

**Report
on
Senate Bill 22
80th Legislature, Regular Session, 2007**

Long-Term Care Partnership

**Submitted by the
Health and Human Services Commission**

September 2008

Table of Contents

Background 1
Status..... 2
Ongoing Efforts..... 3
Long-Term Care Insurance Policies 4
Appendix A: Form Number LHL(562)LTCA
Appendix B: Form Number LHL563(LTC).....B
Appendix C: Form Number LHL564(LTC)C

Background

The federal Deficit Reduction Act of 2005 (DRA), signed in February 2006, authorized the expansion of Long-Term Care (LTC) Partnership programs from the original four pilot states to all states. LTC Partnership programs were created as a public-private partnership between state agencies and private insurance providers to encourage planning for LTC needs with the purchase of high quality LTC insurance. As Medicaid expenses are projected to increase, one goal of the program is to reduce Medicaid expenditures by delaying or eliminating the need to rely on Medicaid for LTC services. The incentives for a purchaser are a high quality LTC insurance policy and an asset disregard in the amount of benefits paid if the purchaser eventually utilizes Medicaid for their LTC services.

Senate Bill (S.B.) 22, 80th Legislature, Regular Session, 2007, requires the Health and Human Services Commission (HHSC) to develop and implement a partnership for long-term care program in Texas, in collaboration with the Department of Aging and Disability Services (DADS) and the Texas Department of Insurance (TDI).

The Texas LTC Partnership program is required to:

- be consistent with the requirements of the DRA, including the inflation protection requirements;
- allow for a dollar-for-dollar asset disregard in specified circumstances at Medicaid eligibility and for Medicaid Estate Recovery obligations;
- permit HHSC to enter into reciprocal agreements with other Partnership states;
- ensure that individuals selling Partnership-qualified LTC policies receive training and demonstrate an understanding of these policies;
- have the benefit plan issuer certify to the TDI Commissioner that each individual selling Partnership-qualified LTC policies meets the training requirements;
- allow the HHSC Executive Commissioner to adopt rules to administer the LTC Partnership program;
- allow the TDI Commissioner to adopt minimum standards for LTC Partnership qualified policies;
- allow the TDI Commissioner to adopt rules to implement the LTC Partnership program;
- develop and implement a public awareness and education campaign;
- amend the Medicaid State Plan; and
- submit a biennial report to the legislature on the progress of the LTC Partnership program by September 30 of each even-numbered year.

This report is submitted in fulfillment of the biennial report requirement, S.B. 22 Sec.32.107, which requires that “not later than September 30 of each even-numbered year, the department (HHSC) shall submit a report to the legislature on the progress of the partnership for long-term care program during the preceding biennium. The report must include:

- (1) the number of approved plans sold during each year of the preceding biennium;
- (2) the average age of individuals purchasing approved plans during each year of the preceding biennium; and
- (3) a recommendation on whether to continue the program.

As of September 30, 2008, no policies have been sold. The program is not yet fully operational and LTC partnership policies are not yet available to the public. HHSC, DADS, and TDI are working together to finalize development and implementation of the LTC Partnership program. Since LTC Partnership-qualified policies are not yet available in Texas, this report will detail the status of the program, accomplishments to date and future activities to support the full implementation of the LTC Partnership program. It will also include baseline data regarding current LTC insurance policy sales in Texas.

Status

Working cooperatively to develop and implement the LTC Partnership program in Texas HHSC, DADS and TDI have accomplished the following tasks:

