partnership program” means a qualified state long-term care insurance partnership as defined in section 1917(b) of the social security act, 42 U.S.C. 1396p.

(d) “Long-term care partnership program policy” means a qualified long-term care insurance policy that the commissioner of insurance certifies as meeting the requirements of section 1917(b) of the social security act, 42 U.S.C. 1396p, section 6021 of the federal deficit reduction act of 2005, public law 109-171, and any applicable federal regulations or guidelines.

(e) “Medicaid” means the program of medical assistance operated by the state under title XIX of the federal social security act, 42 U.S.C. 1396 et seq., and amendments thereto.

(f) “State plan amendment” means the amendment to the state’s medicaid state plan implementing the state qualified long-term care insurance partnership program authorized in section 6020 of the federal deficit reduction act of 2005, public law 109-171, and any applicable federal regulations or guidelines.

Sec. 3. (a) Subject to the provisions of subsection (e), the Kansas health policy authority in conjunction with the Kansas department of insurance shall establish a long-term care partnership program in Kansas to provide for the financing of long-term care through a combination of private insurance and medical assistance. The long-term care partnership program shall:

(1) Provide incentives for individuals to insure against the costs of providing for their long-term care needs;

(2) provide a mechanism for individuals to qualify for coverage under medical assistance while having certain assets disregarded for eligibility determinations and recovery; and

(3) reduce the financial burden on the state’s medical assistance program by encouraging the pursuit of private initiatives using qualified long-term care partnership insurance policies.

(b) An individual who is a beneficiary of a Kansas long-term care partnership program policy shall be eligible for assistance under the state’s medical assistance program using the asset disregard as provided under subsection (e).

(c) The Kansas health policy authority shall pursue reciprocal agreements with other states to extend the asset disregard to Kansas residents who purchased long-term care partnership policies in other states that are compliant with title VI, section 6021 of the federal deficit reduction act of 2005, public law 109-171, and any applicable federal regulations or guidelines.

(d) As provided under subsection (e), certain assets of an individual who has received benefits from a qualified long-term care partnership policy shall not be considered when determining:

(1) The individual’s medical assistance eligibility; and

(2) any subsequent recovery by the state for a payment for medical services or long-term care services made by the medical assistance program on behalf of the individual.

(e) Under the individual’s long-term care insurance policy if the individual is a beneficiary of a qualified long-term care partnership program policy at the time the individual applies for benefits under the Kansas medical assistance program, the assets an individual may own and retain

under Kansas medical assistance program and still qualify for benefits under the program shall be increased dollar-for-dollar for each dollar paid out after the effective date of the state plan amendment, or after the issue date of a policy exchanged, whichever is later.

(f) If the long-term care partnership program established by this act is discontinued, any individual who purchased a Kansas long-term care partnership program policy before the date the program was discontinued shall be eligible to receive asset disregard if allowed as provided by title VI, section 6021 of the federal deficit reduction act of 2005, public law 109-171.

(g) The Kansas health policy authority, the department of social and rehabilitation services, the department on aging and the department of insurance shall post, on their respective websites, information on how to access the national clearinghouse established under the federal deficit reduction act of 2005, public law 109-171, when the national clearinghouse becomes available to consumers.

Sec. 4. The commissioner of insurance shall: (a) Determine the level of inflation protection reasonably necessary to protect individuals who purchase a Kansas long-term care partnership program policy.

(b) Not impose any requirement affecting the terms or benefits of qualified long-term partnership program policies other than the requirements of section 1917 (b) of the social security act, 42 U.S.C. 1396p, section 6021 of the federal deficit reduction act of 2005, public law 109-171, or any applicable federal regulation or guidelines unless the commissioner imposes such a requirement on all long-term care insurance policies sold in this state without regard to whether the policy is covered under the partnership or is offered in connection with such partnership.

Sec. 5. Each issuer of qualified long-term care partnership program policies in this state shall: (a) Provide regular reports to both the secretary of the United States department of human services in accordance with federal law and regulations and to the Kansas health policy authority and the commissioner of insurance as provided in section 6021 of the federal deficit reduction act of 2005, public law 109-171.

(b) Provide to consumers a notice explaining the benefits associated with a partnership policy and indicating that at the time issued, the policy is a qualified state long-term care insurance partnership policy at a time and in a manner to be determined by the commissioner of insurance.

(c) Submit a partnership certification form signed by an officer of the company with all policies submitted for certification as partnership policies.

(d) Obtain verification that producers receive training required by the commissioner of insurance before a producer is permitted to sell, solicit or negotiate the insurer's long-term care insurance products, maintain records of compliance, and make the verification available to the commissioner of insurance upon request.

(e) Maintain records with respect to the training of its producers concerning the distribution of its partnership policies that will allow the department of insurance to provide assurance to the Kansas health policy authority that producers have received the training required by the commissioner of insurance and that producers have demonstrated an understanding of the partnership policies and their relationship to public and private coverage of long-term care, including medical assistance in this state. These records shall be maintained and made available to the commissioner of insurance upon request.

Sec. 6. The commissioner of insurance may promulgate rules and regulations as necessary to carry out the provisions of this act.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.