



**Department of Insurance**

**State of Arizona**

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**CHRISTINA URIAS**

Director of Insurance

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**REGULATORY BULLETIN 2009-05<sup>1</sup>**

**To:** Life and Disability Insurers, Health Care Service Organizations, Hospital, Medical, Dental, and Optometric Service Corporations, Life and Health Insurance Administrators, Third Party Intermediaries, Insurance Producers, Professional Associations and Interested Parties

**From:** Christina Urias, Director of Insurance

**Date:** December 8, 2009

**Re:** Arizona Long-Term Care Partnership Program

**Introduction**

The State of Arizona has implemented a Long-Term Care Insurance Partnership Program (the "Partnership Program"), as authorized by the Deficit Reduction Act of 2005 ("DRA"), which provides that an Arizona resident who purchases a long-term care policy that meets the DRA requirements is subject to special rules for determining financial eligibility for Medicaid assistance. Generally, the rules allow for policyholder personal asset protection by preventing Medicaid from: (i) subjecting these assets to lien; or, (ii) including those assets in determining Medicaid financial eligibility. Potentially, the policyholder may protect an amount of assets equal to policy benefits received.

Arizona's Medicaid program is part of the Arizona Health Care Cost Containment System ("AHCCCS"), which generally has jurisdiction over Partnership Program administration, however, pursuant to the DRA, the Arizona Director of Insurance (the "Director") will certify which long-term care insurance policies qualify as "Partnership Policies" under DRA requirements. The purpose of this Regulatory Bulletin is to inform interested parties of the process and criteria the Director will use to certify Partnership Policies.

**Partnership Policy Requirements**

Every Partnership Policy must comply with Arizona law and (including certificates issued under a group insurance policy) must meet the consumer protection requirements set forth in Section 1917(b)(5)(A) of the Social Security Act (42 U.S.C. § 1396p(b)(5)(A)), consisting of provisions from the 2000 National Association of Insurance Commissioners (NAIC) Long-Term Care Insurance Model Regulation and Long-Term Care Insurance Model Act. See "Insurer Certification Form" (Attachment "A" to this Regulatory Bulletin).

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<sup>1</sup> This Substantive Policy Statement is advisory only. A Substantive Policy Statement does not include internal procedural documents that only affect the internal procedures of the Agency, and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedures Act. If you believe that the Substantive Policy Statement does impose additional requirements or penalties on regulated parties you may petition the Agency under Arizona Revised Statute Section 41-1033 for a review of the statement.

In addition, every Partnership Policy, including certificates issued under a group insurance policy, must provide the following inflation protection required by 42 U.S.C. § 1396p(b)(1)(C)(iii)(IV)(aa)–(cc):

- (aa) 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.
- (bb) If the policy is sold to an individual who has attained age 61 but has not attained age 76 as of such date, the policy must provide some level of inflation protection; and
- (cc) If the policy is sold to an individual who has attained age 76 as of such date, the policy may (but is not required to) provide some level of inflation protection.

### **Insurer Certification Form**

An insurer that requests the Director's certification that a long-term care insurance policy qualifies as a Partnership Policy must fully and accurately complete the Insurer Certification Form (Attachment A). The individual completing the Insurer Certification Form must be an officer of the insurer with the authority to bind the insurer. An insurer must use this form when requesting certification for any policy, whether it is: (i) a previously approved policy; (ii) a new policy submitted for first time approval; or, (iii) an exempt policy. After reviewing an Insurer Certification Form for a long-term care policy, the Director will notify the insurer whether the policy qualifies as a Partnership Policy. The Director also will send written notice to AHCCCS of every policy that qualifies as a Partnership Policy.

### **Partnership Policy Marketing Disclosure Requirements.**

An insurer or producer who markets or offers to sell a Partnership Policy in Arizona must provide to each prospective applicant the "Pre-purchase Notice" (Attachment B to this Regulatory Bulletin). The insurer or producer shall attach the Pre-purchase Notice to the front of either the first page or the second page of the Outline of Coverage. An insurer that issues or issues for delivery in Arizona a Partnership Policy must attach to the front of either the first page or the second page of the policy the Post-purchase Notice (Attachment C to this Regulatory Bulletin). In the case of a group Partnership Policy, the insurer shall attach the notice to the front of either the first or second page of each certificate delivered to a certificate holder.

### **Partnership Policy Retroactivity.**

Arizona's participation in the Program was effective July 1, 2008. If an insurer receives certification of a previously approved policy, any Arizona policyholder who purchased that policy on or after July 1, 2008 qualifies for the Program's special rules for determining financial eligibility for Medicaid long-term care assistance. The insurer must deliver the Post-purchase Notice (Attachment C) to each such policyholder within 30 days after the Director notifies the insurer that the policy qualifies as a Partnership Policy.

### **Policy Exchanges**

An insurer that chooses to do so may exchange an insured's non-Partnership Policy for a Partnership Policy and may issue the Partnership Policy based on underwriting criteria and premium rates in effect on the date of the exchange.

Insurers do not need to file Attachment A (Insurer Certification Form), Attachment B (Pre-purchase Notice) or Attachment C (Post-purchase Notice) with the Department for review and approval before use. Insurers may not make any changes to any of these attachments before use.