- DADS, HHSC, and TDI applied for and received a \$50,000 technical assistance grant from the Center for Health Care Strategies (CHCS) to obtain support on policy issues and with practical implementation of the LTC Partnership program. HHSC, DADS and TDI staff have attended two national meetings with staff from the federal government, universities and other states that are implementing LTC Partnership programs, and participated in monthly technical assistance calls. One additional meeting is scheduled for summer 2009.
- The Medicaid State Plan Amendment (SPA) was developed and submitted to the Centers for Medicare and Medicaid Services (CMS). CMS approved the SPA effective March 1, 2008.
- The Partnership Medicaid eligibility rules allowing “countable resource” (asset) disregard were adopted effective April 22, 2008.
- TDI rules: TDI is amending two different rules, the first pertaining to agent training requirements, the second pertaining to policy forms, marketing, suitability, reporting and other requirements of the DRA.
 - The agent training rules were published March 21, 2008 for a 30-day public period. The comment period ended April 21, 2008; no comments were received. The proposed rules were adopted effective August 5, 2008.
 - The rules pertaining to policy forms, marketing, suitability, reporting and other requirements of the DRA were published July 18, 2008 for a 30-day public period. A public hearing was held August 12, 2008. Adoption of these rules is anticipated in fall 2008.
- Training sessions for the Health Insurance Counseling and Advocacy Program benefits counselors were held February 25, 2008 and July 2, 2008. Support has been provided on an on-going basis to benefits counselors regarding questions and inquiries about the LTC Partnership program.

- Training curriculum for Medicaid eligibility staff has been developed and will be delivered upon implementation of the LTC Partnership program.
- Resource material for insurance agent training has been developed and is posted online at www.ownyourfuturetexas.org.
- HHSC successfully applied for a Robert Wood Johnson Foundation (RWJF) Strategic Communications Training Program in order to have an effective public awareness and education campaign. Staff attended the first of two workshops offered by RWJF, and participates in ongoing web based and telephone communication training.
- The public awareness and education plan is currently being developed and some activities currently underway. The LTC Partnership website is in development (www.ownyourfuturetexas.org). Staff has spoken at conferences, trade group meetings, and other relevant events to heighten awareness of the implementation of the LTC Partnership program.
- A steering committee that includes staff from HHSC, DADS, TDI, the Employees Retirement System (ERS), the Teachers Retirement System (TRS) and the Texas Workforce Commission (TWC) has been formed and has met monthly since May 2008. The steering committee is actively engaged in finalizing implementation plans and communication strategies. ERS, TRS and TWC are particularly interested in group LTC insurance policies that are Partnership-qualified. However, such group policies are not yet available due to the policy and coordination issues among the states that must be determined prior to being Partnership-qualified.

Ongoing Efforts

HHSC, DADS and TDI will continue to work together to implement and administer the Texas LTC Partnership program. Full implementation with Partnership-qualified LTC insurance policies is anticipated in fall 2008 contingent upon TDI rule adoption and submission of appropriate policies by the insurance industry. Continued efforts include the following tasks:

- Communications staff are working on the roll-out of a public awareness and education campaign. Funds to support these efforts were appropriated by the 80th Legislature for the LTC Partnership program and were made available September 2008. Limited CHCS grant funds are also available. The campaign will include, at a minimum:
 - Development of an LTC Partnership brochure for use by consumers;
 - Continued development of Partnership website; building on the “Own Your Future Texas” site;
 - Development of LTC Partnership brochures for other targeted outreach;
 - Development of a briefing paper to educate media; and
 - Design of a “kick-off” event to announce and obtain publicity for the program.
 - Development and maintenance of a grassroots network to help distribute information about long-term care planning and the Partnership. The network will

- include community-based organizations (including faith-based), government agencies, insurance industry professionals and businesses.
- HHSC will hire designated Partnership staff with the additional full time equivalent (FTE) positions and funding appropriated and available September 2008.
- Support for HICAP benefits counselors and additional training will be provided as requested.
- Eligibility staff training will be conducted.
 - Training will be coordinated with the final TDI rules.
 - A training bulletin will be released in September 2008.
 - Scripts for the purposes of information and referral will also be developed.
- HHSC, DADS, and TDI will continue to work with other state agencies including TWC, ERS, and TRS to reach employers and state employees.
- Partnership staff will continue to participate in the CHCS grant training activities.
- Partnership staff will continue to participate in the RWJF Strategic Communications Training Program.

