NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
HEALTH, LONG-TERM CARE & HEALTH RETIREMENT ISSUES COMMITTEE
SPECIAL MEETING ON LONG-TERM CARE PARTNERSHIP PROGRAMS
WASHINGTON, DC
FEBRUARY 28, 2008
MINUTES

The National Conference of Insurance Legislators (NCOIL) Health, Long-Term Care & Health Retirement Issues Committee met at the Hyatt Regency on Capitol Hill in Washington, D.C. on Friday, February 28, 2008, at 1:00 p.m.

Rep. George Keiser, acting co-chair of the Committee, presided.

Other members of the Committee present were:
Sen. Carroll Leavell, NM
Rep. Brian Kennedy, RI
Rep. Larry Taylor, TX
Rep. Hubert Vo, TX

Other legislators present were:
Rep. Kurt Olson, AK
Sen. Alan Sanborn, MI
Rep. Joseph Hardy, NV
Assem. Nancy Calhoun, NY
Sen. Jerry Klein, ND
Rep. Frank Wald, ND
Rep. Anthony Melio, PA
Rep. Craig Eiland, TX

Also in attendance were:
Susan Nolan, Nolan Associates, NCOIL Executive Director
Candace Thorson, NCOIL Deputy Executive Director
Michael Humphreys, NCOIL Director of State-Federal Relations
Jordan Estey, NCOIL Director of Legislative Affairs & Education

MINUTES

The Committee voted unanimously to approve the minutes of its November 16, 2007, meeting in Las Vegas, Nevada.

DISCUSSION OF LONG-TERM CARE PARTNERSHIP PROGRAMS AND STATE RESPONSES

Hunter McKay, representing the United States Department of Health and Human Services (HHS), said that the long-term care needs of nearly 70 million baby boomers had the potential to overwhelm Medicaid’s pay-as-you-go financing. He said that regulators needed to take an active role to address the problem. He said that options for pre-funding were affordable—but noted that these opportunities diminished over time. He said that state lawmakers and regulators would be crucial to the success of the partnership programs.

Mr. McKay said that the Deficit Reduction Act (DRA) of 2005 enabled states to partner with insurance companies to implement a public-private partnership program for long-term care insurance. He said states were moving quickly to implement the partnership programs as a means of curbing future long-term care expenditures.

Mr. McKay said that twelve (12) states had developed operational partnership programs since the passage of the DRA; ten (10) states had state plan amendments approved; five (5) states had a plan amendment pending; and eight (8) additional states were looking at the issue.

Mr. McKay said that inflation protection, reciprocity agreements, insurer reporting requirements and consumer education were among the critical implementation issues of which state lawmakers should be cautious. He said that successful partnership programs needed to establish uniformity in these areas.

Bonnie Burns, representing California Health Advocates (CHA), said that long-term care expenses could lead to catastrophic out-of-pocket spending—potentially resulting in personal impoverishment and unsustainable reliance on state Medicaid programs. She said that state Medicaid budgets were paying steadily increasing amounts for long-term care services and budgets could not sustain such a tremendous increase in costs over time.

Ms. Burns said that Medicaid was a complicated program that differed from one state to another. She said that the program's varied rules, regulations and requirements made it difficult for individuals and their families to fully understand the complexity of these policies. She said that descriptions of how a state's Medicaid program operates should not be left to companies and agents. She said that state Medicaid programs should draft, and require the use of, verbatim descriptions of all partnership policies to ensure the accurate transmittal of this important information to consumers.

Ms. Burns said that the partnership programs presented an opportunity for life insurers to cross-sell their products. She said that a state endorsement of the partnership program could lead consumers to assume that other products being sold by the insurer were suitable and endorsed by the state as well.

Ms. Burns said that a significant problem of the DRA was that it did not include agent training requirements. She said that the complexity of long-term care insurance products in general—and partnership programs in particular—ultimately could be detrimental to the consumer. She said that states should mandate a minimum of eight (8) hours of training on long-term care insurance and an additional eight (8) hours on partnership products. She said that extensive training would ensure that agents selling the policies are knowledgeable and could accurately present information to the consumer.

Rod Perkins, representing the joint America's Health Insurance Plans and American Council of Life Insurers Working Group (AHIP/ACLI), reported that the industry has been coordinating with states to address these implementation issues. He said that under the DRA, states have maintained the ability to make these decisions for their residents and that it was important to remember that states were in the best position to address implementation, regulatory and educational issues.

Mr. Perkins said that states were adopting new regulations in order to accommodate the partnership programs. He said that states have been able to work effectively through many of these issues and he looked forward to future efforts to address these issues.

Mr. Perkins said that consumer disclosure was extremely important. He said that many states were drafting extensive literature that explained the partnership programs. He said that insurers could easily deliver this information to consumers at the point of sale.

Lastly, Mr. Perkins said that it was in everyone's best interest to establish suitable agent training standards. He agreed with Ms. Burns that the complexity of long-term care insurance products warranted additional training.

NAIC President and Kansas Insurance Commissioner Sandy Praeger said that it was important to remember the basis of the partnership programs. She said that in 2004, the United States spent $193 billion on long-term care services and nearly half of the expenditures were paid for by Medicaid programs. She said that in some states Medicaid has surpassed education as the number one expenditure, which was clearly not sustainable over time. She said only seven (7) percent of the costs associated with long-term care were covered by long-term care insurance.

Rep. Keiser asked how insurance regulators planned on regulating the reciprocity arrangements. He said that it would be nearly impossible for a regulator in one state to govern the policy of a consumer who purchases a policy and then chooses to relocate later on in life.

Commissioner Praeger replied that reciprocity was still a significant issue that needed to be addressed. She reiterated that the state in which a policy is purchased would maintain regulatory authority over the policy, but the policy would be subject to the Medicaid rules, regulations and guidelines of the state in which the policyholder resides.

Mr. McKay replied that the partnership program was not a panacea to the projected shortfalls in long-term care financing, but he believed that it was an important aspect. He said that reciprocity and inflation protection, among others, were significant issues that needed to be considered ongoing.

ADJOURNMENT

There being no further business, the meeting adjourned at 2:00 p.m.