

FIFE SYMINGTON
Governor



JOHN A. GREENE
Director

ARIZONA DEPARTMENT OF INSURANCE

2910 North 44th Street, Suite 210, Phoenix, Arizona 85018-7256 · (602) 912-8456 · FAX: (602) 912-8452

<http://www.state.az.us/id>

Circular Letter 1997-9

TO: All Insurance Industry Representatives, Insurance Trade Associations, Insurers That Offer Long-Term Care Insurance, And Interested Parties

FROM: John A. Greene

Director of Insurance

DATE: September 4, 1997

RE: Long Term Care Insurance and Inflation Protection Option; Interpretation of A.A.C. R20-6-1005(A)

During its review of rules as required by the Administrative Procedures Act, the Department reviewed criticism received regarding its construction of A.A.C. R20-6-1005(A). This rule requires that insurers that sell long-term care insurance must give prospective buyers of long term care insurance the option to buy an inflation protection option. The rule also prescribes the minimum benefits that an insurer must include under the inflation protection option that insurers must be offered to consumers.

This circular letter announces a change in the Department's interpretation and enforcement of A.A.C. R20-6-1005(A). This rule specifies that:

- A. No insurer may offer an insurance policy unless the insurer offers, at the time of purchase, the option to purchase a policy with an inflation protection provision to address the reduction or limitation on the value of benefits that may result from inflation over time. The terms of such provision shall be no less favorable than the following:
 - 1. A term providing for increases in benefit levels compounding annually at a rate of no less than five percent;
 - 2. A term providing for guaranteed periodic increases in benefit levels without requiring evidence of insurability or health status, provided the option for the previous period had

not been declined. The increased benefit shall be no less than the difference between the existing benefit and that benefit compounded annually at a rate of no less than five percent from the purchase of the existing benefit until the year in which the offer is made; or

- 3. A term providing for a specified percentage of actual or reasonable charges that is not limited to a maximum indemnity amount.

Before the issuance of this circular letter, the Department had required long-term care insurers to offer only an inflation protection option at least as favorable to consumers as that specified in the rule in conjunction with the sale of long term care insurance. Under the Department's new construction and enforcement approach announced in this circular letter regarding A.A.C. R20-6-1005(A), the Department will require insurers that sell long-term care insurance to offer at least the inflation reduction option specified by the rule. However, the Department will no longer take steps to enjoin, prevent, or otherwise sanction insurers, agents, or consumers from offering or selecting other inflation protection options that provide benefits less favorable than that specified in the rule.

In large part, the reasons for the Department's prior interpretation of the rule stemmed from the differences between the version of the rule adopted by the Director and the model upon which the Director based this rule. However, notwithstanding the differences between the model version of this rule and the rule as adopted, the Department will base its future interpretation of the rule upon the language of the rule as adopted because of the unambiguous language of the rule. The language of this rule does not expressly prohibit insurers from making other inflation options available to the public in conjunction with the sale of long-term care insurance and the rule will no longer be enforced as if it did.

The cumulative impact of inflation over the years may diminish the value of a policy purchased without an inflation protection option. At the same time, the inclusion of an option of this sort will impact the cost of a policy. Further, the level of protection offered by any given option, whether a simple interest option or compounded annually at 3%, 5%, or 7%, can further vary the cost of this coverage. Of course, the absence of this coverage option may yield benefits insufficient to meet future longterm care expenses after a period of even moderate inflation. Thus, in addition to the minimum inflation protection option that must be offered to long-term care insurance consumers, insurers and their agents must also provide a full explanation of the benefits and costs associated with selection or rejection of inflation protection, including the minimum option insurers must offer to consumers.

This change in enforcement of A.A.C. R20-6-1005 will take effect immediately.