Long-Term Care Insurance Policies

Texas Department of Insurance rules pertaining to policy forms, marketing, suitability, reporting and other requirements of the DRA are pending adoption. The pending rules require insurers to report information that will show the progress of LTC Partnership and of LTC in general in Texas. One such reporting form is Form Number LHL (565) LTC, noted below. This report will show the number and type of LTC policies being sold in Texas. Note that the report requires insurers to report data on all LTC policies, and to do so by type of policy. The purpose of collecting separate data for Partnership Policies, Non-Partnership Policies, Life Policies and Annuity Contact Riders is that all such policies are intended to meet the insureds future long-term care expense needs. LTC Partnership provides consumer the asset disregard opportunity not available in other forms of LTC policies. If reports show consumers are selecting Non-Partnership LTC, or Riders attached to Life Policies and Annuity Contact, it could highlight the need to do additional outreach and education to the public. Similarly, if reports show consumers are selecting Nursing Home or Home Health Care only policies, it could highlight the need to do additional outreach and education about considering their needs in all settings.

Partnership Policies	Number Sold	Average Age
Comprehensive (institutional and community care)		
Nursing Home (institutional only)		
Non-Partnership Policies		
Comprehensive (institutional and community care)		
Nursing Home (institutional only)		
Home Health Care (community-based services)		
Life Policies and Annuity Contact Riders		

Form Number LHL(565)LTC

The pending rules require insurers to report other activities, including data on the number of replacements required by Form Number LHL(562)LTC, the number of rescissions in Form Number LHL(563)LTC, claims denied in Form Number LHL(564)LTC, and suitability information in Form Number LHL(566)LTC. A prototype of each of these forms is included in the appendices.

Insurers report LTC data to the National Association of Insurance Commissioners (NAIC) annually. The NAIC cautions that the information in their LTC reports are unaudited and not a complete analysis nor an expression of opinion on any insurer. They also caution the information may contain errors. The number of covered lives contained in the 2007 NAIC LTC report is noted below. In Spring 2008, TDI staff contacted companies reporting data to the NAIC to inquire if they were currently marketing LTC. The first list of companies below stated they currently market LTC. This information can serve as a benchmark as LTC sales are tracked in the future. The subsequent list reports companies that indicated they are no longer marketing LTC in Texas or that marketed to insureds outside of Texas who subsequently moved into Texas.

Companies Marketing Long-Term Care in Texas

Company Name	Covered Lives
AIG Life Insurance Company	727
Allianz Life Insurance Company Of North America	6,720
American Family Life Assurance Company of Columbus	2,713
American Fidelity Assurance Company	89
Assurity Life Insurance Company	13
Bankers Life & Casualty Company	22,797
Berkshire Life Insurance Company of America	214
Colonial America Life Insurance Company	845
Combined Ins Co Of America	202
Continental Casualty Co	33,071
Cuna Mutual Ins Society	1,409
Equitable Life & Casualty Insurance Company	4,878
Genworth Life Insurance Company	50,613
Great American Life Insurance Company	no data reported
Guaranty Income Life Insurance Company	152
Guarantee Trust Life Insurance Company	744
John Hancock Life Insurance Company	21,261
Loyal America Life Insurance Company	304
Massachusetts Mutual Life Insurance Company	3,910
Medamerica Insurance Company	1,607
Metropolitan Life Insurance Company	31,202
Minnesota Life Insurance Company	73
Mutual Of Omaha Insurance Company	4,488
National States Insurance Company	170
New York Life Insurance Company	7,385
Northwestern Long Term Care Insurance Company	3,794
Penn Treaty Network America Insurance Company	6,812
Physicians Mutual Insurance Company	5,272
Provident Life & Accident Insurance Company	1,855
State Farm Mutual Auto Insurance Company	12,196
The Prudential Insurance Company of America	no data reported
Transamerica Life Insurance Company	4,676
United Of Omaha Life Insurance Company	197
United Teacher Assoc Insurance Company	13,994
Unum Life Insurance Company Of America	45,434
Sum of LTC Insured's for Companies Marketing	289,817