Please address any questions about this Regulatory Bulletin to Karen Duffy at 602-364-2393 or [kduffy@azinsurance.gov](mailto:kduffy@azinsurance.gov).

**Regulatory Bulletin 2009-05  
Attachment A**

**STATE OF ARIZONA  
LONG-TERM CARE INSURANCE PARTNERSHIP PROGRAM  
INSURER CERTIFICATION FORM**

The State of Arizona has implemented a Long-Term Care Insurance Partnership Program (the “Partnership Program”) as authorized by the Deficit Reduction Act of 2005 (“DRA”), which provides that an Arizona resident who purchases a long-term care insurance policy that meets federal consumer protection and inflation protection requirements (a “Partnership Policy”) is subject to special rules for determining financial eligibility for long-term care Medicaid assistance.

The Arizona Insurance Director will certify whether a long-term care insurance policy qualifies as a Partnership Policy, based on the information an insurer provides in this Insurer Certification Form. Insurers must use this form when requesting certification for any policy, whether it is: (i) a previously approved policy; (ii) a new policy submitted for first time approval; and, (iii) policies exempt from filing under the 2003 Director’s Order. (See Docket No. 03A-143-INS). (<http://www.id.state.az.us/publications/LDExempt2003Order.pdf>)

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**I. INSURER INFORMATION**

A. Insurer NAIC number \_\_\_\_\_

B. Name, address, and telephone number of Insurer:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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**II. POLICY INFORMATION**

**Note: Please complete one Insurer Certification Form for each policy you are certifying as a Partnership Policy.**

A. If you are submitting this Certification Form for a **previously approved form or an exempt in force form** please complete the following table.

<b>Policy/Rider/Endorsement Form Number</b>	<b>Policy/Rider/Endorsement Form Name</b>	<b>Date of Approval or “Exempt,” as Applicable</b>	<b>SERFF Tracking Number or “Paper,” as Applicable</b>	<b>State Tracking Number or “N/A”</b>



(1) Does each policy, rider and endorsement listed in section II.A or II.B comply with the 2000 NAIC Model Regulation requirements listed below?

Yes	No	N/A	A. Section 6A (relating to guaranteed renewal or noncancellability), other than paragraph (5) thereof, and the requirements of section 6B of the 2000 Model Act relating to such section 6A.
Yes	No	N/A	B. Section 6B (relating to prohibitions on limitation and exclusions) other than paragraph (7) thereof.
Yes	No	N/A	C. Section 6C (relating to extension of benefits).
Yes	No	N/A	D. Section 6D (relating to continuation or conversion of coverage).
Yes	No	N/A	E. Section 6E (relating to discontinuance and replacement of policies).
Yes	No	N/A	F. Section 7 (relating to unintentional lapse).
Yes	No	N/A	G. Section 8 (relating to disclosure), other than sections 8F, 8G, 8H, and 8I thereof.
Yes	No	N/A	H. Section 9 (relating to required disclosure of rating practices to consumer).
Yes	No	N/A	I. Section 11 (relating to prohibitions against post-claims underwriting).
Yes	No	N/A	J. Section 12 (relating to minimum standards).
Yes	No	N/A	K. Section 14 (relating to application forms and replacement coverage).
Yes	No	N/A	L. Section 15 (relating to reporting requirements).
Yes	No	N/A	M. Section 22 (relating to filing requirements for marketing).
Yes	No	N/A	N. Section 23 (relation to standards for marketing), including inaccurate completion of medical histories, other than paragraphs (1), (6), and (9) of section 23C.
Yes	No	N/A	O. Section 24 (relating to suitability).
Yes	No	N/A	P. Section 25 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).
Yes	No	N/A	Q. The provisions of section 26 relating to contingent nonforfeiture benefits, if the policyholder declines the offer of a nonforfeiture 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 29 (relating to standard format outline of coverage).
Yes	No	N/A	S. Section 30 (relating to requirement to deliver shopper's guide).

(2) Does each policy, rider and endorsement listed in section II.A or II.B comply with the 2000 NAIC Model Act requirements listed below?

Yes	No	N/A	A. Section 6C (relating to preexisting conditions).
Yes	No	N/A	B. Section 6D (relating to prior hospitalization).
Yes	No	N/A	C. The provisions of section 8 relating to contingent nonforfeiture benefits.
Yes	No	N/A	D. Section 6F (relating to right to return).
Yes	No	N/A	E. Section 6G (relating to outline of coverage).
Yes	No	N/A	F. Section 6H (relating to requirements for certificates under group plans).
Yes	No	N/A	G. Section 6J (relating to policy summary).
Yes	No	N/A	H. Section 6K (relating to monthly reports on accelerated death benefits).
Yes	No	N/A	I. Section 7 (relating to incontestability period).

