

Department of Legislative Services  
Maryland General Assembly  
2009 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 590 (Delegate Kullen)

Health and Government Operations

Finance

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Long-Term Care Insurance - Annuity Contracts and Qualified State Long-Term  
Care Insurance Partnership

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This bill authorizes an annuity contract to include a rider or supplemental contract provision that offers a contract holder reimbursement or payment for long-term care. The bill repeals the requirement that the outline of coverage, which carriers must provide to long-term care insurance applicants, include a statement as to whether the policy or contract is approved under the Qualified State Long-Term Care Insurance Partnership. The bill also requires that a certificate issued under group long-term care insurance include a statement as to whether the policy or contract is intended to qualify as a partnership policy under the Qualified State Long-Term Care Insurance Partnership.

The bill takes effect June 1, 2009.

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Fiscal Summary

**State Effect:** Potential minimal increase in special fund revenues for the Maryland Insurance Administration (MIA) in FY 2010 from the \$125 rate and form filing fee. The review of form filings can be handled within existing MIA resources.

**Local Effect:** None.

**Small Business Effect:** None.

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Analysis

**Current Law:** A carrier must provide each applicant an outline of coverage and buyer's guide prior to the applicant applying for coverage. The outline must include

(1) a description of the principal benefits and coverage provided; (2) a statement of the principal exclusions, reductions, and limitations; (3) a statement of the renewal provisions, including any reservation of a right to change the schedule of premiums; (4) a statement as to whether the policy or contract is approved under the Qualified State Long-Term Care Insurance Partnership; (5) a statement that the outline is a summary of the policy; and (6) any expected premium increases or additional premiums for automatic or optional benefit increases. The buyer's guide must include information about buying a policy of long-term care insurance, including a reference to the right of the buyer to cancel a policy during the first 30 days after the policy is delivered.

A certificate that is issued under group long-term care insurance must include (1) a description of the principal benefits and coverage provided; (2) a statement of the principal exclusions, reductions, and limitations of coverage; (3) a statement that the group master policy or contract determines the governing contractual provisions; and (4) a statement as to whether the policy or contract is approved under the Qualified State Long-Term Care Insurance Partnership.

The Qualified State Long-Term Care Insurance Partnership, although not yet operational, is intended to (1) provide incentives for individuals to insure against the costs of providing for their long-term care needs; (2) provide mechanisms for individuals to qualify for long-term care coverage under Medicaid without first being required to substantially exhaust all their resources; (3) assist in developing methods for increasing access to and the affordability of a long-term care policy; and (4) alleviate the financial burden on Medicaid by encouraging pursuit of private initiatives.

To be eligible for the program, an individual must be covered by an approved partnership policy and have exhausted all benefits available under the policy for services to treat or manage the insured's condition. To determine eligibility for Medicaid, benefits paid under approved partnership policies are to be excluded from the Medicaid program's calculation of the individual's resources to the extent the payments went to services and nursing care covered by Medicaid.

Chapters 28 and 29 of 2007 required the program to comply with § 1917(b) of the Social Security Act and any applicable federal guidelines and clarified that individuals need not exhaust all benefits under a policy before becoming eligible for the program.

An annuity is an agreement to make periodic payments for which the making or continuance of all or some of a series of the payments, or the amount of a payment, depends on the continuance of a human life. Annuities include an additional benefit that operates to safeguard the contract from lapse or to provide a special surrender value, special benefit, or annuity in the event of the total and permanent disability of the holder.

**Background:** According to MIA, beginning January 1, 2010, the federal government will begin to treat long-term care coverage included with an annuity contract as tax qualified. Thus, the bill's provision regarding annuities will allow Maryland residents to take advantage of the option of purchasing long-term care insurance coverage through an annuity policy on a tax-qualified basis.

The federal Qualified State Long-Term Care Insurance Partnership began in the early 1990s. The program allows individuals to retain a greater portion of their assets under Medicaid if the individual purchases a long-term care insurance policy and exhausts the benefits of the policy. States benefit because Medicaid becomes the last payor of long-term care services rather than the first.

Maryland's Qualified State Long-Term Care Insurance Partnership program is not fully operational, but carriers should begin selling qualified long-term care insurance policies under the program in 2009. Final regulations were effective in December 2008 and carriers may file for certification from MIA. The Department of Health and Mental Hygiene filed the required State Plan Amendment with the federal Centers for Medicare and Medicaid Services in December 2008, but as of March 2009 is awaiting a response.

According to MIA, current law makes it difficult for carriers to sell a partnership policy in Maryland. The requirement that the outline of coverage state whether the policy is a partnership policy is impractical because the outline of coverage is provided before the applicant completes an application and the type of policy or contract has been determined.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 716 (Senator Kelley, *et al.*) - Finance.

**Information Source(s):** Department of Health and Mental Hygiene, Maryland Insurance Administration, Department of Legislative Services

**Fiscal Note History:** First Reader - February 26, 2009  
mlm/mwc Revised - House Third Reader - March 25, 2009

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