Companies No Longer Marketing Long-Term Care in Texas

Company Name	Covered Lives
Aetna Life Insurance Company	16,921
AF&L Insurance Company	2,271
Allstate Life Insurance Company	282
American Heritage Life Insurance Company	524
American Network Insurance Company	2
American Pioneer Life Insurance Company	368
American Republic Insurance Company	34
Central United Life Insurance Company	3
Christian Fidelity Life Insurance Company	209
Colonial Penn Life Insurance Company	5
Conseco Health Insurance Company	594
Conseco Senior Health Insurance Company	15,607
Continental General Insurance Company	503
Continental Life Insurance Company Brentwood	24
Dallas General Life Insurance Company	127
Farmers New World Life Insurance Company	880
Globe Life & Accident Insurance Company	2
Golden Rule Insurance Company	1
Hartford Life Insurance Company	14
Jackson National Life Insurance Company	8
John Alden Life Insurance Company	830
Kanawha Insurance Company	2,348
Life Investors Insurance Company Of America	12,922
Lincoln Benefit Life Company	3,404
Lincoln National Life Insurance Company	90
London Life Reins Company	1
Medico Insurance Company	450
Medico Life Insurance Company	1,010
Monumental Life Insurance Company	1,850
Mony Life Insurance Company	5
Nationwide Life Ins Co of America	2
Old American Insurance Company	60
Pennsylvania Life Insurance Company	281
Philadelphia America Life Insurance Company	2
Principal Life Insurance Company	111
Pyramid Life Insurance Company	583
Reassure American Life Insurance Company	5,587
Reserve National Insurance Company	149
RiverSource Life Insurance Company	4,789
Sentry Ins A Mutual Company	57
Southern Farm Bureau Life Insurance Company	4,709

Company Name	Covered Lives
Standard Life & Accident Insurance Company	188
State Life Insurance Company	1,847
State Mutual Insurance Company	35
Stonebridge Life Insurance Company	1,927
Teachers Ins & Ann Assoc Of America	486
Thrivent Financial For Lutherans	7,510
TIAA Cref Life Insurance Company	126
Time Ins Co	3,701
Transamerica Occidental Life Insurance Company	3,012
Trustmark Ins Co	2
Unicare Life & Health Ins Company	10
Union Labor Life Insurance Company	10
Union Security Insurance Company	1,941
United American Insurance Company	881
Washington Natl Insurance Company	556
Woodmen World Life Insurance Society	129
Total Long-Term Care Insured's for Companies not marketing	99,980

Based on the data reported to the NAIC, there are 389,797 Texans covered by LTC insurance. There is no data on the average age of the insureds to make a determination on how that information relates to the Texas population.

Overall, the information to be collected by TDI from the various reports in the appendices will first be available in 2010, for policies sold in 2008 and 2009. TDI will also continue to collect the Texas data included in the NAIC reports to see how they compare and can be reconciled with data collected by TDI.

TDI will use the reports referenced and all other information collected on LTC, including complaints to determine what regulatory actions are necessary to ensure LTC products are available, consumers who purchase them are protected and that the Texas market is conducive for companies to do LTC business.

Appendix A: Form Number LHL(562)LTC

Long-Term Care Insurance Replacement and Lapse Reporting Form FOR THE STATE OF TEXAS

Due: No later than June 30 annually for the preceding calendar year

For the State of _____ For the Reporting Year of _____
 Company Name: _____
 Company Address: _____
 Company NAIC Number: _____
 Contact Person: _____ Phone Number: (____)_____

Instructions

The purpose of this form is to specify the information regarding long-term care insurance policy replacements and lapses that insurers are required to report to the Commissioner of Insurance on a statewide basis. Specifically, every insurer shall maintain records for each agent on that agent's amount of long-term care insurance replacement sales as a percent of the agent's total annual sales and the amount of lapses of long-term care insurance policies sold by the agent as a percent of the agent's total annual sales. The following two tables indicate the information required in reporting the ten percent (10%) of the insurer's agents with the greatest percentages of replacements and lapses.