(3) Does the policy listed in section II.A or II.B comply with the inflation protection requirements of 42 U.S.C. § 1396p(b)(1)(C)(iii)(IV)?    Yes    No

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#### IV. CERTIFICATION

I hereby certify that the answers, accompanying documents, and other information set forth herein for certification of the listed forms are to the best of my knowledge and belief, true, correct, and complete and that the policies identified in this form meet all of the consumer protection and inflation protection requirements pertaining to qualified Long-Term Care Insurance Partnership Policies. I understand that false, inaccurate or incomplete information on this certification form or accompanying documents may result in disapproval of listed policies for use in Arizona and/or other administrative sanctions.

\_\_\_\_\_

Date

\_\_\_\_\_

Signature

**Required Contact Information:**

Name and Title of Certifying Officer: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

**Regulatory Bulletin 2009-05  
Attachment B**

**STATE OF ARIZONA  
LONG-TERM CARE INSURANCE PARTNERSHIP PROGRAM  
PRE-PURCHASE NOTICE  
IMPORTANT NOTICE FOR ARIZONA RESIDENTS  
WHO ARE THINKING OF BUYING LONG-TERM CARE INSURANCE**

**Insurance Company Name:** \_\_\_\_\_  
**Producer's Name:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
**Phone Number:** \_\_\_\_\_  
**Email Address:** \_\_\_\_\_

**Long-Term Care Partnership Policies**

The State of Arizona has implemented a Long-Term Care Insurance Partnership Program (the "Partnership Program") that constitutes a partnership between state government and private insurance companies to assist Arizona residents in planning their long-term care needs. Insurance companies voluntarily participate in the Partnership Program by offering long-term care insurance policies ("Partnership Policies") that meet special federal requirements.

If you purchase a Partnership Policy and later apply for long-term care coverage from Arizona's Medicaid program, your application will include a Medicaid eligibility feature known as "Asset Disregard". "Asset Disregard" means that Medicaid will disregard some of your assets in determining whether you are eligible for Medicaid long term care coverage. The amount of assets that Medicaid can disregard will be equal to amount of long-term care insurance benefits you have received under your Partnership Policy. If you are thinking of buying a long-term care insurance policy, you should carefully consider whether Asset Disregard is important to you, and whether your long-term care insurance policy should be a Partnership Policy.

**Three important things to know about Partnership Policies.**

1. **The purchase of a Partnership Policy does not automatically qualify you for Medicaid.** Medicaid has other eligibility criteria that may disqualify you. In addition, the Asset Disregard rules may not apply to you if your home equity exceeds \$500,000.
2. **Asset Disregard is only available under a Partnership Policy** and not every long-term care policy is a Partnership Policy.
3. **It is possible that a Partnership Policy will lose its Partnership status in the future if:**
  - a. You make a change to a Partnership Policy, including a change to the inflation protection provisions, if any.
  - b. You move to a state that does not have a Partnership Program.
  - c. There is a change to state or federal law that governs the Partnership Program.

**Additional Information**

If you have questions about buying a long-term care insurance policy please contact the insurer. If you have questions regarding current laws governing Medicaid eligibility, please contact the Arizona Health Care Cost Containment System ("AHCCCS").

**Regulatory Bulletin 2009-05  
Attachment C**

**STATE OF ARIZONA  
LONG-TERM CARE INSURANCE PARTNERSHIP PROGRAM  
POST-PURCHASE NOTICE**

**IMPORTANT NOTICE ABOUT YOUR LONG-TERM CARE INSURANCE PARTNERSHIP POLICY**

**Insurance Company Name:** \_\_\_\_\_  
**Producer's Name:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
**Phone Number:** \_\_\_\_\_  
**Email Address:** \_\_\_\_\_

Policy No. \_\_\_\_\_  
Date of Notice \_\_\_\_\_

**Long-Term Care Partnership Policies**

The State of Arizona has implemented a Long-Term Care Insurance Partnership Program (the "Partnership Program") that constitutes a partnership between state government and private insurance companies to assist Arizona residents in planning their long-term care needs. Insurance companies voluntarily participate in the Program by offering long-term care insurance policies ("Partnership Policies") that meet special federal requirements.

As of the date of this Notice, the long-term care insurance policy identified above is a Partnership Policy. As a result, if you apply in the future for long-term care coverage from Arizona's Medicaid program, your application will include a Medicaid eligibility feature known as "Asset Disregard". "Asset Disregard" means that Medicaid will disregard some of your assets in determining whether you are eligible for Medicaid long term care coverage. The amount of assets that Medicaid can disregard will be equal to the amount of long-term care insurance benefits you have received under your Partnership Policy.

**It is important to know that the purchase of a Partnership Policy does not automatically qualify you for Medicaid.** Medicaid has other eligibility criteria that may disqualify you. In addition, the Asset Disregard rules may not apply to you if your home equity exceeds \$500,000.

It also is important to know that your **Partnership Policy may lose its Partnership status in the future if:**

- a. You make a change to your Partnership Policy, including a change to the inflation protection provisions, if any.
- b. You move to a state that does not have a Partnership Program.
- c. There is a change to state or federal law that governs the Partnership Program.

**Additional Information**

If you have questions regarding your long-term care insurance policy please contact the insurer. If you have questions regarding current laws governing Medicaid eligibility or Asset Disregard, please contact the Arizona Health Care Cost Containment System ("AHCCCS").