Ohio Revised Code

Section 3923.41 Long-term care insurance definitions.

Effective: September 10, 2007
Legislation: House Bill 100 - 127th General Assembly

As used in sections 3923.41 to 3923.48 of the Revised Code:

(A) "Long-term care insurance" means any insurance policy or rider advertised, marketed, offered, or designed to provide coverage for not less than one year for each covered person on an expense incurred, indemnity, prepaid, or other basis, for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital. "Long-term care insurance" includes group and individual annuities and life insurance policies or riders that provide directly or supplement long-term care benefits, and policies or riders that provide for payment of benefits based on cognitive impairment or the loss of functional capacity. "Long-term care insurance" includes group and individual policies or riders whether issued by insurers, fraternal benefit societies, or health insuring corporations. "Long-term care insurance" includes qualified long-term care insurance contracts. "Long-term care insurance" does not include any insurance policy that is offered primarily to provide basic medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage.

With regard to life insurance, "long-term care insurance" does not include life insurance policies that accelerate the death benefits specifically for one or more of the qualifying events of terminal illness, medical conditions requiring extraordinary medical intervention, or permanent institutional confinement; that provide the option of a lump sum payment for those benefits; and in which neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care.

Notwithstanding any other provision contained in sections 3923.41 to 3923.48 of the Revised Code, any product advertised, marketed, or offered as long-term care insurance shall be subject to sections 3923.41 to 3923.48 of the Revised Code.

(B) "Applicant" means either of the following:

(1) In the case of an individual long-term care insurance policy, the person who seeks to contract for benefits;

(2) In the case of a group long-term care insurance policy, the proposed certificate holder.

(C) "Certificate" means any certificate issued under a group long-term care insurance policy that has been delivered, issued for delivery, or used in or outside this state.

(D) "Group long-term care insurance" means a long-term care insurance policy that is delivered or issued for delivery in this state to any of the following:

(1) One or more employers or labor organizations, or a trust or the trustees of a fund established by one or more employers or labor organizations, or a combination thereof, established for either of the following:

(a) Employees or former employees or a combination thereof;

(b) Members of the labor organization, or former members of the labor organization, or a combination thereof.

(2) Any professional, trade, or occupational association for its members or former or retired members, or a combination thereof, if the association satisfies both of the following requirements:

(a) It is composed of individuals all of whom are or were actively engaged in the same profession, trade, or occupation.

(b) It is maintained in good faith for purposes other than obtaining insurance.

(3) An association or trust of the trustees of a fund established, created, or maintained for the benefit of members of one or more associations that meets the requirements of section 3923.43 of the

Revised Code;

(4) A group other than as described in divisions (D)(1), (2), and (3) of this section about whom the superintendent of insurance finds that all of the following are true:

(a) The issuance of the group policy is not contrary to the best interest of the public.

(b) The issuance of the group policy would result in economies of acquisition or administration.

(c) The benefits of the group policy are reasonable in relation to the premiums charged.

(E) "Policy" means any policy, contract, rider, or endorsement delivered, issued for delivery, or used in or outside this state by an insurer, fraternal benefit society, or health insuring corporation.

(F)(1) "Qualified long-term care insurance contract" or "federally tax-qualified long-term care insurance contract" means an individual or group insurance contract of which all of the following are true pursuant to division (b) of section 7702B of the "Internal Revenue Code of 1986," 26 U.S.C. 7702B, as amended:

(a) The only insurance protection provided under the contract is coverage of qualified long-term care services including payments made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

(b) The contract does not pay or reimburse expenses incurred for services or items to the extent that the expenses are reimbursable under Title XVIII of the "Social Security Act," 42 U.S.C. 1395 et seq., as amended, or would be so reimbursable but for the application of a deductible or coinsurance amount. The contract may pay or reimburse expenses that are reimbursable under Title XVIII of the Social Security Act as a secondary payer. A contract may allow payments to be made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

(c) The contract is guaranteed renewable, within the meaning of division (b)(1)(C) of section 7702B of the "Internal Revenue Code of 1986," 26 U.S.C. 7702B, as amended.

(d) The contract does not provide for a cash surrender value or other money that can be paid, assigned, pledged as collateral for a loan, or borrowed except as provided in division (F)(1)(e) of this section.

(e) All refunds of premiums, and all policy holder dividends or similar amounts, under the contract shall be applied to a reduction in future premiums or to increase future benefits, except that a refund in the event of death of the insured or in the event of a complete surrender or cancellation of the contract shall not exceed the aggregate premiums paid under the contract.

(f) The contract meets the consumer protection provisions set forth in division (g) of section 7702B of the "Internal Revenue Code of 1986," 26 U.S.C. 7702B, as amended.

(2) "Qualified long-term care insurance contract" or "federally tax-qualified long-term care insurance contract" also means the portion of a life insurance contract that provides long-term care insurance coverage by a rider or as part of the contract and that satisfies the requirements of divisions (b) and (e) of section 7702B of the Internal Revenue Code of 1986, 26 U.S.C 7702B, as amended.

(G) "State long-term care partnership program" or "partnership program" means a program established under division (b) of section 1917 of the "Social Security Act," 42 U.S.C. 1396p, as amended.

(H) "Insurance agent" or "agent" means a person licensed under Chapter 3905. of the Revised Code to sell, solicit, or negotiate insurance.

(I) "Insurer" means any person authorized under Title XXXIX of the Revised Code to engage in the business of insurance in this state or any health insuring corporation authorized under Chapter 1751. of the Revised Code to do business in this state that issues long-term care insurance policies or certificates.