Listing of the 10% of Agents with the Greatest Percentage of Replacements

Agent's Name	Number of Policies Sold By This Agent	Number of Policies Replaced by This Agent	Number of Replacements As % of Number Sold By This Agent

Listing of the 10% of Agents with the Greatest Percentage of Lapses

Agent's Name	Number of Policies Sold By This Agent	Number of Policies Lapsed by This Agent	Number of Lapses As % of Number Sold By This Agent

The following table indicates the number of replacement long-term care policies sold as a percentage of the insurer's total annual sales of such policies and the number of lapsed long-term care policies as a percentage of the insurer's total annual sales of such policies.

Company Name: _____
 Report Year _____

Replacement Policies Sold	
Annual Policies Sold	
Policies in Force (as of the end of the preceding calendar year)	
% of Replacement Policies Sold to Annual Policies Sold (as of the end of the preceding calendar year)	
% of Replacement Policies Sold to Policies in Force (as of the end of the preceding calendar year)	
Policies Lapsed	
% of Policies Lapsed to Annual Policies Sold (as of the end of the preceding calendar year)	
% of Policies Lapsed to Policies in Force (as of the end of the preceding calendar year)	

Appendix B: Form Number LHL563(LTC)

RESCISSION REPORTING FORM FOR
LONG-TERM CARE POLICIES
FOR THE STATE OF TEXAS
FOR THE REPORTING YEAR ____

Due: No later than June 30 annually for the preceding calendar year

Company Name: _____

Address: _____

Phone Number _____

Instructions:

The purpose of this form is to report all rescissions of long-term care insurance policies or certificates for the preceding calendar year. Those rescissions voluntarily effectuated by an insured are not required to be included in this report. Please furnish one form per rescission.

Policy Form #	Policy and Certificate #	Name of Insured	Date of Policy Issuance	Date/s Claim/s Submitted	Date of Rescission

Detailed reason for rescission: _____

Signature

Name and Title (please print)

Date

Appendix C: Form Number LHL564(LTC)

Long-Term Care Insurance Claim Denials Reporting Form

FOR THE STATE OF TEXAS

For the Reporting Year of _____

Due: No later than June 30 annually for the preceding calendar year

Company Name: _____
 Company Address: _____
 Company NAIC Number: _____
 Contact Person: _____ Phone Number: _____
 Line of Business: Individual Group

Instructions

The purpose of this form is to report all long-term care claim denials under in force long-term care insurance policies. "Claim" means a request for payment of benefits under an in-force policy regardless of whether the benefit claimed is covered under the policy or any terms or conditions of the policy have been met.

Indicate the manner of reporting by checking one of the boxes below.

- Per Claimant - counts each individual who makes one or a series of claim requests
 Per Transaction - counts each claim request

"Denied" means a claim that is not paid for any reason other than for failure to meet the waiting period or because of an applicable preexisting condition. It does not include a request for payment that is in excess of the applicable contractual limits.

		State Data	Nationwide Data ¹
1	Total Number of Long-Term Care Claims Reported		
2	Total Number of Long-Term Care Claims Denied/Not Paid		
3	Number of Claims Not Paid due to Preexisting Condition Exclusion		
4	Number of Claims Not Paid due to Waiting (Elimination) Period Not Met		
5	Net Number of Long-Term Care Claims Denied for Reporting Purposes (Line 2 Minus Line 3 Minus Line 4)		
6	Percentage of Long-Term Care Claims Denied of Those Reported (Line 5 divided by Line 1)		
7	Number of Long-Term Care Claims Denied due to:		
8	• Long-Term Care Services Not Covered under the Policy ²		
9	• Provider/Facility Not Qualified under the Policy ³		
10	• Benefit eligibility Criteria Not Met ⁴		
11	• Other ⁵		

1. The nationwide data may be viewed as a more representative and credible indicator where the data for claims reported and denied for your state are small in number.
2. Example: home health care claim filed under a nursing home only policy.
3. Example: a facility that does not meet the minimum level of care requirements or the licensing requirements as outlined in the policy.
4. Examples: (i) a benefit trigger not met; (ii) certification by a licensed health care practitioner not provided; (iii) no plan of care.
5. Examples: duplicate submission, incomplete claim submission, advance billing.